



### **Positive changes achieved by human rights defenders: LGBTIQ issues**

Outright International (“Outright”) is pleased to submit input on the positive change achieved by human rights defenders in advance of the 25th anniversary of the adoption of the UN Declaration on Human Rights Defenders. Outright is dedicated to working with partners around the globe to strengthen the capacity of the LGBTIQ<sup>1</sup> human rights movement, document and amplify human rights violations against LGBTIQ people, and advocate for inclusion and equality. Founded in 1990, with staff in over a dozen countries, Outright works with the United Nations, regional human rights monitoring bodies, and civil society partners. Outright holds consultative status at the United Nations where it serves as the secretariat of the UN LGBTI Core Group.

In the past 25 years, human rights defenders (HRDs) have made great strides in advancing the rights of people of diverse sexual orientations, gender identities and expressions, and sex characteristics (SOGIESC). HRDs have campaigned for the decriminalization of consensual same-sex relations; legal protections for LGBTIQ individuals; the eradication of conversion practices; and prohibitions on medical violence against intersex individuals. In so doing, SOGIESC HRDs have frequently put their safety and liberty on the line. While there have been significant wins for LGBTIQ communities, there is still much work to be done: in the face of strong and well-funded opposition, advocates are fighting daily to ensure LGBTIQ people can realize their full human rights.

### **Decriminalization and legal protections**

**In the past 25 years, 37 countries have decriminalized consensual same-sex relations.<sup>2</sup>**

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<sup>1</sup> Outright International uses the acronym LGBTIQ to denote lesbian, gay, bisexual, transgender, intersex and queer people and communities. We believe this acronym is inclusive of a broad range of people across our communities. It is not exhaustive, nor is it universally used. When referring to laws or practices that may not directly impact intersex people, we use the acronym LGBTQ.

<sup>2</sup> The following countries have decriminalized consensual same-sex relations since 1997: Angola, Antigua and Barbuda, Armenia, Australia, Azerbaijan, Belize, Bhutan, Bosnia and Herzegovina, Botswana, Cape Verde, Chile, China, Cyprus, Ecuador, Fiji, Gabon, Georgia, India, Kazakhstan, Kyrgyzstan, Lesotho, Marshall Islands, Mozambique, Nauru, Nepal, Nicaragua, Palau, Panama, San Marino, Sao Tome and Principe, Seychelles, South Africa, St. Kitts and Nevis, Tajikistan, Trinidad and Tobago, United Kingdom, United States of America. See ILGA World, *State-Sponsored Homophobia (2020)*, at [https://ilga.org/downloads/ILGA\\_World\\_State\\_Sponsored\\_Homophobia\\_report\\_global\\_legislation\\_overview\\_update\\_December\\_2020.pdf](https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf); Graeme Reid, *Angola Decriminalizes Same-Sex Conduct*, see at <https://www.hrw.org/news/2019/01/23/angola-decriminalizes-same-sex-conduct>; HRW, *Antigua and Barbuda: High Court Decriminalizes Gay Sex*, see at <https://www.hrw.org/news/2022/07/11/antigua-and-barbuda-high-court-decriminalizes-gay-sex>; UNAIDS, *UNAIDS Applauds the Vote by Bhutan’s Parliament to Repeal Laws that Criminalize and Discriminate*

Decriminalization of same-sex relations would not be possible without the courageous work of HRDs who risk their liberty to bring an end to oppressive penal laws. For example, in August 2022, after years of advocacy, HRDs in St. Kitts and Nevis achieved a major victory when the nation's High Court announced that laws criminalizing same-sex relations were unconstitutional.<sup>3</sup> Likewise, HRDs in Angola successfully campaigned to remove a ban on homosexuality from the country's penal code in 2021.<sup>4</sup> Decriminalizing consensual same-sex relations is a prerequisite for allowing LGBTIQ people to realize their full human rights. However, 67 countries continue to criminalize consensual same-sex relations; transgender identities are de jure criminalized in 13, and de facto criminalized in 37, countries;<sup>5</sup> and 42 states have erected legal barriers to the freedom of expression regarding sexual and gender diversity.<sup>6</sup> As human rights defenders continue to fight for the advancement of human rights for all, including LGBTIQ people, they will need the international community to stand with them against violence and discrimination.

LGBTIQ defenders have also made great strides in securing anti-discrimination laws over the past 25 years. At least 54 countries have passed broad anti-discrimination legislation to protect people of from discrimination based on sexual orientation since 1997, and at least 75 countries have passed laws protecting people against employment discrimination based on sexual orientation in the same period; some of these laws, but not all of them, also provide protections on the grounds of gender identity.<sup>7</sup> Additionally, there are now 96 countries with processes to allow trans people to change gender legally.<sup>8</sup> These laws would not have been passed were it not for the work of LGBTIQ HRDs, such as activists in

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*Against LGBT People*, see at

[https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/december/20201214\\_bhutan-law](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/december/20201214_bhutan-law); UNAIDS, *St Kitts and Nevis becomes the latest country to declare that laws that have criminalized LGBT people are unconstitutional*, see at

[https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2022/august/20220830\\_decriminalize-gay-st-kitts-and-nevis](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2022/august/20220830_decriminalize-gay-st-kitts-and-nevis)

<sup>3</sup> UNAIDS, *St Kitts and Nevis becomes the latest country to declare that laws that have criminalized LGBT people are unconstitutional*, see at

[https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2022/august/20220830\\_decriminalize-gay-st-kitts-and-nevis](https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2022/august/20220830_decriminalize-gay-st-kitts-and-nevis)

<sup>4</sup> Graeme Reid, *Angola Decriminalizes Same-Sex Conduct*, see at

<https://www.hrw.org/news/2019/01/23/angola-decriminalizes-same-sex-conduct>

<sup>5</sup> ILGA World, *Trans Legal Mapping Report*, see at

[https://ilga.org/downloads/ILGA\\_World\\_Trans\\_Legal\\_Mapping\\_Report\\_2019\\_EN.pdf](https://ilga.org/downloads/ILGA_World_Trans_Legal_Mapping_Report_2019_EN.pdf); Jamie Wareham,

*New Report Shows Where It's Illegal to be Transgender in 2020*, see at

<https://www.forbes.com/sites/jamiewareham/2020/09/30/this-is-where-its-illegal-to-be-transgender-in-2020/?sh=1e1e2ce5748f>; [https://internap.hrw.org/features/features/lgbt\\_laws/](https://internap.hrw.org/features/features/lgbt_laws/)

<sup>6</sup> ILGA World, *State-Sponsored Homophobia (2020)*, see at

[https://ilga.org/downloads/ILGA\\_World\\_State\\_Sponsored\\_Homophobia\\_report\\_global\\_legislation\\_overview\\_update\\_December\\_2020.pdf](https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf); [https://ilga.org/downloads/ILGA\\_World\\_State\\_Sponsored\\_Homophobia\\_report\\_global\\_legislation\\_overview\\_update\\_December\\_2020.pdf](https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf)

<sup>7</sup> ILGA World, *State-Sponsored Homophobia (2020)*, see at

[https://ilga.org/downloads/ILGA\\_World\\_State\\_Sponsored\\_Homophobia\\_report\\_global\\_legislation\\_overview\\_update\\_December\\_2020.pdf](https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf)

<sup>8</sup> ILGA World, *State-Sponsored Homophobia (2020)*, see at

[https://ilga.org/downloads/ILGA\\_World\\_State\\_Sponsored\\_Homophobia\\_report\\_global\\_legislation\\_overview\\_update\\_December\\_2020.pdf](https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf); [https://ilga.org/downloads/ILGA\\_World\\_State\\_Sponsored\\_Homophobia\\_report\\_global\\_legislation\\_overview\\_update\\_December\\_2020.pdf](https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf)

Barbados who fought for, and won, the inclusion of sexual orientation as a protected group in an employment anti-discrimination bill<sup>9</sup> and organizations in the United States who successfully campaigned for workplace protections for people of diverse sexual orientations and gender identities, enshrined into law in 2020.<sup>10</sup>

### **Conversion Practices**

Conversion practices, also wrongfully known as “conversion therapy,” are the processes of attempting to change or suppress a person’s sexual orientation, gender identity, or gender expression in order to align with cisgender and heteronormative standards. Conversion practices do not change SOGIE but do cause severe harm to the mental and physical health of LGBTQ individuals. In fact, the term “conversion therapy” itself is problematic, because it suggests that treatment is needed for a disorder and that LGBTQ people can be converted to cisgender and heterosexual identities through those actions. These concepts deepen discrimination based on sexual orientation and gender identity.<sup>11</sup>

For decades, LGBTIQ HRDs and organizations have worked to research and expose the damage wrought by conversion practices. In 2019, Outright published the first comprehensive global report on conversion practices, informed by global LGBTIQ activists and survivors of conversion practices through 489 surveys in 80 countries or regions.<sup>12</sup> 14 countries now prohibit some forms of conversion practices, and in other countries, religious and cultural leaders, mental health practitioners and other are mobilizing among their peers to end the use of such practices.

### **Intersex Rights**

Human rights defenders have achieved greater recognition and protection for intersex individuals in the past 25 years. For example, in 2021, 50 states signed the United Nations Human Rights Council Joint Statement on the Human Rights of Intersex Persons,<sup>13</sup> calling on states to take measures to combat violence and discrimination against intersex people. Intersex organizations in Australia and New

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<sup>9</sup> ILGA World, *State-Sponsored Homophobia (2020)*, see at [https://ilga.org/downloads/ILGA\\_World\\_State\\_Sponsored\\_Homophobia\\_report\\_global\\_legislation\\_overview\\_update\\_December\\_2020.pdf](https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf); [https://ilga.org/downloads/ILGA\\_World\\_State\\_Sponsored\\_Homophobia\\_report\\_global\\_legislation\\_overview\\_update\\_December\\_2020.pdf](https://ilga.org/downloads/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf).

<sup>10</sup> *Bostock v. Clayton County*, 590 U.S. (2020), see at [https://www.supremecourt.gov/opinions/19pdf/17-1618\\_hfci.pdf](https://www.supremecourt.gov/opinions/19pdf/17-1618_hfci.pdf)

<sup>11</sup> Lambda Legal, *Health and Medical Organization Statements On Sexual Orientation, Gender Identity/Expression and “Reparative Therapy”*, see at <https://www.lambdalegal.org/publications/health-and-med-orgs-stmts-on-sex-orientation-and-gender-identity>

<sup>12</sup> Outright International, *The Global Reach of So-Called Conversion Therapy Report*, see at <https://outrightinternational.org/our-work/human-rights-research/global-reach-so-called-conversion-therapy>. Also there are more stories of the conversion practices victims in China, see the research done by Human Rights Watch at <https://www.hrw.org/zh-hans/report/2017/11/15/311127>.

<sup>13</sup> United Nations Human Rights Council, *United Nations Human Rights Council 48th Session Joint Statement on the Human Rights of Intersex Persons*, see at <https://www.bmeia.gv.at/oev-genf/speeches/alle/2021/10/united-nations-human-rights-council-48th-session-joint-statement-on-the-human-rights-of-intersex-persons/>

Zealand worked together to create the Darlington Statement,<sup>14</sup> a declaration on intersex activists' priorities and policy goals, which has since been affirmed by multiple governments.<sup>15</sup> Additionally, Greece, Malta, Portugal, Germany, and the Indian State of Tamil Nadu have banned medically unnecessary surgeries on intersex persons without their consent.<sup>16</sup> However, despite the fact that non-consensual, medically unnecessary surgeries violate the human rights of intersex individuals,<sup>17</sup> most states do not ban this process.<sup>18</sup> Intersex people continue to face discrimination in education, employment, and healthcare.<sup>19</sup> HRDs at the forefront of the intersex rights movement continue to push for a world in which intersex individuals can access their full human rights.

### **Registration of SOGIESC Civil Society Organizations**

Civil society organizations (CSOs) working to advance the human rights of LGBTIQ people are on the frontlines of human rights defense. However, an ongoing obstacle for these organizations is their lack of legal recognition. An analysis by OutRight found that, of 194 countries studied, only 56% permitted SOGIESC organizations to legally register as CSOs.<sup>20</sup> Registration can enhance HRDs' ability to further the rights and well-being of LGBTIQ populations. Additionally, acquiring ECOSOC accreditation at the United Nations remains extremely difficult for many LGBTIQ organizations, preventing them from fully accessing UN spaces and connecting with decision-makers. This barrier represents entrenched restrictions on LGBTIQ CSO rights. To maximize the impact HRDs can make, legal restrictions to registering SOGIESC CSOs must be removed.

### **Recommendations:**

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<sup>14</sup> Intersex Human Rights Australia, *Darlington Statement*, see at <https://ihra.org.au/darlington-statement/>.

<sup>15</sup> See, e.g., Dean Arcuri, *City of Darebin Affirms Intersex Rights*, at <https://www.starobserver.com.au/news/city-of-darebin-first-australian-local-government-to-affirm-darlington-statement/191192>; see also Aileen Kennedy, *ACT releases Australian-first draft law to protect intersex children from irreversible medical harm*, at <https://theconversation.com/act-releases-australian-first-draft-law-to-protect-intersex-children-from-irreversible-medical-harm-184566>.

<sup>16</sup> InterACT, *Intersex FAQ*, see at <https://interactadvocates.org/faq/#surgerylaw>; Reuters, *Greece Bans "Sex-Normalizing" Surgeries on Intersex Babies*, see at <https://www.nbcnews.com/nbc-out/out-news/greece-bans-sex-normalizing-surgeries-intersex-babies-rcna39174>

<sup>17</sup> Council of Europe Commissioner for Human Rights, *Human Rights and Intersex People*, see at <https://rm.coe.int/16806da5d4>

<sup>18</sup> United Nations Human Rights Council, *United Nations Human Rights Council 48th Session Joint Statement on the Human Rights of Intersex Persons*, see at <https://www.bmeia.gv.at/oev-genf/speeches/alle/2021/10/united-nations-human-rights-council-48th-session-joint-statement-on-the-human-rights-of-intersex-persons/>

<sup>19</sup> United Nations Human Rights Council, *United Nations Human Rights Council 48th Session Joint Statement on the Human Rights of Intersex Persons*, see at <https://www.bmeia.gv.at/oev-genf/speeches/alle/2021/10/united-nations-human-rights-council-48th-session-joint-statement-on-the-human-rights-of-intersex-persons/>

<sup>20</sup> OutRight Action International, *The Global States of LGBTIQ Organizing: The Right to Register*, see at <https://outrightinternational.org/sites/default/files/2022-10/RighttoRegister.pdf>

HRDs routinely face harassment, assault, defamation, and digital security threats for their work.<sup>21</sup> In 35 countries, at least 358 HRDs were murdered in 2021.<sup>22</sup> Because HRDs risk their freedoms and lives in their advocacy work, it is crucial to create protections for HRDs against reprisals. Depending on the context, mandate holders may act against reprisals by submitting allegation letters and urgent appeals to the countries in which human rights violations have taken place,<sup>23</sup> issuing press releases, and referring to specific cases in reports.<sup>24</sup> Special Rapporteurs must do all they can to protect the lives of HRDs who advocate for international human rights.

Although HRDs have achieved much progress in the last 25 years, special procedures should continue pushing for laws and policies that protect LGBTIQ people and their organizations. By integrating input and expertise from HRDs, the Special Rapporteur should support international legal protections for LGBTIQ individuals, including ending laws that criminalize, consensual same-sex activity and diverse gender identities and expressions, the passage of comprehensive non-discrimination legislation, bans on non-consensual medical procedures for intersex individuals, and prohibitions of some forms of conversion practices. Additionally, the Special Rapporteur should support the ability of LGBTIQ organizations to formally register as CSOs in countries where they are currently banned from doing so.

Special procedures should also continue working directly with HRDs to bring about positive change. HRDs need the support of the international community in creating progress for LGBTIQ issues. Because of their direct engagement with human rights issues, HRDs are in a unique position to offer practical knowledge and recommendations to both States and UN bodies.

It is also necessary to shift the narrative to protecting human rights for all without any kind of discrimination. People who face multiple and intersecting forms of discrimination due to their gender, age, race, ethnicity, ability, class, caste, socioeconomic status, migration status, and other factors that drive exclusion are especially at risk for human rights violations. We have seen many advances in LGBTIQ rights in the past 25 years due to the work of HRDs, and we will continue to push for even more developments in the future.

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<sup>21</sup> Frontline Defenders, *Global Analysis (2020)*, see at [https://www.frontlinedefenders.org/sites/default/files/flid\\_global\\_analysis\\_2020.pdf](https://www.frontlinedefenders.org/sites/default/files/flid_global_analysis_2020.pdf)

<sup>22</sup> Frontline Defenders, *Global Analysis (2021)*, see at [https://www.frontlinedefenders.org/sites/default/files/2021\\_global\\_analysis\\_-\\_final.pdf](https://www.frontlinedefenders.org/sites/default/files/2021_global_analysis_-_final.pdf)

<sup>23</sup> IJRC, *Special Rapporteur on the Situation of Human Rights Defenders*, see at <https://ijrcenter.org/un-special-procedures/special-rapporteur-on-the-situation-of-human-rights-defenders/>

<sup>24</sup> OHCHR, *Acts of Intimidation and Reprisal for Cooperation with Special Procedures*, see at <https://www.ohchr.org/en/special-procedures-human-rights-council/acts-intimidation-and-reprisal-cooperation-special-procedures>