The "super election year" and its impact on LGBTIQ persons' rights to freedom of peaceful assembly and association

Special Rapporteur on freedom of peaceful assembly and of association

February 7, 2025

Outright International works with partners around the globe to strengthen the LGBTIQ human rights movement, document and amplify human rights violations against LGBTIQ people, and advocate for inclusion and equality. Founded in 1990, Outright works with civil society organizations, the United Nations, regional human rights monitoring bodies, governments, humanitarian and development institutions, and philanthropic and corporate partners to create lasting change. With staff in twenty countries, Outright holds consultative status at the United Nations, where it serves as the secretariat of the UN LGBTI Core Group.

This submission is a response to the call for inputs from the Special Rapporteur on freedom of peaceful assembly and of association (hereinafter "FoAA") for the upcoming thematic report on the "super election" year and its global impact on the protection of the rights to freedom of peaceful assembly and association and for ensuring effective and inclusive public participation.

This input draws from Outright International's Global LGBTQI+ Inclusive Democracy and Empowerment (GLIDE) Initiative 2024 Landscape Analysis, other secondary sources, and primary data collected for a forthcoming publication by Outright International on the same subject. It is divided into three sections: (1) key trends, challenges, and restrictions related to the exercise of the rights to FoAA of LGBTIQ persons during the "super election year," (2) concrete protective measures by States and other actors to guarantee LGBTIQ persons' rights to FoAA, and (3) related recommendations for States.

Key trends, challenges, and restrictions

Anti-LGBTIQ Political Rhetoric

The "super election year" of 2024 was marked by the continued rise of national and transnational anti-rights, anti-democratic, and anti-gender movements that target lesbian, gay, bisexual, trans, intersex, and queer (LGBTIQ people for perceived political gain. Autocratic and authoritarian political actors are increasingly employing anti-LGBTIQ rhetoric and exploiting existing hostilities against LGBTIQ people in their campaigns around the world. As the 2024 GLIDE Landscape Analysis indicates, based on a survey of 173 LGBTIQ persons, mostly activists, in 62 countries, "79% of respondents observed an increase in anti-LGBTQI+ rhetoric and/or violence in the run-up to the most recent or upcoming election in their country."[1] For example:

[1] Outright International, International foundation for Electoral Systems, and Synergia Initiative for Human Rights, *GLIDE 2024 Landscape Analysis*, July 2024, https://outrightinternational.org/sites/default/files/2024-10/GLIDE%20Landscape%20Analysis%20Final.pdf, p 33.

- In **El Salvador,** which held general elections in 2024, an LGBTIQ organization recorded several cases of political actors using anti-LGBTIQ rhetoric in campaigns, including a candidate for a seat in parliament portraying the so-called LGBTIQ agenda as a threat to the traditional values that the majority of the population supposedly holds.[2]

- In **France**, ahead of the 2024 European Parliament elections, several far-right political candidates intensified anti-LGBTIQ attacks, positioning LGBTIQ issues at the center of their electoral campaigns. In a televised debate, a far-right candidate ended her speech by declaring his opposition to "woke propaganda and LGBT activism destroying our universities." She also called on voters to "preserve our families and our values against wokism, LGBT activism..."[3]

- In **Hungary**, for the early indirect presidential elections in February 2024, the ruling Fidesz-KDNP coalition claimed in its one-page electoral manifesto that the "Brussels elite and the Soros network (...) indoctrinates our children with gender propaganda" and that "gender propaganda abuses our children's future."[4]

- In the **United States of America**, the Republican Party spent over $200 million from August to October 2024 on campaign advertisements that attacked transgender persons in various states, including at least $17 million from Donald Trump's campaign.[5]

- In the run-up to the presidential elections in **Ghana** in December 2024, both incumbent and opposition political leaders campaigned with a target on LGBTIQ populations' backs. The ruling party candidate, Mahamudu Bawumia, promised to enact into law the anti-LGBTIQ bill that passed through parliament. The former president John Dramani Mahama, the main opposition candidate, also promised to promote stricter laws to punish same-sex intimacy and advocacy and blamed the "West" for promoting foreign notions of homosexuality.[6]

Media coverage of electoral campaigns and irresponsible portrayal of LGBTIQ issues can also amplify anti-LGBTIQ rhetoric. For example, in **Indonesia**, ahead of the 2024 national elections, Arus Pelangi, an

[2] COMCAVIS Trans, "Análisis Sobre La Discursiva en Torno a Las Personas Lgbtiq+ en Contextos Electorales (Período 2021-2024)." A copy of this report will be shared with the staff of the mandate holder via email.
[3] "Elections européennes 2024 : Un jeune homme effaré par les propos de Marion Maréchal, sa réaction fait le buzz," *20 Minutes*, May 29, 2024, https://www.20minutes.fr/arts-stars/insolite/4093526-20240529-elections-europeennes-2024-jeune-homme-effare-propos-marion-marechal-reaction-fait-buzz.
[4] Fidesz – Magyar Polgári Szövetség. *Választási Manifesztum*. 2024. Poster. Accessed February 5, 2025, https://upload.wikimedia.org/wikipedia/commons/b/bc/V%C3%A1laszt%C3%A1si_Manifesztum_2024.jpg.
[5] Zane McNeill, "Republicans Spent Nearly $215M on TV Ads Attacking Trans Rights This Election," *truthout,* November 5, 2024; "Republican Candidates Have Spent More Than $65 Million on Anti-Trans Ads Since August," *Them*, October 10, 2024, https://www.them.us/story/trump-republican-campaign-anti-trans-ads-election.
[6] Thomson Reuters Foundation, "Ghana Parties Stoke Anti-LGBTQ+ Sentiment Ahead of Election," November 20, 2024, https://www.voanews.com/a/ghana-parties-stoke-anti-lgbtq-sentiment-ahead-of-election/7881015.html.

LGBTIQ organization, published a report in collaboration with two journalists' associations, showing that anti-LGBTIQ language in online media sources intensified ahead of the polls.[7]

Anti-LGBTIQ political rhetoric exploits and intensifies discrimination, harassment, and violence against LGBTIQ persons, which has adverse effects on their participation in political processes openly as LGBTIQ individuals or organizations. According to the GLIDE 2024 Landscape Analysis, respondents from several countries, including Lebanon, Tanzania, Ghana, Kenya, and Zimbabwe, noted that "people were afraid to participate openly (as LGBTQI+ people) in political and democratic processes, citing discrimination, threats, and even violence."[8]

Rise of Criminalizing Laws

This regressive trend has been accompanied by the rise of laws criminalizing various facets of the right to freedom of peaceful assembly and association of LGBTIQ persons and their allies. For example:

- In **Ghana**, one of the most repressive anti-LGBTIQ laws ever proposed in any African country would prohibit LGBTIQ associations and organizations and criminalize LGBTIQ allies or anyone who "promotes" prohibited acts or subverts "Ghanaian family values."[9] Violators could be punished with up to 10 years of jail for "propaganda" for LGBTIQ people, five years for forming an LGBTIQ group, five years for funding or sponsoring LGBTIQ organizations, and three years for being an "ally." While the new president, John Mahama, elected in December 2024, signaled a possible shift when he declared that the bill is "effectively dead" due to its failure to pass before the end of the parliamentary term, he nevertheless affirmed that "we should have a conversation about it again."[10]

- In **Georgia,** two bills with significant implications for LGBTIQ organizing were passed into law in 2024:

    - First, the so-called Foreign Agent Law requires civil society organizations receiving more than 20 percent of their funds from foreign sources to register as "bearing the interests of a foreign power" and open all their internal documents for inspection. The Council of Europe's Commissioner for Human Rights has criticized it for potentially targeting LGBTIQ civil society, among other things.[11]

[7] Ika Ningtyas, "According to the Political Year, Online Media Coverage is Discriminatory Against LGBT Individuals," *AJI Indonesia*, March 20, 2023, https://aji.or.id/informasi/according-political-year-online-media-coverage-discriminatory-against-lgbt-individuals.
[8] GLIDE 2024 Landscape Analysis, 34.
[9] Maxwell Akalaare Adombila, "Ghana Supreme Court rejects legal challenges to anti-LGBT bill," *Reuters*, December 18, 2024, https://www.reuters.com/world/africa/ghana-supreme-court-dismisses-legal-challenges-anti-lgbt-bill-2024-12-18/.
[10] Greg Owen, "Ghana's parliament passed a bill banning LGBTQ+ identity. It was just declared dead," *LGBTQ Nation,* January 24, 2025, https://www.lgbtqnation.com/2025/01/ghanas-parliament-passed-a-bill-banning-lgbtq-identity-it-was-just-declared-dead.
[11] Council of Europe Commissioner for Human Rights, "Georgian Parliament should not adopt anti-LGBTI law and should refrain from using stigmatising rhetoric," *Council of Europe,* September 6, 2024,

- Second, the draconian "On Family Values and the Protection of Minors" legislative package bans "LGBT propaganda" and effectively prohibits public gatherings in support of LGBTIQ people's human rights.[12]

- Speaking to Outright, Georgian queer activists recalled harrowing instances of physical violence against protestors, particularly directed at queer activists and protestors who were read as male. For women protestors, harassment campaigns that involved threatening calls to family members were commonplace. "They called up my septuagenarian father and threatened my safety," a lesbian activist recalled.[13] Almost all activists Outright interviewed expressed despondency and asserted they see no other way out but to emigrate. "Georgia used to provide asylum to queer-trans activists and political dissenters from Iran, Armenia, and Russia. But now we are having to flee. There is no other option. Ironically, when they first came into power, Georgian Dream [the ruling coalition that has been in power since 2012] issued pro-LGBTIQ statements. Today, we are their favorite scapegoats," another activist poignantly recounted.[14]

- In the **Russian Federation**, the Supreme Court issued a ruling in November 2023 that broadly designated the "international LGBT movement" as extremist and banned the rainbow flag. This vague decision has intensified crackdowns on LGBTIQ individuals and groups. As a result, at least three organizations working on LGBTIQ issues have disbanded out of fear of prosecution, police have increased raids of places allegedly frequented by LGBTIQ people, and courts have convicted individuals for wearing or posting rainbow flags.[15]

- In **Turkey,** for the first time since Recep Erdoğan's AKP (Justice and Development Party) came into power in 2022, the party suffered a major defeat across almost all municipalities in a March 2024 municipal election. The activists across Ankara, Istanbul, and beyond felt that this loss for AKP did not change much for the LGBTIQ people of Turkey. "Yes, we can anticipate that AKP will go. But the discourse has shifted so far right that things will not change for us," a queer activist from Istanbul said.[16] An older lesbian activist recalled how even as recently as four years ago, the municipality of her small seaside town used to hang rainbow flags from the municipality

https://www.coe.int/en/web/commissioner/-/georgian-parliament-should-not-adopt-anti-lgbti-law-and-should-refrain-from-using-stigmatising-rhetoric.

[12] "The gathering is forbidden, if it aims to popularise single-sex family or intimate relationship, incest, adoption or foster care of a minor by same-sex family or non-heterosexual person, changing sex by medical intervention or non-use of concepts defined by sex." Opinion of Georgia on the Draft Constitutional Law of Georgia on Amending the Constitution of Georgia and Draft Constitutional Law of Georgia on Protecting Family Values and Minors. https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2024)020-e.

[13] Outright interview with Misha P., January 15, 2025, virtual. Names have been changed to protect the identity of the activists.

[14] Outright interview with Nino S., January 22, 2025, virtual. Names have been changed to protect the identity of the activists.

[15] "Russia: First Convictions Under LGBT 'Extremist' Ruling," *Human Rights Watch*, February 15, 2024, https://www.hrw.org/news/2024/02/15/russia-first-convictions-under-lgbt-extremist-ruling.

[16] Outright interview with Ahmet Y., August 12, 2024, virtual. Names have been changed to protect the identity of the activists.

building during Pride month.[17] Such acts were unthinkable now. Even the opposition has adopted increasingly hostile stances on LGBTIQ issues.

Other Barriers

Laws that criminalize consensual same-sex intimacy, regardless of their enforcement, also make it difficult for LGBTIQ persons to exercise their rights to freedom of peaceful assembly and association. These laws may have a deterrent effect on LGBTIQ organizing. In about 74 countries, LGBTIQ organizations exist but cannot register and operate freely.[18] As of September 2023, Outright could not identify any LGBTIQ organizations in at least 26 countries; in 19 of these, there were likely barriers stemming from the criminalization of consensual same-sex sexual relations or gender diversity.[19]

LGBTIQ people also perceive risk in any engagement with government authorities and institutions, in particular, the risk of being subjected to extortion, which may hinder democratic engagement. As shown in the GLIDE 2024 Landscape Analysis, requests to pay bribes to access government services, as well as blackmail by public officials related to criminalizing laws, were perceived by over 50 percent of respondents as a "big problem," while 25 percent considered these acts of corruption as "something of a problem."[20]

Governments use criminalizing laws to "disempower democratic movements" by refusing to register organizations that work on LGBTIQ issues on the grounds that doing so would violate such laws.[21] In at least 62 countries, for example, LGBTIQ organizations exist, but it is prohibited or generally impossible for them to register as openly LGBTQ.[22]

Trans, gender nonconforming, and intersex persons experience additional challenges in exercising their rights to vote, stand in elections, and participate in political processes due to discrimination based on gender identity, gender expression, and sex characteristics. Beyond explicit prohibitions, the fear of discrimination may also lead trans and intersex persons to refrain from participating in electoral processes themselves. For example:

- In **Brazil**, Carolina Iara, a Black, trans, and intersex elected parliamentarian, has faced severe threats to her life as a form of political violence. For example, her house was targeted with multiple gunshots during the early hours of one night in January 2021.[23] Despite overcoming significant systemic barriers to winning her seat, she continues to face ongoing challenges and

[17] Outright interview with Latife T., August 21, 2024, virtual. Names have been changed to protect the identity of the activists
[18] Outright International, *The Global State of LGBTIQ Organizing: The Right to Register and the Freedom to Operate 2023*, September 2023, 6, https://outrightinternational.org/right-to-register2023.
[19] Outright International, *The Global State of LGBTIQ Organizing: The Right to Register and the Freedom to Operate 2023*, September 2023, 7, 75, https://outrightinternational.org/right-to-register2023.
[20] GLIDE 2024 Landscape Analysis, 50.
[21] Ibid, 17.
[22] The Right to Register and the Freedom to Operate 2023, 75.
[23] Caê Vasconcelos, "Na semana da Visibilidade Trans, covereadora Carolina Iara afirma ter escapado de atentado a tiros," *Ponte*, January 27, 2021, https://ponte.org/na-semana-da-visibilidade-trans-covereadora-carolina-iara-escapa-de-atentado-a-tiros/.

obstacles in carrying out her mandate due to intersexphobia, compromising her safety and her ability to fully exercise her political rights and participate in the political process. As Iara reflected, "How to legislate for people whose gender is ignored? How to convince Legislative Chambers dominated by religious fundamentalism (as are the Brazilian Legislative Chambers) and with seats for the Bolsonarist extreme right that intersex babies cannot be made to suffer by undergoing early surgeries?"[24]

- In **Kenya**, transgender people who have attempted to run for public office have been harassed or threatened into withdrawing their candidacies.[25]

- In **Malaysia**, because there is no legal recognition of gender identity, trans persons have to go to their hometowns to vote and use their deadname, "the announcement of which can put them in danger."[26]

- In **Zimbabwe**, "transgender individuals get turned away from voting stations due to a lack of documents, but some trans people have been able to vote if someone else can vouch for their identity."[27]

- In **India**, which decriminalized consensual same-sex sexual relations in 2018 and even enacted into law limited recognition of the human rights of trans persons in 2019, it was not easy for trans people to exercise their right to participate in elections five years later. Speaking to Outright, a *hijra* community member, a young Bengali Muslim woman, asserted it was very important for her to vote. She went back to her village in lower Assam, a northeastern state riven by right-wing anti-Muslim and anti-Bengali sectarian politics. "Nobody in my village knows that I work in this profession [as a *hijra* performer]. So I couldn't go back to vote dressed [as a woman]. When I am at home or going to the polling booth, I dress as a feminine boy. They know I am a bit different, and they accept me as a [femme boy]."[28] For another trans femme activist, the enforced binary gender queues of voters at the polling booth were such a vexing issue that she decided not to vote.[29]

Voting requirements that supposedly promote the integrity of the elections, such as the presentation of photo identification cards, may also present specific challenges for trans and gender nonconforming persons. For example:

[24] "We, the intersex people from the Global South: Latin America and the Carribean Edition," *GATE,* September 2022, 20, https://gate.ngo/wp-content/uploads/2022/07/GATE-We-the-intersex-people-from-the-Global-South-LAC-Edition-2022-EN.pdf
[25] GLIDE 2024 Landscape Analysis, 35.
[26] Ibid, 34.
[27] Ibid, 35.
[28] Outright interview with Rashima A., June 12, 2024, Guwahati. Names have been changed to protect the identities of the activists.
[29] Outright interview with Roshni C., June 12, 2024, Guwahati. Names have been changed to protect the identities of the activists.

- In the **United Kingdom**, the Elections Act of 2022 empowers election staff to turn away voters who look different from the photo on their ID to prevent voter fraud. This requirement has been in effect since the May 2023 elections, leading trans persons, especially those who had just begun transitioning, to fear that their photo IDs are out of date and that they may not be able to vote.[30]

- In the **United States**, according to the Williams Institute at UCLA School of Law, around 210,800 transgender persons of voting-eligible age lacked identity documents that reflect their lived names and/or correct sex or gender marker in 42 states that primarily conduct in-person polling and have a voter ID law. Among them, 91,300 live in states with strict voter ID laws that provide no alternatives for voters with no photo ID or have an inaccurate photo ID, justifying fears of "substantial barriers and potential disenfranchisement in the November 2024 general election."[31]

Through direct or indirect barriers, disenfranchising trans and gender nonconforming persons is part of broader efforts of political and economic disenfranchisement that "literally seeks to erase trans people from public life and ensure that they are economically subordinate."[32]

Best practices for the protection of LGBTIQ persons participating in elections

In several countries, legal and policy frameworks, including laws on elections and political parties, explicitly protect and recognize several rights of LGBTIQ persons relevant to electoral and political participation. For example:

- In **Colombia**, Article 1.4 of Law 1475 of 2011 on political parties guarantees the real equality of "men, women, and other sexual orientations [sic]" in the right to participate in political activities, lead political parties, and access electoral debates. To this effect, Article 81 of the Electoral Code of 2020 enables political parties to adopt mechanisms that would promote the inclusion of LGBTIQ persons in their selection of electoral candidates and members of their internal governing and administrative bodies.

- In **Pakistan**, Act No. XXXIII of 2017, as amended by Act No. XLIV of 2023 prescribes several concrete measures to promote the participation of transgender persons in electoral processes:
    - Article 48 empowers the Electoral Commission to take special measures to register trans persons as voters, including through the issuance of National Identity Cards.
    - Article 203.4 stipulates that political parties should encourage trans persons to become their members.

[30] Rowenna Hoskin, "Transgender voters say they face photo ID barrier," *BBC News,* June 15, 2024, https://www.bbc.com/news/articles/crggxjz0514o.
[31] Jody Herman, Nathan Cisneros, Lindsay Mahowald, and Will Tentindo, "The Potential Impact of Voter Identification Laws on Transgender Voters in the 2024 General Election," *UCLA School of Law Williams Institute*, September 2024, https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Voter-ID-Sep-2024.pdf.
[32] Scott Skinner-Thompson, "Transgender Disenfranchisement," *Washington University Law Review* (forthcoming), http://dx.doi.org/10.2139/ssrn.5101062.

Several jurisdictions also explicitly prohibit the exclusion or persecution of LGBTIQ people by political actors. For example:

- In the **Dominican Republic**, Article 44.4 of *Ley Núm. 33-18, de Partidos Agrupaciones y Movimientos Políticos* prohibits political parties from carrying out political propaganda that is negative or disrespectful in terms of "sexual preference [sic]," among others.

- In **Pakistan**, Article 167 of Act No. XXXIII of 2017, as amended by Act No. XLIV of 2023 prohibits corrupt practices, including dissuading voters from voting for electoral candidates based on their being transgender, while Article 170.a.vii prohibits acts that prevent trans persons from standing in elections or exercising their right to vote.

- In **Romania**, the law requires electoral candidates to refrain from promoting hatred or discrimination based on gender and sexual orientation, among other grounds, according to Article 71.2.d of Law No. 208 of July 20, 2015, as amended by Law No. 148 of July 24, 2019.

- In **Spain**, Article 9.2.a Organic Law 6/2002 of 27 June on Political Parties prohibits political parties from "systematically [violating] any fundamental rights and freedoms, promoting, justifying or excusing the attacks against life or integrity of persons, or the exclusion or persecution of people because of their…sex or sexual orientation."

Recommendations

Member States should:

- Repeal existing laws and policies that ban the dissemination of information related to and the positive public portrayal of LGBTIQ persons and those that, either directly or through vague language, prohibit public expressions, gatherings, and activities that support the human rights of LGBTIQ persons;

- Repeal other laws and policies that prevent LGBTIQ persons and their allies from fully exercising their rights to freedom of peaceful assembly and association, including those that criminalize same-sex intimacy or gender nonconformity, restrict foreign funding, impose onerous requirements for legal registration, or prohibit the creation of, membership in and provision of support to LGBTIQ groups;

- Develop and enforce policies prohibiting hate speech against minority groups, including LGBTIQ people, during election campaigning and in political party election manifestos. Media monitoring bodies should also monitor and hold accountable media outlets that publish inflammatory material targeting LGBTIQ people.

- Enact legislation that explicitly protects the rights to vote, stand in elections, join political parties, and participate in electoral campaigns, as well as the fundamental rights to freedom of association and assembly without discrimination based on sexual orientation, gender identity, gender expression, and sex characteristics;

- Allot and/or increase state funding for incentives for political parties to meaningfully include LGBTIQ persons as members and/or candidates for elections, including through implementation of quotas, financial incentives, access to state media during campaigns, and other measures;

- Enact legislation that would allow election, broadcasting, and other public authorities to impose penalties or apply other measures that would disincentivize public political discourse that incites violence against LGBTIQ persons;

- Enact special measures to promote the equitable participation of LGBTIQ persons in electoral and other political processes, including by supporting organizations that work on the human rights of LGBTIQ people through training, capacity building, and core funding; and

- Continue affirming the human right of LGBTIQ persons to participate in free and fair elections, including by voting for the biennial resolution of the United Nations General Assembly's Third Committee on elections and calling for its explicit recognition of specific barriers LGBTIQ persons face in the exercise of this right and other related human rights due to criminalization and discrimination based on sexual orientation, gender identity, gender expression, and sex characteristics.