Advancing the Human Rights and Inclusion of LGBTI People: A Handbook for Parliamentarians

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The Situation of LGBTI People

- Ongoing stigma, discrimination, and violence around the world
  - Homophobia and transphobia
  - Punitive laws
  - Ineffective legal protection

- Parliamentarians have a critical role to play in advancing the rights of LGBTI people
International Human Rights Framework

- Legal obligations of States (or “Legally binding on States”)
- Yogyakarta Principles
  - Apply IHR standards to LGBTI-relevant issues
  - Identify States’ duties and obligations to LGBTI people
## Int’l Human Rights Framework (cont’d): Regional Mechanisms

### Africa
- **African Commission on Human and Peoples’ Rights**
  - ♀ Resolution 275
    - Explicitly recognizes the human rights of LGBT persons and calls for their protection

### Americas
- **Organization of American States**
  - ♂ Six resolutions
- **Inter-American Commission on Human Rights**
  - ♂ Action Plan to address discrimination and violence against LGBTI people
- **Rapporteurship** on the rights of LGBTI people

### Europe
- **Council of Europe**
  - ♂ Recommendation CM/Rec (2010)5
    - Calls upon Member States to take positive steps to protect the rights of the LGBTI community
- **European Union**
  - ♂ Prohibits discrimination on the basis of sexual orientation
- **Fundamental Rights Agency** monitors rights of LGBTI people

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**Pictured:**
Representatives from the African Commission, IACHR and UN, participating in a joint thematic dialogue on sexual orientation and gender identity
Sustainable Development Goals (SDGs)

- **Agenda 2030**
  - leaving no one behind
  - Role of parliaments

- **UNDP led LGBTI Inclusion Index**
  - Bridging data gaps
  - 5 priority dimensions
  - Existing and new data
How To Be Prepared to Act: Practical Tools for MPs

- Learn how to speak about LGBTI issues, address myths & offer realities about LGBTI people
- Rapid assessment of your laws & policies relevant to rights of LGBTI people
- Sample questions to pose in parliament, to ministers and other decision-makers
How MPs Can Get Engaged

As legislators

As representatives

In oversight role
Advancing Rights as an MP: Legal Reform

**Constitutional protections: Nepal**

- New constitution includes protective provisions for sexual and gender minorities:
  - Explicit protection from discrimination
- Full recognition as people before the law
- Freedom to choose gender identity on citizenship document

**Repealing and blocking discriminatory laws: Mozambique**

- Colonial-era laws criminalized homosexuality
- New Penal Code passed in 2015 **decriminalized** homosexuality
- Successfully **challenged cultural notions** about homosexuality being “un-African”
Prioritizing Protections for Intersex People

- Advancing the rights of intersex people requires additional attention and support:
  - only two countries currently provide legislation aimed at protecting their rights:

- **Malta**
  - Gender Identity, Gender Expression and Sex Characteristics Act:
    - prohibits “normalizing” genital surgeries
    - introduces a fast gender recognition procedure based on self-determination,
    - allows postponement of gender markers on birth
    - various other provisions in the area of health and non-discrimination

- **Chile**
  - Circular Order N18: "On certain aspects of health care of intersex children"
    - Stops “unnecessary treatments for ‘normalization’ of intersex children ... until they are old enough to decide on their bodies."
  - Proposal for protection against discrimination based on “sex characteristics”

- **Australia**
  - Senate held an inquiry into and issued a joint cross party report on involuntary or coerced sterilisation of intersex people and persons with disabilities
Prioritizing Protections for Transgender People

- Advancing the rights of transgender people also requires additional attention and support.
- Few countries legally recognize the gender identity of transgender people.

**Viet Nam**

- UNDP facilitated discussions between National Assembly members and LGBTI community representatives on the human impact of legislation which denied rights to transgender people.

**Successful outcome:** The Civil Code now protects the right of people who have undergone sex-reassignment surgery to have their gender recognized.
Advancing Rights as an MP: Sectoral Approach

Policy consultations with the transgender community: Maharashtra State, India

- 2013 public consultation brought together thousands of transgender people, the Chief Minister and other government representatives.
- Transgender people and sex workers were also included in the deliberations and review for a proposed Women's Policy.
- **Successful outcomes:**
  - Welfare Board for the transgender community
  - Cultural institute (in process) dedicated to transgender community
  - Maharashtra Woman’s Policy has been finalized and approved by the state cabinet

Civic engagement and political party manifestos: Scotland

- Time for Inclusive Education (TIE) Campaign sought curriculum change, to make LGBTI education a statutory right in Scottish schools.
- Parliament rejected the proposal. With public support, TIE turned to political parties.
- Leading parties’ manifestos now include TIE’s LGBTI teacher training proposal.
A critical mass of MPs taking concrete steps would drive legal, policy & social norm change

- Use the media
- Develop context specific strategies
- Sustain efforts over time
- Work with & learn from LGBTI organization
- Support broad based civil society coalitions
- Share experiences, lessons learned with other MPs
- Become a champion of rights & inclusion of LGBTU
- Inspire other MPs
- PANCAP, UNDP, PGA & others can help