

# Sexual orientation and gender identity as human rights issues in development cooperation

## Introduction

Discrimination based on sexual orientation and gender identity (SOGI) is prohibited by international human rights instruments, which the majority of states have ratified. Nevertheless, persons with a sexual orientation and/or gender identity that does not conform to - perceived - majority norms face disproportionate discrimination, marginalisation and violence. The situations and forms of discrimination vary in different contexts, but human rights violations persist in all world regions. In many countries there are lesbian, gay, bisexual, transgender and intersex (LGBTI) organisations or groups struggling against this injustice, striving for equal rights, providing safe spaces and celebrating diversity, LGBTI community and culture. The capacity of these organisations varies, as do the strategies they apply. Many work through advocacy and awareness-raising to change legal and social norms about LGBTI, and provide social support and counselling.

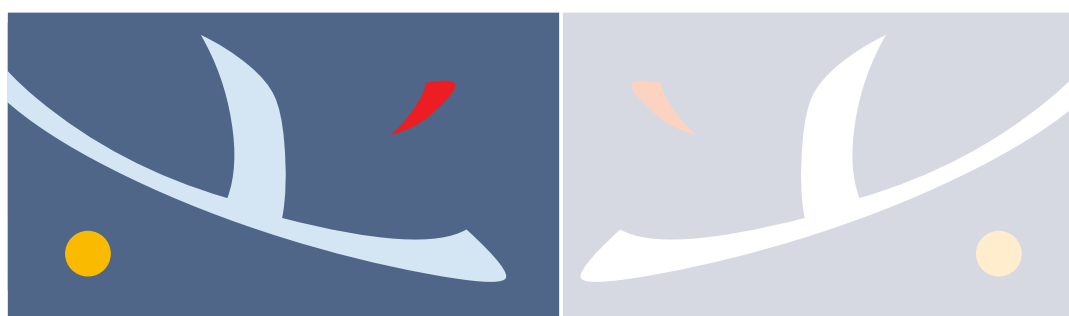
Development cooperation has only recently started to pay attention to discrimination on grounds of SOGI in policy formulation and programming. It is perceived as a highly sensitive and political issue, which cannot be easily addressed with development partners, especially where LGBTI are criminalised. The 2011 strategy on '[Human Rights in German Development Policy](#)' (PDF, 573 KB), issued by the German Federal Ministry for Economic Cooperation and Development (BMZ), explicitly addresses discrimination based on sexual orientation and gender identity. It calls for improving respect for the human rights of LGBTI through development cooperation by working on the root causes of their discrimination. This will require development practitioners to address key questions similar to those that arise when dealing with other groups suffering discrimination, such

as women or people with disabilities: What are the social norms causing discrimination? How do they impact on development? How can these norms be changed over time? Who is engaged in these processes and can be supported by development programming?

This tool seeks to motivate development practitioners to consider human rights relating to sexual orientation and gender identity in development cooperation programmes. It introduces the relevant human rights framework and gives examples of how German development cooperation has dealt with human rights relating to sexual orientation and gender identity so far.

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## 1. Why bother?

International human rights instruments prohibit discrimination on the grounds of sexual orientation and gender identity. Laws and practices infringing on the human rights of LGBTI people should be repealed and stopped. Then again, in their work development cooperation practitioners have to prioritise and target interventions. Besides legally binding human rights obligations, there are a number of other reasons why they should consider human rights relating to sexual orientation and gender identity in development cooperation programmes:

- 1. Promoting LGBTI rights contributes to poverty reduction:** LGBTI people often live in poverty due to legal and social discrimination, which can negatively impact on their economic opportunities and their enjoyment of human rights, such as access to adequate housing, health, education and work:
  - LGBTI people are often rejected by their families and thus lack an important social and informal economic security mechanism;
  - discrimination against LGBTI people often starts at school, potentially leading to an early exit from or poor performance within education;
  - discrimination in the workplace makes LGBTI people more vulnerable to unemployment and dismissal;
  - social stigma prevents LGBTI people from having adequate access to health care and forces them to take extra precautions when moving around in public.
- 2. Discrimination against LGBTI persons creates economic costs:** [A 2014 study conducted by USAID and the Williams Institute](#) (PDF, 1.6 MB, not barrier-free) analyses the economic effects of discrimination against LGBT people in 39 countries around the world, of which 29 are 'emerging economies'. It finds that violations of the human rights of LGBT people are likely to have a harmful effect on a country's level of economic development. Discrimination in the workplace and at school as well as restrictive access to physical and mental health, for example, lead to lost labour time and productivity, underinvestment in human capital and the inefficient allocation of human resources, acting as a drag on economic output. The study also concludes a positive correlation between per capita GDP and legal rights for LGBT people – countries with more rights for LGBT people have a higher per capita income and higher levels of well-being.

[Recent research commissioned by the World Bank](#) (PDF, 1.6 MB, not barrier-free) also shows that LGBTI rights are not only a human rights issue, but also an economic one: In India, for example, lost workplace productivity and health problems connected with homophobia cost the country between US\$2

billion and US\$31 billion in 2012. Anti-gay stigma and discrimination lead to depression, suicide and HIV treatment disparities, which in turn trigger direct health costs. In addition to such direct costs, the study shows that being gay can bring violence, job loss, family rejection, harassment in schools and pressure to marry. As a result, many gay people have less education, lower productivity, lower earnings, poorer health and a shorter life expectancy.

- 3. Synergies with other issues such as gender:** Women are often confronted with multiple discrimination due to their sex and gender. This discrimination can be multi-layered due to their sexual orientation or gender identity. [UN Special Rapporteurs](#) have attributed additional risks faced by so-called '[women human rights defenders](#)' defined as including both female human rights defenders, and any other human rights defenders, who work in the defense of women's rights or on gender issues. As they are perceived to challenge widely accepted socio-cultural norms about femininity, sexual orientation and the role of women in society they are targeted for or exposed to gender-specific threats and gender-specific violence. This is particularly true for lesbians, bisexuals and transgender (LBT): one of the specific risks they face include so-called 'curative' or 'corrective rape', a form of gender-based violence, which perpetrators describe as a 'treatment' to 'convert' their victims to heterosexuality. (See [VAWG's 2015 brief on violence against sexual and gender minority women](#) (PDF, 1.5 MB, not barrier-free)).
- 4. Other donors work on sexual orientation and gender identity, too:** So far, German state development cooperation has run but a few programmes targeting or including LGBTI, mostly in the area of HIV/AIDS prevention, and recently also on network-building among LGBTI organisations. Other donors, such as the Swedish International Development Cooperation Agency (SIDA) and the United State Agency for International Development (USAID), have taken active steps to mainstream LGBTI rights as an important human rights issue in their development programmes. Find more details on other donors' work on sexual orientation and gender identity in the section 'Activities of other donors and institutions' on page 9 of this tool.
- 5. Contrary to the assumption held by some development practitioners, there are partners to work with on the ground:** Social movements and civil society organisations are at the heart of the SOGI movement in all world regions. They connect international donors and activists, and are experts in understanding people's needs inside the country as well as the movement's opportunities and limitations. The short documentary '[The Time Has Come](#)' (30 min.) interviews LGBTI activists from different world regions and highlights the expertise, strategies and strength of today's international LGBTI movement. Many civil society organisations (CSOs)

and movements in partner countries are engaged in capacity building, litigation and policy reform, advocacy work or leadership development. Many of them work almost exclusively with volunteers and face security and funding challenges. Some of them are not officially registered, as registration usually requires an association's objectives to run in line with national legislation, which in turn raises further barriers, such as their activities being declared illegal, taxation hurdles, etc.

### How many LGBTI people are there?

From a human rights perspective, the discrimination of LGBTI people is a structural problem, irrespective of how many people are affected. In addition, estimates on the number of LGBTI do exist and are significant: Existing studies estimate that there are between 2-10% LGBTI people among the world's population (see, for example, a [2011 study by the Williams Institute](#) and a [2009 research report by the British Equality and Human Rights Commission](#), pages 50-51 (PDF, 1.9 MB, not barrier-free). Real figures may be higher as stigmatisation increases the risk of under-recording when collecting data. Also, the categories used in research in studies do not always match people's identifications: Same sex sexual encounters do not automatically lead to the self-identification as gay or bisexual. In a study on India, where 37-50% of all men interviewed have had same-sex sexual encounters, the majority of these men would not identify themselves as homo- or bisexual (see [SIDA \(2005\): Sexual Orientation and Gender Identity Issues in Development](#), p. 13 (PDF, 527 KB, not barrier-free)).

### Resources

World Bank (2015): ['Sexual Minorities and Development: A Short Film'](#).

ARC International (2013): ['The Time Has Come'](#), documentary film featuring activists of the international SOGI Movement.

Coyle, D. & Boyce, p. (2015): [Same-sex Sexualities, Gender Variance, Economy and Livelihood in Nepal: Exclusions, Subjectivity and Development](#), Evidence Report No. 109, Institute for Development Studies (IDS).

Human Rights Watch (2009), [Together, apart. Organizing around Sexual Orientation and Gender Identity Worldwide](#).

Open Society Foundation & Global Action for Trans Equality (2013): [Advancing Trans Movements Worldwide – Lessons from a dialogue between funders and activists working on gender diversity](#)

The Institute of Development Studies (IDS) at Sussex University

runs research programmes on 'Sexuality and Development' and on 'Sexuality, Poverty and Law' and [regularly publishes on these themes](#). It also developed an online "[Sexuality and Social Justice Toolkit](#)" for practitioners and activists, which provides interactive tools on how to integrate sexual rights in development work, and explains why sexuality is a development issue.

Trans Respect versus Transphobia & Transgender Europe (2012): [A Comparative Review of the Human Rights Situations of Gender-variant/ Trans People](#)

## 2. The trouble with terminology

### SOGI

Every person has a **Sexual Orientation** and **Gender Identity**.

**Sexual orientation** is the term that describes what gender(s) a person is sexually and/or romantically attracted to.

**Gender identity** refers to a person's individual interpretation of gender, which may or may not correspond with the sex assigned at birth. It is how a person feels about and expresses his/her gender and gender roles — clothing, behaviour, personal appearance etc.

Most societies are based on the assumption that there are two complementary sexes, male and female, and that heterosexuality is universal and the only acceptable way (heteronormativity). As a consequence, trans people, or people with any other, non-conforming gender identity, or with a different sexual orientation are stigmatised and often seen and treated as a threat to society and its norms.

There are a number of self-descriptions that people with a 'different' sexual orientation or gender identity use. Terms are a matter of self-identification. People can only decide themselves what label fits how they feel about themselves and their life practices. When working with people or groups, it is important to ascertain what they call themselves and what they like to be called.

**LGBTI** is a term commonly used, especially in the so-called Global North and within international human rights frameworks. The acronym refers to

- **Lesbians and Gays**, whose sexual orientation is typically understood as towards people of the same gender.
- **Bisexual People** with the ability to be sexually attracted to and/or love someone irrespective of the person's gender. Transgender
- **People or short Trans People**, for whom the gender they live and identify with is not a given consequence of the sex they

were assigned at birth. Being transgender is about gender identity (i.e. how people feel and identify) and expression (i.e. how people express themselves through appearance). People with diverse gender identities get together under the transgender blanket term (including transsexuals and transvestites). The terms used can differ, depending on the gender a person identifies with. Some transgender persons identify as transmen or transwomen. Others do neither exclusively identify as woman nor as man and live another kind of gender. There are diverse regional names and concepts for trans identities (see infobox below).

- **Intersex People or Inter People** are born with sexual characteristics that do not fit the concept of a binary (male/female) gender order as defined by the medical system. There is a wide range of different intersex conditions, some becoming apparent at birth, others later in life.

#### **'Black Box': central concerns of the transgender community**

It is important to be aware that 'transgender' is an umbrella term. There are many different ways in which a person can be transgender: common to most of them is that they feel uncomfortable with the legal gender assigned to them because of their biological sex. Some transgender feel discomfort with their body and would like to change it to a different gender, both legally and physically. For them it is essential to have the right to surgery and hormonal treatment as well as the right to change their gender in their legal documents. For others it is crucial to have the right to have their gender identity officially recognised in legal documents without being subjected to intrusive surgical interventions, such as sterilisation or specific body changes. However, in many countries these surgical interventions are a precondition for changing the legal gender in the civil registry. Forced sterilisations or other surgical interventions disrespect the choices of transgender people over their body and compel them to fit into the medical category of man or woman. Thus, the goal of most transgender communities is twofold: they want to have the right to and financial support for surgical and hormonal treatment as well as the right to having one's gender identity officially recognised in legal documents without surgical and hormonal treatment being a precondition for it.

Terms are culturally loaded. LGBTI is often used in the so-called Global North. People in the so-called Global East and South often tend to refer to themselves as sexual minorities. Both labels have connotations:

- The term '**sexual minorities**' quantifies. As such, it might bolster arguments on what is considered normal, as it implies that there is a majority way. It might also suggest that SOGI

rights are special rights or even minority privileges instead of human rights common to all human beings.

- **LGBTI** is linked to the gay rights struggle in the Global North or 'The West' and is also criticised as being Eurocentric. Groups in the Global South argue for instance that the label LGBTI is based on a restricted catalogue of identities, which fails to grasp traditional trans identities common in their countries.

There is a multitude of cultural ways to think of and refer to one's sexual orientation and/or gender identity. Examples include metis in Nepal. Metis are mostly male-bodied feminine-presenting people. There are many local names for metis in Nepal such as natuwas (meaning dancers) in the Sunsari district. In New Zealand, the word takatāpui was already used in pre-colonial times to describe relationships between people of the same gender. The term queer (the questioning and crossing of norms especially related to SOGI) originates in English speaking contexts. Other terms include MSM (men who have sex with men) and WSW (women who have sex with women). Both these terms refer to sexual behaviour, but not gender identity. All these notions are attempts to use less culturally loaded words.

To avoid categorisation that leads to stigmatisation and to appreciate the diversity of gender identities and sexual orientations, it is important to bear in mind that the identities embraced by LGBTI do not manifest themselves in the same way worldwide. Categories can change with time and place. Many people use their regional terms, but also the term 'LGBTI' to be visible in international and regional human rights frameworks. The publication [Born Free and Equal: A quick guide to sexual orientation, sex and gender identity \(2012, PDF, 2.4 MB, not barrier-free\)](#) by the New Zealand Human Rights Commission provides a vivid illustration of the complexity of SOGI identities.

#### **Self-identification**

A person's gender identity (How do I feel?/ Who am I?) cannot be equated with behaviour or appearance. Someone refusing to conform to gender roles or gender-specific clothing does not automatically say anything about this person's gender identity or sexual orientation. One should ask about the terms people use, such as transwoman or metis, to describe themselves or their movement, and how they prefer to be addressed with regard to gendered pronouns, such as she/he/they.

#### **Resources**

[Glossary of terms relevant to SOGI/LGBTI](#)

[OHCHR fact sheet on intersex](#) (PDF, 153 KB, not barrier-free)

### 3. It's about equal access for all and not about special rights - SOGI in the international human rights framework

The prohibition of discrimination is a fundamental human rights principle and is enshrined in all core human rights treaties, including the [International Covenant on Civil and Political Rights \(ICCPR\)](#) and the [Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#). Most partner countries of Germany have ratified the two covenants, along with other international human rights treaties.

#### Common arguments: 'homosexuality is a Western import'

States that refuse to accept that human rights encompass SOGI rights, often argue that homosexuality is a cultural import of 'The West' and that SOGI rights recognition thus contradicts what they claim to be their traditions or culture. This argument has also often been used to oppose the equality of women. It disregards that cultures are fluid, that they evolve over time and that they influence each other. Non-heteronormative sexual orientations and gender identities exist and have existed in all world regions (see, for example, [the recognition of a woman-woman marriage by a Kenyan High Court based upon traditional law](#) and the [OHCHR infographic on SOGI throughout history](#) (PDF, 870 KB, not barrier-free)). In the case of Kenya and many other countries it was in fact under British colonial rule that homosexual acts were criminalised (see the [Human Rights Watch report 'This Alien Legacy'](#)). In short: colonial powers did not export homosexuality but homophobia!

Both the ICCPR and the ICESCR ban discrimination on a variety of grounds, namely 'race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'. Sexual orientation and gender identity are not mentioned explicitly. This is mostly due to the fact that this type of discrimination – just like discrimination based on gender (as opposed to sex), age or disability – had not been considered a human rights issue at the time these instruments were drafted in the 1950s and 60s. However, the prohibition of discrimination in both covenants includes the notion of 'other status'; so, also at that time, it was explicitly recognised that other discrimination grounds may exist.

Treaty bodies (see [ABC of Human Rights for Development Cooperation](#) (2014, PDF, 166 KB, not barrier-free)) are the expert bodies entrusted with the interpretation of human rights treaties. In a [landmark decision in 1994 \(Toonen/Australia\)](#), the [Human Rights Committee](#), which is responsible for monitoring the implementation of the ICCPR, confirmed that the prohibition

of homosexual acts among consenting adults amounts to discrimination and violates the right to privacy.

In 2009, the [Committee on Economic, Social and Cultural Rights](#), which is responsible for monitoring the implementation of the ICESCR, confirmed in its [General Comment No. 20 \(Doc, 221 KB\)](#) that both sexual orientation and gender identity are recognised as being among the prohibited discrimination grounds. State parties have to ensure that these grounds do not prevent persons from realising their human rights.

#### Common arguments: 'SOGI rights are new rights'

States opposed to guaranteeing human rights to LGBTI often claim that they are not obliged to do so, despite having ratified the ICCPR and the ICESCR. They argue that by interpreting 'other status' as including discrimination relating to SOGI, the ICCPR and ICESCR treaty bodies have 'introduced new human rights'. These states contend that they would have refused ratification had they known the treaty bodies' interpretation before. Treaty bodies are, however, tasked with interpreting the human rights treaties, which includes taking account of changing legal developments and practices. So, even if the treaty bodies' interpretation has evolved after treaty ratification by most states, their interpretation of states' human rights obligations advanced in the General Comments is widely considered authoritative.

### 4. Using international fora to promote human rights related to SOGI at the national level

In their Concluding Observations (see [ABC of Human Rights for Development Cooperation](#) (2014, PDF, 166 KB, not barrier-free)), treaty bodies of the different human rights treaties recommend to states how to improve compliance with international human rights law. With respect to human rights relating to SOGI, treaty bodies frequently request states to abolish the criminalisation of homosexuality. They also recommend that states provide effective protection from violence by third parties and adequately investigate and punish violence against LGBTI. This will often require training law enforcement bodies and other measures to address patterns of prejudice and discrimination. Other recommendations include access to appropriate health services for transgender and intersex people.

Other individuals and groups at risk of exclusion, such as women, children and persons with disabilities, can draw upon specific international legal instruments like the [Convention on the Elimination of all Forms of Discrimination against](#)

Women (CEDAW): CEDAW just as other human rights treaties has a complaint mechanism where individual law cases are reconsidered taking into account human rights law. The CEDAW Committee issues recommendations to the state in question about how to comply with international human rights standards.

No such international protection mechanism exists for human rights relating to SOGI. Nevertheless, intersex people, lesbians, and trans people have used existing mechanisms, such as CEDAW and the Convention against Torture (CAT), to draw attention to human rights violations against LGBTI at UN-level. A positive step was made in 2007 when an international group of renowned human rights experts, acting in their private capacity, drew up 'The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity' (PDF, 190 KB, not barrier-free). The principles comprehensively identify existing states obligations under the human rights treaties to respect, protect and fulfil the human rights of all persons regardless of their sexual orientation and gender identity. They also map specific human rights violations often encountered by people of different sexual orientations and gender identities.

Even though the Yogyakarta Principles are not legally binding, they have attracted considerable attention. A number of national ministries make use of the principles in domestic policy formulation, such as Brazil's Ministry of Education, Bolivia's Justice Ministry and Spain's Social Affairs Ministry, pages 23 to 24 (PDF, 730 KB, not barrier-free). Movements working on SOGI issues worldwide refer to the principles when advocating for decriminalisation, protection and recognition. Relevant case studies can be found in 'The Activist's Guide to the Yogyakarta Principles' (2010, PDF, 2.5 MB, not barrier-free).

The UN Human Rights Council has confirmed human rights relating to SOGI as an integral part of the international human rights framework in its two resolutions on human rights, sexual orientation and gender identity, adopted in 2011 (PDF, 97KB, not barrier-free) and 2014 (PDF, 118 KB, not barrier-free). In its 2011 resolution the Council asked the United Nations' Office of the High Commissioner for Human Rights (OHCHR) to undertake a study on violence and discrimination related to people's sexual orientation and/or gender identity (PDF, 706 KB, not barrier-free). Published in 2011, it was the first UN report dedicated exclusively to human rights relating to SOGI. A second report (PDF, 314KB, not barrier-free) was issued by OHCHR in June 2015. A one-page summary of the report can be accessed here (PDF, 162 KB, not barrier-free).

In September 2015, twelve UN agencies issued a joint call on ending violence and discrimination against LGBTI people. The statement highlights the link between human rights abuses against

LGBTI people and ill health, social and economic exclusion and lost opportunities for development and economic growth. It sets out specific steps that governments, in particular, should take to curb violence and protect individuals from discrimination – including measures to improve the investigation and reporting of hate crimes, torture and ill-treatment, prohibit discrimination, and review and repeal all laws used to arrest, punish or discriminate against people on the basis of their sexual orientation or gender identity. The following UN entities endorsed the statement: ILO, OHCHR, UNAIDS, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP, WHO.

## Examples of critical human rights concerns related to sexual orientation and gender identity

The following examples illustrate a number of specific human rights concerns and are by far not exhaustive.

### Right to privacy

As of May 2015, homosexual acts are illegal in 75 countries, forcing homosexuals to hide their identity and live in constant danger of legal persecution and stigmatisation. In some countries, age limits for consensual homosexual sex are higher than for consensual heterosexual sex, for example in the Bahamas, Chile, Paraguay, Niger, Congo and Côte d'Ivoire. (See ILGA's 2015 State Sponsored Homophobia Report, pages 9, 31-32 (PDF, 1 MB, not barrier-free)). Change of name or gender marker in official documents, such as passports, is often connected to discriminatory preconditions for trans persons, such as sterilisation or therapy, which classifies transgender people as 'ill'. Not having their gender identity officially recognised exposes many trans people to discrimination in everyday life.

### Right to human and personal security

As of May 2015, eight countries legislate for the death penalty for consensual same-sex sexual behaviour, but only five (Mauritania, Sudan, Iran, Saudi Arabia and Yemen) actually implement it. While not officially codified, the death penalty is implemented widely across Iraq. Some provinces of Somalia and Nigeria also officially implement the death penalty. (See ILGA's 2015 State Sponsored Homophobia Report, page 9-10 (PDF, 1MB, not barrier-free)). Homophobic and transphobic violence has been reported in all world regions. It ranges from aggressive sustained psychological bullying to physical and sexual assault, torture, ill-treatment, kidnapping and targeted killings. Rather

than ensuring the personal security of LGBTI people, often public officials, including prison, police and security officers, directly commit, instigate, incite and encourage such violent acts. Transgender persons, especially those involved in sex work or in detention, face an especially high risk of deadly and extremely cruel violence. (See [OHCHR fact sheet on homophobic and transphobic violence](#) (PDF, 88 KB, not barrier-free)). According to the yearly updated [Transrespect versus Transphobia Worldwide Project](#), 226 trans people were killed in 2013/2014.

## Right to an adequate standard of living

LGBTI people face discriminatory treatment, marginalisation and restrictions in access to housing. Concerns include the denial of leases and evictions by public and private landlords. During a country mission to Indonesia in 2013, the UN Special Rapporteur on adequate housing received reports of forced evictions of LGBT people by private landlords in various regions across the country. The Special Rapporteur emphasised that states have the obligation to protect against abuses of human rights by third parties, including discrimination and forced eviction. (See [2013 mission report of the Special Rapporteur on adequate housing](#) (para. 60, Doc, 324 KB)).

## Right to education

According to the [2015 report of the UN High Commissioner for Human Rights on discrimination and violence on the basis of SOGI](#) (PDF, 162 KB, not barrier-free) many children and adolescents perceived as LGBT or gender non-conforming experience harassment and, in some cases, violent abuse both inside and outside school. High levels of bullying have been recorded in all world regions. In Thailand, for example, a [2014 survey conducted by the United Nations Educational, Scientific and Cultural Organization \(UNESCO\)](#) (PDF, 2.1 MB, not barrier-free) among students found that 30 per cent of LGBT respondents had been bullied and more than 30 per cent had experienced physical abuse. The OHCHR report furthermore stresses comprehensive sex education, as part of the human right to education, as an important tool for combatting discrimination.

## Freedom of expression, opinion, assembly and association

Where states require legal registration of non-governmental organisations, LGBTI groups and organisations have had applications rejected or their legal registration revoked. The threat of deregistration has been used to curtail advocacy on sexuality and gender issues and to intimidate individuals in the

organisations concerned. The introduction of anti-homosexuality propaganda laws as a means to curtail freedom of expression, assembly and association of LGBTI groups has become widespread in recent years. The logic presented in defence of such proposals revolves mostly around the protection of public morality, particularly as pertaining to children. As of May 2015, such laws are applied in 4 countries, including Algeria and Nigeria. In 2014, proposals for such laws have been made in Kyrgyzstan, Tanzania and Uganda but have not been passed yet. (See [2015 report on state-sponsored homophobia by the International Lesbian, Gay, Bisexual Trans and Intersex Association, ILGA](#) (pages 32-33, PDF, 1.1 MB, not-barrier-free)).

## Right to the highest attainable standard of health

The criminalisation of homosexuality and of different forms of gender identity may deter individuals from seeking health services due to fear of revealing 'criminal conduct'. Even in countries with no criminalisation the stigma faced in health institutions prevent LGBTI people from seeking medical treatment. This often results in services, national health plans and policies failing to reflect the specific needs of LGBTI people. Healthcare professionals are often insensitive to the needs of LGBTI as they lack necessary professional training. For trans persons seeking hormonal or surgical treatment, it is either not available, or - in case it is - it is often prohibitively expensive and state funding or insurance coverage is rarely available.

In some countries, such as Malaysia, public institutions support programmes and practices to change the sexual orientation of adolescents with so-called 'corrective therapies'. According to the UN Special Rapporteur on the right to the highest attainable standard of health, such therapies are not only unacceptable from a human rights perspective, but have a serious negative impact on the mental health and well-being of adolescents. (See [report of the UN Special Rapporteur of his 2014 country visit to Malaysia](#), para.90 (Doc, 128 KB)).

Intersex children are often subjected to medically unnecessary and lengthy surgery in order to 'fix their sex'. In his [2013 report to the UN Human Rights Council](#) (PDF, 650 KB, not barrier-free) the UN Special Rapporteur on torture called on all states to repeal any law allowing intrusive and irreversible treatments, including forced genital-normalising surgery. [As the Council of Europe's Human Rights Commissioner stated in a 2014 publication](#) early 'normalising' treatments do not respect intersex persons' rights to self-determination and physical integrity, as the sex assigned to children at an early age may not correspond with their identity and feelings later on. Young children are unable to give informed consent and parents often lack sufficient information.

## Freedom of movement and to request asylum

Due to social stigmatisation, LGBTI often face considerable barriers when moving around. In order to avoid verbal and physical abuse, they either have to resort to costlier private transportation or restrain their movement. A [guidance note of the United Nations High Commissioner for Refugees](#) (PDF, 231 KB, not barrier-free) demands refugee protection to be accorded to people facing a well-founded fear of persecution based on sexual orientation and/or gender identity. LGBTI refugees are often doubly marginalised – as foreigners and due to their sexual orientation and/or gender identity. They often cannot access safe housing, employment or health care. (See [OHCHR fact sheet on refuge and asylum](#) (2014, PDF, 140 KB, not barrier-free))

## Rights of participation in cultural and family life

The obligation to protect individuals from discrimination on the basis of sexual orientation extends to ensuring that unmarried same-sex couples are treated in the same way and entitled to the same benefits as unmarried opposite-sex couples (see 2015 report of the [UN High Commissioner for Human Rights, para. 68](#), (PDF, 922 KB, not barrier-free). UN treaty bodies take divergent positions on the question whether states are required to allow same-sex marriage. As far as trans people are concerned, in most European countries, they are forced to divorce in order to have their legal gender changed.

## Rights of human rights defenders

In his 2015 report to the UN Human Rights Council, the Special Rapporteur on the situation of human rights defenders expressed his concern regarding the ongoing targeting of defenders advocating for the rights of LGBTI persons around the world. They are targeted by both, state and non-state actors in the form of threats, intimidation and physical attacks, as well as through recent legislation criminalising much of the work that they undertake (see [report of the Special Rapporteur on the situation of human rights defenders](#), para. 86, 363 (PDF, 922 KB, not barrier-free)).

## Impunity and rights of redress and accountability

The UN Special Rapporteur on extrajudicial executions noted that criminalisation increases social stigmatisation and makes people more vulnerable to violence and human rights abuses, including death threats and violations of the right to life. A climate of impunity often occurs for crimes against LGBTI in countries where homosexuality is criminalised.

## Resources

Some of the above examples were taken from the 2015 report by the UN High Commissioner for Human Rights: [Discrimination and violence against individuals based on their sexual orientation and gender identity](#) (PDF, 922 KB, not barrier-free).

## 5. How German development cooperation supports SOGI rights

A [study published by the German Institute for Human Rights and Dreilinden in 2014](#) (PDF, 2.2 MB, in German) analyses data for the year 2013 on funding for strengthening LGBTI rights by German state and non-state institutions. It finds that most German support to LGBTI people consists of direct funding of SOGI organisations via civil society organisations (CSOs). The state implementing agencies GIZ and KfW run only a few programmes targeting or including LGBTI, mostly in the area of HIV-AIDS prevention.

As of 2014, GIZ supports network building among parents of homosexual men and women in Ukraine with the aim of increasing tolerance for sexual minorities and eventually improving access to HIV prevention and treatment for homosexuals. As the parents themselves come from the heteronormative section of society, they can act as agents of change by publicly advocating for more tolerance for those affected by HIV/AIDS and thereby countering social stigmatisation of sexual minorities.

Since 2015, GIZ is implementing a regional programme for the support of LGBTI organisations in countering discrimination on the grounds of sexual orientation and gender identity. It works together with African CSOs and networks, such as Pan Africa ILGA, Coalition of African Lesbians and AMSHER, to assist LGBTI organisations in enhancing their capacities in organisation and strategy formulation, cross-regional cooperation in networks and strengthening work processes with the African human rights system.

In the past, GIZ implemented the [German-Kenyan Health Programme](#) (2009-2012), which was funded by BMZ. In cooperation with the [German BACKUP Initiative](#), GIZ worked with local partners such as the Gay and Lesbian Coalition of Kenya (GALCK) and the CSO Liverpool Care and Treatment. Capacity building, advocacy and research enabled GALCK to create safe spaces, expand its network and improve access to health care for sexual minorities. Working at the national and regional level, with a variety of stakeholders, the programme aimed at countering social stigmatisation and supporting legal reforms (see the [GIZ video on GALCK \(3.47 min\)](#)), and the [promising practice](#) document (PDF, 212 KB) summarising



the project approach and outcomes). Similar HIV prevention programmes have been commissioned by BMZ, mainly for the Caribbean and South America. In Peru, Chile, Paraguay, Uruguay and Argentina, BMZ worked with governments as well as the UN organisations UNAIDS, UNESCO and UNFPA to integrate the topic of sexual diversity into national curricula for sex education.

The German Hirschfeld-Eddy-Foundation (HES), which is the human rights foundation of the Lesbian and Gay Federation in Germany (LSVD), works on LGBTI rights in development cooperation and foreign policy, and promotes international networking and cooperation with partner organisations in the Global South and Eastern Europe. HES carries out national and international LGBTI human rights campaigns by providing information, raising public awareness, lobbying, sensitising and building alliances. HES supports LGBTI human rights defenders and projects in Uganda, Russia, the Western Balkans, Nicaragua and Iran. In early 2014, LSVD started in cooperation with the Coalition of African Lesbians and filia.die frauenstiftung and with the support of the German Federal Ministry of Economic Cooperation and Development the Masakhane-Project. It aims to strengthen LBT human rights defenders in Namibia, Botswana, Zimbabwe and Zambia and to promote networking and alliance building in the region.

The Heinrich-Böll-Foundation (hbs) works on LGBTI rights with partner organisations in various world regions, using a wide range of approaches including awareness raising, advocating for the recognition of human rights, lobbying, research and knowledge management. In Southern Africa, for example, hbs cooperates with organisations such as Freegender, Triangle, Inclusive and Affirmative Ministries, Women's Leadership Center and The Inner Circle to promote dialogue and exchange of experiences and to sensitise religious (christian and muslim) and traditional leaders (sangomas) as well as political representatives to campaign for the rights of sexual minorities in their (faith) communities. The hbs office in Nairobi, Kenya, works on integrating SOGI issues into established human rights organisations and cooperates with the National Gay and Lesbian Human Rights Commission (NGLHRC) for using the justice system for the protection of LGBTI rights. A EU-project of hbs in Sarajevo, in cooperation with the partner organisations Sarajevo Open Center and the CURE Foundation, addresses, among others, civil servants in interior ministries as well as journalists and representatives of civil society organisations to raise their awareness of LGBTI issues. The Heinrich Böll Foundation in Tel Aviv currently cooperates with the Isha L'Isha-Haifa Feminist Center on creating a lesbian archive to support knowledge management on the lesbian movement in Israel. Its main feature is a website, which facilitates open access to a selection of historical documents relating to lesbian life in Israel.

DISCOVER FOOTBALL (DF) combines international women's football tournaments with workshops and conferences. By facilitating exchange between human rights activists and female/lesbian football players from all world regions, it addresses the intersecting mechanisms of homophobia and sexism persistent in football. This creates visibility for women's football, empowers female/lesbian football players and advocates against discrimination in sport. As a member of the European Gay & Lesbian Sports Federation, FARE and the Yogyakarta Alliance, DF also directly supports SOGI rights and anti-discrimination projects, for example the Russian Open Games in Moscow. In 2016, DF will host a series of international conferences, both in Germany and abroad, to develop strategies for addressing homophobia and transphobia in and through football in different countries and to create a toolkit for individuals and organisations.

## 6. Activities of other donors and institutions

SIDA was the first donor organisation to launch an action plan for its work on sexual orientation and gender identity (PDF, 82 KB, not barrier-free) in 2006. The plan focused on integrating LGBTI in political dialogues and programming and included staff training for SIDA and partner bodies. A 2010 evaluation (PDF, 440 KB, not barrier-free) concluded that the action plan helped SIDA to mainstream LGBTI rights as an important human rights issue, but could not yet report any major impacts on the ground. The evaluation recommended formulating more precise and concrete objectives and indicators.

In 2014, USAID and UNDP initiated the joint-initiative 'Being LGBT in Asia' to examine LGBT lived experiences from human rights and development perspectives in eight Asian countries, including Cambodia, Nepal and Indonesia. The main objectives of the project include educating UNDP and USAID staff and development partners on critical human rights issues facing LGBT people, informing decision-making leading to new programming and seeking to achieve mainstreaming of LGBT issues in existing development programming.

HIVOS, a Dutch NGO with longstanding experience in supporting LGBTI, recommends focusing SOGI rights funding and other support on:

- rural areas;
- coalition building, e.g. furthering alliances of SOGI movements with CSOs working on other human rights issues, such as women's rights or the prohibition of torture;
- the protection of human rights defenders;
- the exchange of experiences among CSOs and movements working on SOGI issues.

The [Global Fund](#) is a partnership between governments, civil society, the private sector and affected communities with the objective of supporting public health interventions relating to HIV/AIDS, tuberculosis and malaria. Its '[Global Fund Strategy in relation to Sexual Orientation and Gender Identities](#)' (PDF, 2.2 MB, not barrier-free), provides an introduction on mainstreaming SOGI issues in health policies, especially in HIV/AIDS policies. The Global Fund's New Funding Model introduced in 2013 emphasises the participation of all relevant stakeholders in country dialogue and other national HIV/AIDS planning processes. A [2015 study by the Eurasian Coalition on Male Health](#) (PDF, 361 KB, not barrier-free), however, shows that in countries in Eastern Europe and Central Asia, where the New Funding Model has been introduced, MSM and transgender people - being key populations at a high risk of HIV infection - have been completely left out of national HIV/AIDS strategies and plans. In these countries structural and social barriers preventing meaningful participation include discriminatory laws and practices towards MSM and transgender people and a lack of resources for community-based organisations.

The OECD emphasises SOGI issues as an integral part of its human rights-based approach in development work in its book '[Integrating human rights into development](#)', p. 35 (PDF, 2.6 MB, not barrier-free).

In 2013, the Council of the European Union published [guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex \(LGBTI\) persons](#) (PDF, 98 KB, not barrier-free). The guidelines support the promotion and protection of LGBTI rights in foreign policy, including development cooperation. The European Union also supports a number of LGBTI rights-related projects via its [European Instrument for Democracy and Human Rights \(EIDHR\)](#).

## 7. Starting points for German development policy and cooperation

The [2015 study 'Just head-banging won't work'](#) by the [German Institute for Human Rights and Dreilinden](#) tackles the question of how state development cooperation can work on issues related to sexual orientation and gender identity (SOGI). It concludes with a range of recommendations to donors and development agencies, including some of the following:

### Working with state partners

To work effectively on issues related to sexual orientation and gender identity it is essential to get state partners on board at some point. Political dialogue on the issue should be

maintained and the discrimination of LGBTI people be raised on a continuous basis.

### Start at home

Development agencies can reconsider policies and practices within their own organisation as well as the approaches and implementation of their programmes. Within agencies, exemplary measures include awareness raising trainings and providing staff guidelines. Other measures can include:

- making SOGI rights visible as part of the human rights concerns in the organisation, such as by including the Yogyakarta Principles in human rights information and publishing it on the agency's website and intranet;
- integrating SOGI rights in staff training and briefings;
- enabling agency staff to address SOGI rights in the field, by providing practical guidelines or promoting the use of existing toolkits, such as the [EU LGBTI foreign policy guidelines](#) (PDF, 98 KB, not barrier-free) or the [EU Guidelines on Human Rights Defenders](#) (PDF, 62 KB, not barrier-free).
- ensuring that internal organisational practice reflects what it preaches externally, e.g. it operates its own non-discrimination policy for the workplace.

### Work with those affected

Development cooperation should, whenever possible, take active steps to get in touch with LGBTI CSOs and movements. The best starting point are local CSO communities, regional and international organisations working on human rights related to sexual orientation or gender identity, or social movements working on gender and health issues. When working on a project, act as facilitator - not leader: LGBTI communities, while being vulnerable are also highly resilient, and local LGBTI work is already done in many places. Cooperate closely with these communities and listen to them. It is important to avoid the 'golden child' syndrome: In some contexts, such as Uganda, the perception by CSOs is that some donors repeatedly work with one or two 'favourite' grantees instead of engaging with other LGBTI groups. This can divide activists and hurt the movement. The selection of LGBTI groups and organisations for support should be transparent.

Depending on the specific context, development cooperation has a variety of options for support in the fields of network development, capacity building and programming:

### Network development:

- support networking between SOGI and non-SOGI civil society organisations to overcome the isolation of sexual minorities and their advocates;

- facilitate cooperation between state actors and civil society;
- reference international or regional human rights material on SOGI rights in political dialogue - Discretion: be careful for instance not to mention partner organisations or individuals without prior approval;
- formulate quick reaction plans in countries with a repressive atmosphere towards LGBTI people in case of gross LGBTI human rights violations.

#### Capacity building and programming:

- support capacity building of CSOs and/or [National Human Rights Institutions \(NHRIs\)](#) (PDF, 293 KB) working on SOGI rights;
- support groups that combine service delivery with advocacy to help SOGI movements move from self-empowerment to political action;
- include SOGI rights in regional and/or country strategies;
- include sex education as part of teacher training in education programming;

#### Lessons learnt: talk rights, not identities!

The pressure of Western LGBTI activism with respect to the situation of LGBTI in Africa and MENA has at times been counterproductive, leading to backlashes against LGBTI people. Talking about human rights rather than identities seems to be more promising and coalitions with the broader human rights movement have been a key to success in the past. Litigation strategies have been successful where they focus on claiming that one's sexual orientation and gender identity is no justification for human rights violations in areas like the right to privacy.

#### Improve analysis

Development cooperation should also widen its poverty analysis with regard to LGBTI people. The structural and social barriers encountered may differ between men having sex with men, women having sex with women, transgender and intersex persons. The situation also often differs between rural and urban areas. In some countries, a woman, who refuses to get married to a man might not be able to finance her livelihood and is excluded from access to resources, such as land. The same may not be the case for men having sex with men in urban areas.

**Do no harm and do consult and assess:** At programme level, check whether existing programmes reinforce existing discrimination against LGBTI, as has happened for instance in [relief projects after earthquakes in Haiti](#) (see [social cash](#)

[transfers delivered to female heads of households](#) (PDF, 12.6 MB, not barrier-free)). Do consult and engage with LGBTI groups on the ground during programme design and implementation. At the political level, when evaluating political measures, such as sanctions and conditionality related to LGBTI criminalisation, take care to listen to local civil society groups. In 2011, more than [40 social justice movements and CSOs from Africa argued](#) that the use of aid conditionality as an incentive for increasing the protection of LGBTI rights on the continent can actually worsen

#### 'Black box': LGBTI' – internal hierarchies and assumed alliances

The label 'LGBTI' suggests an equal representation of and natural alliance between lesbians, gays, bisexuals, transgender and intersex. However, especially transgender and intersex people are frequently marginalised and underrepresented within LGBTI communities and organisations. Trans and intersex-led groups have significantly less access to available funding than organisations that are not self-led (see 2014 report of the Open Society Foundation '[Lessons from a Dialogue between Funders and Activists Working on Gender Diversity](#)'). In some cases, trans people feel that they are perceived as 'freaks' even by LGB communities and organisations and divert to working with organisations and groups representing other excluded groups, such as albinos. In many places, however, specific trans or inter run organisations to collaborate with, do exist. In a similar way, HIV/AIDS programmes labelled 'LGBTI-inclusive' often primarily address gays, transwomen and bisexuals, or men having sex with men (MSM) and do not include health issues of lesbians and transmen. Implicit biases within LGBTI-related programmes and movements should be considered and the label LGBTI should solely be used when all categories are included.

## 8. Additional resources

Discrimination related to sexual orientation and gender identity is increasingly covered by UN and regional human rights bodies as well as by CSOs. As there is still no complete coverage by one organisation, it is recommended to consult a variety of sources when looking for country- and region-specific information.

### Country information by international organisations

The Concluding Observations of UN Treaty Bodies with regard to state reports can be found at the [Human Rights Index](#). Enter the respective country in the 'State/Entity' drop-down menu and use 'sexual orientation' as a keyword (also for gender identity issues).

Information from LGBTI CSOs can be accessed in the Universal Periodic Review of the UN Human Rights Council. It provides access to all CSO statements submitted on individual countries. Select your country of interest using the appropriate drop-down menu on the [webpage](#). Next click on the superscripted '3' beside 'Summary of Stakeholder information' for an overview of organisations, which have submitted reports – CSOs working on sexual orientation or gender identity may be among them.

The International Gay and Lesbian Human Rights Commission (IGLHRC) runs a [country resource page](#).

The International Lesbian, Gay, Bisexual, Trans and Intersex Association ILGA: double click your country of choice on the world map on [ILGA's homepage](#). ILGA regularly reports about 'state sponsored homophobia' (including hatred against trans and inter people) (2015, PDF, 1.1 MB, [not barrier-free](#)) and provides information on legislation regarding LGBTI worldwide.

There is very limited information on intersex people. Some can be found at [Organization Intersex International](#) (OII).

The Transrespect versus Transphobia project, run by [Transgender Europe](#), publishes annual updates on murders of trans persons [worldwide](#) and has started to contextualise this data.

[Human Rights Watch](#) regularly researches situations in individual countries.

Amnesty International: Enter 'sexual orientation' in the SEARCH box on the homepage [www.amnesty.org](#). For a particular country, click ADVANCED SEARCH and choose your country of interest from the list.

## Information by regional organisations

### Asia-Pacific

The Asia-Pacific Forum of National Human Rights Institutions runs a [website on sexual orientation and gender identity](#).

### Latin America

The Organization of American States (OAS) adopted a [resolution in 2013](#) (PDF, 34 KB, not barrier-free) asking its member states to establish mechanisms to combat discrimination based on sexual orientation or gender identity and to protect human rights defenders working on the issue. The OAS also adopted the [Convention against all forms of discrimination and intolerance](#), which explicitly lists sexual orientation and gender identity. As of September 2015, the Convention has, however, not been ratified yet by any state.

In 2011, the Inter-American Commission of Human Rights (IACHR) established its [LGBTI Unit](#). Information on legislation and human rights violations relating to LGBTI in Latin American countries can be found [here](#).

In 2012, Argentina adopted a gender identity law, which is unprecedented in its kind. It does not require trans persons to undergo a diagnosis to have access to legal recognition, hormonal treatment and/or surgical procedures. It includes hormones and surgeries in the public health system, and does not demand hormonal treatment or surgery for accessing legal recognition. An English version of the law can be accessed [here](#). As of September 2015, five other countries have passed similar laws: Ireland, Denmark, Malta, Poland and Colombia.

### Africa

The African Commission on Human and Peoples' Rights (ACHPR) brought forward its first [resolution explicitly condemning discrimination against sexual minorities](#) in 2014.

International Gay and Lesbian Human Rights Commission (IGLHRC) (2011): [Nowhere to turn: Blackmail and Extortion of LGBT People in Sub-Saharan Africa](#).

The Queer African Youth Network (QaYn) regularly publishes comprehensive analysis and reports on the situation of LGBT people in [francophone West Africa](#) on its [website](#).



## The Middle East and North Africa

There is a tremendous lack of data on the situation of LGBTI people in the MENA region. A prominent movement and organisations working on LGBTI rights are nearly non-existent due to widespread marginalisation of LGBTI activists in the region.

## Europe

The European Court of Human Rights (ECtHR) published a number of facts sheets on cases regarding [gender identity](#) (2015, PDF, 203 KB, not barrier free), [sexual orientation](#) (2015, PDF, 326 KB, not barrier-free) and [homosexuality](#) (2014, PDF, 168 KB, not barrier-free). A 2015 publication by the Council of Europe explores [case law of the ECtHR relating to discrimination on the grounds of sexual orientation and gender identity](#).

The Council of Europe published [standards for combating discrimination on grounds of sexual orientation and/or gender identity](#) (PDF, 823 KB, not barrier-free) in 2011.

In 2012, the European Union Agency for Fundamental Rights (FRA) launched [an online survey on LGBT experiences of discrimination, violence and harassment in the EU](#). The results can be accessed [here](#). Additionally, FRA published the [2014 report 'Being Trans in Europe'](#) summarising the survey results with regard to the experiences of transgender people.

The [2010 Issue Paper on Human Rights and Gender Identity](#) by the former Council of Europe Commissioner for Human Rights, Thomas Hammarberg, addresses the legal situation of trans and inter people in Europe.

For European countries, a search on the [LGBT website of the Council of Europe](#) or the [website of the European Union's Fundamental Rights Agency](#) might produce further information.

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