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Electoral participation and protection against violence and discrimination based on sexual orientation and gender identity

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Graeme Reid, submitted in accordance with paragraph 7 of Human Rights Council resolution [50/10](#).

* [A/79/150](#).



Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

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I. Introduction

1. Sexual orientation and gender identity should never be obstacles to electoral participation. Too often, they are. Such obstacles include varied experiences of discrimination and violence linked to sexual orientation and gender identity, which often intersect with race, sex, gender, caste, religion, ethnicity, disability, political affiliation and other structures of exclusion. These specific obstacles are situated in relation to the realization of democratic governance in general. The present report draws on desk research and 56 submissions received from a wide range of stakeholders, including States, national human rights institutions, civil society organizations and academics in response to a call for inputs issued in March 2024. In addition, nine experts took part in a virtual consultation convened by the Yale Jackson School of Global Affairs on 10 June 2024.

2. The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity previously noted that “all over the world ... political campaigns, referendums, policy and parliamentary debates and public manifestations outside courthouses reveal social prejudice and misconceptions about the nature and moral character” of lesbian, gay, bisexual, transgender and other gender-diverse (LGBT) persons.¹ In 2024, United Nations experts raised concerns about “the dangerous hateful rhetoric used by some politicians and public officials to scapegoat and endanger those who are at particular risk, including LGBTQI+ persons, migrants and ethnic and religious minorities”.² The present report builds upon General Assembly resolutions [76/176](#) and [78/208](#), adopted in 2021 and 2023, respectively, in which the Assembly noted the need to “eliminate laws, regulations and practices that discriminate, directly or indirectly, against citizens in their right to participate in public affairs, including based on ... sexual orientation and gender identity”.³

3. The human rights related to the electoral participation of LGBT persons may be violated in myriad ways because of their real or perceived sexual orientation and gender identity, thus detracting from their full and meaningful participation in electoral processes. Violence, and the threat of violence, are the most serious obstacles to electoral participation for LGBT persons. In the present report, the Independent Expert pays specific attention to the varied experiences of discrimination and violence based on sexual orientation or gender identity, including as intersecting with other axes of exclusion. The Independent Expert identifies and explains the emergence of instances of bias-motivated political violence and hate speech and suggests possible ways to systematically address and prevent them. Furthermore, the Independent Expert analyses the discriminatory effects of legislation, regulations and administrative procedures on the electoral participation of voters and candidates, and proposes remedies.

4. Elections are complex processes involving multiple stakeholders over an extended period.⁴ Electoral management bodies, as the national institutions in charge of administering elections, should ensure that voters and candidates can exercise their political rights throughout the election process, regardless of their sexual orientation or gender identity. Their regulations, administrative procedures and practices need to be free from discrimination, in line with international human rights standards. Elections are central to the State and its self-organization. As such, many formal

¹ [A/74/181](#), para. 33.

² Office of the United Nations High Commissioner for Human Rights (OHCHR), “Joint statement of United Nations experts on strengthening democracy and human rights in a year of worldwide elections”, 30 April 2024.

³ General Assembly resolutions [76/176](#), para. 7, and [78/208](#), para. 7.

⁴ See [A/68/299](#) and [A/HRC/38/34](#).

mechanisms supporting elections have their roots in long-established traditions and are enacted through procedural and legal processes. While continuity and stability are important, rigid adherence to past practices may slow the pace of new approaches needed to ensure the meaningful participation of sexual and gender minorities: as scholarship has shown, existing electoral policies are often embedded in institutions invested in maintaining social hierarchies and the status quo distribution of electoral power.⁵

5. Elections take place within the general legal framework of a country, including laws related to sexual orientation and gender identity. Legal frameworks that apply to sexual orientation and gender identity do not always give recognition or protection equally to both. For example, some countries criminalize consensual same-sex relations between adults, but offer protections based on the legal recognition of a third gender.⁶ Conversely, in some contexts there are legal protections based on sexual orientation, but not on gender identity.^{7,8} Where anti-discrimination legislation exists, specialized agencies may be established to monitor cases of discrimination and promote inclusivity.^{9,10} Similar tasks are often entrusted to national human rights institutions, and publicizing efforts to combat all forms of discrimination forms part of their responsibilities, as set out in the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).¹¹ While restrictive legal frameworks that criminalize or discriminate against LGBT persons can have a negative effect on their electoral participation, adequate legal protections are key to ensuring the full enjoyment of their political rights.

6. Elections are an essential part of political processes, which are often centred around the competition for power and access to resources. Ideological rivalries can be acute, and political divides may reflect and exacerbate other rifts within society. Political polarization has characterized many elections worldwide over the past several years, making competition for votes especially confrontational. Political discourse has a profound impact on electoral participation. In the present report, the Independent Expert pays close attention to the impact of political rhetoric on the electoral participation of LGBT persons and the dissemination of hate speech, especially during the campaign period.

II. Relevant international and regional human rights instruments

7. The Universal Declaration of Human Rights recognizes electoral participation as a key mechanism for everyone to take part in the governance of their country, directly or through freely chosen representatives.¹² The Declaration holds that, for the authority of the government to be based on the will of the people, “this will shall be expressed in periodic and genuine elections which shall be by universal and equal

⁵ Kathryn K. O’Neill and others, “The potential impact of voter identification laws on transgender voters in the 2022 general election” (Los Angeles, United States of America, University of California, School of Law William Institute, 2022).

⁶ Submission by ReportOUT.

⁷ Submission by Wo=Men, pp. 2 and 3.

⁸ Submission by Dean Bordode.

⁹ Submission on Nepal by the International Lesbian, Gay, Bisexual, Trans and Intersex Association, p. 3.

¹⁰ Submission by North Macedonia, p. 1.

¹¹ General Assembly resolution 48/134, annex; Asia Pacific Forum of National Human Rights Institutions and United Nations Development Programme (UNDP), *Promoting and Protecting Human Rights in relation to Sexual Orientation, Gender Identity and Sex Characteristics: A Manual for National Human Rights Institutions* (Bangkok, 2016).

¹² Universal Declaration of Human Rights, art. 21, para. 1.

suffrage and shall be held by secret vote or by equivalent free voting procedures”.¹³ Article 25 of the International Covenant on Civil and Political Rights recognizes the right of every citizen, without discrimination or unreasonable restrictions, “to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors”.¹⁴ Regardless of the form of government, States are obligated to protect these rights.

8. Since its founding, the United Nations has recognized democratic principles as an integral part of its central values, in both the founding Charter of the United Nations and in the Universal Declaration of Human Rights, that inform its work on development, peace and security and on human rights, respectively. The United Nations system promotes democratic governance to encourage greater participation, equality, security and human development. At the 2005 World Summit, all States Members of the United Nations expressed their commitment to democracy as a core principle, and they reiterated that commitment in 2007 in General Assembly resolution 62/7. In 2009, the Secretary-General published a guidance note presenting a “framework for democracy”, in which he encouraged popular participation in and support of free and fair elections, fostering the development of a culture of democracy, encouraging responsive and inclusive governance, and supporting a strong and vibrant civil society.¹⁵ The General Assembly recognizes that these obligations include a duty to ensure equal democratic participation of all individuals, free from any kind of discrimination, including on the basis of sexual orientation or gender identity.¹⁶

9. International principles for democratic elections and the general prohibition on discrimination apply to everyone without distinction and therefore should also be considered in relation to the electoral participation of LGBT persons. The standards of “universal and equal suffrage” are clearly applicable, as discrimination inhibits the opportunity to participate in elections on an equal basis with others. Guarantees of the “free expression of the will of the electors” are also directly relevant, as they concern combating discrimination and safeguarding other rights before and during elections.¹⁷

10. The International Covenant on Civil and Political Rights prohibits discrimination against all persons, including LGBT persons, in relation to all rights provided by the Covenant, among them suffrage and participation in political life.¹⁸ The exercise by citizens of their rights to take part in the conduct of public affairs, vote and be elected must be without adverse and impermissible distinction of any kind, including sexual orientation or gender identity, in line with articles 2 and 25 of the Covenant.^{19,20} OHCHR highlighted that “human rights mechanisms have noted that criminal law sanctions that target lesbian, gay, bisexual, transgender and intersex persons, as well as discriminatory restrictions on their freedoms of peaceful assembly, association and expression, result in severe limitations on their participation in

¹³ Ibid., art. 21, para. 3.

¹⁴ See Human Rights Committee, general comment No. 25 (1996) on participation in public affairs and the right to vote.

¹⁵ OHCHR, “Guidance note of the Secretary-General on democracy”, 27 August 2009.

¹⁶ General Assembly resolution 78/208, para. 7.

¹⁷ *Human Rights and Elections: A Handbook on International Human Rights Standards on Elections* (United Nations publication, 2021), para. 35.

¹⁸ Human Rights Committee, general comment No. 37 (2020) on the right of peaceful assembly, para. 46; and general comment No. 36 (2018) on the right to life, para. 61.

¹⁹ See CCPR/C/123/D/2318/2013.

²⁰ Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, para. 32.

political and public life”.²¹ Although discrimination and barriers to political participation faced by persons on the basis of their sexual orientation or gender identity remain of serious concern, positive efforts by some States to overcome these obstacles have been noted in United Nations reports.²²

11. The Committee on the Elimination of Discrimination against Women has systematically invoked State obligations to respect rights linked to eliminating discrimination against women in political and public life, in line with articles 7 and 8 of the Convention on the Elimination of All Forms of Discrimination against Women, notably stressing that the lack of equal and inclusive representation of women is exacerbated by inequality and discrimination, including for lesbian, bisexual, transgender and intersex women.^{23,24} The Committee on the Elimination of Racial Discrimination has expressed concern over threats, hate speech (including online), harassment and violence towards women seeking or holding political office, “particularly those seen as LGBTIQ+ women”,²⁵ based simultaneously on gender and race. The Working Group on discrimination against women and girls has further noted that “[w]omen who belong to vulnerable groups”, including due to sexual orientation and gender identity, “are effectively barred from political and public life based on multiple stereotyping”.²⁶

12. Regional human rights bodies across the globe have increasingly recognized core protections against violence and discrimination based on sexual orientation and gender identity, including the Inter-American Commission on Human Rights,²⁷ the Organization of American States (OAS) General Assembly²⁸ and the African Commission on Human and Peoples’ Rights.²⁹ The European Court of Human Rights has held that sexual orientation and gender identity are covered under the non-discrimination provision in article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights).³⁰

III. Key constraints on electoral participation

13. In 2020, there were only 230 openly LGBT members of parliament in 50 countries. Notably, and reflecting the gender dimension of underrepresentation in public life, 81 per cent were gay men.³¹ In several submissions, increases in LGBT political representation in recent elections were noted.³² In a 2023 report, the United Nations Development Programme (UNDP) noted that “LGBTI+ political figures are often

²¹ *Human Rights and Elections*, para. 36.

²² See, for example, [A/74/285](#), para. 34.

²³ See, for example, Committee on the Elimination of Discrimination against Women, general recommendation no. 28 (2010) on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, para. 18; and general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, para. 29.

²⁴ See [CEDAW/C/81/D/134/2018](#).

²⁵ [CERD/C/BRA/CO/18-20](#), para. 26 (e).

²⁶ [A/HRC/23/50](#), para. 70.

²⁷ See Inter-American Commission on Human Rights, *Advances and Challenges towards the Recognition of the Rights of LGBTI Persons in the Americas* (2018).

²⁸ See OAS General Assembly resolution AG/RES. 2863 (XLIV-O/14), available at www.oas.org/en/iachr/lgtbi/docs/ag-res2863-xliv-o-14eng.pdf.

²⁹ See African Commission on Human and Peoples’ Rights resolution ACHPR/Res.275(LV)2014.

³⁰ See Council of Europe, European Court of Human Rights, *Guide on Article 14 of the European Convention on Human Rights and Article 1 of Protocol No. 12 to the Convention: Prohibition of Discrimination* (2021).

³¹ Gilad Greenwald, Sharon Haleva-Amir and Amit Kama, “‘An out gay man in the parliament’: new aspects in the study of LGBTQ politicians’ media coverage”, *Media, Culture and Society*, vol. 46, No. 1 (January 2024).

³² Submissions by Caribe Afirmativo, p. 3, and by the Office of the Ombudsperson of Argentina.

viewed as role models who may inspire others and therefore increase the participation of LGBTI+ persons in electoral processes”.³³ Notwithstanding considerable progress over the past few decades, “there is a dearth of visible LGBTI+ people in elected office and across public life”.³⁴ The National Democratic Institute has noted that “[i]ntersectionality is a neglected component of political participation....Women from ethnic minority groups and LGBTQI+ communities face additional barriers to meaningful political participation, decision-making, and leadership.”³⁵

14. Violence, incitement to violence, hate speech and disparaging rhetoric impose particularly severe constraints on the ability of LGBT people to participate in electoral processes. Violence and hostility may take the form of killings, physical attacks, threats, sexual violence³⁶ or online animosity.³⁷ Prospective candidates may face hate speech and death threats, and may even be forced into exile.³⁸ Where there is lacklustre condemnation of attacks against activists defending the human rights of LGBT persons, this can discourage political participation.³⁹ Different challenges and opportunities are faced by LGBT people depending on factors such as race, class, gender, sexual orientation, geographic location and health status, and these are relevant to both their electoral participation and the ways that political parties might seek their participation.⁴⁰ It is not uncommon for unscrupulous politicians to deploy hostile rhetoric against LGBT people in an attempt to bolster their popularity by appealing to prejudice and provoking further animosity.⁴¹ In this way, LGBT people are used as scapegoats for social, political and economic ills, in some cases inciting a “moral panic” and thereby compromising their full and equal electoral participation. The Constitutional Court of Colombia took a proactive stance that endorsed an approach to vulnerable population groups requiring authorities to adopt measures that “give differentiated treatment aimed at ensuring that participation in public affairs” through engagement that tailors electoral outreach to those groups’ needs, with the aim of “facilitating their democratic participation and not perpetuating isolation and marginality of sectors that have been historically made invisible”.⁴² In Albania in 2020, the State took steps to prevent the use of hate speech during election campaigns by amending existing non-discrimination law to include explicit reference to hate speech.⁴³

15. Violence and harassment targeting women’s public and political lives is rooted in rigid gender norms. LGBT individuals and groups represent, for many, a “perceived challenge” to these very same “established norms of gender identity, gender roles and sexuality”,⁴⁴ and this perceived threat is often met with violent resistance, at times directly called for by politicians.⁴⁵ Rhetorical appeals to anti-LGBT animosity to

³³ Lluís Juan Rodríguez, *Building Inclusive Democracies: A Guide to Strengthening the Participation of LGBTI+ Persons in Political and Electoral Processes* (New York, UNDP, 2023), sect. 1.1.

³⁴ Ireland, Department of Justice and Equality, “National LGBTI+ inclusion strategy 2019–2021” (2019), p. 11.

³⁵ National Democratic Institute, *Political Participation and Violence against Women in Politics in Southeastern Europe*, research report (Sarajevo, 2021), p. 27.

³⁶ Submission by Caribe Afirmativo.

³⁷ Submission by Article 19: International Centre against Censorship.

³⁸ National Democratic Institute and International Republican Institute, *Tunisia International Election Observation Mission: Final Report* (2019).

³⁹ ReportOUT, “‘No room for you’: the right to political participation for SOGI communities in Kenya and Bangladesh” (2024).

⁴⁰ Jennifer Thorpe, *Power and Participation: How LGBTIQ People Can Shape South African Politics* (Cape Town, South Africa, 2018).

⁴¹ Submission by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), p. 3.

⁴² Submission by Caribe Afirmativo.

⁴³ Submission by Albania.

⁴⁴ A/HRC/23/50, para. 47.

⁴⁵ Submission by Article 19.

garner political support are often amplified during election campaigns.⁴⁶ “Particularly during times of political transitions, in highly polarized discourse regarding national identity, gender stereotypes can be magnified”,⁴⁷ leading to intensified violence and discrimination against women and LGBT individuals in the name of upholding these patriarchal norms.

IV. Suffrage rights

16. Matters of private sexual conduct that have been determined under international law to be protected under the human rights to privacy and non-discrimination⁴⁸ should not be used to restrict citizens’ rights to take part in the conduct of public affairs, or to vote and be elected. Eligible electoral participants, whether voters or candidates, “may not be suspended or excluded except on grounds which are established by law and which are objective and reasonable”.⁴⁹

A. Right to vote

17. Disenfranchisement is today only formally directed by law for a few enumerated statuses, variably across jurisdictions: age, non-citizenship, foreign residency and conviction for specific crimes. Some of these limitations specifically and disproportionately affect LGBT persons, for example, through unjust criminal conviction under discriminatory laws. Moreover, disenfranchisement frequently arises informally as an outcome of other limitations, including, for example, restrictive identification procedures or voting requirements that disproportionately impact trans and non-binary persons.⁵⁰ Worldwide, 62 countries criminalize consensual same-sex intimacy. A criminal conviction in countries that prosecute same-sex relations would mean automatic disenfranchisement in several countries.⁵¹ Disenfranchisement based on criminal conviction, in particular the discriminatory operation of criminal law targeting same-sex conduct, the exchange of sex for money, sex outside of marriage, gender identity or sexual expression,⁵² is against international human rights principles. Disenfranchisement based on criminal conviction is reported to disproportionately affect LGBT persons.⁵³ Fear of discrimination among LGBT voters, which inhibits voting, has disproportionately affected women from racial minorities in the United States.⁵⁴

18. The most commonly reported limitation of suffrage based on a voter’s gender identity is linked to difficulties in obtaining accurate identification documents

⁴⁶ A/HRC/20/28, para. 27; and submission by Cameroonian Foundation for AIDS, pp. 2 and 3.

⁴⁷ A/HRC/23/50, para. 72.

⁴⁸ See CCPR/C/50/D/488/1992.

⁴⁹ Human Rights Committee, general comment No. 25, para. 4.

⁵⁰ See O’Neill and others, “The potential impact of voter identification laws” (see footnote 5); Colombia, Registraduría Nacional del Estado Civil, “Protocolo de atención de las personas trans” (2023); and Abdul Qadir Sediqi and Storay Karimi, “Afghan women fear mandatory poll photos could stop them from voting”, Reuters, 25 September 2019.

⁵¹ Submission by the Centre for Human Rights of the University of Pretoria.

⁵² See CCPR/C/50/D/488/1992; Committee on the Elimination of Discrimination against Women, general recommendation. No. 35 (2017); A/HRC/WG.11/39/1; International Commission of Jurists, “The 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty” (Geneva, 2023); and Amnesty International, *Body Politics: A Primer on Criminalization of Sexuality and Reproduction* (London, 2018).

⁵³ Submission by the Human Rights Commission of Mexico City, p. 3.

⁵⁴ Submission by Human Rights Campaign, p. 4. See also Courtney Avant, *Banned from the Ballot Box: The Impact of Felony Disenfranchisement Laws on LBTQ Women of Color* (Washington D.C., Human Rights Campaign, 2020).

corresponding to the gender identity of the bearer, which may lead to the person being denied the right to vote at the stage of voter identification.⁵⁵ Research from the United Kingdom of Great Britain and Northern Ireland has found that voter identification legislation has restricted the electoral participation of trans and non-binary people by making it more difficult for them to access voting stations.⁵⁶ Presenting an identification that does not match a voter's gender identity can "out" transgender individuals, in violation of their right to privacy.⁵⁷ Difficulties in accessing documentation that correctly reflects a voter's gender identity may be especially pronounced for trans and gender-diverse individuals who experience discrimination based on other grounds, such as race, homelessness and disability.⁵⁸ Positive examples include the decision by the electoral management body of Mexico to allow the use of preferred gender identity markers on voting registration documents without the need to present the corresponding identification document, and to include non-binary identities in voting credentials.^{59, 60} In Canada, voters must present identification documents but are not required to show an identification that includes a sex or gender indicator. Malta is one of 24 countries⁶¹ that permit individuals to have their gender identity recognized in official documents through a simple administrative procedure based on self-identification, hence avoiding potential barriers at polling stations and in the candidacy process.^{62, 63} Several submissions contained explicit calls for required training for electoral staff and polling officers on inclusive identification procedures and gender diversity.^{64, 65, 66, 67}

19. The adoption of laws that specifically address the rights of affected trans and gender-diverse persons, such as those which establish an easy procedure for changing identification documents, including those needed for registering to vote or to stand for election, appear to make a significant contribution to promoting electoral participation and minimizing the risk of unwanted breaches of privacy when these documents are used for voting.⁶⁸ Gender-segregated queues in polling stations can be an obstacle for trans people.^{69, 70} In Colombia, official regulations allow trans persons to choose the queue for voting.⁷¹

⁵⁵ Inter-American Commission on Human Rights, *Advances and Challenges* (see footnote 27), para. 121; submission by the Human Rights Campaign, p. 2; submission by the Observatorio Latinoamericano y del Caribe de los Derechos Políticos y Electorales de las Personas Trans, p. 5; submission by the Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos, p. 3; and joint submission by the Network of Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Litigants of the Americas (Red de Litigantes LGBTI de las Américas), the LGBTTTI and Sex Workers Coalition with work before OAS (Coalición LGBTTTI & de Trabajadoras Sexuales con trabajo ante la OEA) and the Regional Network without LGBTI Violence of Latin America and the Caribbean (Red Regional Sin Violencia LGBTI de América Latina y el Caribe), p. 3.

⁵⁶ Submission by Stokoe Colliver (University of York) and Ash Stokoe (University of Birmingham).

⁵⁷ Submission by the Westminster Foundation for Democracy.

⁵⁸ Submissions by the Human Rights Campaign, p. 3; and Ecuador, p. 4.

⁵⁹ Submission by the Human Rights Commission of Mexico City, p. 3. See regulation INE/CG432/2023.

⁶⁰ Rodríguez, *Building Inclusive Democracies* (see footnote 33), sect. 3.1.1.

⁶¹ See <https://database.ilga.org/legal-gender-recognition>.

⁶² Submission by Canada.

⁶³ Submission by Malta.

⁶⁴ Submission by the Global LGBTQI+ Inclusive Democracy and Empowerment (GLIDE) Initiative, p. 4.

⁶⁵ Submission by Ronald Kihali Omedo.

⁶⁶ Submission by Dean Bordode.

⁶⁷ Submission by Stokoe Colliver (University of York) and Ash Stokoe (University of Birmingham).

⁶⁸ Submissions by Spain, p. 2; the national human rights institution of Argentina, p. 2; and the national human rights institution of the Republic of Korea.

⁶⁹ ACE Electoral Knowledge Network, "Systems with separate polling stations for men and women", 19 March 2019.

⁷⁰ Submissions by the GLIDE Initiative, p. 4; and the International Foundation for Electoral Systems, p. 1.

⁷¹ Rodríguez, *Building Inclusive Democracies*, sect. 3.1.2; and submission by Caribe Afirmativo, p. 11.

20. Legal gender recognition includes the ability to legally change one's name, which has a positive impact on the ability to participate in elections and avoid discriminatory treatment at the polling station. In Brazil, the inclusion of the "social name" (or affirmed name) alongside the person's legal name is permissible for the purpose of voter registration.⁷² In Spain, voters can easily request and obtain changes to the gender notation and name on identity documents, following an administrative procedure based on gender self-identification.⁷³ Conversely, there are other countries where legal name changes are hampered by electoral regulations that narrowly limit name changes on voter rolls to situations involving transcription errors or to rectify harm caused by a current name. In the latter case, the law also specifically excludes gender identity and/or sexual orientation as an example of harm justifying a correction of name.⁷⁴ In several submissions, it was noted that electoral management regulations might officially state that a perceived mismatch between the appearance of the voter and the voter's photograph on an identification document could not be the basis for refusing to permit a voter to vote, which is the case in El Salvador and Mexico, for example.⁷⁵ However, it was noted in many submissions that, even when legal provisions were not an obstacle, delays or other efficiency gaps within the registration system could lead to disenfranchisement for trans and non-binary would-be voters.⁷⁶ Delays in data exchange between relevant authorities may also pose practical challenges.⁷⁷

21. The extent to which binary and immutable concepts of gender are embedded in electoral regulations stands out as a structural basis of discrimination. Such difficulties have roots in the very design of civil and voter registration systems and regulations. Civil registration systems tend to rely on unique numeric or alphanumeric identifiers that are presumed to remain the same throughout a person's life. These identifiers tend to contain a digit that corresponds to the person's sex as assigned at birth, and another digit may control the veracity of the whole identifier. A change of surname, as is the practice in some settings for women (and some men) after marriage, does not have an impact on the identifier. Gender transition does have an impact, necessitating a change of record in such databases that goes beyond what is currently provided for in the regulatory regimes of civil registration.⁷⁸

B. Right to stand for election

22. The concept of morality can be linked to unreasonable restrictions on political rights on the basis of sexual orientation and gender identity. The requirement of "high moral standing" or similarly worded criteria are sometimes applied to candidates, which may unreasonably restrict their right to be elected.⁷⁹ The link between criminal conviction and moral standing may occur through specific crimes against morality but is not always automatic. However, the subjective application of concepts of "morality" in the public sphere may render homosexuality or gender non-conformity as "immoral" under more general eligibility provisions in certain national contexts. International observers have criticized such legal provisions for their ambiguity, which leaves the provisions open to arbitrary or politically motivated application, all due to the impossibility of developing stand-alone criteria for the determination of

⁷² Submission by the national human rights institution of Brazil, p. 5.

⁷³ Submission by Spain, p. 2.

⁷⁴ Submission by Observatorio Latinoamericano y del Caribe de los Derechos Políticos y Electorales de las Personas Trans, p. 3.

⁷⁵ Submissions by El Salvador, p. 2; and the Human Rights Commission of Mexico City, p. 6.

⁷⁶ Submission by Caribe Afirmativo, pp. 8 and 9.

⁷⁷ Submission by Ecuador, p. 3.

⁷⁸ Submission by Slovenia, p. 1.

⁷⁹ See art. 66 of the Constitution of Bangladesh, which disqualifies citizens from becoming members of parliament based "on conviction for a criminal offence involving moral turpitude".

moral standing.⁸⁰ Morality as a barrier can also function through social standards. For example, the social expectation that all politicians should be married with families is limiting to aspiring LGBT politicians in countries where marriage and adoption are legally inaccessible to same-sex couples.⁸¹

23. Gender parity as a commitment and the mechanisms needed to support that result for women have been used by some States to ensure a more equitable and balanced representation of women in government and elected positions. Mexico, for example, has a gender parity system for candidates in elections. Gender parity commitments can similarly support equality and non-discrimination with respect to sexual orientation and gender identity.⁸²

24. Temporary special measures, such as quotas, can also be applied to ensure more equitable representation of other marginalized groups who are most at risk in exercising their rights in the context of elections, including on the basis of sexual orientation and gender identity.^{83,84} In 2020, the Electoral Institute of Mexico City approved an agreement requiring local parties to nominate at least two LGBTQ+ candidates, while trans and non-binary persons were able to change the gender marker on their voting credentials through self-identification, without the need for a judicial or administrative process.⁸⁵ Federal quotas for marginalized groups were introduced in Mexico the following year.⁸⁶ Where temporary special measures assume a strict binary of two genders, care must be taken to ensure that gender-equalizing policies are not deployed in ways that pose practical limitations on the right to stand for office for non-binary persons.⁸⁷ In some contexts, it may be unclear whether gender quota regulations have been designed with the intent to count trans men as men and trans women as women.⁸⁸ Litigation in India concerning legal recognition of trans and third-gender identities, and formal recognition in Bangladesh, highlight current confusion and the need for clarity as a means for meaningful inclusion.^{89,90} In the context of Indigeneity, provisions for *muxe* self-identification are pertinent in Mexico.⁹¹

25. With regard to elected women, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) has highlighted the underrepresentation and lesser visibility of women facing intersecting forms of discrimination, including women with diverse sexual orientations and gender identities, women with disabilities, women living in rural areas, Indigenous women, migrants, young women, women of African descent and women of colour.⁹² The

⁸⁰ See the case of the Ang Ladlad political party, which was initially denied registration and the opportunity to field candidates in the Philippines on moral and religious grounds. The party won the case in the Supreme Court. (Rodríguez, *Building Inclusive Democracies*, sect. 2).

⁸¹ Submission by Ronald Kihali Omedo.

⁸² See <https://aceproject.org/ace-en/topics/ge/ge9/lgbti-groups-advocating-for-political-inclusion>.

⁸³ See A/68/299.

⁸⁴ UNDP, “Supporting the introduction of temporary special measures (TSMs): guidance for UNDP country offices” (New York, 2023).

⁸⁵ Submission by the national human rights institution of Mexico.

⁸⁶ Rodríguez, *Building Inclusive Democracies*, sect. 3.2.1.1.

⁸⁷ Submission by the International Foundation for Electoral Systems, p. 1. See also United Nations Gender Quota Portal, available at <https://genderquota.org/about>.

⁸⁸ Submission on Costa Rica and Peru by the International Lesbian and Gay Association, pp. 3 and 6.

⁸⁹ High Court of Bombay, *Anjali Guru v. State of Maharashtra*, Writ Petition (Stamp) No. 104 of 2021.

⁹⁰ International Republican Institute, “Understanding the lives of Bangladesh’s LGBTI community” (Washington D.C., 2021).

⁹¹ See Regina Waugh, “Lessons on gender equality and women’s political participation”, Election Case Law Analysis Series (October 2021).

⁹² Submission by UN-Women to the Committee on the Elimination of Discrimination against Women for the elaboration of general recommendation No. 40 on the equal and inclusive representation of women in decision-making systems.

Superior Electoral Tribunal of Brazil decided in 2018 to interpret a 30 per cent quota for women candidates foreseen in the election law as inclusive of trans women, leading – according to an analysis by the Inter-American Commission on Human Rights – to a significant increase in trans women running for office and winning electoral contests, notwithstanding attempts by some politicians to restrict the interpretation of “sex” in relevant jurisprudence to biological sex.^{93,94}

26. Legal and mandatory candidate quotas for LGBT persons established in Mexico⁹⁵ have evidently led to an increase in the number of trans persons running for office and being elected, but there are also reports of “impersonation of gender identity” to obtain registration.⁹⁶ Such cases represent a harm against women, including trans women, and transgender people more generally, as distinct and overlapping historically marginalized groups, in particular as such acts blur fraudulent identification with the genuine disclosure of gender identity, playing into harmful anti-trans narratives, especially if this leads to calls for additional burdensome requirements to verify transgender identity, which create barriers to formal identification and therefore participation.⁹⁷

27. Other seemingly neutral requirements for candidate registration may disproportionately affect prospective LGBT candidates. For example, a requirement to collect supporting signatures of incumbent elected officials in a polarized environment rife with homophobic rhetoric may be more difficult to fulfil for openly LGBT candidates or those supporting equal rights of LGBT persons.⁹⁸

28. The implementation of electoral laws through regulations and administrative practice offers significant opportunities to promote the participation of LGBT persons. Regulations need to facilitate the meaningful participation of all citizens, be formulated with an awareness of unintended discriminatory aspects, and address barriers to electoral participation due to legislation or administrative practices. Election management bodies are the key actors in this regard. For example, even where electoral laws do not specifically address sexual orientation or gender identity, the principle of universal and equal suffrage for all citizens should be the basis for removing barriers to the full participation of LGBT persons.

V. Election administration

29. Election administration facilitates the right to vote and to stand in elections. Election management bodies enforce national-level commitments through specific activities needed for the administration of elections, as well as through the adoption and implementation of specific, binding regulations. The functions of such bodies vary depending on each specific context, but common roles include conducting voter and candidate registration, establishing civic and voter education programmes, and managing voting procedures and the transmission of results. Ensuring that all candidates and voters can exercise their political rights without discrimination, including with explicit protections stated regarding sexual orientation and gender

⁹³ OEA/Ser.L/V/II.170 Doc.184 (see footnote 28), p. 71.

⁹⁴ Submission by VoteLBGT, p. 2.

⁹⁵ Submission by the Human Rights Commission of Mexico City, p. 2. See the judgment of the National Electoral Tribunal SUP-RAP-121/2020 that led to the decision of the National Electoral Institute.

⁹⁶ Submission by the Observatorio Latinoamericano y del Caribe de los Derechos Políticos y Electorales de las Personas Trans, p. 11; and joint submission by the Network of LGBTI Litigants of the Americas, the LGBTTTI and Sex Workers Coalition with work before OAS and the Regional Network without LGBTI Violence of Latin America and the Caribbean, p. 2.

⁹⁷ José Luis Vargas Valdez, SUP-JDC-304/2018 y acumulados (casos *muxes*).

⁹⁸ Submission by Coming Out+, p. 2.

identity, is a core responsibility of election management bodies, which can ensure more inclusive, transparent and credible electoral processes.

30. In addition to the review and necessary revision of regulations and guidelines to ensure protection against discrimination and violence against LGBT persons in electoral processes, election management bodies can take additional steps to make meaningful participation a reality. Such bodies should invest in training election officials on non-discrimination. Several submissions noted good practice in that regard.⁹⁹ In a report, UNDP noted examples of good practice that included training staff, political parties and voters alike, on both general issues of anti-discrimination and specifics such as interaction with LGBT persons and voter identification.¹⁰⁰

31. Election management bodies may also proactively ensure the provision of voter information directed at LGBT people. This stands out as a good practice in some countries, such as Guatemala, Nepal, Pakistan and Peru.¹⁰¹ Such voter information and outreach campaigns demonstrate that the election management body is invested in protecting the interests of marginalized communities while promoting the visibility of LGBT persons and sending a clear signal of their equal standing in the electoral process. Such steps highlight the unique responsibility of election management bodies in overseeing and promoting both the legality and the broad public legitimacy of the electoral process.

32. Election management bodies may consider developing internal policies aimed at promoting the participation of LGBT persons as election officials and employees. In its report, UNDP noted several positive examples in that regard, such as the protocol to ensure the equal rights of trans electoral staff in Mexico.¹⁰² In hostile settings, LGBT persons may be reluctant to take on leading and political functions in election management bodies that presuppose certain exposure, and also may not have the opportunity to access these positions due to widespread stereotypes and discrimination.¹⁰³ In turn, the lack of highly visible LGBT persons in positions of public authority can be understood to further delegitimize their civic potential and standing in the polity.

VI. Election campaign framework

33. As the public face of electioneering, campaigning provides the space for candidates to express competing political views. It is often the time when political rhetoric is reshaped (and often radicalized) in the quest for voters' support.¹⁰⁴ In its report, the UNDP notes that "active repression of sexual and gender minorities by governments also seems to be associated with political dynamics", observing the practice of "scapegoating a socially despised minority as a way to consolidate power, to justify conservative policies, and to distract from other issues".¹⁰⁵ As noted in one submission, "Anti-LGBTQI+ sentiment is a powerful way to distract the population,

⁹⁹ Submission by the Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos, p. 4. The importance of training of government officials was especially highlighted in a submission by Uruguay. See European Union, *Election Observation Mission: El Salvador 2019 –Final Report*, p. 23.

¹⁰⁰ Rodríguez, *Building Inclusive Democracies*, sect. 3.1.4.

¹⁰¹ *Ibid.*, sect. 3.2.1.4.

¹⁰² *Ibid.*, sect. 3.1.1.

¹⁰³ Organization for Security and Cooperation in Europe (OSCE), Office for Democratic Institutions and Human Rights, *Gender, Diversity and Justice: Overview and Recommendations* (Warsaw, 2019), p. 15.

¹⁰⁴ European Union, *Election Observation Mission to Guatemala 2023: Final Report* (2023), p. 28.

¹⁰⁵ Jeffrey O'Malley and Andreas Holzinger, *The Sustainable Development Goals: Sexual and Gender Minorities*, p. 73.

legitimize extralegal actions, and consolidate power”.¹⁰⁶ The Special Rapporteur on freedom of peaceful assembly and of association has noted persistent barriers and renewed attacks on the rights of women to peaceful assembly and of association, including on the basis of their sexual orientation and/or gender identity and as affected by multiple stereotyping, as well as increased attacks on women working on lesbian, gay, bisexual, transgender and intersex (LGBTI) issues.¹⁰⁷ Such attacks can directly inhibit persons so targeted from participating in the many public processes connected to voter education on key issues, voter turnout and standing for office. Protection of fundamental rights to freedoms of expression, assembly and association, including enforcing objective and reasonable limitations on them and effective protections against hate speech, can serve as a mechanism to protect the campaign environment from radicalization and LGBT persons from scapegoating, intimidation and violence.¹⁰⁸

34. The ability to formally exercise freedom of association through legal registration “benefits civil society organizations’ sustainability and their ability to advance equality and human rights for LGBTIQ people”, including in the context of electoral processes. Conversely, unreasonable restrictions on their registration fosters “the invisibility of LGBTIQ organizations in the eyes of State bodies and the general public [which] increases the difficulties of advancing inclusive and non-discriminatory policies”.¹⁰⁹ A survey conducted by the International Foundation for Electoral Systems found that “a safer environment for LGBTIQ+ people to organize”, as well as “support from organizations and activists that represent other marginalized groups”, contribute greatly to their political participation.¹¹⁰ This may also be relevant for political parties that include the rights of LGBT people as an explicit component of their platform.

VII. Politicized homophobia in election campaigns

35. The manipulation of bias and the deployment of homophobia is especially relevant in the political context of elections, including in how homophobia combines with sexism and transphobia, as well as with racism and discrimination against migrants, people with disabilities and other marginalized groups. Each of these exclusionary practices may affect the diverse subgroups collected under the term LGBT differently, and prevention and remedial efforts must attend to these differences.¹¹¹ Research consensus holds that homophobia is socially produced¹¹² and scholars propose that “homophobia is a purposive strategy, adopted by State and social actors”.¹¹³ In this sense, that is, the deployment of social hostility as a political strategy, scholars link homophobia to other forms of scapegoating and xenophobic tendencies in politics. In many contexts, LGBT issues do not feature at all in political campaigns, as they are seen as a liability that would hurt a candidate’s prospects.¹¹⁴

¹⁰⁶ Submission by the GLIDE Initiative, p. 8.

¹⁰⁷ See [A/75/184](#).

¹⁰⁸ See [A/HRC/56/49](#).

¹⁰⁹ Outright International, *The Global State of LGBTIQ Organizing: The Right to Register and the Freedom to Operate, 2023* (New York, 2023), p. 7.

¹¹⁰ Submission by the GLIDE Initiative, pp. 5 and 6.

¹¹¹ Václav Štětka and Sabina Mihelj, “Mainstreaming illiberalism: the rise of immigration and LGBTQ+ rights as polarizing issues” in *The Illiberal Public Sphere: Media in Polarized Societies* (Cham, Switzerland, Palgrave Macmillan, 2024).

¹¹² *Homophobias: Lust and Loathing across Time and Space*, David A.B. Murray, ed. (Durham, North Carolina, United States, Duke University Press, 2009).

¹¹³ *Global Homophobia: States, Movements, and the Politics of Oppression*, Meredith L. Weiss and Michael J. Bosia, eds. (Champaign, Illinois, United States, University of Illinois Press, 2013).

¹¹⁴ Survey by the International Republican Institute in “Understanding the lives of Bangladesh’s LGBTI community”; and submission by the Observatorio Latinoamericano y del Caribe de los Derechos Políticos y Electorales de las Personas Trans, p. 9.

Academic research has also provided valuable analysis of conditions conducive to inclusive electoral participation, especially in the context of electoral campaigns.¹¹⁵

36. Taking up a highly visible political role in a hostile environment is often linked to a significantly heightened risk of exposure to all forms of violence, including risks to life.¹¹⁶ In several submissions, it was noted that an increase in the number of openly LGBT persons contesting elections is associated with an increase in recorded cases of violence against them, as shown in the cases of Brazil and Colombia.¹¹⁷ Similarly, there was a sharp increase in homophobic rhetoric in Kenya following a landmark Supreme Court decision allowing an LGBT group to formally register and operate.¹¹⁸

37. Among the many misleading and discrediting tropes used against LGBT people, especially during election campaigns, is that they are advancing foreign values.¹¹⁹ This is also apparent in post-colonial settings, as reflected in the Independent Expert's 2023 report,¹²⁰ showing how post-colonial regimes simultaneously decry LGBT rights as imports and redeploy and reinvigorate colonial era legal frameworks to oppress LGBT persons. The 2023 decision of the Supreme Court of the Russian Federation declaring the "international public LGBT movement" an extremist organization is an absurd example of associating calls for the rights of LGBT people with malicious foreign influence.¹²¹

38. Academic research on societies in transition from authoritarianism to democracy highlights that the discussion of equality for LGBT people tends to enter political discourse.¹²² Authoritarianism is characterized by the restriction of the fundamental rights necessary for meaningful political participation, as well as the propagation of intolerance based on perceived "otherness",¹²³ which may include political opinion or sexual orientation and gender identity. Anti-LGBT bias is oftentimes couched in misleading narratives of defending children, traditional families and the nation, and these tropes have been, as noted above, given increased prominence during election periods.¹²⁴ The invocation of anti-LGBT bias echoes and reinforces the long-established dominance of a particular claim to masculinity and the dominance of men in politics. In this regard, the pathologization of male homosexuality points to the linkages between heteronormativity and patriarchy in politics.¹²⁵ Projecting an image of hegemonic masculinity is oftentimes a desired trait of politicians, reflecting a tendency towards heteronormativity in politics. The nexus

¹¹⁵ *Gender and LGBTQ Issues in Election Processes: Global and Local Contexts*, Routledge Studies in Gender, Sexuality and Politics Series, Paulina Barcyszyn-Madziarz and Przemyslaw Żukiewicz, eds. (Abingdon, Oxon, United Kingdom, Routledge, 2022).

¹¹⁶ Joint submission by the Network of LGBTI Litigants of the Americas, the LGBTTTI and Sex Workers Coalition with work before OAS and the Regional Network without LGBTI Violence of Latin America and the Caribbean, p. 3; and submission by the International Lesbian and Gay Association, pp. 4 and 5

¹¹⁷ Submissions by the national human rights institution of Brazil, p. 7; Caribe Afirmativo, p. 6; and Dean Bordode.

¹¹⁸ Submission by Ronald Kihali Omedo.

¹¹⁹ See [A/78/288](#).

¹²⁰ [A/78/227](#).

¹²¹ Submissions by Coming Out+, pp. 3 and 4; and the International Lesbian and Gay Association, p. 6.

¹²² Sasha Roseneil and others, "Changing landscapes of heteronormativity: the regulation and normalization of same-sex sexualities in Europe", *Social Politics: International Studies in Gender, State and Society*, vol. 20, No. 2 (May 2013), p. 169.

¹²³ Bob Altemeyer, "The other 'authoritarian personality'", *Advances in Experimental Social Psychology*, vol. 30 (1998), pp. 47–92.

¹²⁴ Submission by the Observatorio Latinoamericano y del Caribe de los Derechos Políticos y Electorales de las Personas Trans, p. 10.

¹²⁵ Louis Crompton, *Homosexuality and Civilization* (Cambridge, Harvard University Press, 2003), pp. 49–110.

of populism, patriarchy and authoritarianism is a core theme of many current scholars of rising authoritarianism.¹²⁶

39. Commonly referred to by anti-gender and anti-rights movements, “gender ideology” has emerged as a dominant catch-all phrase that falsely implies a sinister attempt to undermine the social order by tampering with gender norms. It is used to oppose reproductive rights and the rights of LGBT people, and affects the overall environment in which elections take place.¹²⁷ In one submission, it was noted that even when legislative proposals opposing “gender ideology” did not move forward in parliament, they contributed “to a climate of uncertainty and concern”.¹²⁸ In another submission, it was noted how the use of “gender ideology” as a concept “legitimizes the exercise of various types of violence based on prejudice against LGBTI+ leaders”.¹²⁹

40. The perceived threat of so-called “gender ideology” is also used in some contexts by politicians to distract public attention from other issues,¹³⁰ often through sensationalist methods.¹³¹ In several submissions, it was noted that some politicians are “implementing discriminatory election campaigns that promote anti-rights rhetoric as a strategy to win votes”,¹³² to help consolidate support in other political processes¹³³ or for political gain based on the exploitation of prejudice.¹³⁴

41. The Independent Expert previously highlighted the use and rebranding of the term “gender ideology” as “part of an anti-rights discourse by political and religious leaders seeking to limit the human rights of lesbian, gay, bisexual, trans and gender-diverse persons”.¹³⁵ In one submission, it was noted how anti-LGBT rhetoric was sometimes positioned as religious speech protected by freedom of expression and freedom of religion or belief.¹³⁶ Profiling LGBT issues in campaigns, in order to generate a negative response and enhance political prospects, is often planned and purposeful.

42. Referendums, often with provocative or misleading questions, are one mechanism used to radicalize political discourse, or to distract voters from other pressing issues. For example, in 2022, Hungary held a referendum on banning educational materials with content related to gender and sexual diversity. The questions were both misleading and pejorative, reinforcing the rationale for the proposed legislation as protecting children from harmful influences. The referendum failed due to low turnout that fell short of the required level of participation.¹³⁷

43. Intolerant rhetoric, based on animosity, fear-mongering and hate speech, may be directed at different targets, depending on the political climate and prominent social concerns at any given time. Migrants, women, people with disabilities and racial, linguistic and religious minorities may all be targeted by disparaging rhetoric

¹²⁶ Betül Eksi and Elizabeth A. Wood, “Right-wing populism as gendered performance: Janus-faced masculinity in the leadership of Vladimir Putin and Recep T. Erdogan”, *Theory and Society*, vol. 48, No. 5 (November 2019), pp. 733–751.

¹²⁷ Submission by Frontline AIDS, p. 2.

¹²⁸ Submission by the national human rights institution of Brazil, p. 6.

¹²⁹ Submission by Caribe Afirmativo, p. 2.

¹³⁰ Graeme Reid, “Hungary’s path puts everyone’s rights in danger”, *Social Europe*, 6 October 2021; and Graeme Reid, “Russia, homophobia and the battle for ‘traditional values’”, *Social Europe*, 17 May 2023.

¹³¹ Submission by the Human Rights Commission of Mexico City, p. 6.

¹³² Submission by the national human rights institution of Brazil, p. 6.

¹³³ Submission by Caribe Afirmativo, footnote 8.

¹³⁴ Submission by ReportOUT, p. 9.

¹³⁵ [A/73/152](#), para. 27.

¹³⁶ Submission by the Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos, p. 5.

¹³⁷ Ryan Thoreson, “Hungarian groups fight fines for supporting LGBT rights: government should halt relentless attacks on civil society”, *Human Rights Watch*, 22 April 2022.

for political benefit.¹³⁸ LGBT persons may be targeted specifically in campaign rhetoric, or hostility may be expressed in more general xenophobic terms. A common feature of xenophobia is to create “the other” as a threat to the dominant paradigm. Discrimination and hostility are exacerbated when an LGBT individual is additionally targeted on the basis of other characteristics, such as race or religious beliefs,¹³⁹ or as a migrant.¹⁴⁰

VIII. Conduct of campaign

44. Incitement to violence against LGBT persons is of greatest concern during election campaigns, when political rhetoric is amplified. An estimated 51 States Members of the United Nations explicitly prohibit incitement to hatred, violence or discrimination based on sexual orientation.¹⁴¹ The dynamics of political campaigning may make it more difficult to enforce hate speech regulations, as such enforcement will often rely on the careful deliberation of independent courts and legal processes, which cannot apply such regulations quickly and effectively during elections.

45. Bias with regard to sexual orientation or gender identity can be an aggravating factor in sentencing in jurisdictions where such a provision exists. Specific provisions may apply to transgressions committed by public servants. Such regulations exist, for example, in Angola, Bolivia (Plurinational State of), Colombia, Honduras, Mongolia and Peru, as well as across the European Union. These provisions recognize sexual orientation (and, more rarely, gender identity) as areas of concern for targeted discrimination and can have a deterrent effect on violence. These legal provisions also provide grounds for more in-depth and comprehensive training of law enforcement and justice sector officials entrusted with ensuring the safety of voters and candidates.

46. Violence has a particularly chilling effect on political participation.¹⁴² In contexts where authorities are reluctant to acknowledge or prosecute hate crimes, LGBT people may face a reality in which hate crimes are committed with impunity. In electoral contexts, delayed responses by authorities to hate speech complaints during political campaigns also contribute to a sense of impunity for such transgressions and contribute to a climate of fear.¹⁴³ In many contexts, LGBT activists perceive law enforcement agencies as a source of harassment or threat, rather than protection, mainly as a result of a history of persecution and harassment by police and security forces.¹⁴⁴ Similarly, any restrictions on the rights of LGBT persons through legislation have a negative effect on political participation by creating a situation of legal precarity and social insecurity by designating LGBT persons as second-class citizens.¹⁴⁵

47. Legal frameworks increasingly address the issue of gender-based political violence, but often do so with a specific focus on women, without attending to or differentiating between their experience and that of trans women or lesbians. Despite increasing global attention to gender violence and persecution as applying gender stereotypes to many differently gendered persons, presumptions under existing

¹³⁸ See A/HRC/26/30 and submission by Catrachas Lesbian Network, p. 2.

¹³⁹ Submission by VoteLGBT, p. 9.

¹⁴⁰ Submission by Observatorio Latinoamericano y del Caribe de los Derechos Políticos y Electorales de las Personas Trans, p. 10.

¹⁴¹ <https://database.ilga.org/incitement-violence-lgbti>.

¹⁴² See European Union Election Observation Mission, “Honduras: final report – general elections 2017”.

¹⁴³ Submission by Catrachas Lesbian Network, p. 3.

¹⁴⁴ Submission by the GLIDE Initiative, p. 8.

¹⁴⁵ Submissions by FrontlineAids, p. 4; and Observatorio Latinoamericano y del Caribe de los Derechos Políticos y Electorales de las Personas Trans, p. 2.

national law regarding gender-based violence may lag behind these advances.^{146,147} The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence recognizes the structural nature and scope of gender-based violence, defining “gender” as “the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men”.¹⁴⁸ The Independent Expert has previously called for attention in efforts to eradicate gender-based violence and discrimination “to the way that differently situated persons face gender discrimination, whether cisgender, trans or gender-diverse, heterosexual or homosexual, in order to ensure specific understanding of elements of both prevention and redress”.¹⁴⁹

48. In the context of the Americas, international and citizen observers have noted cases of violence against LGBT candidates in Brazil, Chile, Honduras, Mexico and Peru.¹⁵⁰ Instances of hate speech were also noted in Bolivia (Plurinational State of),¹⁵¹ Brazil¹⁵² and Honduras.¹⁵³ Paradoxically, in settings where instances of violence against LGBT candidates are not recorded, this may be due to the reluctance of openly LGBT persons to run for office owing to the “hostile environment that is not conducive for political participation”.¹⁵⁴ The European Union Election Observation Mission in Guatemala noted that, as homophobic narratives became central in runoff elections, LGBT groups “refrained from actively engaging in the run-off electoral process, in part due to the elevated risk of violence they are exposed to”.¹⁵⁵

49. Election observers also noted how the topic of non-discrimination based on sexual orientation and gender identity became a polarizing issue in electoral campaigns, sharpening hostile rhetoric.¹⁵⁶ In some cases, derogatory statements about LGBT persons are linked to attempts to associate LGBT issues with political opponents.¹⁵⁷ In 2019, the European Parliament adopted a resolution that raised concerns about “homophobic statements and hate speech targeting LGBTI people ... in particular in the context of elections” and called on States members of the European Union to “to monitor hate speech by public authorities and elected officials, as well as during local, regional and national elections, and to take firm and concrete measures and sanctions against it”.^{158,159}

50. Disinformation campaigns are often directly linked to discrimination experienced by LGBT persons. Spreading false and misleading information about

¹⁴⁶ Submission by VoteLGBT, p. 6.

¹⁴⁷ Committee against Torture, general comment No. 3 (2012) on the implementation of article 14, para. 39.

¹⁴⁸ *Council of Europe Treaty Series*, No. 210, art. 3 (c).

¹⁴⁹ [A/HRC/47/27](#), para. 93.

¹⁵⁰ OAS, Preliminary report following the second round of the elections in Brazil (November 2022), p. 15; and submission by the Observatorio Latinoamericano y del Caribe de los Derechos Políticos y Electorales de las Personas Trans, pp. 8 and 9.

¹⁵¹ OAS, Electoral Observation Missions, *General Elections 2019 and 2020: Plurinational State of Bolivia (Final report)*, annexes, p. 171.

¹⁵² OAS, Electoral Observation Mission, *2020 Municipal Elections: Brazil (Final Report)*, p. 99.

¹⁵³ OAS, Electoral Observation Mission, *General Elections: November 28, 2021 – Republic of Honduras (Final Report)*, p. 7.

¹⁵⁴ Submission by the International Lesbian and Gay Association, p. 3.

¹⁵⁵ European Union, *Election Observation Mission to Guatemala*, p. 28.

¹⁵⁶ OAS, Electoral Observation Mission, “National elections: Costa Rica (final report)”, p. 5.

¹⁵⁷ OSCE, Office for Democratic Institutions and Human Rights, *Final Report on the 2023 General Elections in Türkiye* (Warsaw, 2023), p. 16.

¹⁵⁸ European Parliament resolution on public discrimination and hate speech against LGBTI people, including LGBTI free zones (2019/2933(RSP)) (*Official Journal of the European Union*, C 255/7, 29 June 2021, para. 26).

¹⁵⁹ Katharina Eisele, *The 2020–2025 LGBTIQ Equality Strategy: Implementation Overview*, European Parliamentary Research Service (Brussels, 2023), p. 26.

LGBT people reinforces stigma.¹⁶⁰ As noted by the Special Rapporteur on freedom of opinion and expression, “[s]igmatizing statements made by public officials against LGBTQ+ persons create an environment conducive to violence against members of that community, gender rights activists and human rights defenders working to protect the rights of these groups”.¹⁶¹

51. Electoral campaigns often involve so-called “third parties”, individuals or organizations other than political parties or candidates that campaign for or against specific parties, candidates or issues.¹⁶² The role of third parties, such as academic institutions, think tanks, civil society organizations and media organizations, in electoral campaigns is rarely regulated due to the difficulty of distinguishing between the regular activities of citizens, civil society organizations and even businesses and their involvement in electoral politics. Greater transparency in the regulation of third-party involvement in political campaigns may assist organizations working on the human rights of LGBT persons to get formally involved in supporting certain political positions. More detailed regulation may also help promote transparency with respect to those organizations that use discriminatory rhetoric or incite violence against LGBT persons.

IX. Campaign finance

52. Equitable access to campaign finance is an important component of electoral participation. Campaign finance may originate from donations to candidates or political parties, as well as from government subsidies. Regardless of the electoral system, the distribution of resources to LGBT political actors may be influenced by a perception of the political viability of a candidate on the basis of sexual orientation or gender identity. When LGBT persons are only peripherally involved in internal party governance structures, LGBT candidates may receive correspondingly low levels of funding from political parties.¹⁶³

53. In environments where support for the rights of LGBT people may have adverse effects, donations to individual LGBT candidates, or to parties advocating for equal rights of LGBT persons, may be constrained by possible negative consequences for the donor. To help avoid this, limits on the disclosure of details of financial contributions to candidates may be put in place. Under such regulations, with due precautions against possible illicit campaign financing, relatively small donations can be reported without disclosing the identity of the donor, thus avoiding stigmatization of the donor.¹⁶⁴

54. As mentioned above, additional regulation of third parties in campaigns can contribute to an increase in transparency regarding funding sources and expenditure. Several countries require third parties to officially register and to operate through a dedicated bank account and within spending limits.¹⁶⁵ Such regulations may help increase the accountability of third parties if they disseminate discriminatory messages or incite violence against LGBT electoral stakeholders.

¹⁶⁰ OSCE, Office for Democratic Institutions and Human Rights, “Final report on the 2020 parliamentary elections in Kyrgyzstan” (Warsaw, 2020), p. 11.

¹⁶¹ [A/78/288](#), para. 88.

¹⁶² *Funding of Political Parties and Election Campaigns: A Handbook on Political Finance*, Elin Falguera, Samuel Jones and Magnus Ohman, eds. (Strömsborg, Sweden, International Institute for Democracy and Electoral Assistance, 2014), pp. 189 and 190.

¹⁶³ Submission by VoteLGBT, p. 3.

¹⁶⁴ OSCE, Office for Democratic Institutions and Human Rights and European Commission for Democracy through Law (Venice Commission), *Guidelines on Political Party Regulation*, 2nd ed. (Strasbourg, 2010), para. 265.

¹⁶⁵ OSCE, Office for Democratic Institutions and Human Rights, “Note on third party regulations in the OSCE region”, Note No. POLIT/372/2020 (Warsaw, 2020), paras. 107–143.

A. Media

55. The extent, depth and quality of media coverage during elections is dependent on many factors, including freedom of expression guarantees. A free and inclusive media, operating within a non-discriminatory and non-repressive rights-based legal framework, can serve as a valuable source of information for voters. Contemporary media environments consist of a diversity of formal and informal platforms, with traditional print, radio and TV joined by the multiplicity of social media universes. In adverse contexts, however, coverage by both formal and more informal media, including social media, may present substantial obstacles to full and equal electoral participation, such as by amplifying discriminatory rhetoric or inciting intimidation or violence against LGBT persons. Media platforms can be a negative influence when they contribute to the normalization of discriminatory discourse or disparaging messages towards LGBT persons. Journalists covering LGBT issues, or who are LGBT themselves, may be targets of intimidation and other attacks. Women journalists are particularly exposed to online attacks that are sexualized, misogynistic or defamatory in nature,¹⁶⁶ which “often target women from religious and ethnic minorities or gender non-conforming people”.¹⁶⁷ Information related to LGBT people may also be unreasonably restricted through national practices that criminalize public expression of LGBT identities or issues.¹⁶⁸

56. Independence of the media can be guaranteed by laws and long-standing practices for traditional media that may apply differently to private and publicly owned media outlets. Regulations aimed at preventing hate speech or incitement to violence tend to apply to all media outlets, whether public or private. Their application is rarely automatic and may necessitate enforcement through complaints to election management bodies, courts or oversight bodies. Complaints against disparaging or discriminatory rhetoric against LGBT candidates sometimes remain unaddressed or constrained in the context of electoral campaigns. A complicating factor in some jurisdictions is the regulation of responsibility for airing the views of individual politicians. It may well be the case that media outlets are not held liable for reproducing or broadcasting direct speech of individual politicians, especially if transmitted live on air. In the context of rapidly changing norms regarding both individual and platform responsibility for hate speech, it is important to bring attention to the harms arising from politicians’ use of discriminatory or violence-inducing rhetoric without any recourse to protection for harmed entities: such practices may normalize discriminatory rhetoric or even contribute to the risks faced by LGBT candidates.

B. Social media and online campaigning

57. The connection between rhetoric in traditional media and the online domain remains a subject of research, both in academia and by election observers. Much depends on the tradition of responsible journalism and the level of restraint through regulation or self-regulation of hateful rhetoric in the media sphere, as well as the level of unrestrained access to or even control of State media by political actors. Ownership structures and linkages between business and political interests may also play a role. The propagation of hate speech and incitement to violence may rely on the cyclical connection between discourse being shaped online, picked up, normalized and propagated by traditional media, and then further propagated online as a more

¹⁶⁶ See [A/HRC/56/53](#).

¹⁶⁷ [A/HRC/50/29](#), para. 36.

¹⁶⁸ See [A/76/258](#).

acceptable form of speech.¹⁶⁹ Sexual orientation was among the most reported grounds of hate speech in the 2022 evaluation of the European Union Code of Conduct on countering illegal hate speech online.¹⁷⁰

58. A noticeable trend in recent years has been the increase in online political campaigning. These campaign methods often remain outside the scope of regulation or oversight. There is a general understanding, however, that what is illegal offline should be illegal online, and that freedoms should be protected equally online and offline. The regulation of political speech online is tightly linked to the more general issue of Internet governance. Cases of website and search blockages related to LGBT issues are well documented in several countries.¹⁷¹ Regulation of the responsibility of platforms for third-party content under national legislation is also relevant and necessary to counter hate speech against LGBT persons and communities. Offensive user-generated content can spread quickly on Internet platforms before its problematic nature can be assessed by judicial or other means.¹⁷²

59. Social media channels provide additional opportunities for LGBT candidates, as the message is controlled by the candidate, rather than by potentially biased editorial viewpoints. However, social media companies control the distribution of messages. These “platforms have reportedly suppressed lesbian, gay, bisexual, transgender and queer activism”,¹⁷³ and their algorithms may not be inclusive or neutral when it comes to issues of sexual orientation or gender identity. In their stated efforts to increase transparency and combat disinformation, several social media companies have developed policies for advertising on issues of social importance or political relevance. Advertisers are required to label their materials accordingly, and social media companies apply controls to verify the identities of advertisers and compliance of the materials with policies.

60. Key to the development of these policies are the perception of safety and the trust of users. Meta policies related to combating hate speech include sexual orientation and gender identity as protected characteristics.¹⁷⁴ In line with this, policies ban posting messages that advocate for political exclusion, “which means denying the right to political participation”. Meta focuses its engagement with LGBT groups on hate speech, bullying and harassment.¹⁷⁵ However, other reports suggest that social media platforms should invest significantly more effort in content moderation, across regions and languages.¹⁷⁶ Monitoring of online political discourse in Brazil highlights “the lack of effective regulation by service providers to prevent and suppress inappropriate content from their networks”.¹⁷⁷

¹⁶⁹ Oana Ștefăniță and Diana-Maria Buf, “Hate speech in social media and its effects on the LGBT community: a review of the current research”, *Romanian Journal of Communication and Public Relations*, vol. 23, No. 1 (2021), pp. 47–55.

¹⁷⁰ European Commission, “Countering illegal hate speech online: 7th evaluation the Code of Conduct” (2022).

¹⁷¹ See OutRight Action International, the CitizenLab and Open Observatory of Network Interference, *No Access: LGBTIQ Website Censorship in Six Countries* (New York, 2022).

¹⁷² Submission by the national human rights institution of Brazil, p. 11.

¹⁷³ A/HRC/38/35, para. 27.

¹⁷⁴ See <https://transparency.fb.com/en-gb/policies/community-standards/hate-speech>.

¹⁷⁵ Meta, *Human Rights Report: Insights and Actions 2022* (2022), p. 40.

¹⁷⁶ Human Rights Watch, “*All This Terror Because of a Photo*”: *Digital Targeting and its Offline Consequences for LGBT People in the Middle East and North Africa* (2023); and Human Rights Watch, “Middle East, North Africa: digital targeting of LGBT people”, 21 February 2023. Available at www.hrw.org/report/2023/02/21/all-terror-because-photo/digital-targeting-and-its-offline-consequences-lgbt and www.hrw.org/news/2023/02/21/middle-east-north-africa-digital-targeting-lgbt-people.

¹⁷⁷ Submission by the national human rights institution of Brazil, p. 12. See https://internetlab.org.br/wp-content/uploads/2023/05/MonitorA-Relato-rio_Ingle-s_Digital.pdf.

61. In the context of elections, organic content generated by users can play a significant role in shaping the social perception of LGBT issues. It is, however, arguably less powerful than the content specifically designed for mass distribution and promoted through targeted advertising. The policies of technological companies regarding such type of content are particularly relevant in the context of elections. A key issue is that online spaces appear to lower the barriers to xenophobic and homophobic rhetoric. What is unacceptable socially or otherwise prohibited offline may be perceived as permissible online.¹⁷⁸ Women politicians, especially from minority groups, including LGBT people, experience disproportionate hate speech online, which has a chilling effect on their likelihood to participate in politics.^{179,180} Anonymity and the use of encryption enables safe access to the Internet and information without fear of reprisal, including for LGBT persons,¹⁸¹ while surveillance and its chilling effect disproportionately have an impact on gender and sexual minorities.¹⁸² LGBT persons using social media to mobilize and assemble are among those groups that are disproportionately vulnerable and targeted for online attacks by both State and non-State actors.¹⁸³ Reports by election observers indicate that smear campaigns and hate speech directed against LGBT candidates frequently rely on social media distribution channels.¹⁸⁴

X. International and citizen observation, civil society involvement and international electoral assistance

62. International observer groups can play an important role in ensuring LGBT inclusion by attending both to the specific barriers facing LGBT people in national elections and to the role of local citizen observer groups. Civil society groups have noted the efforts of international observers¹⁸⁵ to focus on LGBT inclusion and highlighted the need for them to continue to do so.¹⁸⁶ The good practice of European Union election observation missions of regularly including a specific section on the “political participation of the LGBTIQ+ community” in their final reports is welcome, as are the ongoing efforts of the European Union to provide clear methodological guidance covering LGBT inclusion in all observation missions.

63. Non-partisan citizen observer groups can also play an important role in election monitoring.¹⁸⁷ The participation of LGBT persons in elections is rarely a specific focus in reports of national citizen observer groups. In a positive example, organizations focused on the rights of LGBT persons conducted election observation missions in Colombia in 2022 and 2023, contributing to a better understanding of the causes of discrimination and violence against LGBT persons during elections.¹⁸⁸ In Kenya in 2022, the registration of several LGBT organizations as election observers

¹⁷⁸ Submission by Malta, p. 6; and joint submission by the Network of LGBTI Litigants of the Americas, the LGBTTTI and Sex Workers Coalition with work before OAS and the Regional Network without LGBTI Violence of Latin America and the Caribbean, p. 4.

¹⁷⁹ Submission by Women, p. 5.

¹⁸⁰ See [A/77/288](#).

¹⁸¹ See [A/76/258](#) and [A/HRC/29/32](#).

¹⁸² See [A/HRC/32/38](#).

¹⁸³ See [A/HRC/50/42](#) and [A/HRC/41/41](#).

¹⁸⁴ European Union, *Election Observation Mission to Peru: Final Report* (2020), p. 27.

¹⁸⁵ Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers, commemorated 27 October 2005 at United Nations Headquarters.

¹⁸⁶ Submission by the International Lesbian and Gay Association, p. 6.

¹⁸⁷ Declaration of Global Principles for Non-partisan Election Observation and Monitoring by Citizen Organizations, adopted on 3 April 2012 at United Nations Headquarters.

¹⁸⁸ Submission by Caribe Afirmativo, p. 12.

increased the visibility of LGBT persons in the electoral process and had a mitigating effect on violence.¹⁸⁹

64. In several submissions, the positive role played by civil society in promoting changes in law and practice was highlighted. Examples included consultations that had led to Brazil allowing trans voters to register with their gender identity and affirmed name,¹⁹⁰ collaborations with fact-checking organizations to combat disinformation on social media in Brazil,¹⁹¹ and the assessment and public dissemination of voter education materials addressed to LGBT voters in Hungary.¹⁹² However, attention is needed on how “[o]nerous and bureaucratic financial controls and reporting requirements” can have an impact on LGBT organizations, in particular women’s organizations working on sexual orientation and gender identity rights and other issues in the context of rising fundamentalism,¹⁹³ with funding restrictions often put in place ahead of elections.¹⁹⁴ Notably, any provision “restricting or prohibiting the right to freedom of association, including the right to access funding, of a specific group on discriminatory grounds, such as sexual orientation or gender identity, is not permitted under the [International Covenant on Civil and Political Rights] and must be reviewed with a view to repealing”.¹⁹⁵ LGBT persons facing multiple marginalization may further be underrepresented or excluded from civil society organizations and movements that represent only one aspect of their identity, such as by focusing on discrimination related to their race but not their gender, or on their disability but not on how this interacts with their sexual orientation.¹⁹⁶

XI. Conclusion

65. The right to participate fully and equally in electoral processes for LGBT people is hindered by interconnected factors that are directly related to the broader social context. In settings where discrimination and violence are rife, participation is hindered; where LGBT people are equally protected, so, too, are their democratic rights. Violence, and the threat of violence, are the most prominent obstacles to electoral participation. Violence thrives in settings where there are discriminatory laws, often coupled with hostile and demeaning rhetoric amplified during elections. To overcome barriers to electoral participation based on sexual orientation or gender identity, States need to ensure that rights are equally upheld. In addition, proactive measures should be taken to address specific administrative and procedural obstacles that arise in a context of legal inequality and social precarity.

XII. Recommendations

66. The Independent Expert recommends that States:

(a) Increase efforts to collect data on barriers to participation for diverse LGBT persons as voters, candidates, election officials and election observers, in ways that are respectful of context and the risks posed during volatile election years;

¹⁸⁹ Submission by Ronald Kihali, p. 2.

¹⁹⁰ Submission by VoteLGBT, p. 9.

¹⁹¹ Ibid., p. 10.

¹⁹² Submission by the national human rights institution of Hungary, p. 5.

¹⁹³ A/75/184, para. 71.

¹⁹⁴ See A/HRC/50/23.

¹⁹⁵ Ibid., para. 47.

¹⁹⁶ See A/75/184.

- (b) Document bias-motivated crimes related to real or perceived sexual orientation or gender identity in key domains of the electoral process, including registration, voting, attending political rallies and running as a candidate;
- (c) Include in the legal framework protections against hate crimes based on sexual orientation and gender identity, among other grounds;
- (d) Combat impunity through the proactive, prompt and efficient investigation and prosecution of hate crimes;
- (e) Develop and pursue communication strategies to highlight the unacceptable nature of bias-motivated crimes;
- (f) Develop and pursue communication strategies to highlight the participation of LGBT persons in politics and to increase their perception as role models;
- (g) Develop both civil society- and Government-led civic and voter education campaigns to motivate the participation of LGBT voters and to educate the public on gender and sexual diversity and the human rights of LGBT persons;
- (h) Repeal laws against consensual same-sex conduct and review disenfranchisement based on criminal convictions;
- (i) Adopt laws to guarantee legal recognition of gender identity on the basis of self-declaration and through administrative means, as well as electoral regulations to ensure inclusive identification procedures for trans and non-binary persons during voter registration and voting procedures on the basis of their gender identity and affirmed name;
- (j) Develop guidelines and procedures for election day that promote the participation of LGBT persons, especially trans and non-binary persons, establishing inclusive identification procedures and protections against discrimination at polling stations;
- (k) Consider temporary special measures from the perspective of their impact on the participation of LGBT persons and with recognition of the non-binarity of gender;
- (l) Support long-term capacity-building efforts within election management bodies on internal policies on gender and sexual diversity and LGBT rights, as well as training for polling officers on election day procedures and the inclusive identification of trans and non-binary voters;
- (m) Support the capacity-building of civil society organizations focused on LGBT rights in election observation and advocacy;
- (n) Support the capacity-building of non-partisan citizen observer groups on LGBT rights issues;
- (o) Support the capacity-building of international election observers on LGBT rights issues;
- (p) Develop supporting measures to assist LGBT candidates in registering as candidates, raising campaign funds and obtaining airtime in public media;
- (q) Promote the development and refinement of social media company policies on anti-discrimination and countering violence and threats of violence, especially in electoral contexts;

- (r) **Develop technical guidelines for international election observers on how to assess the electoral participation of LGBT persons and include relevant findings and recommendations on this topic in their reports;**
 - (s) **Integrate the participation of LGBT persons as a key component of international electoral assistance, especially in electoral needs assessment missions and the project design phase.**
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