



Photo: UN Women

June 2024



UN Women submission on electoral participation and sexual orientation and gender identity:

To the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

UN Women is pleased to respond to the request by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (UN IE SOGI) for inputs to the report on electoral participation and sexual orientation and gender identity. UN Women intends for this submission to amplify the messages of our civil society partners around the world, and the clear call by people of diverse sexual orientations, gender identities, gender expressions and sex characteristics (SOGIESC) for equality and inclusion in democratic processes, including elections. This request is timely, coming during what is being billed as a ‘super election year’, with some 2.6 billion people eligible to vote worldwide. UN Women is closely examining the opportunities and challenges for lesbian, gay, bisexual, transgender, gender diverse, intersex and queer (LGBTIQ+) persons’ full equality and inclusion in electoral processes in 2024 and beyond.

1. Background

The International Covenant on Civil and Political Rights obliges State Parties to ensure that the rights therein, including the right to “vote and be elected” and “to have access, on general terms of equality, to public service”¹, are provided to all individuals “without distinction of any kind”. It provides a nonexhaustive list, including “such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”². While SOGIESC is not listed explicitly, it would be maintained that the emphasis of the clause is on “without distinction of any kind” and that the concept of “other status” would include SOGIESC. Furthermore, the Universal Declaration of Human Rights establishes that rights are universal. Therefore, States are obliged under international law to safeguard the human rights of all lesbian, gay, bisexual, transgender, intersex, and queer persons (LGBTIQ+)³ on an equal basis with all other persons.

¹ ICCPR, Art 25

² ICCPR, Art 3

³ UN Women uses both ‘LGBTIQ+’ and ‘diverse SOGIESC’ where appropriate in global contexts, while respecting their distinctions. We note that neither term is universally applicable nor reflects the full diversity of sexual and gender formations, practices and identities that exist, that terms and their usage are constantly evolving, and that SOGIESC applies to all people. In practice, various culturally, linguistically and context specific terms may be used, where appropriate.

There have been two UN General Assembly Resolutions on elections and democratic processes, which specifically include provisions reaffirming the obligation to take measures to eliminate discrimination based on sexual orientation and gender identity in people's right to participate in public affairs. "*Strengthening the role of the United Nations in the promotion of democratization and enhancing periodic and genuine elections*" – a resolution adopted by the General Assembly in 2021 and 2023⁴, calls on States "to take measures to eliminate laws, regulations and practices that discriminate, directly or indirectly, against citizens in their right to participate in public affairs, including based on race, color, ethnicity, national or social origin, sex, sexual orientation and gender identity, language, religion, political views or on the basis of disability"⁵.

2. Contextual challenges⁶

While some countries have made strides towards recognizing and protecting the rights of persons with diverse SOGIESC, many people still face significant challenges in safely and fully participating in electoral and political processes. Discrimination, stigma, violence, and legal barriers often hinder people with diverse SOGIESC from openly engaging in politics, running for office, voting and participating in electoral processes. In many countries, cultural and religious attitudes towards diverse sexual orientations and/or gender diversity perpetuate societal prejudice and discrimination against people with diverse SOGIESC, making it difficult, and in some cases dangerous, for them to assert their rights and voice their concerns within political spheres. Frequently, elections are used to propel a platform of anti-LGBTIQ+ rhetoric, discrimination and even hate speech, and public displays of dissent such as protest are often repressed. The widespread lack of legal protections against discrimination based on SOGIESC leave LGBTIQ+ people more vulnerable to harassment, violence (online and offline), and marginalization, further inhibiting their ability to participate fully and equally in electoral and political activities. Even in countries where hostility is not as overt, tacit exclusion and bureaucratic shortcomings, for example, can still create discriminatory barriers. For example, electoral management bodies often do not have established protocols and policies to ensure the full participation of all voters and potential candidates, regardless of SOGIESC, thus disenfranchising some individuals from voting or running for elected office.

The foundation of democracy lies in ensuring every citizen has an active role in governing their nation. However, in many countries around the world, individuals with diverse SOGIESC encounter substantial obstacles that hinder their political participation and the realization of their rights. A key example is the criminalization of consensual same-sex acts in approximately 60 UN Member States, which exposes people with diverse SOGIESC to various forms of persecution including arrest, blackmail, discrimination, and violence. Even where consensual same-sex sexual acts are legal, tacit persecution and stigmatisation remain a serious concern. In Bangladesh, where homosexuality is criminalized under section 377 of the Penal Code, there have been several cases of violence against people with diverse SOGIESC related to electoral processes. Following the killing of a community leader, Xulhaj Mannan, in 2016, some LGBTIQ+ community members fled their homes, jobs and even the country due to security concerns, and most have had to take measures to erase their digital footprints for fear of further reprisals. In March 2024, in response to backlash against the inclusion of content on gender diversity in the national curriculum, UN Women, UNFPA, and UNAIDS held a dialogue where community representatives highlighted challenges regarding the need for safe homes, capacity building on safety and data security, for example, and for policy advocacy to remove discriminatory laws.

At least 59 UN Member States impose legal barriers on freedom of expression, assembly, and association.⁷ These limitations specifically impact LGBTIQ+ people and civil society organizations (CSOs) by hindering their ability to engage freely in political and electoral processes. They often hamper civil society operations and disproportionately target vulnerable groups, including through surveillance and raids. Numerous countries are in various stages of introducing or having adopted so-called "foreign agent laws", which require foreign funded CSOs (and in some cases media) to register as "agents of foreign influence" and be subject to additional government scrutiny, sanctions, obstruction, and/or arbitrary interference based on their perceived or real political activities. Such laws pose challenges to CSOs working on transparency and human rights, including the political and electoral rights of LGBTIQ+ persons, in political environments where rights are already constrained. For example, the European Court of Human Rights (ECHR) found that Russia violated the right to freedom of assembly and association of CSOs regarded as "foreign agents", with the ruling also

⁴ Resolutions: A/RES/76/176 and A/RES/78/208.

⁵ Ibid paragraph 7

⁶ The examples provided are only highlights and excerpts and are not intended to be an exhaustive accounting of all references to violations targeting people of diverse SOGIESC in electoral or political processes..

⁷ ILGA World Database, 2024. Accessed on 3 May, 2024

noting that “Russian NGOs which had been categorised as ‘foreign agents’ could not take part in electoral campaigning or referenda in any form”⁸. Many of the applicant organizations in the ECHR case were Russian CSOs working on the rights of LGBTIQ+ persons, including related to elections, some of which had to cease operations due to the impacts of the “foreign agents law”. In another court case, regarding the Hungarian “Transparency Law”, the European Court of Justice ruled that Hungary had failed to fulfil its obligations under Articles 7 (respect for private and family life), 8 (protection of personal data) and 12 (freedom of peaceful assembly and association) of the European Charter of Fundamental Rights.⁹ Another example is Lebanon, where Article 534 of the Penal Code prohibits having sexual relations “contradicting the laws of nature” and, along with other imposed restrictions, including the selective banning of LGBTIQ+ related events and gatherings, remain a looming impediment to the realization of full political rights during and between electoral processes. UN Women in Lebanon has long worked in coordination with LGBTIQ+ CSOs to facilitate a space for strategic dialogue, advocacy, and support.

Discrimination and human rights violations against people with diverse SOGIESC that are sponsored or tolerated by States are correlated with political dynamics, like election cycles and other challenges to governments. Active repression of LGBTIQ+ persons’ human rights tend to be associated with campaign tactics ahead of elections. In some such cases, political parties and candidates scapegoat LGBTIQ+ people in general or specific groups such as transgender people to stoke division and hatred and win political and popular favor or to distract from other issues such as poor governance. For example, in Türkiye, discourse negatively targeting people with diverse SOGIESC by candidates and political parties was a predominant feature of campaigns over numerous recent election cycles¹⁰. In Georgia, where elections are scheduled in October 2024, the government is promoting a bill that curtails the rights of people with diverse SOGIESC under the guise of quashing so-called “LGBT propaganda”¹¹. This includes explicit

bans on adoption by same sex couples, gender affirming treatments, and curtailment of associated freedoms of expression, assembly and association. Meanwhile, the former UN IE SOGI, systematically evidenced actions in the US that “rely on prejudiced and stigmatising views of LGBT persons, in particular transgender children and youth, and seek to leverage their lives as props for political profit”¹². Ahead of the 2024 European Union elections, it is reported that there has been a surge of hate speech by politicians and officials against LGBTIQ+ persons in many countries across the region¹³. In response to election related concerns in Brazil, UN Women provided support to a CSO network through small capacity-building grants to enable local and regional coordination of LGBTIQ+ human rights defenders networks.

People with diverse SOGIESC, especially trans women, face unique obstacles to their effective engagement in elections and public life more broadly, including hate speech, threats of violence, harassment on- and offline, outing campaigns, State-sanctioned retaliation, detention, and even risks of death. It was noted at the UN Women Expert Group Meeting ahead of the Commission on the Status of Women’s 65th Session that “in some societies being a sexual minority places barriers and hurdles in the way of advancement in politics...but in other places visibility is tantamount to a death sentence,” and that “running for office is a most public outing, the closet is the only option for millions of LGT women globally and running for elective office, even as a closeted queer person, is fraught with danger.”¹⁴ Violence and discrimination is present in both electoral contexts and between electoral periods, which pushes many LGBTIQ+ people out of politics. Some such elected officials have faced threats, gendered online defamation campaigns, and ethics charges.

They frequently risk losing their mandates and their attention is diverted from their policy agendas to respond to allegations.¹⁵ In some countries, political parties have adopted voluntary party quotas for LGBTIQ+ candidates to address exclusion. For example, in Australia, the

⁸ *Ecodefence and Others v. Russia*, 9988/13 and others, ECHR, 2022

⁹ Case-C 78/18, *Commission v Hungary* [2020], ECLI:EU:C:2020:476

¹⁰ Organization for Security and Cooperation in Europe, Office for Democratic Institutions and Human Rights, *Election Observation Mission Final Report: Republic of Türkiye Report, General Elections 14 May and Presidential Election Second Round 28 May 2023*, 29 September 2023.

¹¹ Georgia Dream Party, Briefing at the Office of the Ruling Party, *Constitutional changes against LGBT propaganda*, [Video on Georgia Dream Party Official Facebook](#).

¹² UN IE SOGI, Victor Madrigal-Borloz. *Country Visit to the United States of America. Preliminary Observations*. 29 August, 2022.

¹³ ILGA Europe, *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, Intersex People in Europe and Central Asia 2024*, 2024.

¹⁴ Reynolds, A. 2020. Expert paper, *Lesbian, Bisexual/Pansexual and Trans Women in Elected Office*. UN Women Expert Group Meeting for CSW65. ‘Women’s full and effective participation and decision-making in public life, as well as the elimination of violence, for achieving gender equality and the empowerment of all women and girls’. (EGM/CSW/2021/EP5)

¹⁵ See UN *Special Procedures communication AL BRA 11/2021* and *IACHR Precautionary Measure n. 408-22*.

Queensland Labour Party adopted affirmative action measures for LGBTIQ+ candidates, with a minimum quota of 5 percent in winnable seats, as established in its 2023 rules book.¹⁶

UN Women provides capacity building support at different geographic levels. UN Women has developed a global companion guide on Inclusive Campaigning as part of its global Political Leadership and Campaign Training Curriculum. It offers suggestions and illustrative examples to consider when providing training opportunities for underrepresented groups of women political aspirants and candidates. It is mainly focused on building the campaign skills of women, including those with diverse SOGIESC, and has been implemented in Bosnia and Herzegovina, the Republic of Moldova, and Serbia. In Indonesia, a UN Women OHCHR-ICJ programme, “Enhancing access to justice for women in Asia and the Pacific: Bridging the gap between formal and community-based systems through women’s empowerment” (2018-2023), responded to the regressive shift in the political and social landscape there by increasing its support to the Indonesian human rights movement and its advocacy for legislative and policy change.

Political and election-related violence inhibits free and equal political participation in the conduct of inclusive elections to the detriment of LGBTIQ+ people. It is a serious concern for LGBTIQ+ politicians, rights defenders, activists and organizations, and includes physical attacks, hate speech, hate crimes, and online abuse. Considering the common motives, forms, impacts, targets and perpetrators, it is understood as a form of gender-based violence. For example, in Bosnia and Herzegovina, an alleged intimate video involving a city councilor was used for ‘blackmail, extortion, and elimination from public life’.¹⁷ In Brazil, political violence against LGBTIQ+ people is widespread, with a high degree of impunity, particularly against transgender women and women of African descent in politics. Political violence monitors observed an uptick in political violence in the third quarter of 2022, in the months immediately before the official electoral period, when cases in Brazil more than doubled¹⁸.

These trends are exacerbated by the lack of legal frameworks and policies in many countries aimed at protecting people of diverse SOGIESC from discrimination. Many countries do not have legislation protecting against discrimination on the bases of sexual orientation or gender identity, which exacerbates LGBTIQ+ people’s risks and experiences of stigma, discrimination, and violence. While an increasing number of UN Member States have taken steps to prohibit incitement to violence, hatred or discrimination, they vary greatly regarding framing and coverage in terms of SOGIESC. For example, 51 States prohibit incitement to violence, hatred or discrimination specifically on the basis of sexual orientation, whereas only seven States do so on the basis of gender expression. There is also great variation across regions, with only one UN Member State out of 42 in Asia having prohibitions, and two of 54 Member States in Africa.¹⁹ The lack of such protections in many countries has emboldened candidates, elected officials, and party members to freely utilize discriminatory and hateful discourses against candidates, elected officials, and other people with diverse SOGIESC, during electoral periods. This contributes to creating broader societal contexts that are more enabling and tolerant of anti-LGBTIQ+ hate speech and discrimination.

Some countries have made progress in addressing some of these issues. In 2015, the Election Commission of Nepal developed a code of conduct for the electoral process in consultation with key stakeholders. Provisions applicable to candidates and political parties state that “any activity shall not be conducted or cause to be conducted in a manner that incites hatred or enmity among religions, religious communities, castes, genders, languages, classes, regions or communities.” It also forbids criticism “causing harm to the private life of the candidates and members of political parties.”²⁰ In India, the Transgender Persons Protection of Rights Act was unanimously passed in 2019. This Act prohibits discrimination against transgender persons in many areas of public life including denial of service or unfair treatment in relation to access to, or enjoyment of goods, facilities, opportunities available to the public and the opportunity to hold public or private office. In 2020,

¹⁶ <https://queenslandlabor.org/wp-content/uploads/2023/07/2023-Rules.pdf> (accessed in May 2024).

¹⁷ *Pink report 2022: Annual Report on the State of Human Rights of LGBTI People in Bosnia and Herzegovina*, Sarajevo Open Centre.

¹⁸ Q1 2022 – 113 cases, Q2 2022 – 101 cases, Q3 2022 – 212 cases, Q4 2022 – 131 cases. Threats represent the most common form of political violence (55.3% of cases), and women represented 21.9% of the victims. UNIRIO (2023) – Grupo de Investigação Eleitoral (GIEL). Observatório da violência política e eleitoral no Brasil. Boletim n. 13. Available at: <http://giel.uniriotec.br/files/Boletim%20Trimestral%20n%C2%BA%2013%20-%20JaneiroFevereiro-Mar%C3%A7o%202023.pdf>. A different monitoring by civil society organizations Terra de Direitos and Justiça Global registered 542 cases of political violence between September 2022 and October 2022, and reported the same uptick in the months antecedent the 2022 general elections. Terra de Direitos (2022). Violência política e eleitoral no Brasil. Available at: <https://terradedireitos.org.br/violencia-politica-e-eleitoral-nobrasil/download?id=cnZvbDUwNzVtOGVlaGNyaGVwODRqa3E3czI=&f=4&success=1>

¹⁹ ILGA World Database, 2024.

²⁰ <https://nepal.ec-undp-electoralassistance.org/wp-content/uploads/sites/16/2018/12/ec-undp-jtf-nepalresources-publications-election-code-of-conduct-2015.pdf>

the National Electoral Council of Columbia adopted a resolution to guarantee the right to vote for trans people under equal conditions without discrimination.

Both civil and electoral procedures can present barriers to the full and equal participation of people with diverse SOGIESC in elections and lead to de facto disenfranchisement. Many countries require an identification to be presented at the polling station and checked against a voters list as part of the process of voting. However, for transgender, non-binary and other gender diverse people this requirement can provide an impediment to their participation as voters. When one's identity does not match their legally registered name and gender, this experience can be invalidating, intimidating or even create a safety risk. Furthermore, many countries do not have procedures for gender or name to be changed in civil identification registries and ID cards. As such, transgender and non-binary individuals often are unable to get the right ID to vote safely. Various countries in Central and South America, including Brazil, Costa Rica, Ecuador and Guatemala, have taken measures to remove legal identity barriers by improving gender markers. In South Asia, countries including Bangladesh, India, Malaysia, Nepal and Pakistan, have taken measures to remove barriers to transgender people voting, including through the provision of peer voter education by transgender people. The Election Commission of Nepal allows voters to register their gender identity as "other" in addition to male and female categories, to enable transgender people to participate more effectively in the electoral process. However, a report found that "despite progress, the definition of who was included in the third gender category differed across systems and lacked clarity"²¹ due to the absence of an articulated administrative procedure on local office implementation. This resulted in an arbitrary process for transgender people to change their legal gender.

Even when laws are in place to acquire identifications that match an individual's name and gender, other barriers, such as poorly trained polling station officials or a mismatch between the information on the voter list and the ID card can prevent non-binary and transgender individuals from voting. In some countries, transgender, non-binary and gender-diverse people or so-called 'third gender' voters may be reluctant to vote due to concerns about discrimination. Despite having valid documents, transgender people find that their preferred names are not updated in the voter list and in some cases are repeatedly asked by personnel to prove their identity. To address such challenges, in Bolivia, UN Women worked in close coordination with the Plurinational Electoral Body (OEP) to develop a public information campaign to

inform voters and election officials about the procedures for voting under a new law that included gender identity. They worked on an internal guide to support the OEP to incorporate gender neutral language into their publications. The information campaign included digital art and a Guide for Voting Under Law 807 on Gender Identity. In Brazil, UN Women provided support to a national LGBTIQ+ CSO to mobilize their network aiming to prompt political participation and advocacy of LGBTIQ+ human rights defenders in the context of the 2022 elections. In connection to the activities supported by UN Women, the organization developed strategic litigation against a change in identification regulations that would expose the birth names of transgender people.

3. Conclusion

Issues of electoral participation for LGBTIQ+ people are varied, but some trends are evident across regional and cultural contexts. Despite participation of all citizens in political processes being a cornerstone of democracy and articulated in international human rights law, LGBTIQ+ people face multiple barriers to exercising their rights, including the denial of voting rights, the ability to run for office and participate on an equal basis in civic affairs. Across the world, they frequently lack legal recognition, because of their gender identity for instance, or are criminalized because of who they are, on account of their sexual orientation for instance. LGBTIQ+ women face distinct challenges because they are women and because of their sexual orientation, gender identity, expression, and/or sex characteristics. Where these challenges persist, good governance and political participation of LGBTIQ+ people are particularly difficult to ensure.²²

Despite these challenges, there are pockets of progress and activism around the world. LGBTIQ+ advocacy groups and activists work tirelessly to raise awareness, advocate for legal reforms, and promote LGBTIQ+ rights within political and electoral systems. Grassroots movements and community organizations provide spaces for LGBTIQ+ people to organize, mobilize, and advocate for change. Moreover, international pressure and engagement through human rights mechanisms and diplomatic channels can sometimes influence governments to address issues of discrimination and inequality faced by communities of LGBTIQ+ people. However, much work remains to be done. Efforts to combat discrimination, promote inclusivity within electoral management bodies and the electorate, amplify the voices of LGBTIQ+ people within political processes, and address violence both online and offline are essential for building more inclusive and representative democracies via elections, globally.

²¹ Human Rights Watch, 2024. *Nepal: Barriers to Transgender Legal Recognition*.

²² UN Women, 2022. *LGBTIQ+ Equality and Rights: Internal Resource Guide*.

4. Some key recommendations

- To ensure an environment where all people can freely exercise their rights during and between electoral processes: Legal barriers that restrict full access to political and human rights, including criminalization on the basis of actual or perceived SOGIESC, should be removed, legal protections for people of diverse SOGIESC from discrimination should be established, and efforts taken to combat hate speech.
- States and other stakeholders must take appropriate measures to ensure equal access to electoral participation for all citizens, regardless of SOGIESC. This includes increasing access to official legal identity documents for transgender persons.
- Political parties can enhance the inclusion and participation of people with diverse SOGIESC at different stages of the election cycle, including through the candidate recruitment process.
- Electoral management bodies can take concrete steps to establish protocols, policies, and voter education programs to ensure the participation of all voters and potential candidates.
- Training and guidance for state actors, including electoral management bodies, polling officers, and security personnel is essential to help enable the full inclusion of LGBTIQ+ persons in electoral processes.
- Combating hate speech and attacks against LGBTIQ+ populations, voters, and candidates during the electoral cycle is crucial to upholding the integrity of elections.
- Domestic and international observation missions can incorporate monitoring and analysis of electoral participation of people of diverse SOGIESC as part of standard election observation methodology.
- Support and investments are needed to ensure the ongoing contributions of civil society organizations, including LGBTIQ+ and youth organizations, in promoting LGBTIQ+ candidates, undertaking community advocacy to ensure electoral participation of LGBTIQ+ communities and provision of electoral assistance.

5. Further global examples of UN Women activities and initiatives

- With the CSW65 priority theme, ‘Women’s full and effective participation and decision-making in public life...’, UN Women has made contributions to intergovernmental discourse, including with its Report of the Secretary-General providing a source of information and guidance.²³ It continues to monitor country-level implementation of these agreed conclusions.
- UN Women supports the work of the UN Strategy and Plan of Action on Hate Speech, including regarding the need for specialized guidance on LGBTIQ+ issues and gender analysis broadly.
- Both UN Women and UNDP have developed guidance, tools and training in recent years on political and electoral participation of LGBTIQ+ persons for practitioners. This work intends to identify entry points for various stakeholders to support political inclusion and participation of LGBTIQ+ communities throughout the electoral cycle, to collate good practices and offer tools to a range of electoral stakeholders, including LGBTIQ+ leaders, political parties, electoral management bodies, civil society, journalists, parliamentarians and international electoral support practitioners.
- UN Women has been working in coordination with other UN agencies in the implementation of the UN Guidance Note on Civic Space. Various projects are working to enhance individual- and organization-level commitments to the promotion, protection and full participation of activists and human rights defenders, including in efforts to counter anti-LGBTIQ+ backlash.
- The UN Trust Fund to End Violence against Women²⁴, administered by UN Women, has supported a number of CSOs over recent years in implementing projects specifically addressing the needs of LBT women and girl beneficiaries across regional and country contexts.

²³ <https://www.unwomen.org/en/csw/csw65-2021>

²⁴ <https://www.unwomen.org/en/trust-funds/un-trust-fund-to-end-violence-against-women>