

INTERNAL GUIDANCE NOTE

STRENGTHENING  
PROGRAMMING AND  
ADVOCACY ON THE RIGHTS  
AND EMPOWERMENT OF  
LGBTI PEOPLE



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**POLICY DIVISION AND CIVIL SOCIETY DIVISION**

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# ACKNOWLEDGEMENTS

This Internal Guidance Note is intended to support UN Women staff to integrate the rights of LGBTI people into programming and advocacy. It sets out the normative basis for UN Women’s engagement citing relevant international and regional human rights standards; provides guidance on basic terminology and definitions; highlights challenges faced by LGBTI individuals and groups; and proposes programming and advocacy direction. It was developed through a thorough consultative process, including the development and review of drafts by UN Women Country Offices. An internal reference group, which includes regional and country offices, provided comments and inputs. An informal reference group of partners on LGBTI issues, convened by the Policy and Civil Society Divisions, also provided expert advice and support during the drafting. The Policy Division and Civil Society Division is grateful to all contributors to this work.

—Purna Sen and Lopa Banerjee

# 1. NORMATIVE AGENDA

UN Women works to achieve gender equality and empower all women and girls including the full enjoyment of their human rights. This is consistent with efforts by the human rights system and the UN to address persistent, systematic and structural discrimination and violence. The UN Charter, on which the organization's mandate was founded, is grounded in respect for human rights and for fundamental freedoms for all without distinction with regard to race, sex, language, or religion.<sup>1</sup> In 2015, a joint statement was issued by the heads of 12 UN entities on the urgency of addressing human rights violations and ending violence and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI)<sup>2</sup> people.<sup>3</sup> This Internal Guidance Note is intended to strengthen UN Women's programming and advocacy on the rights and empowerment of LGBTI people.

The Universal Declaration of Human Rights recognizes that the equal and inalienable rights of all members of the human family are the foundation of freedom, justice and peace in the world. The 2030 Agenda for Sustainable Development reaffirms these principles and commits to leaving no one behind. Discrimination and exclusion in their multiple manifestations are a significant, if not the, foremost barrier to the implementation of the 2030 Agenda. Inclusive development will only be sustainable if all people, especially marginalized groups such as lesbian, gay, bisexual, transgender and intersex (LGBTI) people, are included. A layer of vulnerability is added for people with perceived non-conforming sexuality/sexual orientation, gender expression and identity. They are targeted for defying the assumption of heterosexuality and gender norms and for not conforming to society's compulsory heteronormativity. In that sense working on the full realization of the rights of LGBTI people is central to leaving no one behind.

In recent years, advances have been made by governments in all regions to protect the rights of LGBTI people. These include the decriminalization of consensual same-sex relationships, the introduction of anti-discrimination and hate crime laws, legal recognition of same sex relationships, protection of intersex children, and changes that make it easier for transgender people to have their identities recognized.<sup>4</sup> These developments are positive and widespread but are countered by continuing human rights violations against individuals based on their actual or perceived sexual orientation, gender identity

and expression and sex characteristics (SOGIESC). Too often, this is met with impunity.

Deeply embedded homophobic and transphobic attitudes are often exacerbated by a lack of adequate legal protection against discrimination on grounds of SOGIESC. This is true across age groups and in all regions of the world. LGBTI people are targeted for killings, sexual and gender-based violence, physical attacks, torture, arbitrary detention and accusations of immoral or deviant behavior. They are also frequently denied the rights to freedom of association, assembly, expression as well as discrimination in employment, health and education.<sup>5</sup>

Violence and discrimination against LGBTI people are violations of international human rights law, enshrined in the Universal Declaration of Human Rights, and subsequently agreed international human rights treaties. Those guarantee to all persons inter alia the rights:

- to life, security of person and privacy;
- to be free from torture, arbitrary arrest and detention;
- to equality before the law;
- to be free from discrimination;
- to education;
- to work, to free choice of employment and to just and favorable conditions of work;
- to the enjoyment of the highest attainable standard of physical and mental health; and
- to freedom of expression, association and peaceful assembly.

In addition to a direct rights violation, mounting evidence suggests that homophobia, transphobia and other forms of stigma, violence and discrimination against LGBTI people significantly also hinder social and economic progress. Relevant factors here include discrimination in employment, health disparities, and the negative impact on productivity caused by the disproportionate amount of violence experienced by LGBTI people. A recent World Bank Study, for example, shows that homophobia and transphobia could be costing India between US\$1.9 billion and US\$30.8 billion yearly.<sup>6</sup>

Human rights violations based on SOGIESC are a matter of increasing concern for the United Nations and the international human rights system.<sup>7</sup> In 1994, the UN Human Rights Committee ruled in *Toonen v. Australia* that consensual homosexuality between adults falls within the *International Covenant on Civil and Political Rights* (ICCPR) concept of privacy (Article 17, para 1) and that “without distinction of any kind” must be interpreted as prohibiting discrimination based on sexual orientation because of the reference to “sex” (Article 2, para 1).<sup>8</sup>

Since 2002, the UN General Assembly has called on Member States to investigate promptly and thoroughly all killings committed on a discriminatory basis, including sexual orientation.<sup>9</sup> Since 2011, the Human Rights Council has adopted three separate resolutions on human rights, sexual orientation and gender identity/

protection against violence and discrimination based on sexual orientation and gender identity<sup>10</sup> which condemn acts of violence and discrimination committed against individuals based on their sexual orientation and gender identity.

The first resolution requested the High Commissioner for Human Rights to commission a study on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity and to organize a panel discussion at the Human Rights Council on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. It marked the first time that an inter-governmental body of the United Nations had held a formal debate on the topic.

The second resolution requested an update of that report “with a view to sharing good practices and ways to overcome violence and discrimination, in application of existing international human rights law and standards”.<sup>11</sup> The third resolution created a special procedures mandate, an Independent Expert, on protection against violence and discrimination based on sexual orientation and gender identity. This identified gaps in the application of international human rights law protections in relation to “the multiple, intersecting and aggravated forms of violence and discrimination faced by people based on their sexual orientation and gender identity”.<sup>12</sup>

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**Violence and discrimination against LGBTI people are violations of international law, founded on the Universal Declaration of Human Rights, and subsequently agreed international human rights treaties.**

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## 2. DEFINITIONS

### BOX 1

#### Terms and Definitions

**Sexual orientation** refers to a person's physical, romantic and/or emotional attraction towards other people. Everyone has a sexual orientation, which is part of their identity. **Heterosexual** people are attracted to individuals of a different sex from themselves. **Gays** and **lesbians** are attracted to individuals of the same sex as themselves. **Bisexual** (sometimes shortened to "bi") people may be attracted to individuals of the same or different sex. Sexual orientation is distinct from gender identity and sex characteristics.

**Gender identity** reflects a deeply felt and experienced sense of one's own gender. Everyone has a gender identity, which is part of their overall identity. A person's gender identity is typically aligned with the sex assigned to them at birth. **Gender expression** refers to how a person expresses their own gender to the world, such as through names, clothes, how they walk, speak, communicate, societal roles and their general behavior.

**Transgender** (sometimes shortened to "trans") is an umbrella term used to describe people with a wide range of identities – including transsexual people, cross-dressers (sometimes referred to as "transvestites"), people who identify as third gender, and others whose appearance and characteristics are perceived as gender atypical and whose sense of their own gender is different to the sex that they were assigned at birth. Trans women identify as women but were classified as males when they were born. Trans men identify as men but were classified female when they were

born. Some transgender people seek surgery or take hormones to bring their body into alignment with their gender identity; others do not. Gender identity is distinct from sexual orientation and sex characteristics. **Intersex** people are born with physical or biological **sex characteristics** including sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns that do not fit the typical definitions of male or female. These characteristics may be apparent at birth or emerge later in life, often at puberty. Intersex people may have any sexual orientation and gender identity.

Sexual orientation, gender identity and expression and sex characteristics are not the same thing. They are each distinct and independent aspects of a person. It is important to **respect people's choice of terms, names and pronouns** to refer to themselves. **This internal guidance note uses the terms lesbian, gay, bisexual, transgender and intersex (LGBTI), but many of the challenges highlighted in the document are also relevant to addressing discrimination based on real or perceived sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) against people who do not identify with these terms.**

While lesbian, gay, bisexual, transgender and intersex people face different challenges, they are often targeted with violence and discrimination because they are challenging or perceived to challenge binary sex and gender norms and stereotypes that are dominant in societies.

Sources: OHCHR, "Living Free and Equal – What states are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people" (2016), pp. 18-19. The definition for gender expression is taken from UNESCO, "Out in the Open – Education sector responses to violence based on sexual orientation and gender identity/expression," (2016), p. 10.

# 3. LGBTI, INTERSECTIONALITY AND UN WOMEN'S MANDATE

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LGBTI people's inclusion in economic and human development and the full realization of their human rights are strong imperatives for UN Women's engagement within the context of its mandate on advancing gender equality and women's empowerment. Therefore, UN Women works across its normative, UN coordination and operational roles to develop programming and advocacy that integrate LGBTI people's rights and perspectives.

Gender equality for all people will be progressed through an understanding of gender as existing beyond binaries such as male and female, masculinity and femininity, and by understanding that gender, gender identity, sex and sexual orientation are not rigid, immutable concepts. The CEDAW Committee notes in its General Recommendation No. 28,<sup>13</sup> that, "discrimination against women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste, and sexual orientation and gender identity". Each status forms a basis for discrimination. Therefore, when they overlap—as is often the case, the risk of social exclusion and marginalization not only deepens, but also acquires an enduring quality, likely to last over a life time and over generations.

UN Women furthermore, takes the view that its policies and programmes must consider the diversity and heterogeneity of LGBTI people and the

multiple and intersecting forms of discrimination they face. This includes situations in which SOGIESC may overlap with other factors and corresponding calibrations of oppression, domination and marginalization such as gender, disability, HIV, indigenous or minority status. Moreover, it is important to be aware of the additional challenges and barriers faced by many lesbians, bisexual women, transgender and intersex people related to living in a patriarchal society. This includes the subjugation of women and the dominance of men across many spheres of society, both in private and in public. This has meant that the LGBTI rights movement has, at times, become male-dominated and that the concerns and voices of gay men have been most influential. UN Women recognizes that the discrimination and exclusion faced by lesbian, bisexual, transgender and intersex people is different from the experiences of gay men. LGBTI persons need their own space to speak, power to act and ownership over their own movement.<sup>14</sup>

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**As a rights-based organization, UN Women understands that assumptions of gender roles and stereotypes are underpinned by patriarchal social norms and reinforced through every day acts that punish non-hetero-normative gender identity and sexuality.<sup>15</sup>**

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# 4. HUMAN RIGHTS STANDARDS AND BODIES

States have obligations and duties under international law to respect, protect and fulfill the human rights of all individuals. These commitments are elaborated in several global and regional human rights instruments and monitored by human rights bodies discussed below.

## 4.1. International Human Rights Standards

Protecting LGBTI people from violence and discrimination does not require the creation of a new set of LGBTI-specific rights, nor does it require the establishment of new international human rights standards. The legal obligations of States to safeguard the human rights of LGBTI people are well established in international human rights law. The Universal Declaration of Human Rights from 1948 guarantees that “all human beings are born free and equal in dignity and rights”, and that “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” This principle of non-discrimination has been carried forward and further developed over the years.

Member States of the United Nations have since adopted nine core international human rights treaties as a basis for elaborating a set of more detailed rights on a range of issues.<sup>16</sup> None of these treaties explicitly mention sexual orientation, gender identity and expression and/or sex characteristics as prohibited grounds of discrimination. However, in their jurisprudence, general comments/recommendations and concluding observations, United Nations human

rights treaty bodies have consistently held that sexual orientation, gender identity and sex characteristics are prohibited grounds of discrimination under international law.<sup>17</sup>

*The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity* (known simply as the *Yogyakarta Principles*) were adopted in 2007 by a group of prominent human rights experts and, although not binding, represent a holistic articulation of international human rights law as applied to the experiences of those with diverse sexual orientations and gender identities.<sup>18</sup> The Principles may qualify as “the teachings of the most highly qualified publicists of the various nations’ and constitute as such, ‘subsidiary means for the determination of rules of law.’ The Principles provide comprehensive guidance about the level of protection that states should apply to LGBT- and in some cases- Intersex persons.”<sup>19</sup> In November 2017 an updated version (the *Yogyakarta Principles plus 10*) were published that reflect significant developments both in the field of international human rights law and in the understanding of violations affecting persons of ‘diverse sexual orientations and gender identities’, as well as a recognition of the often-distinct violations affecting persons on grounds of ‘gender expression’ and ‘sex characteristics’.

## BOX 2

### Summary of Recommendations as provided in OHCHR, “Born Free and Equal. Sexual Orientation and Gender Identity in International Human Rights Law” (2012), PP. 11 and 13.

#### These include obligations to:

- *Protect people from homophobic and transphobic violence. Include sexual orientation and gender identity as protected characteristics in hate crime laws. Establish effective systems to record and report hate motivated acts of violence. Ensure effective investigation and prosecution of perpetrators and redress for victims of such violence. Asylum laws and policies should recognize that persecution on account of one’s sexual orientation or gender identity may be a valid basis for an asylum claim.*
- *Prevent torture and cruel, inhuman and degrading treatment of LGBTI persons on detention by prohibiting and punishing such acts and ensuring that victims are provided with redress. Investigate all acts of mistreatment by State agents and bring those responsible to justice. Provide training to law enforcement officers and monitor places of detention and provide a system for to seek remedies.*
- *Repeal laws criminalizing homosexuality including all legislation that criminalizes private sexual conduct between consenting adults. Ensure that individuals are not arrested or detained based on their sexual orientation or gender identity and are not subjected to any degrading physical examinations intended to determine their sexual orientation.*
- *Prohibit discrimination based on sexual orientation and gender identity. Enact legislation that prohibits discrimination on the grounds of sexual orientation and gender identity. Provide education and training to prevent discrimination and stigmatization of LGBT and intersex people.*
- *Safeguard freedom of expression, association and peaceful assembly for all LGBTI people and ensure that any restrictions on these rights – even where such restrictions purport to serve a legitimate purpose and are reasonable and proportionate in scope – are not discriminatory. Promote a culture of equality and diversity that encompasses respect for the rights of LGBTI people.*

## 4.2 International Human Rights Bodies

International human rights bodies include the UN Human Rights Council, Human Rights Treaty bodies, the Universal Periodic Review (UPR) and the Human Rights Council's Special Procedures. Below are brief descriptions of the bodies and their contributions to human rights standards related to the grounds of discrimination based on sexual orientation, gender identity, and gender expression and sex characteristics.

### Human rights treaty bodies

Treaty bodies are committees composed of independent experts who are mandated to monitor the implementation of the nine core international human rights treaties.<sup>20</sup> Several treaty bodies have consistently held that sexual orientation, gender identity and sex characteristics, are prohibited grounds of discrimination under international law.<sup>21</sup> The CEDAW Committee has especially highlighted that discrimination against women is compounded by intersecting factors such as race, ethnicity, age, disability, sexual orientation and gender identity.<sup>22</sup> The Committee's concluding observations and recommendations have called for the decriminalization of lesbianism and an end to "corrective rape."<sup>23</sup> With regard to transgender people, it has urged the removal of restrictions in obtaining identity documents that reflect people's lived gender identities.<sup>24</sup> It has also expressed general concern about discrimination against bisexual, lesbian, transgender and intersex women and girls, noting in particular, discrimination in the contexts of employment, education and healthcare.<sup>25</sup>

### UN Special Procedures

These are independent human rights experts mandated by the Human Rights Council to report and advise on various aspects of human rights.<sup>26</sup> Special procedures have been effective channels for highlighting human rights abuses faced by LGBTI people. For example, the Special Rapporteur on violence against women, its

causes and consequences called for "specific measures to ensure the protection of women who are victims of discrimination and violence on account of their sexual orientation or gender identity."<sup>27</sup> Similarly, the Special Rapporteur on trafficking in persons especially in women and children called for the provision of assistance to victims of trafficking without discrimination based on sex, gender and/or sexual orientation.<sup>28</sup> Moreover, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment included gender non-conforming people among those groups especially targeted by gender-based violence, and has highlighted forced anal examinations as a form of torture targeting people based on their perceived sexual orientation or gender identity.<sup>29</sup> Other UN special procedures that have engaged on LGBTI rights include the Working Group on Arbitrary Detentions, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on extrajudicial, summary, and arbitrary executions, and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

In 2016, the Human Rights Council established a new special procedure mandate to address protection from violence and discrimination on the basis of sexual orientation and gender identity. This was an important milestone in the ongoing recognition of sexual orientation and gender identity as an unlawful ground for discrimination under international human rights law.<sup>30</sup>

### The Universal Periodic Review

Created on 15 March 2006, the Universal Periodic Review (UPR) is a State-driven process which peer reviews the situation of human rights in all Member States, providing an opportunity to declare actions taken and challenges faced in fulfilling their human rights obligations.<sup>31</sup> As of June 2017, 1206 recommendations related to sexual orientation and gender identity had been made to States through the Universal Periodic Review.<sup>32</sup>

### BOX 3

## Mandate of the Independent Expert On Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity (2016)

### The mandate of the independent expert includes:

- To assess the implementation of existing international human rights instruments with regards to ways to overcome violence and discrimination against persons on the basis of their sexual orientation or gender identity, while identifying both best practices and gaps.
- To raise awareness of violence and discrimination against persons on the basis of their sexual orientation or gender identity, and to identify and address the root causes of violence and discrimination.
- To engage in dialogue and to consult with States and other relevant stakeholders, including United Nations agencies, programmes, and funds, regional human rights mechanisms, national human rights institutions, civil society organizations and academic institutions;
- To work in cooperation with States to foster the implementation of measures that contribute to the protection of all persons against violence and discrimination based on sexual orientation and gender identity;
- To address the multiple, intersecting and aggravated forms of violence and discrimination faced by persons based on their sexual orientation and gender identity;
- To conduct, facilitate and support the provision of advisory services, technical assistance, capacity-building and international cooperation in support of national efforts to combat violence and discrimination against persons based on their sexual orientation or gender identity.
- Source: A/HRC/RES/32/2. Resolution adopted by the Human Rights Council on 30 June 2016. 32/2. Protection against violence and discrimination based on sexual orientation and gender identity, para 3.

Source: Human Rights Council resolution 32/2 on Protection against violence and discrimination based on sexual orientation and gender identity (adopted 30 June 2016).

## 4.3 Regional Human Rights Standards and Bodies

Regional human rights standards can also serve as useful advocacy tools for addressing LGBTI issues at both country and regional levels. As of February 2018, three regional systems have adopted resolutions which in various ways condemn acts of violence and discrimination against people based on their actual or perceived sexual orientation or gender identity.

### These include the following:

#### Africa:

- The African Commission on Human and Peoples' Rights' resolution condemning violence and other human rights violations based on real or imputed sexual orientation and gender identity (2014),<sup>33</sup>

#### Organization of American States:

- The eight resolutions of the Organization of American States on human rights, sexual orientation and gender identity (most recently in 2016),<sup>34</sup>

#### Europe:

- The first resolutions by the European Parliament and the Parliamentary Assembly of Council of Europe on the Rights of LGBTI persons were adopted in 1984.<sup>35</sup>

### Regional bodies

The Inter-American Commission on Human Rights (IACHR) Rapporteurship on the rights of lesbian, gay, bisexual, transgender and intersex persons is the only existing regional mandate on this issue, with functions which extend to the highlighted groups and issues below.

The Inter-American Court of Human Rights has further established, in an Advisory Opinion, that States “must ensure full access to all the mechanisms that exist in their domestic laws, including the right to marriage, to ensure the protection of the rights of families formed by same-sex couples, without discrimination in relation to those that are formed by heterosexual couples.”<sup>36</sup>

Despite the non-existence of specific human rights mechanisms on LGBTI rights in other regions, regional human rights mechanisms have used other means to address matters related to violence and discrimination faced by LGBTI individuals and groups. For example, on 12 May 2016, in connection with the International Day Against Homophobia, Transphobia and Biphobia on 17 May, the UN Committee on the Rights of the Child, the Inter-American Commission on Human Rights, the African Commission on Human

and Peoples’ Rights and the Commissioner for Human Rights of the Council of Europe urged Governments worldwide to reform medical classifications and to adopt measures to prevent all forms of forced treatments and procedures on LGBT persons.

Through a common statement, the group of experts agreed that “[pathologizing] of LGBT adults and children - branding them as ill based on their sexual orientation, gender identity or gender expression - has historically been, and continues to be, one of the root causes behind the human rights violations that they face...and is an obstacle to overcoming negative attitudes, stereotypes, and the multiple barriers for the realization of LGBT people’s most fundamental human rights.”<sup>37</sup>

#### BOX 4

#### Mandate of the Inter-American Commission (IACHR) Rapporteurship (2014)

The mandate to monitor the situation of human rights of lesbian, gay, bisexual, transgender and intersex persons in the region is to be carried out through the following functions:

- Processing petitions and cases, which includes providing advice to the IACHR with respect to requests for precautionary measures and submission of requests for provisional measures before the Inter-American Court that are related to sexual orientation, gender identity and gender expression.
- Providing technical assistance to OAS Member States and OAS political organs on this area.

- Preparing reports with recommendations aimed at OAS States in the areas of legislation, public policy, and judicial interpretation on the human rights of these persons. In this context, the unit conducts several meetings of experts on the human rights situation of these persons in different fields, such as health, justice and violence, employment, interpersonal relationships, education and culture and political participation.
- General monitoring of human rights violations of LGBTI people in the Americas and promoting their visibility.

Source: <http://www.oas.org/en/iachr/lgtbi/mandate/mandate.asp>.

# 5. ISSUES FACED BY LGBTI INDIVIDUALS AND GROUPS

LGBTI people face widespread violence, discrimination and exclusion which is compounded by intersecting and multiple factors such as those based on race, ethnicity, age, religion, disability, economic, social or other status. Research shows that many governments tolerate, endorse or directly sponsor the violent clamp down on those who do not follow prevailing norms on gender expression.<sup>38</sup> This creates a permissive environment for further discrimination and violence at the hands of private individuals and feeds into a vicious cycle of abuse.

The absence of legal protections often compound experiences of other forms of violence, hatred, discrimination and exclusion. There are huge gaps in research and data on LGBTI experiences in most countries and strategic research on inclusion is needed to provide reliable evidence that can inform policies, legislation, programmes and investments to advance the human rights of LGBTI people.<sup>39</sup> This note does not attempt a comprehensive coverage of issues, and the variety of manifestations they may take, but rather highlights some salient concerns.

## The absence of legal and policy protection

The International Lesbian, Gay, Bisexual, Trans and Intersex Association finds that as of May 2017, 72 States criminalize consensual same-sex sexual activity.<sup>40</sup> In many countries, this exposes individuals to the risk of arrest, prosecution, imprisonment and, in 8 countries, the death penalty.<sup>41</sup>

Data from UN Women's Global Gender Equality Constitutional Database shows that 16 constitutions include provisions on sexual orientation and gender identity of which seven contain discriminatory language.<sup>42</sup> Additionally, laws used to arrest, punish and harass individuals on the basis of their

sexual orientation and gender identity and expression - including through the use of ambiguous, vague, undefined and unsound concepts, such as "crimes against nature", "unnatural offences", "offences against morality", "debauchery", "indecent acts" and "grave scandal" - have been used to criminalize LGBTI people. In many countries SOGIESC are not included as prohibited grounds for discrimination in laws against hate crimes and hate speech/incitement to violence.<sup>43</sup>

The Sustainable Development Goals place strong emphasis on the concepts of non-discrimination and universality and on the commitment to leaving no one behind. These oblige UN Women to ensure that the priorities of LGBTI people are reflected in all aspects of programming and advocacy, as these groups have traditionally been left behind.

## Freedom of expression, association and assembly

Human rights defenders working to promote and protect the rights of LGBTI people have been challenged, maligned and abused. LGBTI defenders and supporters of related rights have been subjected to violence and harassment, sometimes even facing incarceration and/or death, when convening meetings,

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**Strategic research on inclusion is needed to provide reliable evidence that can inform policies, legislation, programmes and investments to advance the human rights of LGBTI people.**

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cultural events or participating in LGBTI “equality marches”. In some States, such events are denied police protection or permits, sometimes under the guise of threats to public morals or safety, which privileges the antagonists rather than those claiming rights. Concerns have also been raised about restrictions on freedom of expression – including direct censorship, bans on dissemination of information and restrictions on legitimate advocacy – purportedly justified on grounds of alleged threats to public health, morality or state security.<sup>44</sup>

The media in many countries underreport or show a negative bias in how they report on LGBTI issues including allowing for hate speech. The latter contributes to the ‘invisibility’ and negative and inaccurate perceptions towards LGBTI people, putting them at risk of discrimination and violence. In some States, freedom of association can be suppressed by denying LGBTI organizations the right to legally register as organizations and premises and staff of groups working on LGBTI issues are vandalized and harassed.<sup>45</sup> Digital surveillance and/or social media control can be used to curtail the work of LGBTI groups or organizations limiting the scope of their advocacy and outreach. Lack of funding is a general problem for civil society organizations, including women’s groups, and even more so for LGBTI organizations.

### Economic empowerment

LGBTI people are faced with stigma in the field of employment and there is data linking job exclusion and poverty to direct discrimination. Employers may fire or refuse to hire or promote people simply because they are, or are perceived to be, lesbian, gay, bisexual, transgender or intersex and work-place benefits may be applied in a discriminatory manner. Verbal abuse and harassment is not uncommon.<sup>46</sup>

Discrimination in employment have concrete social and economic impacts in terms of higher unemployment.<sup>47</sup> Moreover, the right to recognition of the family roles and responsibilities of LGBTI people is closely linked to the legal provision of marriage equality and civil partnerships. It is by formally recognizing their relationships that LGBTI workers and their partners and children become entitled to medical care, pensions, adoption rights, parental leave and child benefits on the same terms as heterosexual couples.<sup>48</sup>

### Education

Access to education for LGBTI people is critical and has direct impact on other dimensions including but not limited to economic empowerment. When learning-environments promote a culture of inclusion, self-respect, confidence and respect for others, students can flourish. Comprehensive sexuality education (CSE) provides youth, including LGBTI youth, access to accurate information about their sexuality, and enables them to explore and nurture positive values and attitudes and develop life skills.<sup>49</sup> Some education authorities and schools discriminate against young people because of their sexual orientation or gender expression, sometimes leading to refusal of admission or expulsion.<sup>50</sup> Globally, hate-motivated violence and bullying in schools against LGBTI people is common and can be committed by peers as well as school teachers and staff. This bullying often leads to student dropout or to significant mental health problems.<sup>51</sup> Students who do not conform to gender norms are often at increased risk of leaving school early, which among other things limits their life prospects and economic opportunities.<sup>52</sup>

### Violence

LGBTI peoples experience violence because of their real or perceived SOGIESC. Violence against LGBTI people is fueled by laws that criminalize same-sex relations and gender non-conformity, and is encouraged by governments who tolerate, endorse, or directly sponsor the violent clamp-down on those who do not follow prevailing norms on sexual orientation, gender identity and gender expression.<sup>53</sup>

Hate speech and hate crimes such as hate-motivated killings and torture of LGBTI individuals have been documented in all regions.<sup>54</sup> To illustrate, allegations of lesbians being attacked, raped, forcibly impregnated and otherwise punished because of their sexual orientation is widespread. The Special Rapporteur on violence against women has noted that lesbians face an increased risk of violence, especially rape, due to widely held prejudices and myths. These include the idea that raping a lesbian would change her sexual orientation – popularly known as ‘corrective rape’.<sup>55</sup>

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## Evidence points to poorer health outcomes for LGBTI people than for the general population due to exclusion, social stigma, and discriminatory and punitive laws, policies, and practices.

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### Peace and Security and Humanitarian action

Evidence from several countries suggests that LGBTI people are likely to be disproportionately discriminated against during relief efforts. Refugees in same-sex relationships are often separated during relocation processes. Transgender people may not be allowed to use communal bath and toilet facilities in refugee or internally displaced person's camps or might not be safe if they did.<sup>56</sup> They may be denied entry into camps because their Identity Card may not match their physical appearance.<sup>57</sup> Natural disasters or war dismantle the public-private distinction in a way that removes safe spaces and potentially exposes LGBTI people to greater risk and further discrimination.

### Health, including sexual and reproductive health

LGBTI people face discrimination in accessing health services, including sexual and reproductive health, and face prejudice and bias from health care providers. Evidence points to poorer health outcomes for LGBTI people than for the general population due to exclusion, social stigma, and discriminatory and punitive laws, policies, and practices.<sup>58</sup> In some contexts, doctors may be required to report a patient to authorities if they identify as LGBTI or are permitted to refuse LGBTI patients if they choose to. Protocols centered on heterosexuality, hostile attitudes or ambivalence by service providers and the lack of training can also influence the quality of services LGBTI people receive.<sup>59</sup>

The stigma and pathologizing of people with non-normative SOGIESC have even fueled targeted violence against LGBTI people, including “conversion” therapy, forced genital and anal examinations, forced and otherwise involuntary sterilization and unnecessary surgery and treatment performed on intersex children.<sup>60</sup> Lesbian women and transgender men are

often subjected to humiliating treatment by medical professional. Lesbians are stigmatized for their sexual orientation and often refused services, which forces them to conceal their sexual orientation when seeking health services or just altogether avoiding medical examinations leading to higher health risks such as cervical and breast cancers.

### HIV and AIDS

Discriminatory laws, a culture of homo- and transphobia and pervasive gender inequality all contribute to the global HIV epidemic and make it less likely for women, girls, and key populations to seek appropriate care and testing. The global HIV epidemic has always been closely linked with negative attitudes towards LGBTI people, especially men who have sex with men (referred to as MSM), transgender women and men. For example, studies suggest that men who have sex with men are 24 times more likely to acquire HIV than adults in the general population.<sup>61</sup> Furthermore, though data is limited in terms of HIV risk in transgender women and men, a desk review of 15 countries showed the chance of being infected with HIV is 49 times higher in transgender women than for all adults of reproductive age.<sup>62</sup>

Stigma and discrimination have a direct impact in terms of poor health outcomes in relation to HIV and AIDS.<sup>63</sup> LGBTI people face specific challenges and barriers, including violence, human right violations, stigma and discrimination, and criminalization of same-sex relationships. These factors become barriers for people to access vital HIV prevention, testing, treatment and care services, which results in people unknowingly living with HIV or being diagnosed late when HIV is harder to treat. Closing gaps in service coverage are critical and require the empowerment of populations that are often left behind: women and girls, young people, key populations and people living with HIV.



# 6. PROGRAMMING AND ADVOCACY

This section provides some entry points for UN Women’s engagement on LGBTI issues within the programming cycle as well as that of the United Nations Country Team (UNCT). The SDGs are the overall framework for UN programming and are centered on the principles of non-discrimination, universality and the commitment to leaving no one behind. The UN Development Group has, through the United Nations Development Assistance Framework (UNDAF) Guidance committed to operationalizing these principles in its work at all levels.<sup>64</sup> As part of the UNCT, applying a human rights-based approach throughout the UNDAF programming cycle will ensure that the concerns of LGBTI people are fully integrated from design to implementation, monitoring and evaluation of programme interventions. At the stage of performing a situational analysis, particularly in the context of the UN Common Country Analysis, UN Women should ensure that the gender analysis include the needs and priorities of the LGBTI community.

As in any evidence-based practice model approach, it is important for country offices to secure a full understanding of their country context in relation to LGBTI issues. This would help identify the type of engagement that would be most suitable and effective. Aspects that need to be considered/addressed when preparing new support include:

- a gender analysis inclusive of the needs and perspectives of the LGBTI community;
- consultations with LGBTI organizations and allies, including strategizing on framing issues to ensure
- the best possible results given the context and the potential risks involved;
- an understanding and knowledge of the position of the government on LGBTI issues; and
- the possible benefits of joint UNCT programming/advocacy.

UN Women’s support to LGBTI people should take place in the context of the implementation of its Strategic Plan for 2018-2021.<sup>65</sup> Additionally, the OHCHR core legal obligations of States with respect to protecting the right of LGBTI people, provides a useful framework

for UN Women’s engagement. OHCHR also identifies violations of LGBTI people’s rights, such as the need for legal recognition of gender identity and the need to address multiple and intersecting forms of discrimination. Depending on context, these are important considerations for UN Women’s engagement.

## 6.1 UN Women’s Programmes

The integration of LGBTI issues in UN Women’s programmes and advocacy should not only be framed within the context of its intersectional work i.e. working with and for diverse groups of marginalized and excluded women but also working with LGBTI groups and individuals as a special and distinct group.

In its gender analysis UN Women should seek to understand the different realities faced by LGBTI people, not least the specific challenges lesbian, bisexual and transgender women face in terms of visibility, recognition and respect. UN Women should also apply an analytical perspective that moves

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**UN Women's success in programming and advocacy will depend on the extent to which it has the internal capacity and knowledge and on how it is engaging with key stakeholders, namely: civil society, state institutions, private sector and the human rights system.**

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beyond gender binaries (male/female) to a broader notion of gender nonconformity.

The following section provides some examples and entry points for work with different actors:

### Engagement with Civil Society Organizations

UN Women's existing Civil Society Advisory Groups, provide the organization with a unique opportunity to intensify its engagement with CSOs. Through this mechanism and UN Women's support to civil society's movement building UN Women can contribute to deepen awareness on discrimination and violence faced by LGBTI individuals and support initiatives to address those challenges by undertaking the following:

- **Support joint research and collection of information and evidence on LGBTI issues** with CSOs.
- **Support participation of LGBTI organizations and LGBTI people in consultative processes, including on strategy and programme development**, on aspects that concern them.
- **Support the preparing of stakeholder and shadow reports** to the UPR and treaty bodies.
- **Speak out against human rights violations committed against LGBTI groups and individuals**, including human rights defenders, in all fora such as meetings, public events and statements.
- **Support the documentation of violations** and where necessary, advocate for an expansion of space for CSOs to participate in national affairs, including in defense of their rights.
- **Support the rights of LGBTI people to assemble and express themselves** by attending and contributing to public events such as Pride parades.
- **Provide capacity building** to deepen knowledge on human rights, on engaging with the human rights system and on advocacy skills.
- **Support and empower LGBTI people to seek and assume public and political leadership roles.**

- **Support physical or virtual platforms and spaces for the exchange**, sharing of good practices, networking, movement building and collection of experiences of working for LGBTI rights.
- **Support the participation of CSOs and individuals in national, regional and global processes and events**, such as the Commission on the Status of Women, meetings of human rights bodies or regional/global consultations.
- Support LGBTI organizations in their **resource mobilization** efforts, including through grant-making mechanisms.
- In those countries where Civil Society Advisory Groups exist, **ensure adequate representation of the LGBTI community** in these groups.
- Support LGBTI organizations and LGBTI-friendly organizations in organizing and conducting awareness raising and sensitization trainings for medical specialists, journalists, lawyers, police forces on tolerance and non-discrimination, as well as specific trainings on LGBTI people and their needs.

### Engagement with State Institutions

UN Women can leverage its mandate and position as the recognized leader within the UN system on gender equality and women's empowerment to undertake the following:

- **Promote the Yogyakarta Principles plus 10** as one basis for the promotion and protection of the rights of LGBTI individuals and groups.
- **Support legislative bodies and ministries of justice to undertake comprehensive and holistic law reform** to remove laws (and policies) which discriminate against LGBTI groups and individuals, to enact laws that protect LGBTI people from human rights violations.
- **Support governments to develop action plans, including via continuous training**, to combat discrimination against LGBTI individuals, or advocate for inclusion of LGBTI aspects in national Gender Action Plans.

- **Support and advocate for an inclusive and enabling environment for civil society**, including LGBTI organizations.
- **Support public education to combat stigma and discrimination and to challenge established norms around gender and sexuality**, including through social media, and provide platforms for progressive politicians, religious and traditional leaders and public figures to speak out publicly in support of the rights of LGBTI people.
- **Advocate that the State addresses discrimination and violence faced by LGBTI individuals and groups** in their everyday lives and operations and support efforts to document those types of violations.
- **Advocate for adequate human and financial resources for institutions such as National Human Rights Institutions** for effective monitoring and reporting about issues faced by LGBTI individuals and groups.
- **Support relevant national bodies in preparing State party reports to the UPR and treaty bodies**,

by ensuring that issues affecting LGBTI groups and individuals are adequately reflected and support sharing of concluding observations. As a corollary, support relevant national ministries and agencies to implement accepted recommendations emerging from these same human rights processes and bodies.

- **Facilitate progressive dialogue** to bridge the gap between different State institutions, such as the judiciary, police and State authorities, and LGBTI organizations.
- **Support the development of research and efforts to achieve common ground on standards for data collection<sup>66</sup>** on LGBTI issues—including on existing national surveys—to inform policies, legislation, programmes and investments to advance human rights and inclusion of LGBTI individuals.
- **Encourage and support countries reporting on the SDGs** within the framework of the High Level Political Forum, to include LGBTI developments in their voluntary contributions.

## BOX 5

### Examples of Positive State Engagement on LGBTI People's Rights

#### Protect individuals from homophobic and transphobic violence:

- LGBTI organizations were involved in the development of a national task team on sexual orientation and gender identity (South Africa) and in the development of a national hate crime strategy focused on homophobic and transphobic violence (UK and Ireland);
- Setting up of a hotline for reporting on hate crime against the LGBT community (Brazil);
- Public awareness campaigns on the issues faced by LGBTI people and the bullying and violence they face in schools and society (Belgium and Thailand);
- Targeted training of law enforcement personnel on LGBTI issues and development of a national hate crime toolkit and training manual (Denmark);
- Reference to bullying based on sexual orientation and gender identity included in the Implementing Rules and Regulations for the Anti-Bullying Act (Philippines);
- Hate crime legislation that includes sexual orientation, gender identity, and expression and sex characteristics as aggravating factor (Malta);
- Specialized teams established to investigate homophobic and transphobic crimes (Mexico);
- Police providing awareness on what constitutes a hate crime against LGBTI people through website and leaflets (Sweden);
- Incorporation of sexual orientation related persecution as grounds for asylum (Germany).

## BOX 5 CONTINUED

### Examples of Positive State Engagement on LGBTI People's Rights

#### **Preventing torture and cruel, inhumane and degrading treatment:**

- Addressing the specific vulnerabilities of LGBTI people in the development of national standards for the prevention of abuse in prisons and the creation of a prison gender identity committee (USA);
- Development of standard operating procedures to ensure safety of transgender people in conflict with the law (South Africa);
- National Human Rights Institution used as complaint mechanism with authority to investigate alleged torture and ill-treatment in prisons (Nepal);
- Legal protection of intersex minors to bodily integrity and physical autonomy by prohibiting surgery and treatment to which they cannot provide informed consent, particularly medical interventions driven by social factors (Malta).

#### **Repealing discriminatory laws:**

- Decriminalization of same sex conduct between consenting adults (Mozambique);
- Challenge to legal provisions criminalizing people for having “unnatural” relations (Lebanon);
- Law providing redress to people that have historical convictions for homosexuality (Australia).

#### **Protecting people from discrimination:**

- Inclusion of sexual orientation, gender identity and gender expression as protected grounds in the Constitution (Fiji);
- Specific legislation that prohibits discrimination on the grounds of sexual orientation, gender identity, and expression and sex characteristics (Malta);
- Sexual orientation and gender identity included as prohibited grounds of discrimination in the law on Protection from discrimination, covering areas such as employment, education, housing and health care (Albania);
- Amendment of the Criminal Code to make crimes committed based on sexual orientation and

gender identity an aggravating circumstance and criminalizing discrimination based on sexual orientation and gender identity by public officials, as well as penalizing incitement to hatred based on sexual orientation (Albania);

- Specific legislation prohibiting discrimination based on sexual orientation and gender identity and expression in employment (20 States);
- Inclusion of specific actions to investigate and prosecute acts of violence based on sexual orientation and gender identity in the National Human Rights Action Plan (Bolivia);
- Affirmative action measures for insertion of transgender people in the labour market (Uruguay);
- Specific legislation to tackle gender stereotypes in the school curricula and to prohibit discrimination in the education sector (Taiwan province of China);
- Issuance of guidelines to schools on respect for the gender identity of transgender students (USA);
- Development of national action plan on improving the lives of LGBT people, including specific measures to identify and clarify health needs of LGBT people (Norway);
- Development of toolkits for nurses on preventing suicide of young transgender, lesbian, gay and bisexual people (UK);
- Collection of data on sexual orientation and health (USA);
- Legal initiatives to depathologize transgender people in medical classification codes (Denmark);
- Adoption of measures providing for civil marriage between same-sex couples on an equal basis as different sex couples (22 countries);
- Removal of discriminatory provisions in relation to parenting and adoption for same sex couples (Belgium);
- Comprehensive anti-discrimination legislative framework which prohibits discrimination based on gender reassignment, marriage and civil partnership, sex and sexual orientation (UK).

## BOX 5 CONTINUED

### Examples of Positive State Engagement on LGBTI People's Rights

#### Respecting freedom of expression, association and peaceful assembly:

- Court dismissed all charges against a human rights defender who, while participating in a television programme, spoke out in defense of the human rights of LGBTI people and was later charged with the criminal offence of “soliciting in a public place for immoral purposes” (Zambia);
- Repeal of laws/provisions that discriminate against LGBTI people (Rep. Moldova);
- Court ruling establishing that the right to freedom of expression includes the right to express one's self identified gender (India);
- Court striking down on municipal restrictions on a LGBTI march, emphasizing the right to peaceful assembly of minorities (Lithuania);
- Participation of public officials in marches and assemblies in protection of the rights of LGBTI individuals (Russia);
- Courts have declared unconstitutional the denial of registration of civil society organizations advocating for LGBTI rights (Botswana);
- Courts have annulled the arguments behind the refusal by the Electoral Commission to register an LGBT organization as a political party (Philippines).

Source: “Living Free and Equal – What states are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people,” pp. 23-93

### Engagement with the private sector

UN Women's partnership with the private sector is increasing on different levels and there is scope for exploring partnerships to bring about positive results in the lives of LGBTI people.

- **Use Women's Economic Empowerment Principles** as an entry point to working with the private sector on the empowerment of LGBTI people.<sup>67</sup>
- **Support businesses in maximizing productivity** by promoting inclusive and gender diverse employment policies and approaches.<sup>68</sup>
- **Facilitate and support research** cooperation between companies and civil society for example to determine if treatment of employees is equal, the barriers LGBTI staff might face, and on how to reach and provide appropriate services to LGBTI customers.
- **Use the OHCHR Global Business Standards for LGBTI Inclusion.**
- **Partner with companies to promote empowerment and rights of the LGBTI community using social media** and other innovative technology.
- Support businesses to fulfill the UN Guiding Principles in Business and Human Rights<sup>69</sup> and the

UN Standards for Conduct Tackling Discrimination against Lesbian, Gay, Bi, Trans and Intersex People.<sup>70</sup>

Support the implementation and follow up of the special procedure mandate-holder's recommendations related to sexual orientation, gender identity and expression and sex characteristics, including using them for internal strategy development and programming in consultation with relevant stakeholders.

### Engagement with the human rights bodies

Effort must be made to engage with human rights bodies, particularly, the CEDAW Committee and other treaty bodies, the Universal Periodic Review, the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, and other special procedures. Paragraph 6 of the resolution establishing the mandate of the Independent Expert call on “all relevant stakeholders, including United Nations agencies, programmes and funds, human rights bodies, national human rights institutions, national independent monitoring frameworks, civil society, the private sector, donors and development agencies to cooperate

fully with the Independent Expert to enable the mandate holder to fulfil his or her mandate”<sup>71</sup>

UN Women can support the Independent Expert, and other special procedures, in the following ways:

- **Help raise awareness about the communications procedure** of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and the opportunities that exist to bring human rights violations to the attention of the mandate holder.
- **Encourage a country visit** by a special procedure mandate-holder and support the visit, including by providing an analysis of the human rights issue at stake from a LGBTI perspective, and by making sure to suggest key LGBTI counterparts, people and locations to visit.
- **Contribute to the analysis and recommendations** of the mandate-holder during and after country visits, including to the final statement or press release at the end of the country visit, and to the final report (usually issued within a year after the visit).
- **Support the implementation and follow up of the special procedure mandate-holder’s recommendations** related to sexual orientation, gender identity and expression and sex characteristics, including using them for internal strategy development and programming in consultation with relevant stakeholders.

UN Women can contribute to the work of treaty bodies, including CEDAW in the following ways:

- **Support the collection of information and evidence** on sexual orientation, gender identity and expression and sex characteristics as an input to State reporting.
- **Encourage broad participation in, and facilitate a consultative process** for drafting of the report, including with organizations representing the LGBTI community.
- **Support and encourage input into the State party report** by for example including LGBTI organizations in workshops on reporting or validation workshops.
- **Support the government in law and policy reforms** based on the recommendations in concluding observations and integration of follow up action into national and sectoral plans and programmes that

address sexual orientation, gender identity and expression and characteristics.

- **Integrate LGBTI issues into UNCT confidential reports to the CEDAW Committee.** UN Women’s role in the Gender Theme Group (or similar group) can be used as a platform for ensuring that LGBTI aspects are well reflected in the UNCT report.

UN Women can contribute to the work of the UPR process in the following ways:

- **Disseminate information on the UPR and raise awareness** among constituents in the LGBTI community on the importance of contributing to UPR reviews and documenting/reporting on progress.
- **Provide input to OHCHR’s compilation of the joint UNCT report (10 pages) in partnership with CSOs.** UN Women’s role in the Gender Theme Group (or similar group) can be used as a platform for ensuring that LGBTI aspects are well reflected in the UNCT report.
- **Invest in capacity development of CSOs, including LGBTI organizations,** to draft submission of reports, participate in the UPR processes and the implementation of recommendations.
- Use the recommendations, including those supported (accepted) and those noted (rejected) as **entry points for policy dialogue and advocacy** on LGBTI issues.

UN Women’s internal work:

- **HQ Policy Division, through the LGBTI focal point can provide support to field offices** if/when needed.
- **Build internal knowledge and capacity among UN Women staff (HQ and field) on LGBTI issues** including through web-based courses, trainings and webinars. At the country level UN Women should explore the possibilities of drawing on the expertise of civil society partners to support internal capacity development.
- **Strengthen internal planning and monitoring instruments to facilitate monitoring** if/how LGBTI issues are included in programming, including through the Results Management System.
- Ensure that gender analysis for strategy and programme preparation is inclusive of a LGBTI perspective and that findings influence strategy and programme development.

## BOX 6

### Examples of UN Women's (and the UN Trust Fund to End Violence Against Women's) Engagement on LGBTI Issues

- The regional UN Women Asia-Pacific office held a regional consultation on promoting and protecting the rights of lesbians, bisexual women, transgender and intersex persons in partnership with OutRight Action International and in collaboration with UNDP and UNAIDS. An outcome of the consultation is a list of ten recommendations for programming actions for UN Women and UN agencies for advancing LGBTI rights. As a follow-up to the regional consultation they held an Expert Group Meeting (EGM). An Internal Statement on Examining Gender Identities, Expressions and Inequalities was issued as the collective thinking from this EGM. The Statement explores the rethinking, redefining and re-conceptualizing [of] gender beyond the binary notions of male-female, man-woman, masculinities-femininities” and what these might mean for UN Women’s vision and mandate, and emphasizes the commitment to be inclusive in UN Women programming and normative work in the Asia-Pacific region;
- UN Women in Mexico, together with 8 other agencies, issued an interagency call for tolerance and respect for diversity and guaranteeing the human rights of all persons to condemn the reiterated expressions of hate, intolerance, stigma and discrimination of lesbian, gay, bisexual, trans and intersex persons occurring in Mexico.
- UN Women in Cabo Verde has, as the co-chair of the UNCT thematic group on gender and human rights, mobilized funds to implement the ‘Free and Equal Campaign’, a global public education programme against homophobia and transphobia.
- UN Women in India prepared a briefing paper entitled ‘The Transgender Question in India: Policy and Budgetary Priorities’ that looks at the multi-dimensional nature of problems faced by the transgender community. The paper draws on a study carried out by a civil society organization and funded by UN Women and the Ford Foundation called ‘Intersectionality frameworks to track budgets for transgender communities’.
- UN Women in India supported civil society partners to prepare a stakeholder report for the Universal Periodic Review combining concerns related to women and the LGBTI community, outlining advancements and barriers in relation to the recommendations made to India in the second UPR, with suggestions for actions to be taken for the full realization of women’s human rights and gender equality. The report was included in OHCHR’s Summary of Stakeholder Information and was prepared based on a wide range of consultations and endorsed by 183 organizations.
- UN Women Pakistan in commemoration of the International Day Against Homophobia and Transphobia (IDAHOT) 2017, together with several ambassadors and UN representatives signed an Op-Ed in Pakistan’s major English language newspaper advocating for transgender rights. Due to the political sensitivities involved, an important consideration for the country office was to do this jointly with other agencies/embassies, not to be singled out.
- In Albania, the UN Trust Fund to End Violence Against Women supported a project aimed to reduce violence and discrimination by service providers of Health and Education institutions to improve access to quality services and the respect of the rights of LBT women in the health and education sectors. Development of a manual for health care providers and educational professionals, including training workshops on its use, and awareness campaigns and advocacy initiatives formed part of the project.

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**BOX 6 CONTINUED****Examples of UN Women's (and the UN Trust Fund to End Violence Against Women's) Engagement on LGBTI Issues**

- UN Women has participated in working groups aimed to strengthen the impact of gender and diversity perspectives in public policy making on HIV; ensured the inclusion of LGBTI voices as part of the formal mechanism of the Civil Society Advisory Groups at global, regional and country level, as well as at global, regional and country level civil society gatherings; supported awareness raising on the violence against LGBTI persons; conducted research with, and supported representation and capacity development of, LGBTI organizations to; participate in Commission on the Status of Women and other global events, including Beijing +20 events, understand how to better protect, promote and defend the rights of LGBTI people, prepare CEDAW shadow reports, engage in policy dialogue and lobby for policy change, in, among others, China, Cambodia, Fiji, Malawi, Mexico, RO Asia, South Africa and Vietnam.



# 7. ADDITIONAL SOURCES OF INFORMATION

Joint UN Statement on ending violence and discrimination against lesbian, gay, bisexual, transgender and intersex people. <http://www.unwomen.org/en/news/stories/2015/10/lgbt-joint-statement>

UNHCHR's Guidelines on International Protection No 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees. <http://www.unhcr.org/50ae466f9.pdf>

UNICEF position paper "Eliminating Discrimination Against Children and Parents Based on Sexual Orientation and/or Gender Identity." [https://www.unicef.org/videoaudio/PDFs/Current\\_Issues\\_Paper-Sexual\\_Identification\\_Gender\\_Identity.pdf](https://www.unicef.org/videoaudio/PDFs/Current_Issues_Paper-Sexual_Identification_Gender_Identity.pdf)

OHCHR's website on discrimination based on sexual orientation and gender identity, where you among other things can find fact sheets on various LGBTI related aspects.

Website of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. <http://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/Index.aspx>

United Nations Free and Equal campaign. <https://www.unfe.org/en>

The UN High Commissioner of Human Rights' reports to the Human Rights Council and the OHCHR publication "Born Free and Equal-Sexual orientation and gender identity in international human rights law and Living Free and Equal – What States are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people". <http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNReports.aspx>

The website of the Yogyakarta principles, which describe the application of international human rights law in relation to sexual orientation and gender identity. <http://www.yogyakartaprinciples.org/>

Universal Human Rights index (searchable database on human rights recommendations from the UN Human Rights protection system (UPR, Treaty bodies and special procedures). <http://uhri.ohchr.org/en>

Website of UN-GLOBE. <http://www.unglobe.org/>

# ENDNOTES

- <sup>1</sup> UN Charter, Article 1(3).
- <sup>2</sup> Terminology: Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) have evolved over time, and in some of the literature, have included people "Queer" and/or "Questioning" categories (LGBTIQ). According to OHCHR, "...these terms have global resonance, yet across cultures other terms (including hijra, meti, lala, skesana, motsaolle, mithli, kuchu, kawein, travesti, muxé, fa'afafine, fakaleiti, hamjensgara, and Two-Spirit) are used to describe same-sex behaviour, identities or relationships and non-binary gender identities. ..." See OHCHR "Born Free and Equal. Sexual Orientation and Gender Identity in International Human Rights Law" (2012), FN 2.
- <sup>3</sup> Joint UN Statement on Ending Violence and Discrimination Against Lesbian, Gay, Bisexual, Transgender and Intersex People, September 2015. Available at: <http://www.ohchr.org/EN/Issues/Discrimination/Pages/JointLGBTIStatement.aspx>.
- <sup>4</sup> Report of the United Nations High Commissioner for Human Rights, "Discrimination and violence against individuals based on their sexual orientation and gender identity," A/HRC/29/23 (4 May 2015), para. 3.
- <sup>5</sup> "Discrimination and violence against individuals based on their sexual orientation and gender identity" (2015), para. 5.
- <sup>6</sup> A. Patel, "Homophobia May Cost India's Economy Billions of Dollars," The Wall Street Journal, (India, 10 June 2014), <http://blogs.wsj.com/indiarealtime/2014/06/10/how-homophobia-hurts-indias-economy>.
- <sup>7</sup> Gender expression and intersex have not been referred to explicitly in Human Rights Council resolutions, though they have received attention elsewhere, for example in OHCHR, "Living Free and Equal-What states are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people" (2016).
- <sup>8</sup> Communication 488/192 *Toonen vs Australia* (CCPR/C/50/D/488/1992, 1994).
- <sup>9</sup> General Assembly resolution 57/214 on Extrajudicial, summary or arbitrary executions (A/RES/57/214) of 18 December 2002.
- <sup>10</sup> See United Nations Resolutions - Sexual orientation and gender identity: <http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNResolutions.aspx>.
- <sup>11</sup> Human Rights Council resolution 17/19 on Human rights, sexual orientation and gender identity (adopted 17 June 2011) and Human Rights Council resolution 27/32 on Human rights, sexual orientation and gender identity (adopted 26 September 2014).
- <sup>12</sup> Human Rights Council resolution 32/2-Protection against violence and discrimination based on sexual orientation and gender identity (adopted 30 June 2016).
- <sup>13</sup> CEDAW GR No. 28 addresses the core obligations of State parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women.
- <sup>14</sup> Athena Nguyen, "Promoting and Protecting the Rights of Lesbians, Bisexual Women, Transgender and Intersex Persons" (2016), pp.7-8.
- <sup>15</sup> Aimen Majeedullah, Kimberly Wied and Elizabeth Mills, "Gender, Sexuality and the Sustainable Development Goals: A Meta-Analysis of Mechanisms of Exclusion and Avenues for Inclusive Development." Evidence Report No. 206. Sexuality, Poverty and Law. Institute of Development Studies (2016), p. 7.
- <sup>16</sup> The International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities. See: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>.
- <sup>17</sup> Sexual orientation and gender identity have been referred to frequently and intersex status in recent years. Gender expression, which is a rather "new" concept has only rarely been highlighted by UN treaty bodies until now. However, gender expression has been included in OHCHR publications such as Living Free and Equal- What states are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people" (2016).
- <sup>18</sup> The Yogyakarta Principles mainly address the situation of LGBT people, but also briefly intersex people, for example in Principle 18 on Protection from medical abuses. For more information, see website: <http://www.yogya.kartaprinciples.org/>.
- <sup>19</sup> ARC International, International Bar Association's Human Rights Institute, International Lesbian, Gay, Bisexual, Trans and Intersex Association. 2016. "Sexual Orientation, Gender Identity and Expression, and Sex Characteristic at the Universal Periodic Review," p31.
- <sup>20</sup> For more information on how to engage with CEDAW, see UN Women's Guidance Note on Strengthening Engagement with CEDAW", <https://unwomen.sharepoint.com/Policy-Programming/Human-Rights/Pages/CEDAW-Reporting.aspx>.
- <sup>21</sup> Examples include: Human Rights Committee' landmark decision on the Communication 488/192 *Toonen vs Australia* were the Committee recognized sexual orientation as a prohibited ground of discrimination and found unlawful the criminalization of same-sex activity (CCPR/C/50/D/488/1992 (1994), as well as in recurring concluding observations; CESCR has in various general comments (GC) mentioned sexual orientation as a prohibited grounds of discrimination (including in GC No 14, 15, 18 and 19), as well as in various concluding observations; CEDAW Committee General Recommendation (GR) 28 includes sexual orientation as a prohibited grounds of discrimination while GR 32 and 33 does so on the grounds of being lesbian, bisexual, trans woman, or intersex (only GR 33); CRC Committee includes sexual orientation as a prohibited grounds of discrimination in General Comments No 3 and 4, as well as in a number of concluding observations; Committee against Torture (CAT) includes sexual orientation as a prohibited grounds of discrimination in General Comment No 3, as well as in various concluding observations and in the Communications 190/2001, K.S.Y. v Netherlands (CAT/C/30/D/190/2001 (2003)) and No 212/2002, Mr. E.J.V.M v Sweden (CAT/C/31/D/213/2002 (2003)). CRC has in recent years included discrimination on the basis of sex characteristics in concluding observations (CRC/C/CHL/CO/4-5/2015, CRC/C/LVA/CO/3-5/2016).
- <sup>22</sup> For example, in CEDAW Committee GR No. 33, para. 8, CEDAW Committee concluding observations on Peru (2014) [CEDAW/C/PER/7-8](http://www.ohchr.org/EN/Issues/Discrimination/Pages/Peru2014.aspx), at paras. 17-18; on Venezuela (2014) [CEDAW/C/VEN/CO/7-8](http://www.ohchr.org/EN/Issues/Discrimination/Pages/Venezuela2014.aspx), at para. 36; and on Kyrgyzstan (2015) [CEDAW/C/KGZ/CO/4](http://www.ohchr.org/EN/Issues/Discrimination/Pages/Kyrgyzstan2015.aspx), at paras. 33-34.
- <sup>23</sup> For decriminalization, see, for example, CEDAW Committee concluding observations on Kyrgyzstan (1999) [A/54/38 Part I](http://www.ohchr.org/EN/Issues/Discrimination/Pages/Kyrgyzstan1999.aspx), paras. 127-128. Also see CEDAW Committee concluding observations on Cameroon (2014), [CEDAW/C/CMR/CO/4-5](http://www.ohchr.org/EN/Issues/Discrimination/Pages/Cameroon2014.aspx), paras. 36(c) and 37(c). On corrective rape, see CEDAW Committee concluding observations on South Africa (2011), [CEDAW/C/ZAF/CO/4](http://www.ohchr.org/EN/Issues/Discrimination/Pages/SouthAfrica2011.aspx), para. 39.
- <sup>24</sup> CEDAW Committee concluding observations on Georgia (2014) [CEDAW/C/GEO/CO/4-5](http://www.ohchr.org/EN/Issues/Discrimination/Pages/Georgia2014.aspx), paras. 34(e) and 35(e).
- <sup>25</sup> CEDAW Committee concluding observations on China (2014), [CEDAW/C/CHN/CO/7-8](http://www.ohchr.org/EN/Issues/Discrimination/Pages/China2014.aspx), paras. 68-69. CEDAW Committee concluding observations on Norway (2012), [CEDAW/C/NOR/CO/8](http://www.ohchr.org/EN/Issues/Discrimination/Pages/Norway2012.aspx), paras. 33-34.
- <sup>26</sup> For more information on the UN Special Procedures see UN Women's Guidance Note on Strengthening Engagement with the special procedures of the UN Human Rights Council, available at <https://unwomen.sharepoint.com/Policy-Programming/Human-Rights/Pages/Human-Rights-SPs.aspx>.
- <sup>27</sup> Report of the Special Rapporteur on violence against women, its causes and consequences (2011), [A/HRC/17/26/Add.2](http://www.ohchr.org/EN/Issues/Discrimination/Pages/SpecialRapporteur2011.aspx), para.77(b)(iii).
- <sup>28</sup> Report of the Special Rapporteur on trafficking in persons, especially women and children (2011), [A/HRC/17/35/Add.4](http://www.ohchr.org/EN/Issues/Discrimination/Pages/SpecialRapporteur2011.aspx), para. 93(c).
- <sup>29</sup> Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report (2016), [A/HRC/31/57](http://www.ohchr.org/EN/Issues/Discrimination/Pages/SpecialRapporteur2016.aspx), para 8.
- <sup>30</sup> Human Rights Council resolution 32/2 on Protection against violence and discrimination based on sexual orientation and gender identity (adopted 30 June 2016).
- <sup>31</sup> See <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx> or UN Women's Guidance Note "Strengthening Engagement with the Universal Periodic Review", June 2015.
- <sup>32</sup> OHCHR Human Rights Index Database, <http://uhri.ohchr.org/>, search for UPR recommendations with the filter of LGBTI persons as affected group.
- <sup>33</sup> Resolution 275 on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity can be found at <http://www.achpr.org/sections/55th/resolutions/275>.
- <sup>34</sup> See OAS General Assembly Resolutions: AG/RES. 2887 (XLVI-O/16) Promotion and Protection of Human Rights (paragraphs related to "Human Rights, Sexual Orientation, and Gender Identity and Expression"), adopted at the second plenary session, held on June 14, 2016; Resolution AG/RES. 2863 (XLIV-O/14) Human Rights, Sexual Orientation, and Gender Identity and Expression, approved at the fourth plenary session, held on June 5, 2014; Resolution AG/RES. 2807 (XLIII-O/13) Human Rights, Sexual Orientation, and Gender Identity and Expression, approved at the second plenary session, held on June 4, 2012; Resolution AG/RES. 2653 (XLI-O/11) Human Rights, Sexual Orientation and Gender Identity, approved at the fourth plenary session, held on June 7, 2011; Resolution AG/RES. 2600 (XLO/10) Human Rights, Sexual Orientation and Gender Identity, approved at the fourth plenary session, held on June 8, 2010; Resolution AG/RES. 2504 (XXXIX-O/09) Human Rights, Sexual Orientation and Gender Identity, approved at the fourth plenary session, held on June 3, 2008. All eight OAS General Assembly Resolutions are available at: <http://www.oas.org/en/iachr/lgtbi/links/>.
- <sup>35</sup> These include: Equal rights for homosexuals and lesbians in the EC – Document A3-0028/94 and European Parliament resolution of 24 May 2012 on the fight against homophobia in Europe (2012/2657(RSP).
- <sup>36</sup> [http://www.corteidh.or.cr/docs/opiniones/seriea\\_24\\_eng.pdf](http://www.corteidh.or.cr/docs/opiniones/seriea_24_eng.pdf).

- <sup>37</sup> <http://www.achpr.org/press/2016/05/d299/>
- <sup>38</sup> See for example, “Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity,” A/HRC/19/41 (17 November 2011).
- <sup>39</sup> World Bank, “Investing in Research Revolution for LGBTI inclusion” (2016), p. 2.
- <sup>40</sup> International Lesbian, Gay, Bisexual, Trans and Intersex Association: Carroll, A., Mendos, L. R., State Sponsored Homophobia 2017: A world survey of sexual orientation laws: criminalization, protection and recognition (ILGA, May 2017), p. 8.
- <sup>41</sup> *Ibid.*
- <sup>42</sup> See UN Women, Global Gender Equality Constitutional Database. Available at: <http://constitutions.unwomen.org/en> (last visited 16 January 2017). The remaining nine constitutions include sexual orientation and gender identity as a prohibited ground of discrimination.
- <sup>43</sup> See OHCHR, “Living Free and Equal- What states are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people” (2016), p. 30.
- <sup>44</sup> “Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity,” A/HRC/19/41 (17 November 2011), paras. 20-21.
- <sup>45</sup> *Ibid.*, paras. 60-61.
- <sup>46</sup> *Ibid.*, para. 58.
- <sup>47</sup> Fundamental Rights Agency, EU LGBT Survey. European Union (2012). The survey showed that 15% of LGBT people were unemployed in comparison to 10,5 % of the general population.
- <sup>48</sup> ILO, “Gender Identity and Sexual Orientation: Promoting Rights, Diversity and Equality in the World of Work- Results of the ILO’s PRIDE Project” (2016), p. 2.
- <sup>49</sup> UNFPA, “UNFPA Operational Guidance for Comprehensive Sexuality Education – A focus on human rights and gender” (2014), p. 8.
- <sup>50</sup> “Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity,” A/HRC/19/41 (17 November 2011), paras. 18-19.
- <sup>51</sup> World Bank, “Investing in Research Revolution for LGBTI Inclusion” (2016), p. 13.
- <sup>52</sup> UNESCO, “Educational Sector Responses to Homophobic Bullying” (2012), pp. 19-20.
- <sup>53</sup> OutRight Action International (formerly The International Gay and Lesbian Human Rights Commission), “Violence: Through the Lens of Lesbians, Bisexual Women and Trans People in Asia” (New York, 2014).
- <sup>54</sup> “Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity,” A/HRC/19/41 (17 November 2011), paras. 26, 33 and 60-61.
- <sup>55</sup> *Ibid.*, paras. 8-10.
- <sup>56</sup> See IGLHRC/SEROVie, “The Impact of the Earthquake and Relief and Recovery Programs on Haiti’s LGBT People,” International Gay and Lesbian Human Rights Commission (New York) and SEROVie (Port-de-Prince), 2011; and Kyle Knight and Richard Sollom, “Making disaster risk reduction and relief programs LGBTI inclusive: examples from Nepal” (2012) at [http://odihpn.org/wp-content/uploads/2012/10/humanitarianexchange055\\_1.pdf](http://odihpn.org/wp-content/uploads/2012/10/humanitarianexchange055_1.pdf), pp. 36-39.
- <sup>57</sup> “Making disaster risk reduction and relief programs LGBTI inclusive: examples from Nepal,” p. 36.
- <sup>58</sup> WHO, “Improving the Health and Well-Being of Lesbian, Gay, Bisexual and Transgender Persons” (2013), [http://www.ghwatch.org/sites/www.ghwatch.org/files/B133-6\\_LGBT.pdf](http://www.ghwatch.org/sites/www.ghwatch.org/files/B133-6_LGBT.pdf).
- <sup>59</sup> “Discussion note, Latin American and Caribbean Region: Addressing Social Exclusion based on Sexual Orientation and Gender Identity,” p. 35-36.
- <sup>60</sup> “Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity,” A/HRC/19/41 (17 November 2011), para 14.
- <sup>61</sup> 2017 Reinvigorating the AIDS response to catalyze sustainable development and United Nations reform: Report of the Secretary-General.
- <sup>62</sup> See UNAIDS, “Women Out Loud: How Women Living with HIV Will Help the World End AIDS” (2012). P. 13, and The Lancet, “HIV surveillance and prevention in transgender women,” vol 13 (2013), p. 185, available at: [http://www.thelancet.com/pdfs/journals/laninf/PIIS1473-3099\(12\)70326-2.pdf](http://www.thelancet.com/pdfs/journals/laninf/PIIS1473-3099(12)70326-2.pdf).
- <sup>63</sup> “Discussion note, Latin American and Caribbean Region: Addressing Social Exclusion based on Sexual Orientation and Gender Identity”, p. 38.
- <sup>64</sup> UNDAF Guidance 2017.
- <sup>65</sup> UN Women’s Strategic Plan 2018-2021 has the following five Outcome areas: Outcome 1: A comprehensive and dynamic set of global norms, policies and standards on gender equality and the empowerment of all women and girls is strengthened across sustainable development, peace and security, human rights and humanitarian action; Outcome 2: Women lead, participate in and benefit equally from governance systems; Outcome 3: Women have income security, decent work and economic autonomy; Outcome 4: All women and girls live a life free from violence in private and public spaces; Outcome 5: Crisis prevention and response, peace and security better serve and build resilience of women and girls.
- <sup>66</sup> There needs to be a human rights-based approach to data collection (HRBAD) on LGBTI issues considering the potential risks associated with the protection of the data subjects. OHCHR’s Guidance Note “A Human Rights-Based Approach to Data – Leaving No One behind in the 2030 Development Agenda” (2015) suggests a set of principles, recommendations and practices that are important to follow for a HRBAD: participation; Data disaggregation by population group; Self-identification; Transparency; Privacy; and Accountability. It can be found at: <http://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>
- <sup>67</sup> See <http://wepinciples.org/>.
- <sup>68</sup> An example of private sector engagement is the LGBTI Employment Index that the Albanian HR firm Headhunter Group has developed in Albania measuring the work place policies and measures towards inclusion of LGBTI people in 71 Albanian companies.
- <sup>69</sup> <https://www.unglobalcompact.org/library/2>
- <sup>70</sup> <https://www.unfe.org/wp-content/uploads/2017/09/UN-Standards-of-Conduct.pdf>.
- <sup>71</sup> Human Rights Council resolution 32/2 on Protection against violence and discrimination based on sexual orientation and gender identity (adopted 30 June 2016), para. 6.

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UN Women supports UN Member States as they set global standards for achieving gender equality, and works with governments and civil society to design laws, policies, programmes and services needed to implement these standards. It stands behind women's equal participation in all aspects of life, focusing on five priority areas: increasing women's leadership and participation; ending violence against women; engaging women in all aspects of peace and security processes; enhancing women's economic empowerment; and making gender equality central to national development planning and budgeting. UN Women also coordinates and promotes the UN system's work in advancing gender equality.



**Planet 50-50 by 2030  
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