

# LAWS ON US

*A Global Overview of Legal Progress and Backtracking on  
Sexual Orientation, Gender Identity, Gender Expression, and Sex Characteristics*

*First Edition*

**2024**



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**2024**

Geneva – June 2024

[ilga.org](http://ilga.org)

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# Executive Summary

“Laws On Us” documents the legal developments that impacted communities based on their sexual orientation, gender identity, gender expression, and sex characteristics between January 2023 and April 2024 in all 193 UN Member States, numerous non-UN Member and subnational jurisdictions. This report complements and expands on the ongoing documentation work that ILGA World continues to maintain and update through the ILGA World Database. It marks the culmination of a process aimed at significantly broadening the scope and depth of the legal monitoring and documentation efforts that the organisation offers to our communities and the world in general.

The tracking in this report encompasses 11 legal categories: the criminalisation of consensual same-sex sexual acts; restrictions to freedom of expression; restrictions to freedom of association; prohibition of discrimination; hate crime law; prohibition of incitement to hatred, violence or discrimination; regulation of so-called “conversion therapies”; same-sex marriage and other forms of civil unions; adoption by same-sex couples; restrictions on interventions on intersex minors; and legal gender recognition (amendment of name and gender markers on identity documents).

Documentary research in the context of legal developments included in this report provides valuable insights into the trends and evolution of laws and regulations affecting the rights of LGBTI people, helping to inform advocacy efforts, shape public discourse, and guide policy interventions.

The period covered in this report showed intense legal activity in numerous UN Member States. With a few notable exceptions, most of the legal categories tracked in this report witnessed a significant number of legislative proposals transforming into laws, along with judicial decisions and regulations issued by executive powers.

Despite the increasing number of laws and regulations aimed at bolstering legal protections in various regions worldwide, relentless opposition has been a recurring theme present in all legal debates concerning issues of sexual orientation, gender identity, gender expression and sex characteristics in every UN Member State. Resistance and detraction are pervasive across all regions and have materialised in regressive trends concerning the criminalisation of consensual same-sex sexual acts, and especially freedom of expression and freedom of association. This trend is notable in

numerous countries in Africa and Asia, but also in Europe and the Americas.

Since 2006, ILGA World has consistently utilised the criminalisation of consensual same-sex sexual acts as a primary metric to gauge the legal oppression experienced by LGBT and gender diverse people. However, in recent years other types of legal restrictions, especially on freedom of expression and association in numerous UN Member States, have resulted in arrests, and persecution. This reality underscores the need to pay close attention to countries restricting these freedoms to roll back or prevent any progress towards equality. While the decreasing tally of States that no longer criminalise consensual same-sex intercourse or intimacy will continue to reflect invaluable legal victories, the proliferation of regressive laws targeting sexual and gender diversity in other legal fields required expanding the scope of analysis to obtain an accurate understanding of the true dimension of criminalisation and the restrictiveness of domestic legal frameworks.

The landscape of antidiscrimination provisions exhibits a notable variance, both across regions and within the UN Member States that provide such protections. Not all demographics within our communities enjoy equal levels of protection. “Sexual orientation” currently stands out as the most frequently incorporated category within antidiscrimination legal frameworks by States, followed by “gender identity”, with a considerable lag in the protections afforded based explicitly on “gender expression” and “sex characteristics”.

Visible progress has been made in other areas such as increasing protections for same-sex couples and regulating so-called “conversion therapies”. However, it remains challenging to identify consistent global positive trends, as progress in these categories is also uneven across and within regions. Advancements towards legal gender recognition based on self-identification and the availability of non-binary gender markers have continued, with more UN Member States enacting laws in this direction. However, at a global scale, absolute numbers remain very low, and the anti-gender movement has presented a significant obstacle in advancing the rights of transgender, gender-diverse, and non-binary communities.<sup>1</sup>

In a similar vein, legal frameworks remain overwhelmingly silent on protections for persons with

<sup>1</sup> This report does not cover the more recent wave of regressive legal developments fuelled by the anti-gender movement on issues related to gender-affirming healthcare, forced outings of gender-diverse minors, restrictions in sports, and sex-segregated spaces, among others. A separate publication on these legal categories is currently in production under the leadership of ILGA World’s Gender Identity, Gender Expression and Sex Characteristics Programme.

innate variations in sex characteristics from harmful practices. While some progress has been made in recent years, most legal frameworks allow medically unnecessary interventions on intersex minors to continue by omission, with a handful going so far as to deliberately carve out permissions for such practices within bans on gender-affirming care for trans and gender-diverse youth.

The entries in this report reflect the uphill journey of LGBTI advocates towards equality, evincing that triumphs are seldom achieved without facing fierce opposition. “Laws On Us” captures the tangible manifestations of the ongoing quest for rights and recognition within the legal sphere.

However, documenting the intricacies of those forces driving opposition requires its own dedicated effort, extending beyond this report’s scope. Furthermore, tracking the laborious efforts by activists following legal victories—the transformative work of translating these wins into tangible community improvements—also lies beyond the scope of this document. Hence, it is imperative to acknowledge that this report is designed to complement other critical sources of evidence. It functions as but one instrument among many within the advocate’s toolkit. “Laws On Us” equips us and our allies with high-quality information to assess our current position, measure our progress, and become aware of the challenges that lie ahead of and around us.

# Foreword from the ILGA World Co-Secretaries General

By Luz Elena Aranda<sup>2</sup> and Ymania Brown<sup>3</sup>

Today, we stand with immense pride to unveil the inaugural edition of “Laws on Us”. This significant publication follows in the footsteps of our esteemed predecessors, the “State-Sponsored Homophobia” and the “Trans Legal Mapping” reports. With “Laws on Us”, we aim to establish a new cornerstone in our documentation and advocacy efforts, leveraging the strengths and invaluable insights of our past publications.

Through the pages of “Laws on Us”, we delve into the intricate interplay between the law and our communities worldwide. We confront the stark reality of how legal frameworks are wielded to oppress us, yet simultaneously, we illuminate the journey of progress. A journey marked by courageous legal victories that pave our way towards greater equality. This publication serves not only as a testament to the challenges we face but also as a beacon of hope and resilience. It embodies our collective vision for more inclusive societies, where the richness of our identities is not only acknowledged but celebrated and embraced.

In their foreword to the 2019 edition of “State-Sponsored Homophobia”, our predecessors, former Co-Secretaries General Helen Kennedy and Ruth Baldacchino, keenly observed the evolution of the report, recognising its gradual departure from its initial focus solely on homophobia and sexual orientation. Since then—and notably with the groundbreaking launch of the ILGA World Database in March 2023—our research endeavours have naturally expanded to embrace a more inclusive framework.

This expansion has been intentional, reflecting our commitment to honour ILGA World’s mission of serving all our communities and members. With systematic inclusion, and in times where exclusionary discourses question the unity of our movement, our research now equally encompasses issues of gender identity, gender expression, and sex characteristics alongside those related to sexual orientation.

The last edition of “State-Sponsored Homophobia” was aptly termed “transitional”, reflecting ILGA World’s internal discussions aimed at reimagining and streamlining our research endeavours. This transition has culminated in the birth of this new report, marking a significant milestone in our organisation’s journey.

This report represents a new identity for the meticulous documentation, monitoring, and research efforts that ILGA World has steadfastly pursued since the pioneering launch of the first edition of the “Pink Book” in 1984, followed by the comprehensive ILGA World Legal Survey in the late 90s, and through the impactful “State-Sponsored Homophobia” reports spanning from 2006 to 2020, as well as our groundbreaking “Trans Legal Mapping Report” from 2016 to 2019.

As we embark on this new chapter, we honour our rich legacy while embracing innovation and adaptability. This report stands as a testament to our dedication to documenting legal landscapes, facilitating access to knowledge, and empowering our communities worldwide to advocate for change. It is a testament to the resilience and collective spirit of the LGBTI

<sup>2</sup> Luz Elena Aranda (she/her) is a bisexual *activist*. She studied Dramatic Literature at UNAM and Ethnology at ENAH, in addition to a technical career in Production in Media and Communication at the Ansel Adams Photography School. She is the General Director of Las Reinas Chulas Cabaret and Human Rights AC and Director of the International Cabaret Festival. She has worked in different organizations, including ProDesarrollo, Finanzas and Microempresa (where she developed the theatre component for the Methodology for the Incorporation of the Gender Approach in the Mexican Microfinance Institutions MEGIM), Faces and Voices FDS, AC (where she created the campaign against poverty I look, I know, I act), and Oxfam Mexico, where she was a consultant for the project Building an integrated approach to inequality: indigenous peoples, rural populations and women victims of violence in Mexico. She obtained the Leadership Scholarship from the MacArthur Foundation through the Mexican Society for Women’s Rights AC (SEMILLAS) and the recognition “Women investing in women” by the same institution. She is part of generation 54 of the Global Women in Management program: Advancing Women’s Economic Opportunities sponsored by CEDPA and EXXON MOBIL.

<sup>3</sup> Tuisina Ymania Brown (lau afioga/lau tofa) is an unyielding pillar in the global trans movement. A proud fa’afafine trans woman from Samoa, she lives in Brisbane, Australia, on the lands of the Yaggera nation people. A testament to resilience, triumphing over child rape, spousal gender-based violence, racial profiling, and unrelenting anti-trans violence, she is a compelling public speaker and former intellectual property attorney. She’s a devoted mother to two adopted sons and a recent grandmother. With over 15 years in international NGOs, she serves as co-Secretary General at ILGA World, and her affiliations include former Co-Chair role in the Global Interfaith Network on Sex, Sexual Orientation, Gender Identity, and Expression (Johannesburg), International Advisory Board Member for Copenhagen2021 (Copenhagen), former International Advisory Board Member Astraea Lesbian Foundation for Justice (New York), and Co-Chair of the International Trans Fund (Toronto) and a number of specific campaign related committees. She was the Strategic Adviser/Project Lead for Equality Australia/Sydney World Pride award winning Human Rights Conference, the largest-ever LGBTIQ human rights conference in the world as part of Sydney World Pride 2023 and she is the Chair of the newly formed TransEquality Council in Australia.

movement, reminding us that together, we can create a world where equality and justice flourish for all.

As we celebrate the launch of “Laws on Us” and reflect on the strides made in LGBTI advocacy, let us remember that our work is far from over. Each of us has a role to play in advancing equality and justice for all. Whether it's by sharing this publication with your networks, engaging in conversations about LGBTI rights, or supporting organisations working tirelessly for

change, your actions matter. Let's use this publication to continue championing inclusivity, celebrating diversity, and creating a world where everyone can live authentically and without fear of discrimination. Thank you for being a part of this vital movement.

*To all those involved in the production of this report, we extend our sincerest appreciation.*



# About the Authors

This ILGA World report owes its creation to the dedicated and collaborative efforts of several individuals who have played pivotal roles. ILGA World expresses sincere gratitude and recognition to the following contributors:

- **Lead Authors:** Lucas Ramón Mendos and Dhia Rezki Rohaizad.
- **Contributing Authors:** Kellyn Botha, Alan Cueli, Alejandro Hilarión Moncada, Hanlu Hu, and Curro Peña Díaz.
- **Proof-reader:** Kellyn Botha.

The lead authors and contributing authors have collectively invested substantial time, expertise, and commitment in crafting and refining this report's

content. Their contributions have been instrumental in ensuring the quality, accuracy, and coherence of the information presented.

The co-authors have overseen the overall narrative of the report and coordinated the creation and validation of content from various contributors, with assistance from the editor. Both lead and contributing authors have conducted research, engaged with activists for consultation and validation purposes, and offered valuable insights into their respective sections. ILGA World acknowledges the indispensable role of the proofreader in ensuring the accuracy, clarity and flow of the final manuscript.

Readers will find concise biographical profiles of each individual mentioned above, presented in alphabetical order.

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## Lead authors

### Lucas Ramón Mendos

**Lucas Ramón** (*he*) is a lawyer (University of Buenos Aires), as well as a professor and researcher, with a Master's Degree in Sexuality and Law (University of California, Los Angeles). With more than 15 years of experience working in the public sector, international organisations, and civil society organisations, he has focused his career on sexual and gender diversity issues in the field of international and comparative law for more than a decade. As Research Manager at ILGA World, he leads the organisation's global research work. In this position, he oversees the creation and implementation of high-impact projects that further ILGA World's mission, such as the [ILGA World Database](#) and the [ILGA World Monitor](#).

Prior to joining ILGA World, he worked at the LGBTI Rapporteurship of the Inter-American Commission on Human Rights (IACHR), the Williams Institute at UCLA, and the Swedish LGBTQ Federation (RFSL). In Argentina, he served as an advisor on diversity issues in the Secretariat of Human Rights of the Province of Buenos Aires, intervened in international litigation, and worked as a defence lawyer for asylum seekers at the National Public Defender's Office (*Defensoría General de la Nación*).

He is a guest lecturer in several academic courses on sexuality and law. As a professor, he has the privilege of inspiring and guiding the next generation of LGBT human rights defenders around the world.

### Dhia Rezki Rohaizad

**Dhia** (*he/they*) is a human rights defender and social scientist from Kuala Lumpur, Malaysia. Throughout his career, he has worked in the areas of educational equity, HIV/AIDS prevention and awareness, and LGBTQ equality in local and international non-governmental organisations, as well as in grassroots movements.

He joined ILGA World as a Research Consultant in 2022. They are the Deputy President of JEJAKA, a Malaysian NGO focussed on providing differentiated HIV services and advocating for LGBTI equality. He also sits on the executive committee of the Country Coordinating Mechanism (CCM) of Malaysia in overseeing the strategic implementation of Malaysia's HIV/AIDS response.

He is a 2022 ACPYL Professional Alum with the Stonewall Caucus of the Democratic Party of Hawai'i. They obtained a Master's in Development Studies from the University of Malaya as a Konrad-Adenauer-Stiftung (KAS) Young Scholar after researching the socioeconomic influences on HIV risks among gay men in Malaysia. Before that, they earned a Bachelor of Commerce in Accounting and Commercial Law from Victoria University of Wellington as a MARA Scholar. Dhia is also the proud father of two fur babies (cats).

## Contributing authors

### Kellyn Botha

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Kellyn (she/her) is an LGBTQI human rights defender from South Africa. She holds a Bachelor of Journalism from Rhodes University with a secondary major in Politics and International Relations. She also holds a Master's in Film Studies from the University of the Witwatersrand, having produced a thesis on the representation of transgender women in the media.

Her advocacy work has included communications, documentation, research, and educational outreach for several South African and international organisations, such as Iranti, the Gay and Lesbian Archive of South Africa (GALA), Matimba, and Pan Africa ILGA. She sits on the Wits RHI Trans Health Clinic Community Advisory Board and the Department of Basic Education Social Inclusion Working Group in South Africa.

As an ILGA World Research consultant, Kellyn has contributed to the 2020 [State-Sponsored Homophobia Update](#) report, and authored the first edition of [Our Identities Under Arrest](#) in 2021, as well as the [second edition](#) in 2023.

### Alan Cueli

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Alan (he/him) is an ILGA World Research Consultant from Buenos Aires, Argentina. He is an activist currently pursuing a bachelor's degree in English Translation at the University of Buenos Aires. Additionally, he has completed Chinese language proficiency courses at the National Taipei University of Education, which enables him to assist in media monitoring for Chinese sources.

### Alejandro Hilarión Moncada

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Alejandro Hilarión (he/him) is a social communicator and journalist trained at the University of Manizales in Colombia. He is currently engaged in research and media monitoring at ILGA World as a Research Consultant. He was trained as an intern with the Women Foundation and Youth Social Impact Leaders in soft skills, leadership, and the creation of social projects focused on the United Nations 2030 Agenda.

Alejandro founded *Vive Positivo*, a project focused on informing and breaking down the stigma around HIV, with the objective of making the situation around the virus visible and involving the youth population in Manizales in sexuality issues.

### Hanlu Hu

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Hanlu (she/her) is a Research Consultant at ILGA World and a 30 for 2030 Youth Leader with UN Women Asia and the Pacific. Holding a Master's in International Affairs from the Geneva Graduate Institute of International and Development Studies (Switzerland), Hanlu is embarking on an MSc in International Project Management at the ESCP Business School (France).

A passionate Chinese queer feminist with a rich interdisciplinary background, Hanlu holds a strong commitment to gender equality. Her past work includes roles as a Youth Envoy for EQUALS-EU, an EU-funded initiative promoting digital gender equity in Europe, as well as internships at the United Nations Industrial Development Organisation (UNIDO) Vienna headquarters and United Nations Children's Fund (UNICEF) China.

### Curro Peña Díaz

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Curro Peña, PhD (he/him) is a Spanish lawyer, researcher and communicator specialising in International Human Rights Law and Refugee Law from a queer perspective. He holds a PhD in Law from the Universities of Milan and Málaga with a thesis focused on the rights of LGBTI asylum-seekers in the Common European Asylum System.

Curro has worked as a consultant for the Council of Europe to evaluate the situation of trans rights in Spain and to develop an e-learning course for legal professionals on the rights of LGBTI asylum-seekers. He has also consulted for the Spanish Ministry of Equality and several NGOs on topics such as LGBTI asylum and the legal gender recognition of non-binary identities.

He is currently a Research Consultant with ILGA World. Moreover, he's authored the blog [Queerídico.es](#) and raises awareness on human rights issues on his X (@Currikitaum) and [LinkedIn](#) accounts.

# Acknowledgements

The authors wish to extend their sincere gratitude to the numerous individuals and organisations worldwide whose contributions, facilitation, or support have been vital to this report.

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We extend our heartfelt gratitude to Naftec Ltda. for their unwavering dedication and groundbreaking technology, which empower us to create a meaningful impact. The production of this report has greatly benefited from their tireless efforts and exceptional assistance, always surpassing our expectations. The success of the ILGA World Database was possible thanks to their steadfast commitment. We also wish to extend a special mention to graphic designer Eva Fontana, whose creative work has not only enhanced the beauty and design of our research work but has also made them more accessible to all.

Our immense gratitude extends to every member of the ILGA World staff whose assistance fuels our success. We owe an enormous debt of gratitude to Communications Manager Daniele Paletta and Communications Consultant Suelle Anglin. Their unwavering support has been instrumental in magnifying the visibility of our outputs. Moreover, their encouragement to submit the ILGA World Database for consideration in the 2023 Anthem Awards led to our silver medal win in the category "Best Use of Data". This accomplishment not only garnered significant acknowledgement of our work but also heightened visibility, likely contributing to the sustainability of ILGA World's Research Programme for years to come.

We also express our heartfelt appreciation to every colleague who, while not directly involved in the research and documentation itself, plays indispensable roles in enabling and supporting our work. From those managing operations and logistics to the guidance provided by Co-Secretaries General and senior leadership within the organisation. Behind every successful research endeavour lies a team of committed individuals working behind the scenes, and it is to every one of them that we owe a debt of gratitude.

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secretaries, as well as to Bianka Rodríguez, Executive Director of ILGALAC, and Gustavo Coutinho, Operations Coordinator.

We recognise the risks that many of these contributors have undertaken in defending our communities and advancing equality. We aspire to a future where many of those who aided in the creation of this document need not remain anonymous for reasons of safety and security. Whether acknowledged by name or not, their contributions are deeply cherished.

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## Lead Authors' Preface

# In Remembrance and Renewal: Honouring Legacies, Inspiring Futures

By Lucas Ramón Mendos and Dhia Rezki Rohaizad

"Laws On Us" and the ILGA World Database follow in the footsteps of those who came before us and serve as living embodiments of the profound legacy left by many historic leaders of our movement. Their tireless endeavours not only laid the groundwork for ILGA World to ascend as a global leader in researching and documenting laws affecting our communities but also paved the way for the gradual recognition of our rights.

We are deeply honoured to carry forward the mantle of countless activists and experts who dedicated themselves to spearheading research and documentation, especially those who led the way in the early days of our organisation amidst the myriad challenges faced by our communities back then. From the shadows of fierce legal oppression to the relentless grip of the HIV/AIDS epidemic, they forged ahead, determined to offer the world the evidence of the discrimination that has been suffocating our communities for so long.

With our work, we are continuing the project initiated forty years ago by ILGA's Information Secretariat and all those who led the three editions of ILGA's *Pink Books* between 1984 and 1993 and the publication titled *The Legal and Social Situation of Lesbians and Gay Men: A Country-by-Country Survey* published in 1992. In the late 1990s, ILGA World created the first digital repository of laws affecting our communities across the world under the coordination of Nigel Warner (*ILGA World Legal Survey*, 1998). This groundbreaking survey can still be consulted online.<sup>4</sup>

In 2006, Daniel Ottoson took the baton in continuing the work of ILGA World's documenting of laws that criminalised consensual same-sex sexual acts (*With the Government in Our Bedrooms*, 2006; *State-Sponsored Homophobia*, 2007-2010). Between 2011 and 2020, this essential work was continued and progressively enlarged and improved by Eddie Bruce-Jones (*State-Sponsored Homophobia*, 2011), Lucas Paoli Itaborahy (*State-Sponsored Homophobia*, 2011-2015), Jingshu Zhu (*State-Sponsored Homophobia*, 2013), Aengus Carroll (*State-Sponsored Homophobia*, 2015-2017), Zhan Chiam (*Trans Legal Mapping Report*, 2016-2019), Sandra Duffy (*Trans Legal Mapping Report*, 2016-2019), Matilda González Gil (*Trans Legal Mapping Report*, 2016-2019),

Lara Goodwin (*Trans Legal Mapping Report*, 2019), Nigel Timothy Mpemba Patel (*Trans Legal Mapping Report*, 2019), and Lucas Ramón Mendos (*State-Sponsored Homophobia*, 2017-2020). The 13<sup>th</sup> and final edition of *State-Sponsored Homophobia* was launched in March 2019. However, its "Global Legislation Overview" chapter underwent two updates before the report was finally discontinued: first in December 2019 and then again in December 2020. This ultimate update was authored by Lucas Ramón Mendos, along with Kellyn Botha, Rafael Carrano Lelis, Enrique López de la Peña, Iliia Savelev, and Daron Tan.

Now, "Laws On Us" carries this forward as a seamless continuation of the invaluable groundwork laid by our predecessors. Building upon the meticulous documentation of ILGA World's research work, this first edition of "Laws On Us" serves as a direct link to the past, ensuring the ongoing relevance and progression of ILGA World's research initiatives.

A special acknowledgement is reserved for Lucas Paoli Itaborahy, Zhan Chiam, and Aengus Carroll, whose leadership during pivotal moments significantly expanded the scope, depth, and breadth of ILGA World's research publications. Their visionary guidance propelled the organisation's research efforts in new directions, enriching the information tracked and ensuring its relevance in addressing the evolving needs of our communities.

A heartfelt appreciation is also extended to Professor Kees Waaldijk of Leiden University. His continuous support of ILGA World's research work and invaluable legal expertise have been instrumental in guiding many of the authors mentioned above. His contributions have left an indelible mark on all *State-Sponsored Homophobia* editions and on ILGA's *Pink Books*, showing that his contributions have spanned almost three decades.

As our forebears did before us, those presently dedicated to maintaining ILGA World's research initiatives will one day entrust the torch to the next generation, ensuring the continuity of our cause. In this spirit, we hope that our work in "Laws On Us" and the ILGA World Database will not only honour the tireless efforts of our predecessors but also serve as a catalyst

<sup>4</sup> See: "ILGA World Legal Survey", Website of the International Lesbian and Gay Association (Archived by The Wayback Machine), retrieved 1 April 2024.

for change and inspire many more to join us in our mission to expand and utilise this information into more impactful research to advocate for our rights.

In honouring the legacies of those who came before us, we also recognise the responsibility that comes with carrying forward their mantle. Each paragraph of this report is not just a collection of words; they are a testament to the resilience and determination of countless activists, researchers, and experts who refused to be silenced by the shadows of oppression or the grip of adversity. Our hope is that this report represents more than just a compilation of laws; it symbolises the culmination of decades of struggle and sacrifice. It is a testament to the power of collective action and solidarity in the face of systemic discrimination and injustice.

We view it as a reminder of how far we have come and how much further we have yet to go. But it is also a source of inspiration and empowerment, a reminder

that change is possible when we stand together and refuse to be silenced. As we look to the future, we do so with optimism and determination. We know that the road ahead will be challenging, but we also know that we are not alone. We have the support of a global community, united in its commitment to intersectional justice and equality for all.

And as we pass the torch to the next generation, we do so with the knowledge that they will carry it forward with the same passion and dedication that has brought us to this point. In the end, this report is not just a reflection of our past; it is a promise for the future. A promise that we will never stop fighting for a world where everyone is free to live their truth without fear of discrimination or persecution.

And with that promise in our hearts, we move forward, inspired by the courage and resilience of those who came before us, and determined to create a better, more just world for generations to come.

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## In Memoriam

The authors wish to pay homage to the memory of Natsuo Hayashi, a cherished colleague and esteemed activist from Japan. His invaluable contributions extended far beyond the realms of our report; he lent his expertise to members of our team to enrich the contents of this report and the ILGA World Database. His dedication shone brightly through his involvement in our Database dissemination campaign, where his presence in campaign videos left an indelible mark. We mourn the loss of a remarkable individual whose passion and commitment have left an enduring legacy within our team and the broader community. The following homage was written by Akira Nishiyama (J-ALL Japan).

HAYASHI Natsuo-san was born and raised in Kyoto, Japan in 1970. Since childhood, he had been tormented by the differences between traditional family values, gender roles and his personal principles. He used to blame himself because he was caught in a dilemma; he didn't want to live a life based on falsehood but he needed to do so in order to take care of his parents.

He started getting involved in LGBTQ+ activism when he started "Diversity Lounge Toyama" in 2015. One of the main focuses of "Diversity Lounge Toyama" is to promote advocacy for and give a voice to others who are closeted while protecting their safety in the town.

Diversity Lounge Toyama started to hold a safe space called "Yawa Cafe" in 2017. He started this space so that people could talk freely about topics related to sex and gender, and I assume that this is what he was searching for himself. Yawa Café has been held regularly even after he passed away.

Hayashi-san was a person of high integrity, with a high sense of human rights and never forgot those who are marginalized. On the other hand, he was also a delicate person who could get hurt and when exposed to malicious words, he would blame himself and suffer, even though he did not need to.

There was probably no place for Hayashi-san to truly feel safe in his lifetime. However, I hope one day that every place in this world will be "a hometown where Hayashi-san can go home to".

林夏生さんは、1970年に日本の京都府で生まれ育ちました。幼いころから伝統的な家族観や性別規範と自分の価値観の差に苦しめられていました。嘘をつきたくない、親孝行をしたい、という思いも強かったため、自分で自分を責めることも少なくなかったようです。

彼が本格的にLGBTQ+に関わる活動始めるのは、2015年にダイバーシティラウンジ富山を立ち上げたところからです。ダイバーシティラウンジ富山の活動の主軸の一つは、クローゼット状態でも社会に声を届ける方法や、地方都市で自分の安全を守りながらアドボカシーを進める方法を考えることでした。

また、ダイバーシティラウンジ富山では2017年頃から居場所「やわかフェ」を開催するようになります。「やわかフェ」は性やジェンダーについて気軽に話せる場所を目指して作られましたが、なにより彼自身がこの場所を求めていたのでしょう。彼が亡くなってからも「やわかフェ」は定期的に開かれています。

彼は、高い人権意識を持ち、周縁に追いやられている人を想像することを忘れない、高潔な人でした。一方で、傷つきやすく、悪意ある言葉に触れると、責める必要が無いのに自分を責めて苦しんでしまう人でもありました。

彼が安心して安全に過ごせる場所はどこにもなかったのでしょう。ですが、いつの日にか、この世界のすべての場所が、彼が「帰れる故郷」になることを願わずにはいられません。

# Methodology

The production of this report is closely linked to the processes established for the continuous upkeep of the ILGA World Database, as both projects rely on the same methodology and the resulting reservoir of collated data. To maintain a steady flow of updated information to support both lines of work, ILGA World's Research Programme has devised specialised methods tailored to streamline the monitoring of local developments across 193 UN Member States, more than 40 non-UN member jurisdictions, and over 100 subnational jurisdictions, particularly in States where legal advancements or regressions occur either in parallel or independently of developments at the national or federal level. Additionally, these methods allow ILGA World's Research Programme to expedite the incorporation of such developments into the database, reporting on them shortly after they unfold.

In facilitating this endeavour, the Research Programme operates a coordinated sequence of mutually dependent processes that include monitoring and data collation, identification of pertinent legal developments, source location and verification, legal analysis, validation and verification, and systematic reporting.

## 1. Monitoring and data collation

In the initial phase of the methodology, the Research Programme tracks sources of information that are relevant to a set of legal categories. This step relies on the pool of data sources in the repository of online public information systematically collated by ILGA World's Automated Source Processing Unit (ASPU).

The ASPU is an internal software developed by ILGA World's Research Programme in 2020, serving as an aggregator of online sources that collates, translates, categorises, geolocates, and thematically tags content

from across the globe about issues concerning sexual orientation, gender identity, gender expression, and sex characteristics. This software operates daily, monitoring an array of over 20,000 online sources in 70 languages,<sup>5</sup> including websites of media outlets, civil society organisations, National Human Rights Institutions, academic publications, detractor organisations and groups, legal databases, and governmental agencies and institutions, among others.<sup>6</sup>

The ASPU's functionality is underpinned by its ability to automate the majority of data collation and classification processes. Automation emerged as a critical solution to effectively manage and process the vast amounts of data essential for maintaining the currency and relevance of the ILGA World Database as well as other research outputs, including this specific report and other publications such as "Our Identities Under Arrest",<sup>7</sup> and the "Intersex Legal Mapping Report",<sup>8</sup> among others.<sup>9</sup> The sheer volume of developments occurring across diverse geographical locations is impossible to track exclusively relying on retrospective observation through manual desktop research and on the submission of third-party information by member organisations, methods which ILGA World largely employed for the production of reports such as "State-Sponsored Homophobia" or the "Trans Legal Mapping Report".

By leveraging automated data collation processes, ILGA's global office has enlarged its capacity to swiftly track, capture, and integrate updates from a multitude of sources. Nevertheless, the critical aspect of human curation remains integral to the monitoring system, ensuring that the tracked entries remain pertinent and aligned with the research needs of the programme. Through this vetting process, a robust foundation of information is consolidated upon which subsequent stages of the methodology are built.

<sup>5</sup> These languages are Afrikaans, Albanian, Arabic, Armenian, Azerbaijani, Belarusian, Bangla, Bosnian, Bulgarian, Burmese, Catalan, Chinese, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, Galician, Georgian, German, Greek, Gujarati, Hausa, Hebrew, Hindi, Hungarian, Icelandic, Igbo, Indonesian, Irish, Italian, Japanese, Kazakh, Khmer, Kinyarwanda, Korean, Kyrgyz, Lao, Latvian, Lithuanian, Macedonian, Malay, Malayalam, Maltese, Mongolian, Montenegrin, Norwegian, Persian, Polish, Portuguese, Romanian, Russian, Serbian, Sinhala, Slovak, Slovene, Spanish, Swahili, Swedish, Tagalog, Tajik, Tamil, Thai, Turkish, Ukrainian, Uzbek, Vietnamese.

<sup>6</sup> Since 2021, external users have been able to access the bulk of information collated by ILGA World's Research Programme through the ASPU and the ILGA World Monitor.

<sup>7</sup> The ILGA World Monitor has played a crucial role in informing the decision to create and publish a thematic report exclusively focusing on the enforcement of criminalising laws. The breadth and depth of data captured by this software have proven invaluable for tracking a significant amount of information on arrests and prosecutions that previously went unnoticed. This data is now systematically reported and disseminated, particularly benefiting asylum petition claims for Country-of-Origin Information (COI) research purposes. Additionally, the documented evidence serves to debunk the notion that these provisions are dormant laws.

<sup>8</sup> The "Intersex Legal Mapping Report" is a publication produced by ILGA's Gender Identity, Gender Expression, and Sex Characteristics programme in 2023. The Research Programme facilitated the raw data tracked on the developments presented in the report, which originated from the tracking work conducted by research consultants relying on the ILGA World Monitor.

<sup>9</sup> Between 2021 and 2023, the Research Programme provided input and produced ad-hoc reports on multiple thematic lines for specific mechanisms and advocacy opportunities, including for reports to be presented at the High-Level Political Forum, the German Bundestag, the European Parliamentary Assembly, as well as other political fora, human rights mechanisms and UN agencies, including UNDP and UNESCO.

## 2. Identification of pertinent legal developments, coding, and categorisation

Among the entries deemed relevant through the ASPU processing, a specialised monitoring process is undertaken to sift through and *a priori* identify legal developments. This task encompasses reviewing and analysing the content within these entries. To effectively manage the substantial volume of information, weekly data intakes are partitioned by geographical regions and distributed to various team members within the Research Programme on a rotational basis.

Following individual assessments, regular debriefing meetings are convened weekly for internal validation, facilitating discussions on preliminary findings, and ensuring alignment in understanding the identified legal developments. At this stage, developments are coded and categorised to streamline the organisation of the collected entries.

Each relevant entry is assigned a set of fixed codes, indicating one or more specific sections of the database, along with references to the types of legal development and the relevant areas of government involved. Furthermore, recurring or continued patterns and developments are identified, particularly in cases where a common legal thread is observed. This is particularly significant in updates related to ongoing judicial cases or the legislative progress of a bill or proposal.

## 3. Source location and verification

Once the legal developments have been identified through secondary sources, the subsequent phase involves locating and logging the original source containing the relevant legal development into ILGA World's Legal Repository. This repository stands as an indispensable reservoir of firsthand materials crucial for comprehensive content analysis and also serves as a pivotal resource for the database to link to. This enables seamless referencing, particularly benefiting database users and publication readers who may require direct access to the original sources for their research, advocacy or scholarly pursuits. Moreover, the repository plays a pragmatic role in safeguarding against broken hyperlinks that may arise due to changes, disruptions, or the obsolescence of external websites. By meticulously documenting and archiving the original sources, ILGA World ensures the integrity and accessibility of critical legal materials, fostering transparency and reliability in the dissemination of legal information related to LGBTI rights.

In instances where information is directly sourced from governmental entities providing the original documents, this intermediary step becomes redundant, as the primary source is inherently integrated into the data identified in the prior step.

## 4. Legal Analysis

The identified original sources are utilised to examine the legal implications of tracked developments. Entries within the ILGA World Database typically maintain a concise format, although significant or intricate developments warrant expanded coverage. However, the analytical process undertaken for this report extends beyond legal analysis to encompass—wherever relevant and possible—broader societal, political, and cultural dynamics.

Fundamental to our methodology is the incorporation of legal doctrine into our examination of relevant developments. Through this analysis, researchers aim to elucidate the implications of each development, taking into account the complexities of each local legal landscape. This often requires an exploration of the evolution of laws over time, the interpretations of legal principles by local judicial bodies, and the impacts—or potential impacts—of legislative and judicial decisions on the rights of LGBTI people across various domains.

Conducting legal analysis on the extensive array of sources tracked within ILGA World's Database presents multiple challenges inherent to the diverse legal landscapes across jurisdictions. Linguistic barriers are prominent among these challenges, particularly when terminology pertaining to sexual orientation, gender identity, gender expression, and sex characteristics deviates from international standards, complicating cross-jurisdictional comparison.

In legal analysis, provisions often involve implicit references to sex, gender, and sexuality, reflecting local nuances and necessitating interpretation. Seemingly neutral clauses may elicit varied interpretations by law enforcement or judicial entities, adding complexity to the analytical process. Consequently, contextualising developments often demands supplementary sources beyond legal text scrutiny, particularly when SOGIESC issues are implicit rather than explicit. Even when laws appear straightforward, equally detrimental legal mandates can manifest abstractly. The scope and enforceability of legal provisions pose additional challenges, especially when the binding nature of texts or decisions remains ambiguous. This uncertainty often permeates local contexts, where ambiguity is integrated into the legal analyses. Therefore, ILGA World endeavours to ensure a comprehensive analysis to the best of its capacities, delving beyond surface interpretations to grasp the nuanced impact of the legal developments under study.

Furthermore, obstacles related to the accessibility and availability of legal developments exacerbate these challenges. Bills and legislative amendments may only surface through leaked versions or post-enactment publication, resulting in delayed public access. Publication delays, unpublished judicial decisions, and opaque reasoning behind judicial decisions further



compound these challenges. Consequently, in numerous instances, ILGA World may lack access to original sources, necessitating explanations presented as insights “as shared by” media outlets or other local sources, including ILGA member organisations or affiliated groups.

## 5. Verification and validation

To ensure the accuracy and reliability of the legal developments tracked on the ILGA World Database and in all other research outputs, ILGA World engages in verifying and validating the information produced by the global office in Geneva with member organisations, activists, and local stakeholders who possess firsthand knowledge pertinent to the identified legal developments. These stakeholders offer insights into the nuances of the legal landscape, providing context and clarity where ambiguity persists.

Verification involves confirming that the identified legal developments meet predetermined criteria, such as relevance, accuracy, and comprehensiveness. This process entails reviewing and evaluating the gathered information, ensuring that it aligns with the intended scope and objectives of our research. Specific efforts to validate focus on confirming that the identified legal implications and explanations provided effectively address and reflect those shared and understood by local stakeholders, especially ILGA’s member organisations. This process involves assessing whether the gathered information provides meaningful insights into the local legal landscape, enriching our understanding of the relevant developments and their implications for the rights of LGBTI people. Validation ensures that ILGA’s research outputs remain a reliable resource for stakeholders, empowering them with accurate and actionable information to support their advocacy efforts and decision-making processes.

It should be noted that due to the nature of the subject matter, as well as time and resource constraints, despite rigorous validation and verification processes, errors or discrepancies may still exist. ILGA World continually encourages stakeholders to provide feedback and report any inaccuracies or discrepancies they encounter in the information shared by ILGA World.

Beyond the methodological purposes of this step, the consultation process also serves as a platform for fostering partnership and building and strengthening relationships with our member organisations and local

stakeholders. By actively involving them in the validation process, ILGA World honours a commitment to inclusivity and collaboration in its mission to advance LGBT rights globally. This collaborative approach not only enhances the repository’s credibility but also strengthens ILGA World’s network of members, allies, and advocates in the fight for equality and justice.

## 6. Systematic reporting

In the reporting stage, a comprehensive synthesis of the relevant findings is produced, aiming to present these in a manner that is both coherent and readily accessible to a diverse audience. While our primary focus remains on capturing the intricacies and nuances inherent in legal instruments, we also recognise the importance of integrating an educational element into the reporting process. This pedagogical approach ensures that our documentation of legal developments remains not only informative but also understandable and enlightening for our vast readership.

At the heart of our reporting philosophy lies a commitment to accessibility and clarity. We prioritise the use of plain language, eschewing dense legal jargon and technical terminology that may prove daunting or inaccessible to individuals without specialised legal training. Instead, we strive to communicate complex legal concepts in a clear and straightforward manner, making our research findings comprehensible to a broad spectrum of readers.

Moreover, our reporting endeavours—especially in reports like this one—are characterised by a contextual approach that seeks to situate legal actions within their broader social and cultural contexts. By providing contextual explanations—wherever relevant and possible—we aim to enhance understanding and facilitate deeper insights into the implications of legal developments for the rights and well-being of our communities.

Central to our approach is the belief that access to information is a fundamental prerequisite for meaningful engagement with legal issues. As such, we are deeply committed to democratising legal knowledge and empowering individuals from all walks of life to actively participate in legal discussions surrounding LGBT rights and legal advocacy. Through our transparent and accessible reporting practices, we strive to foster a culture of informed dialogue and collective action in pursuit of justice and equality for all.

# A Note on Limitations and Disclaimers

The information provided in this report is intended solely for reference purposes and should not be considered legal advice. While every effort has been made to ensure the accuracy and reliability of the information presented, it is important to recognise the limitations inherent in such a vast undertaking. This report represents the culmination of extensive research across more than 250 jurisdictions, including UN Member States, non-UN member jurisdictions, and subnational entities, conducted with limited resources.

Reporting on legal developments affecting our communities in every country around the world poses numerous challenges. Firstly, linguistic barriers create hurdles, as the terminology used may not align with international standards, necessitating additional interpretation. Moreover, implicit references in legal texts, reflecting local understandings of sex, gender, and sexuality, often require further decoding. Interpretations of seemingly neutral provisions can vary greatly, particularly among law enforcement or judicial bodies, adding complexity. Additionally, the lack of clarity regarding the reach and scope of novel provisions, and the binding or non-binding nature of certain legal texts or decisions, further complicates matters. Accessibility issues, including information unavailability, difficulty accessing bills, drafts, and proposals—often limited to leaked versions—delays in official gazette publications, and opacity in judicial decisions, including unpublished ones, contribute to reporting complexities.

Readers should be aware that interpretations of non-explicit provisions will vary greatly, even among advocates for LGBTI+ equality. While efforts have been made to reflect local opinions and positions, it is essential to seek and consider additional points of view when assessing progress or backtracking, especially to complement the legal references presented in the report.

Due to the complexity of the subject matter, occasional imperfections may arise in the representation of information. Therefore, users are encouraged to exercise discretion and independently verify the information presented herein. It is recommended that readers consult the original sources provided throughout the report and utilise the hyperlinks to access additional resources and verify the exact text of each legal source cited. Special efforts have been made to ensure that these original sources are available so that our readers can access the actual reported provisions.

ILGA World also emphasises that the inclusion and citing of specific sources or media outlets in this publication is solely to offer additional information to readers. This does not constitute an endorsement by ILGA World, and we expressly disclaim any intention to guarantee the accuracy or reliability of any particular media outlet in reporting on LGBTI+ issues. It is crucial to note that coverage by certain media outlets referenced in this publication may not consistently adhere to respectful language standards and might employ slurs or inflammatory expressions. Readers are strongly advised to exercise discretion and critically assess the content from these sources, recognising that their reporting may not always align with ILGA World's principles or sensitivities.

By accessing and utilising this report, readers acknowledge and accept that the information contained herein is provided on an "as-is" basis. Legal principles and regulations may vary across jurisdictions and are subject to change over time, therefore reliance solely on the information contained in this report is not advised. Professional legal advice should be sought where necessary to address specific legal issues or concerns.

# Main Findings

## Global legal trends in progress and backtracking

In this section, we provide a broad overview of the main legal developments and trends under each of the legal categories tracked by ILGA World between January 2023 and April 2024. The categories include the criminalisation of consensual same-sex sexual acts; restrictions to freedom of expression; restrictions to freedom of association; protection from discrimination based on sexual orientation, gender identity, gender expression and sex characteristics; hate crime law; incitement to hatred, violence and discrimination; regulation of so-called “conversion therapies”; same-sex marriage and civil unions; adoption by same-sex couples; restrictions on interventions on intersex minors; and legal gender recognition.

### 1. Criminalisation of consensual same-sex sexual acts

**Despite the ongoing global trend towards decriminalisation of consensual same-sex sexual acts, much of Africa and some parts of Asia are experiencing a troubling regression, moving in the opposite direction.**

In recent developments concerning the decriminalisation of consensual same-sex sexual acts, there has been a continued global trend towards decriminalisation. Notably, three UN Member States—Dominica, Mauritius, and Singapore—along with the Cook Islands, a non-UN Member, have decriminalised such acts. Additionally, Sri Lanka has been actively debating a bill to decriminalise, while Lebanon saw severe backlash over a similar bill. In another positive move, Venezuela repealed provisions criminalising consensual same-sex acts within its military forces.

However, alongside this progress, there is an emerging regressive trend, particularly in Africa and West Asia. Uganda has imposed the death penalty for “aggravated homosexuality”, which under some circumstances could include consensual same-sex sexual acts; Iraq has criminalised consensual same-sex sexual acts by law, codifying the criminalisation that existed *de facto*; and Indonesia criminalised “obscene/lewd acts” and “violations of decency”, defined as “sexual acts against the current values of the local community” (slated to come into effect in 2026).

Regressive bills have been introduced or announced in at least five UN Member States, including Bahrain, the Democratic Republic of Congo, Ghana, Kenya, and Mali, either to criminalise such acts or increase penalties. Debates and discussions to criminalise or aggravate penalties have taken place in Burkina Faso, Niger, Tanzania, and Senegal, while calls for further criminalisation persist in Egypt and Zambia. Moreover, reports have surfaced of extreme forms of capital punishment being actively enforced in Afghanistan (toppling of the wall) and Yemen (lapidation and crucifixion).

In addition, there have been adverse litigation outcomes in four UN Member States, including Jamaica, Saint Vincent and the Grenadines, South Korea, and Uganda. Furthermore, a pending high-profile case in Malawi has raised alarming procedural issues, highlighting ongoing challenges in legal battles for equality.

### 2. Restrictions to freedom of expression

**There has been an alarming acceleration of UN Member States enacting and debating new legal barriers to freedom of expression. Laws regulating speech are increasingly prominent as mechanisms for criminalisation.**

Three UN Member States—Jordan, Kyrgyzstan and Uganda—have formally implemented legal provisions targeting the so-called “promotion of homosexuality” or “non-traditional sexual relations”. Additionally, Russia has intensified existing restrictions by designating the “international LGBT movement” as “extremist” and imposing further limitations on so-called “foreign agents”. Belarus has followed suit by enacting legal restrictions that classify content related to sexual and gender diversity as “pornography”, thereby criminalising its promotion under the Penal Code. In Zambia, authorities announced that anyone found promoting “unnatural offences” or “acts of indecency” would be liable to prosecution in a court of law.

Furthermore, at least nine UN Member States have introduced or announced bills containing provisions against the perceived promotion or propaganda related to sexual and gender diversity. These countries include Bahrain, Belarus, Georgia, Ghana, Indonesia, Iraq, Lebanon, Romania, and Uzbekistan. In Namibia, a specific bill targets the “promotion of same-sex marriage”. Similar initiatives have been announced in jurisdictions like Kazakhstan, Kenya and Transnistria (Moldova).

Another concerning trend involves increasing administrative restrictions imposed on the media. In at least ten UN Member States, governmental agencies or

media oversight bodies have issued regressive directives or measures imposing broad bans on content discussing sexual and gender diversity. These countries include Burkina Faso, Cameroon, the Democratic Republic of the Congo, Iraq, Jordan, Malaysia, Mauritania, Morocco, Niger, and Nigeria. Additionally, media authorities in at least eight UN Member States have banned films and suspended TV programs and channels due to references to sexual and gender diversity. These countries include Algeria, Cameroon, Egypt, Iraq, Kuwait, Lebanon, Saudi Arabia, and the United Arab Emirates.

Moreover, there persists a continued trend of associating rainbow-coloured goods with the promotion of homosexuality in at least eight UN Member States. Authorities in these countries, including Algeria, the Democratic Republic of the Congo, Libya, Sudan, Malaysia, Tanzania, Oman and Yemen, have seized, banned, and even destroyed rainbow-coloured goods under the pretext of promoting homosexuality.

Lastly, there has been a rising trend in the banning of books and educational content on sexual and gender diversity. Measures to ban and confiscate such material have been implemented in at least nine UN Member States, including Bangladesh, Belarus, Burundi, Egypt, Malaysia, Morocco, Nigeria, Pakistan, and Tanzania. Additionally, in at least 12 UN Member States, bills, laws, and specific plans or policies have been developed or enforced to restrict any content pertaining to sexual and gender diversity in schools and educational institutions. These countries include Bulgaria, Indonesia, Iraq, Kenya, Morocco, Niger, Paraguay, South Korea, Tanzania, Uganda, the United States of America and Zimbabwe.

### 3. Restrictions to freedom of association

**In tandem with restrictions to freedom of expression, legal measures were adopted to further restrict civic space, especially in Africa, Asia, and Russia.**

More legal measures were adopted to constrict the civic space for organisations dedicated to advocating for sexual and gender diversity issues across several UN Member States. In Kyrgyzstan, Russia, and Uganda, recent legislative actions have intensified existing restrictions on the registration and operation of civil society organisations. Furthermore, at least six other UN Member States considered regressive bills and proposals aimed at further tightening restrictions on civil society organisations. Burkina Faso, Georgia, Ghana, Kenya, Tunisia, and Zimbabwe have all grappled with legislative initiatives that threaten to curtail the space for advocacy on sexual and gender diversity issues. Regressive policies have also led to the closure of several organisations advocating for sexual and gender diversity issues in member states such as China, Jordan, Tanzania, Russia, and Iraq.

In addition to legislative challenges, resistance to progressive judicial decisions emerged as a significant barrier. In Eswatini and Kenya, favourable rulings have

been met with notable resistance or reluctance to comply by the State, hindering the implementation of measures aimed at ensuring the right to freedom of association.

### 4. Protection from discrimination based on sexual orientation, gender identity, gender expression, and sex characteristics

**Progress in enacting new anti-discrimination legislation among UN Member States remained limited. However, prospects for advancement emerge as multiple bills await legislative approval.**

One UN Member State (Netherlands) amended its constitution to prohibit discrimination based on sexual orientation. Moreover, only two UN Member States and one non-UN member jurisdiction enacted *new* legal protections against discrimination: Moldova (sexual orientation and gender identity), Spain (sex characteristics) and Guernsey (UK) (sexual orientation). Additionally, three UN Member States expanded preexisting legal protections: Bulgaria (sexual orientation), Cuba (sexual orientation and gender identity), and Spain (sexual orientation, gender identity and gender expression). Increasing the prospect for future progress, various bills with differing scopes and protected categories were introduced or discussed in several UN member states and subnational jurisdictions.

However, instances of backtracking on anti-discrimination protections have been observed in several UN member states as well. For instance, in Georgia, a proposed bill aims to remove gender identity and gender expression from existing anti-discrimination laws. In Portugal, a law aimed at ensuring protections for gender identity and expression in education was vetoed by the President. South Korea has witnessed initiatives in three of its provinces aimed at repealing protections based on sexual orientation and gender identity within educational settings. Additionally, in Spain's Community of Madrid, there has been concerning backtracking where protections based on gender identity and gender expression have been replaced with "transsexuality condition". And in the United Kingdom, a regressive proposal sought to interpret the term "sex" exclusively as "biological sex" in the Equality Act.

### 5. Hate crime legislation

**While very limited progress was noted, there is potential for further advancement in the coming years as multiple UN Member States deliberate on hate crime bills.**

Bulgaria and Germany joined the list of UN Member states with hate crimes laws within the temporal scope of this report. Additionally, in the Northern Mariana Islands (USA) a comprehensive hate crime law was enacted, covering sexual orientation, gender identity, and gender expression.

Deliberations on hate crime bills occurred in various UN Member States and one subnational jurisdiction, showcasing a diverse range of initiatives in the Dominican Republic, Ireland, Mexico, Poland, South Africa,<sup>10</sup> Ukraine and Queensland (Australia).

## 6. Incitement to hatred, violence or discrimination

**Despite the urgency to combat hate speech, minimal progress has been made on laws specifically targeting incitement to hatred, violence, and discrimination based on SOGIESC. However, there is potential for future progress, as several UN Member States are currently discussing legislative measures on this matter.**

Bulgaria was the sole country to join the list of UN Member States prohibiting incitement to hatred, violence, or discrimination, albeit only concerning the victim's sexual orientation. Countries currently deliberating on similar initiatives, with varying scopes and protected categories, include Estonia, Ireland, the Philippines, Poland, and South Africa.<sup>11</sup>

## 7. Regulation of so-called “conversion therapies”

**While the number of UN Member States enacting regulations against “conversion therapies” continues to grow, State-sponsored “rehabilitation” appears to be making inroads in Africa and advancing as official policy in Malaysia.**

Between January 2023 and March 2024, there was a noticeable surge in the impetus for regulatory measures targeting so-called “conversion therapies” globally. seven UN Member States, including Belgium, Cyprus, Iceland, Norway, Mexico, Portugal, and Spain, enacted nationwide bans. Additionally, subnational bans were implemented in four UN Member States: Australia, Mexico, Switzerland, and the United States of America.

Furthermore, legislative discussions concerning the issue were underway at both national and subnational levels in several UN Member States. Notably, at least seven nations, including Brazil, Chile, Colombia, Costa Rica, Croatia, the Netherlands, and the United Kingdom, were engaged in national-level deliberations, while four nations, such as Australia, Brazil, Switzerland, and the United States of America, focused on subnational debates.

However, a growing number of troubling legal provisions and public policies target the “treatment” or “rehabilitation” of LGBT individuals. Examples include Malaysia's ongoing implementation of state-led programs for LGBT “rehabilitation”, Uganda's enactment of provisions allowing courts to mandate

“rehabilitation” for convicted homosexuals, and bills in Ghana and Kenya aiming to incorporate similar provisions. Additionally, Russia's issuance of a Ministerial Order authorising the deployment of sexologists to address “sexual identity and sexual preference disorders” has raised grave concerns.

## 8. Same-sex marriage and civil unions

**Legal protection for same-sex couples continued to grow, primarily in Europe and some parts of Asia. Multiple bills currently under debate reflect the potential for more progress.**

Significant strides have been made in the enactment of rights for same-sex couples. Four UN Member States, namely Andorra, Estonia, Greece, and Slovenia, legalised same-sex marriage, with Nepal issuing an interim order to facilitate such unions. Moreover, Bolivia and Latvia legalised same-sex civil unions, while Japan has seen several prefectures (subnational jurisdictions) follow suit.

The legislative landscape also indicates promising advancements, with at least six UN Member States considering proposals to legalise same-sex marriage, including Italy, Japan, Liechtenstein, Peru, South Korea, and Thailand. Similarly, bills to legalise same-sex partnerships have been proposed in Lithuania, Peru, the Philippines, Slovakia, South Korea, and Ukraine. Additionally, Czechia aims to enhance the rights of existing civil unions through legislative measures.

Moreover, favourable judicial rulings in six UN Member States and two non-UN Member States, juxtaposed with adverse verdicts in at least four UN Member States, underscore the heightened intensity surrounding debates regarding the rights of same-sex couples and the expansion of the concept of “family” across numerous countries.

## 9. Adoption by same-sex couples

**In contexts where same-sex couples enjoy some levels of legal protection, there has been a slight increase in the number of UN Member States legalising adoption.**

The legalisation of adoption by same-sex couples has been formally enacted in two UN Member States: Greece, where both joint and second-parent adoption were legalised, and Estonia, where joint adoption was recognised. Additionally, Taiwan enacted legislation permitting joint adoption for same-sex couples. Progressive strides were seen in at least four other UN Member States. Cyprus has introduced a bill addressing adoption by same-sex couples, while the National Council of Justice in Brazil issued a decision that ensures non-discrimination of same-sex couples in

<sup>10</sup> Following the cut-off date for the production of this report, ILGA World received information confirming the enactment of this bill.

<sup>11</sup> Following the cut-off date for the production of this report, ILGA World received information confirming the enactment of this bill.

adoption processes. Furthermore, judicial decisions in Italy and Israel have signalled advancements in recognising the rights of same-sex couples in adoption matters, despite apparent regressive efforts by the governing party of the former.

## 10. Restrictions on interventions on intersex minors

**Modest legal progress is being made amidst overwhelming silence of legal frameworks regarding interventions on intersex minors across UN Member States. However, there are grave concerns over backsliding in Russia and the United States of America.**

Chile, Spain, and sub-national regions like the Australian Capital Territory and Balears have enacted legal restrictions affirming intersex rights and bodily autonomy. Costa Rica is deliberating similar restrictions.

Conversely, Russia and several US states have regressed with laws that ban gender-affirming care but simultaneously promote interventions on intersex minors. This dichotomy underscores the varied landscape of intersex rights, emphasising the need for comprehensive, rights-based approaches to protect intersex individuals' autonomy universally.

## 11. Legal gender recognition (Gender marker change)

**Several additional UN Member States have adopted legal gender recognition based on the principle of self-identification, alongside notable successes in challenging surgical requirements within diverse court systems, particularly in East Asia.**

**However, these advancements are unfolding amidst an escalating and well-financed global anti-gender movement that is also attaining legal victories.**

Five UN Member States—Ecuador, Finland, Germany, New Zealand, and Spain—along with the subnational state of Yucatán in Mexico, have enacted laws embracing legal gender recognition based on the principle of self-identification. Moreover, Sweden and Queensland, Australia, have streamlined existing procedures to facilitate legal gender recognition.

In several instances, challenges to surgical requirements have resulted in legal victories in courts across different UN Member States. Notably, Japan, Peru, Romania, and South Korea, alongside the jurisdictions of Hong Kong and Taiwan, have seen successful challenges to surgical prerequisites. In Australia's New South Wales, efforts have been made to eliminate this requirement through proposed legislation.

Efforts to establish or amend procedures for legal gender recognition have been actively pursued in multiple jurisdictions. Seven UN Member States—Costa Rica, Czechia, Montenegro, Namibia, South Korea, Thailand, and Vietnam—along with New South Wales, Australia, considered bills aimed at establishing or modifying recognition procedures, each with varying requirements and protocols. However, not all of these endeavours were successful, as some of the proposed bills have already been defeated.

Furthermore, advancements towards the inclusion of non-binary markers have been observed in several countries and subnational jurisdictions. In at least eight UN Member States—Austria, Belgium, Brazil, Colombia, Italy, Mexico, the Netherlands and South Africa—various measures and initiatives towards this aim were observed.

However, amidst these positive developments, regressive actions have been witnessed in certain UN Member States. At least ten UN Member States—Bahrain, Bulgaria, Czechia, Georgia, Hungary, Pakistan, Paraguay, Russia, Tunisia, and the United Kingdom—have shown signs of regression in their approach to legal gender recognition.

## Breakdown of countries per area

### 1. Criminalisation of consensual same-sex sexual acts

- Continued trend towards decriminalisation:
  - Three (3) UN Member States (**Dominica, Mauritius and Singapore**) and one (1) non-UN Member (Cook Islands, **New Zealand**) decriminalised consensual same-sex sexual acts.
  - One (1) UN Member State continued debating a bill to decriminalise (**Sri Lanka**), and in another one (**Lebanon**), a bill to decriminalise, faced severe backlash.
  - One (1) UN Member State (**Venezuela**) repealed provisions criminalising consensual same-sex sexual acts within the military forces.
- Emerging regressive trend (regional):
  - One (1) UN Member State (**Uganda**) imposed the death penalty for consensual same-sex sexual acts.
  - One (1) UN Member State (**Iraq**) criminalised consensual same-sex sexual acts by law (codifying into law the criminalisation that used to exist *de facto*).
  - One (1) UN Member State criminalised “lewd acts” and “violations of decency”, defined as “sexual acts against the current values of the local community” (**Indonesia**), which encompass a wide variety of same-sex acts (slated to come into effect in 2026).
  - Regressive bills were introduced or announced in six (6) UN Member States (**Bahrain, Democratic Republic of the Congo, Ghana, Iraq, Kenya, and Mali**) to either criminalise consensual same-sex sexual acts or increase existing penalties.
  - Debates and discussions to criminalise or aggravate penalties were officially held in four (4) UN Member States (**Burkina Faso, Niger, Tanzania, and Senegal**). Calls from MPs to further criminalise continued to surface in two (2) additional UN Member States (**Egypt and Zambia**).
  - Reports of extreme forms of capital punishment emerged in **Afghanistan** (death by “toppling of the wall”) and **Yemen** (death by stoning and crucifixion).
- Litigation with adverse outcomes in four (4) UN Member States (**Jamaica, Saint Vincent and the Grenadines, South Korea, and Uganda**) and one pending high-profile case with alarming procedural issues in another UN Member State (**Malawi**).

### 2. Restrictions to freedom of expression

- Increasing trend towards enacting general restrictions to freedom of expression (specific wording may vary between the promotion of “homosexuality”, “debauchery”, “non-traditional sexual relations”, etc.):
  - Three (3) UN Member States have formally enacted legal provisions against so-called “promotion” (**Jordan, Kyrgyzstan and Uganda**).
  - One (1) UN Member State (**Russia**) has significantly tightened existing restrictions by designating the “international LGBT movement” as “extremist” and imposing further limitations on “foreign agents”, among other regressive measures.
  - One (1) UN Member State (**Belarus**) has enacted legal restrictions by categorising content related to sexual and gender diversity as “pornography”, thereby criminalising its “promotion” under the Penal Code.
  - In one (1) UN Member State (**Zambia**), authorities announced that anyone found promoting “unnatural offences” or “acts of indecency” would be liable to prosecution in a court of law.

- At least nine (9) UN Member States considered bills that include provisions against so-called “promotion” / “propaganda” (**Bahrain, Belarus, Georgia, Ghana, Indonesia, Iraq, Lebanon, Romania and Uzbekistan**). Additionally, in **Namibia**, a bill specifically targets the “promotion of same-sex marriage”. Similar initiatives were announced in other jurisdictions, including **Kazakhstan, Kenya** and **Transnistria (Moldova)**.
- Increasing administrative restrictions imposed on the media:
  - In at least ten (10) UN Member States, governmental agencies or media oversight bodies issued new regressive directives or measures imposing broad bans on content related to sexual and gender diversity (**Burkina Faso, Cameroon, the Democratic Republic of the Congo, Iraq, Jordan, Malaysia, Mauritania, Morocco, Niger, and Nigeria**)
  - In at least eight (8) UN Member States, media authorities banned films and suspended TV programmes and channels due to references to sexual and gender diversity (**Algeria, Cameroon, Egypt, Iraq, Kuwait, Lebanon, Saudi Arabia, and the United Arab Emirates**).<sup>12</sup>
- Continued trend of associating rainbow-coloured goods with the promotion of homosexuality:<sup>13</sup>
  - In at least eight (8) UN Member States, authorities persisted in seizing, banning, and even destroying rainbow-coloured goods, deeming them to “promote homosexuality” (**Algeria, Democratic Republic of the Congo, Libya, Sudan, Malaysia, Tanzania, Oman and Yemen**).
- Rising trend to ban books and educational content on sexual and gender diversity:
  - In at least nine (9) UN Member States, measures were implemented to ban and confiscate books and educational material perceived as conflicting with moral standards or promoting homosexuality (**Bangladesh, Belarus, Burundi, Egypt, Malaysia, Morocco, Nigeria, Pakistan, and Tanzania**).
  - In at least twelve (12) UN Member States, bills, laws, and specific plans or policies have been developed or enforced to restrict content pertaining to sexual and gender diversity in schools and educational institutions (**Bulgaria, Indonesia, Iraq, Kenya, Morocco, Niger, Paraguay, South Korea, Tanzania, Uganda, United States of America and Zimbabwe**).

### 3. Restrictions to freedom of association

- Persistent legal measures constricting civic space for organisations working on sexual and gender diversity issues:
  - Three (3) UN Member States (**Kyrgyzstan, Russia and Uganda**) have adopted laws that significantly tightened existing restrictions for the registration and operation of civil society organisations.
  - At least six (6) UN Member States considered regressive bills and proposals to increase restrictions (**Burkina Faso, Georgia, Ghana, Kenya, Tunisia, and Zimbabwe**).
  - At least three (3) UN Member States saw regressive judicial decisions (**Uganda, Iraq, Russia**) issued.
- Resistance to progressive judicial decisions:
  - In two (2) UN Member States (**Eswatini and Kenya**), progressive judicial decisions have encountered significant resistance or reluctance to comply.

### 4. Protection from discrimination based on sexual orientation, gender identity, gender expression and sex characteristics

- One (1) UN Member State (**Netherlands**) amended its constitution to prohibit discrimination based on SO.
- Two (2) UN Member States and one non-UN member jurisdiction enacted new legal protections against discrimination:

<sup>12</sup> Nota Bene: The actual number of UN Member States where similar measures were issued is likely higher.

<sup>13</sup> For further information on this trend, see: “[Rainbow Items and the Morality of Colors in Arab Countries](#)”, *Arab Reform Initiative* (retrieved 1 April 2024).



- **Moldova** enacted new legal protections based on SO and GI.<sup>14</sup>
- **Spain** enacted new legal protections based on SC.
- Guernsey (**United Kingdom**), enacted new legal protection based on SO.
- In two (2) UN Member States, subnational entities enacted new legal protections against discrimination:
  - The province of Laguna (**Philippines**) enacted new legal protections based on SO, GI and GE.
  - The Basque Country (**Spain**) enacted new legal protections based on “sexual and gender identity”.
- Three (3) UN Member States enacted provisions that expanded preexisting protections:
  - **Bulgaria** expanded existing legal protections based on SO.
  - **Cuba** expanded existing legal protections based on SO and GI.
  - **Spain** [national level] expanded existing legal protections based on SO, GI and GE.
- In at least nine (9) UN member states, various bills with differing scopes and protected categories were introduced or discussed:
  - **Colombia** (employment discrimination based on SO and GI).
  - **Costa Rica** (comprehensive protection based on GI, GE, and SC).
  - **Japan** (“no unjust discrimination” based on SO or GI) [bill criticised as insufficient]
  - **Kenya** (comprehensive protection for intersex people).
  - **Mexico** [federal level] (comprehensive protection based on GI and GE).
  - **Philippines** [national level] (comprehensive protection based on SO, GI, GE, and SC).
  - **Türkiye** (protection in employment and goods and services based on SO, GI, and GE).
  - **United States of America** [federal level] (comprehensive protection based on SO, GI, and SC).
  - **Venezuela** (protection “in any area of public life” based on SO, GI, and GE).
  - In **Australia**, two (2) subnational jurisdictions introduced bills: Queensland (protection based on SC and GE<sup>15</sup>) and New South Wales (protection based on “sexuality”, which includes “homosexuality”, “bisexuality”, or “asexuality”; and for any person “who lives as a member of another sex”).
- Instances of backtracking with regard to antidiscrimination protections were noted in at least five (5) UN Member States:
  - **Georgia** (bill to remove GI and GE from anti-discrimination law).
  - **Portugal** (law to ensure gender identity and expression in education vetoed by the President).
  - **South Korea**, three (3) provinces (initiatives to repeal protections based on SO in education).
  - **United Kingdom** (regressive proposal to interpret “sex” as “biological sex” only).
  - Community of Madrid (**Spain**) (replaced protections based on GI and GE with “transsexuality condition”).

## 5. Hate crime law

- Two (2) UN Member States (**Bulgaria** and **Germany**) joined the list of countries with hate crime laws for crimes motivated by sexual orientation.
- One (1) non-UN member (Northern Mariana Islands, **USA**) adopted a new hate crime law for crimes motivated by SO, GI, and GE.

<sup>14</sup> Employment discrimination based on sexual orientation was prohibited in Moldova in 2013.

<sup>15</sup> The bill would include “other expressions of the person’s gender, including name, dress, speech and behaviour” within the definition of “gender identity”.

- At least six (6) UN Member States and one subnational jurisdiction deliberated on bills aimed at addressing hate crimes, with varying scopes and protected categories.
  - **Dominican Republic** (inclusive of SO, GI, and GE) [*only applicable to women*].
  - **Ireland** (inclusive of SO, SC, and “gender”, in turn inclusive of trans and gender diverse people).
  - **Mexico** [*federal level*] (inclusive of “sexual preference” and “sexual self-ascrption”<sup>16</sup>).
  - **Poland** (inclusive of SO and GI).
  - **South Africa** (inclusive of SO, GI, GE, SC).<sup>17</sup>
  - **Ukraine** (inclusive of SO and GI).
  - Queensland, **Australia**, (inclusive of SO, GI, GE, and SC).

## 6. Incitement to hatred, violence or discrimination

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- Only one (1) UN Member State (**Bulgaria**) joined the list of countries that prohibit incitement to hatred, and only with regard to the victim’s SO.
- At least five (5) UN Member States are currently deliberating on bills, with varying scopes and protected categories.
  - **Estonia** (to include GI).
  - **Ireland** (SO, SC, and “gender”, inclusive of trans and gender diverse people).
  - **Philippines** (SO, GI, GE, SC).
  - **Poland** (SO, GI).
  - **South Africa** (SO, GI, GE, SC).<sup>18</sup>
  - Queensland, **Australia** (inclusive of SO, GI, GE, and SC).

## 7. Regulation of so-called “conversion therapies”

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- Momentum for regulatory action against so-called “conversion therapies” increased from January 2023 to April 2024:
  - Seven (7) UN Member States enacted nationwide bans (**Belgium, Cyprus, Iceland, Mexico, Norway, Portugal, and Spain**).
  - Four (4) UN Member States where subnational bans were enacted (**Australia, Mexico, Switzerland, and the United States of America**).
  - Bills were under debate at the national level in at least seven (7) UN Member States (**Brazil, Chile, Colombia, Costa Rica, Croatia, Netherlands, and the United Kingdom**).
  - Bills were under debate at the subnational level in at least four (4) UN Member States (**Australia, Brazil, Switzerland, and the United States of America**).
- Indirect regulations were not favoured.<sup>19</sup> No UN Member States enacted such legislation since 2022.
- Increasing number of concerning legal provisions and public policies aimed at “treating” or “rehabilitating” LGBT people. Examples:
  - **Malaysia** continued to implement State-led programmes for LGBT “rehabilitation”.

<sup>16</sup> In Spanish: “auto adscripción sexual”.

<sup>17</sup> Following the cut-off date for the production of this report, ILGA World received information confirming the enactment of this bill by the President of South Africa.

<sup>18</sup> Following the cut-off date for the production of this report, ILGA World received information confirming the enactment of this bill by the President of South Africa.

<sup>19</sup> “Indirect regulations” refer to laws that, even though they do not explicitly target so-called “conversion therapies”, prevent health professionals from legally providing them by prohibiting a diagnosis based on the patient’s sexual orientation or gender identity.

- **Uganda** enacted provisions to permit courts to order “rehabilitation” for convicted homosexuals.
- In **Ghana** and **Kenya** proposals for the “rehabilitation” of homosexuals have been included in proposed or announced bills.
- **Russia** issued a Ministerial Order to deploy sexologists to treat “sexual identity and sexual preference disorders” with regulated forced interventions.

## 8. Same-sex marriage and other forms of civil unions

- Steady progress in the enactment of rights for same-sex couples:
  - Four (4) UN Member States legalised same-sex marriage (**Andorra, Estonia, Greece, and Slovenia**). Additionally, an interim order has been issued in **Nepal** to allow for same-sex marriage.
  - Two (2) UN Member States legalised same-sex civil unions (**Bolivia and Latvia**).
  - In one (1) UN Member State (**Japan**), multiple subnational jurisdictions legalised same-sex unions.
- Bills indicating forthcoming advancements have been deliberated in multiple UN Member States across regions.
  - At least six (6) UN Member States introduced bills to legalise same-sex marriage<sup>20</sup> (**Italy, Japan, Liechtenstein, Peru, South Korea, Thailand**).
  - At least six (6) UN Member States introduced bills to legalise same-sex partnerships (**Lithuania, Peru, Philippines, Slovakia, South Korea, Ukraine**).
  - Additionally, in one (1) UN Member State (**Czechia**), a bill aims to expand the rights granted to existing civil unions (after the same-sex marriage bill was heavily modified).
- Favourable judicial decisions in six (6) UN Member States (**Croatia, Japan, Latvia, Namibia, Peru, South Korea**) and two (2) non-UN Member States (Hong Kong, **China**; Cayman Islands, **United Kingdom**).
- Unfavourable judicial decisions in at least four (4) UN Member States (**India, Lithuania, Panama, Suriname**).

## 9. Adoption by same-sex couples

- Adoption by same-sex couples was legalised in two (2) UN Member States (**Greece**, joint and second-parent adoption; **Estonia**, joint adoption). One (1) non-UN member (**Taiwan**) legalised joint adoption for same-sex couples.
- Progressive developments were observed in at least four (4) UN Member States: **Cyprus** (bill introduced), **Brazil** (decision to ensure non-discrimination of same-sex couples in adoption), **Italy** and **Israel** (judicial decisions).
- Regressive developments were observed in at least six (6) UN Member States (**Czechia, Ghana, Israel, Kazakhstan, Kenya, Latvia**).

## 10. Interventions on intersex minors

- Two (2) UN Member States (**Chile and Spain**) and two (2) subnational jurisdictions (Australian Capital Territory, **Australia**; Balears, **Spain**) approved legal restrictions on interventions on intersex minors.
- In at least one (1) UN Member State (**Costa Rica**) a bill to enact these restrictions has been introduced.
- In one (1) UN Member State (**Russia**) and in multiple subnational jurisdictions in another (**United States of America**), regressive prohibitions of gender-affirming care incorporated specific exceptions that promote interventions on intersex minors.

<sup>20</sup> Brazil has witnessed the introduction of a bill aimed at enshrining same-sex marriage into legislation. Since 2013, same-sex marriage has been legal nationwide following a decision by the National Council of Justice.

## 11. Legal gender recognition<sup>21</sup>

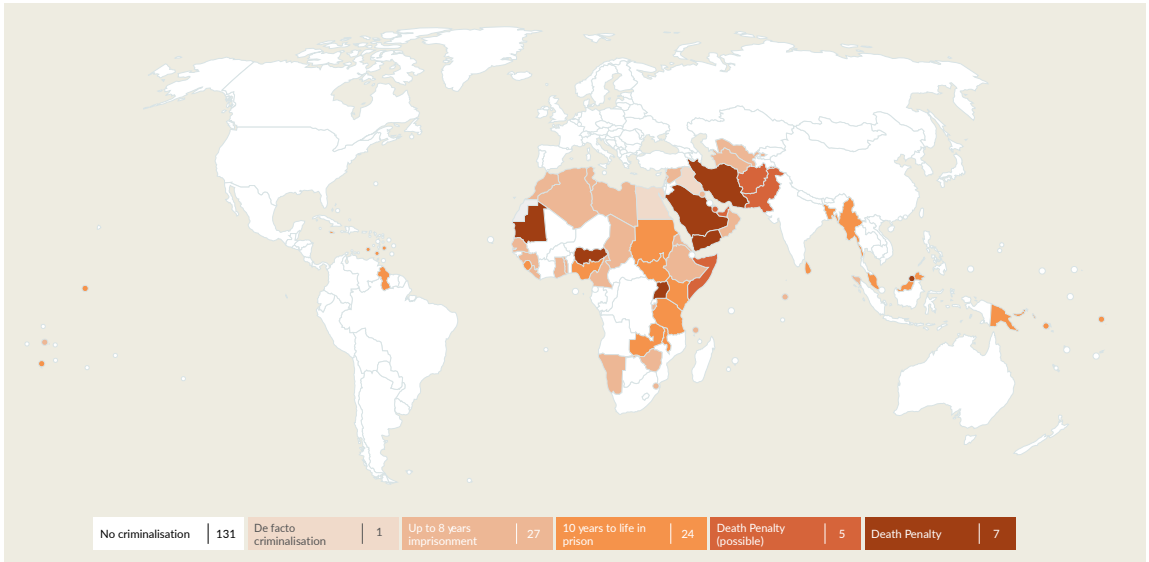
- Five (5) UN Member States (**Ecuador, Finland, Germany, New Zealand,**<sup>22</sup> **Spain**) and one (1) subnational jurisdiction (Yucatán, **Mexico**) enacted laws on legal gender recognition based on the principle of self-identification.
- One (1) UN Member State (**Sweden**) and one (1) subnational jurisdiction (Queensland, **Australia**) adopted laws to simplify and streamline existing legal gender recognition procedures.
- In at least four (4) UN Member States (**Japan, Peru, Romania, and South Korea**) and two (2) non-UN members (Hong-Kong and Taiwan, **China**), surgical requirements were successfully challenged before the courts. In one (1) additional subnational jurisdiction (New South Wales, **Australia**) a bill was introduced to eliminate this requirement.
- At least seven (7) UN Member states (**Costa Rica, Czechia, Montenegro, Namibia, South Korea, Thailand, and Vietnam**) and one (1) subnational jurisdiction (New South Wales, **Australia**) considered bills to establish or amend procedures for legal gender recognition, with varying requirements, markers and procedures.
- Progress towards the introduction of non-binary markers was observed in at least eight (8) UN Member States (**Austria, Belgium, Brazil, Colombia, Italy, Mexico, the Netherlands, and South Africa**) and in at least six (6) subnational jurisdictions (Quebec, **Canada**; Jalisco, Mexico City, Quintana Roo, Tabasco, and Tamaulipas, **Mexico**).
- Regressive developments were observed in at least ten (10) UN Member States (**Bahrain, Bulgaria, Czechia, Georgia, Hungary, Pakistan, Paraguay, Russia, Tunisia, and the United Kingdom**).

<sup>21</sup> For the purpose of this legal category, "legal gender recognition" refers to the legal possibility of amending personal names and gender markers of personal documents.

<sup>22</sup> Passed in 2021, enacted in 2023.

# Criminalisation of Consensual Same-Sex Sexual Acts

**Global Summary** – Despite the ongoing global trend towards decriminalisation, much of Africa and some parts of Asia are experiencing a troubling regression, moving in the opposite direction.



## Top Legal Developments (January 2023 – April 2024)

### Continued trend towards decriminalisation:

- Three (3) UN Member States (**Dominica**, **Mauritius** and **Singapore**) and one non-UN Member (Cook Islands, **New Zealand**) decriminalised consensual same-sex sexual acts.
- One (1) UN Member State continued debating a bill to decriminalise (**Sri Lanka**), and another one (**Lebanon**), a bill to decriminalise, faced severe backlash.
- One (3) UN Member State (**Venezuela**) repealed provisions criminalising consensual same-sex sexual acts within the military forces.

### Emerging regressive trend (regional):

- One (1) UN Member State (**Uganda**) imposed the death penalty for consensual same-sex sexual acts.
- One (1) UN Member State (**Iraq**) criminalised consensual same-sex sexual acts by law (codifying existing *de facto* criminalisation).
- One (1) UN Member State criminalised “lewd acts” and “violations of decency”, defined as “sexual acts against the current values of the

local community” (**Indonesia**) (slated to come into effect in 2026).

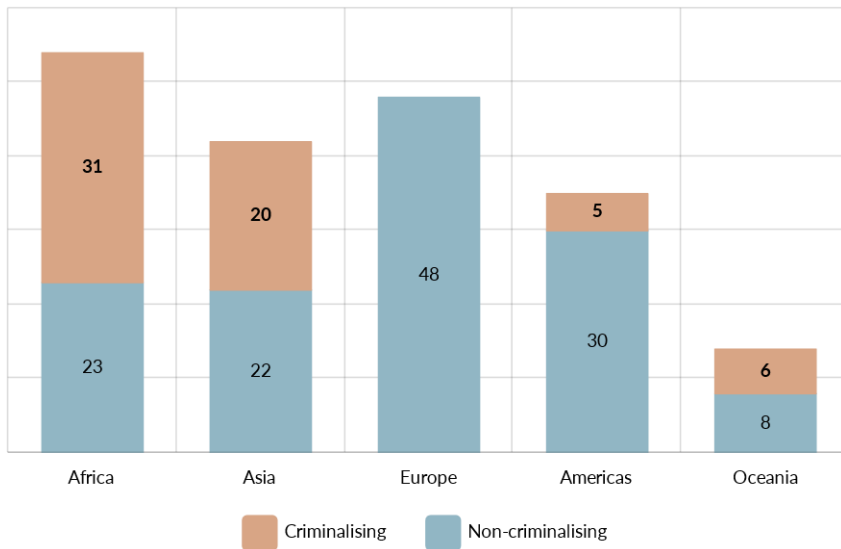
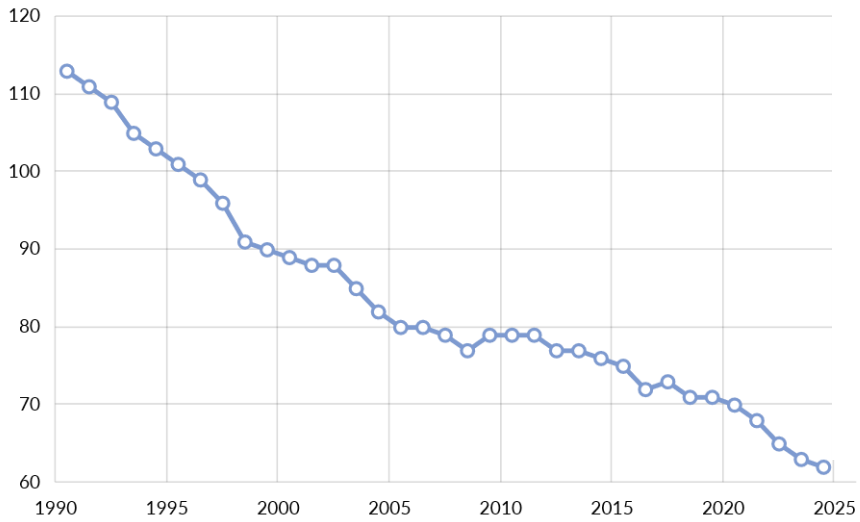
- Regressive bills were introduced or announced in six (6) UN Member States (**Bahrain**, **Democratic Republic of the Congo**, **Ghana**, **Iraq**, **Kenya**, and **Mali**) to either criminalise consensual same-sex sexual acts or increase existing penalties.
- Debates and discussions to criminalise or aggravate penalties were officially held in four (4) countries (**Burkina Faso**, **Niger**, **Tanzania**, **Senegal**). Calls from MPs to further criminalise continued to surface in two (2) additional UN Member States (**Egypt** and **Zambia**).
- Reports of extreme forms of capital punishment being enforced emerged in **Afghanistan** (death by toppling of the wall) and **Yemen** (death by stoning and crucifixion).
- ▶ Litigation with adverse outcomes was observed in four (4) UN Member States (**Jamaica**, **Saint Vincent and the Grenadines**, **South Korea**, and **Uganda**) as well as one pending high-profile case with alarming procedural issues (**Malawi**).

### Global Tallies (UN Member States) – April 2024

**61**  
criminalise by law

**1**  
criminalise de facto

**131**  
do not criminalise



## What do we mean by criminalisation? A reflection on the value of certain tallies and figures in our discourse around the oppression of sexual and gender diversity

*Current regressive trends in several regions evince the need for a more comprehensive approach to criminalisation going beyond the focus on consensual same-sex sexual acts.*

Since 2006, ILGA World has consistently utilised a primary metric to gauge the extent of criminalisation affecting our communities on a global scale, focusing on the prohibition of consensual same-sex sexual acts. This metric remains a pertinent and significant indicator, revealing the extent to which legal frameworks perpetuate persecution and marginalisation against individuals of diverse sexual orientations and gender identities.

ILGA World's report, "Our Identities under Arrest", has unmistakably demonstrated that these provisions, far from lying dormant, are extensively enforced. In addition to reaffirming deep-seated prejudices and their associated indirect consequences, these laws serve as the legal pretext for the deprivation of liberty and, in several UN Member States, even the execution of individuals within our communities.

However, in recent years, more robust and explicit restrictions on freedom of expression and association have been deliberated, enacted, and enforced with notable fervour in numerous UN Member States. This has resulted in a broader array of provisions and legal instruments aimed at suppressing advocacy and discourse concerning sexual and gender diversity, leading to the arrest, imprisonment, and persecution of human rights defenders and LGBT and gender diverse individuals. Under these provisions, the focus of legal action does not revolve around the performance of sexual intercourse or even sexual interaction. It goes beyond sexual activity and targets the sole mention of the existence of LGBT people in a positive light and any advocacy effort towards equality.

ILGA World has consistently asserted that the legality of consensual same-sex sexual acts should not be interpreted as indicative of a safer societal environment. This assertion is grounded in the recognition that, in many jurisdictions where such acts are technically legal, societal stigmatisation of individuals perceived as non-heterosexual or non-cisgender remains prevalent. This premise must now incorporate the need for a more comprehensive approach, affording particular attention to countries where consensual same-sex sexual acts are not explicitly criminalised, but legislation imposing sanctions on freedom of expression and association is either under consideration or being enforced.

In other words, the sustained decline in the number of jurisdictions criminalising consensual same-sex sexual acts, representing a marked global trend, continues to reflect significant legal victories attained by our communities in the pursuit of equality. However, the emergence of regressive laws targeting sexual and gender diversity in other legal domains necessitates an expansion of the analytical scope to attain a more accurate comprehension of the extent of criminalisation and the restrictiveness of domestic legal frameworks.

On a pragmatic level, while ILGA World's map displaying countries criminalising consensual same-sex sexual acts remains an invaluable tool for identifying regions where our communities face legal oppression, it is imperative, now more than ever, to juxtapose this map with those illustrating areas where laws impede freedom of expression and association regarding sexual and gender diversity issues.

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## Legal developments | January 2023 – April 2024

### Africa

#### Algeria

Algeria continued to criminalise consensual same-sex sexual acts through 2023, per Articles 333 and 338 of

the [Penal Code \(1966\)](#), which outlines a prison sentence of between two months and two years, with a fine of 500 to 2000 Algerian Dinars.

ILGA World continues to document instances of enforcement of criminalising provisions by the State, such as in March 2023, where an undisclosed number

of people were arrested in northern Algeria for practising “magic, sorcery and homosexuality”.<sup>1</sup>

Nonetheless, State persecution also materialised significantly through the targeting of any manifestation regarding sexual and gender diversity and the pervasive policing of the dissemination of information, as elucidated in the section concerning restrictions to freedom of expression within this report.

## Botswana

The Penal Code (1964), as amended by the Penal Code Amendment Act (2005), contained several provisions that criminalised consensual same-sex intimacy, such as Article 164, which criminalised “unnatural offences” (defined as “carnal knowledge of any person against the order of nature”) and imposed a punishment of imprisonment for up to seven years. However, such provisions were struck down in *Letsweltse Motshidiemang v. Attorney General* (2019) as those provisions were deemed incompatible with the Constitution of Botswana.<sup>2</sup>

In July 2023, it was reported that Botswana’s Parliament intended to repeal the nullified Article 164 of the Penal Code.<sup>3</sup> However, in August 2023, this parliamentary debate was reportedly shelved due to “public concerns over the introduction of the bill [that] have necessitated further consultation on the matter”.<sup>4</sup>

## Burkina Faso

Though Burkina Faso does not expressly criminalise consensual same-sex sexual acts, ILGA World has been made aware of several instances where State agents have targeted individuals for offences against “decency” or “good morals”.<sup>5</sup>

Furthermore, documented efforts to formally criminalise were observed in 2023. In September, the Official Burkina Information Agency (AIB) reported on the activities of the Transitional Legislative Assembly

(the parliamentary body of Burkina Faso following the coup d’état of 2022), which conducted regional consultations to gather insights into proposed political, institutional, and administrative reforms. Deputies were organised into thirteen operational teams, each entrusted with conducting consultations and gathering information from local stakeholders referred to as the “living forces”. These stakeholders encompassed representatives from civil society, professional organisations, religious authorities, and various segments of Burkinabe society. With over 1,300 participants engaged in these exchanges, offering feedback on the proposed reforms, the deputies synthesised this input and formulated recommendations for the government’s consideration.

Notably, among these recommendations was the explicit proposition to criminalise homosexuality to “fight against sexual deviance, and to deter and prevent the spread of these phenomena contrary to morals, and religious and traditional aspects of Burkinabè society”. Additionally, the recommendations proposed the prohibition of associations advocating for the rights of LGBT people. Subsequently, the Assembly approved a report endorsing these recommendations for the government’s review and potential implementation.<sup>6</sup>

## Burundi

In 2023, Burundi continued to criminalise consensual same-sex sexual acts between adults through Article 567 of Section 5 of the *Penal Code* (2009). ILGA World has documented numerous cases of criminal enforcement in the State, including in February 2023, when authorities in Gitega took into custody 24 people attending an HIV-related educational and advocacy workshop. After ten days in custody, the detainees were charged with “homosexual practices and incitement to homosexual practices” by the Public Prosecutor and transferred to the central prison of Gitega pending trial.<sup>7</sup> In his oral address to the UN Human Rights Council, the UN High Commissioner for Human Rights, Volker Türk, expressed profound concern over this case, characterising it as part of a

<sup>1</sup> For more information and documented cases please check: ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 35-37.

<sup>2</sup> Apart from Article 164, Article 165 also criminalised “attempts to commit unnatural offence with imprisonment for a term not exceeding five years, while Article 167 criminalised “gross indecency”. For more information, see ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts – Botswana*, retrieved on 10<sup>th</sup> October 2023.

<sup>3</sup> “No need for debate, uphold the Court of Appeal decision on LGBTIQ+ rights in Botswana”, *Southern Africa Litigation Centre*, 11 July 2023.

<sup>4</sup> “Botswana Parliament Defers Debate On Controversial Homosexuality Bill”, *AllAfrica.com*, 1 August 2023.

<sup>5</sup> For more information, see: ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 38-39.

<sup>6</sup> “Burkina: les Forces vives recommandent la pénalisation de l’homosexualité” [Burkina Faso: the Living Forces recommend penalising homosexuality], *Agence d’Information du Burkina*, 23 September 2023; “Burkina/Réformes politiques : Les forces vives favorables à l’interdiction de l’homosexualité et à la limitation du nombre de partis politiques”, [Burkina Faso/Political reforms: Vocal forces in favour of banning homosexuality and limiting the number of political parties], *Le Députémètre: Observatoire de l’Activité Parlementaire*, 24 September 2023; “Les Forces vives du Burkina Faso recommandent la pénalisation de l’homosexualité” [The Forces Vives of Burkina Faso recommend the criminalization of homosexuality], *Agence Ivoirienne de Presse*, 26 September 2023.

<sup>7</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 39-41.



“growing agitation against the rights of LGBTIQ+ individuals in many countries, most recently in East Africa”.<sup>8</sup>

The President of Burundi, Evariste Ndayishimiye, responded to this incident with inflammatory remarks, urging “all Burundians to curse [sic] those who indulge in homosexuality because God can't bear it”. Furthermore, he declared that individuals identifying as homosexuals in Burundi should be “expelled and treated as outcasts”.<sup>9</sup> The President's shocking vitriol was reiterated during a conference broadcast on television and radio in the province of Cankuzoin in December 2023, garnering global attention. The President further stated:

If you want to bring a curse on a country, you have to let people of the same sex marry. Remember what happened to Sodom and Gomorrah? God then came to say: ‘I regret having created man’.

Most alarmingly, he added:

Personally, I think that if we see this kind of individuals in Burundi, we should put them in a stadium and lapidate them with stones. And it would not be a sin for those who do it!'.<sup>10</sup>

He further suggested that “proponents” of homosexuality should relocate to Western countries “where such behaviours are accepted”, implying that they are not welcome in Burundi”.<sup>10</sup>

## Cameroon

In 2023, Cameroon continued to criminalise same-sex sexual acts under Section 347-1 of the [Penal Code](#) (2016). ILGA World has documented evidence showcasing consistent enforcement of this provision, encompassing arrests, prosecutions, and subsequent sentences.

Among recent notable incidents are two cases involving lesbian couples detained in January 2023. One couple received a one-year prison sentence, facing potential sentence extensions due to an inability to pay the accompanying fines. The other couple remained in detention without trial until at least May 2023. Instances of prolonged detention without trial and extended sentences for those unable to pay fines are distressingly common in Cameroon, contributing to a disproportionately high number of incarcerated LGBT individuals throughout 2023, some of whose arrests may precede the scope of this report.<sup>11</sup>

## Democratic Republic of the Congo

In April 2024, National Deputy Constant Mutamba proposed legislation aimed at criminalising, among other things, consensual same-sex sexual acts.<sup>12</sup> The bill's rationale, outlined in a comprehensive “statement of reasons”, revolves around cultural preservation, sovereignty protection, and resistance against perceived “neocolonial influences” promoting divergent cultural norms. It contends that homosexuality is incompatible with Congolese heritage, emphasising adherence to the “natural order” and the preservation of “traditional values”. The proposed amendments seek to address perceived moral decay by explicitly criminalising “sexual deviations” within the Penal Code, including consensual same-sex conduct. Furthermore, it is contended that revisions to rape and assault statutes are necessary to extend the criminalisation of homosexuality “in all its splendour”, thereby reinforcing a conception of homosexuality that encompasses both consensual and non-consensual acts.<sup>13</sup>

The publicly disclosed version of the bill proposes the insertion of a fifth section into Title VI of the Penal Code, titled “Homosexual Deviations”. It employs unconventional terminology to define the relevant

<sup>8</sup> “Global update: High Commissioner outlines concerns in over 40 countries”, *Office of the High Commission for Human Rights*, 7 March 2023

<sup>9</sup> “Burundi charges 24 people with 'homosexual practices' in anti-gay crackdown”, *RFI*, 21 April 2023; “Burundis president i våldsam utspel: ‘Utrota homosexualitet’” [Burundi's president in violent outburst: “Exterminate homosexuality”], *QX.se*, 14 March 2023; “Burundis Präsident will Homosexualität verbannen, ‘weil Gott es nicht ertragen kann’” [Burundi's president wants to ban homosexuality 'because God can't stand it!], *Die Presse*, 11 March 2023.

<sup>10</sup> See, among others: “Burundi: President says gay people should be stoned in stadiums”, *Mamba Online*, 31 December 2023; “Perezida Ndayishimiye yasabye abaryamana bahuje igitsina guterwa amabuye” [President Ndayishimiye called for homosexuals to be stoned to death], *IGIHE (Rwanda)*, 30 December 2023; “Burundi president calls for stoning of gay couples”, *Daily Monitor (Uganda)*, 30 December 2023; “Le président burundais, Evariste Ndayishimiye appelle à ‘lapider’ les homosexuels” [Burundian President Evariste Ndayishimiye calls for “stoning” homosexuals], *Sene News (Senegal)*, 30 December 2023; “‘لا بد من رمح المثليين بالحجارة’” [Burundian President: Homosexuals must be stoned], *Sada El Balad*, 30 December 2023; “Burundi's President Ndayishimiye hits out over gay rights and aid”, *BBC News*, 29 December 2023; “Burundi : le président appelle à ‘lapider’ les homosexuels” [Burundi: the president calls for “stoning” homosexuals], *Le Figaro (France)*, 29 December 2023; “Burundis president vil steine likekjønnede par” [Burundi's president wants to stone same-sex couples], *Adresseavisen (Norway)*, 30 December 2023; “同性カップルは公開石打ち刑に処すべき フルンジ大統領” [Burundi president says same-sex couples should be publicly stoned to death], *Yahoo! Japan*, 31 December 2023; “‘Deberíamos ponerlos a todos en un estadio y lapidarlos’, dijo el presidente de Burundi sobre los homosexuales” [“We should put them all in a stadium and stone them,” said the president of Burundi about homosexuals], *Telemundo (Uruguay)*, 30 December 2023; “Lider afričke države: Homoseksualce najbolje odvesti na stadion i kamenovati” [The leader of an African country: Homosexuals are best taken to the stadium and stoned], *Analityka*, 1 January 2024; “Presidente de Burundi pide que lapiden a las parejas homosexuales” [President of Burundi calls for homosexual couples to be stoned], *La Nación (Argentina)*, 30 December 2023; “Burundi's President Says Gay People Should Be Stoned”, *New York Times*, 31 December 2023.

<sup>11</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 41-52.

<sup>12</sup> Nota Bene: At the close of this edition, it could not be confirmed if the bill had effectively been introduced in the National Assembly. ILGA World is actively engaged in verifying this information beyond what Deputy Constant Mutamba provided on his social media accounts.

<sup>13</sup> Bill to Amend and Supplement Decree of 30 January 1940 on the Penal Code, Statement of Reasons (as circulated by MP Deputy Constant Mutamba).

offences. As per Article 1 of the bill, a penalty of up to 10 years in prison and a fine will be imposed on individuals of the same sex who engage in “sexual relations” or “relations of a sexual nature”, “whether in private or within the context of practices associated with any belief system”. Furthermore, “all acts and gestures assimilated to homosexuality” will be subject to the same penalties.<sup>14</sup> The bill also introduces several provisions concerning non-consensual same-sex sexual acts and enhances penalties when an individual of the same sex perpetrates certain crimes.<sup>15</sup>

## Egypt

No law explicitly criminalises consensual same-sex sexual activity in Egypt. However, ILGA World consistently lists the country as having enforced *de facto* criminalisation, including in 2023. The high number of arrests and prosecutions documented primarily rely on the [Law on the Combating of Prostitution](#) (1961), selectively targeting individuals of diverse sexual orientations and gender identities. The main charges brought include “habitual practice of debauchery” (Article 9-c), “publicising an invitation to induce debauchery” (Article 14), and “incitement to debauchery” (Article 1). While these articles provide a maximum of three years’ imprisonment, Bedayaa, a local NGO, notes that some cases could, in some cases, potentially receive up to six years.<sup>16</sup>

Additionally, as explained by Cairo 51, several provisions in the Penal Code can be employed against queer individuals in Egypt, notably Article 269bis, which pertains to the “habitual practice of debauchery” as well as Article 25 of the Cybercrime Law (2018).<sup>17</sup> One of the most alarming enforcement tactics employed by Egyptian authorities in recent years, including in 2023, continued to be entrapment by police officers, where informants lure queer individuals into meetings leading to arrests. Ambiguous legal interpretations regarding its legality further complicate this common tactic.

Against the backdrop of a high number of arrests and a relatively high rate of formal prosecution in Egypt, 2023 also saw at least one parliamentary make public calls

for a law to criminalise the “promotion of homosexuality”.<sup>18</sup> Political figures periodically reintroduce these attempts with the support of religious and media-oriented groups. ILGA World has documented such attempts to aggravate penalties or formally criminalise same-sex sexual acts in the past, such as the 2019 introduction of a bill which sought to aggravate Article 14’s punishment of “debauchery”, and to define debauchery to expressly include “sodomy”.<sup>19</sup>

## Equatorial Guinea

Though Equatorial Guinea does not formally criminalise same-sex sexual acts, ILGA World has identified a trend of state actors targeting suspected LGBTQ individuals and human rights defenders. Local organisations have pointed out that the Law of Vagrants and Crooks (1954), as amended by Law No. 16 (1970), has been used to persecute people of diverse sexual orientations and gender identities.

In 2023, representatives of *Somos Parte del Mundo* informed ILGA World of ongoing arbitrary detentions by “public order” patrols, with the support or acquiescence of the armed forces. It was also reported in 2023 that police raided the home of a transgender man, confiscating all his possessions “in the name of the law”.<sup>20</sup> Additionally, an LGBTQ activist was arrested in August 2023, with local human rights defenders claiming that this was one of several instances of the authorities punishing those who spoke out against human rights violations.<sup>21</sup>

## eSwatini

Eswatini continues to criminalise same-sex acts through an interpretation of Roman-Dutch Common Law as it stood in 1907 but has no explicit provision outlawing such acts.

In February 2023, the King’s spokesperson refuted rumours of a proposed bill to decriminalise consensual same-sex sexual acts.<sup>22</sup>

<sup>14</sup> Original version in French reads: “Tous faits et gestes assimilés à l’homosexualité”.

<sup>15</sup> “RD. Congo : nouvelle proposition de criminalisation de l’homosexualité en vue à l’Assemblée Nationale” [RD. Congo: new proposal to criminalize homosexuality in sight at the National Assembly], 76 Crimes en Français, 3 April 2024.

<sup>16</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 57-66.

<sup>17</sup> Nora Noralla, *A Complete Guide on Laws, Policies and Case Law Impacting the Human Rights of LGBTQ+ People in Egypt* (Cairo 52 Legal Research Institute, March 2024), 9.

<sup>18</sup> “برلماني يطالب بإصدار تشريعات عربية لتجريم الترويج للمثلية والشذوذ” [A parliamentarian calls for the issuance of Arab legislation to criminalise the promotion of homosexuality and homosexuality], *Sada El Balad*, 6 August 2023.

<sup>19</sup> ILGA World: Lucas Ramon Mendos, *State-Sponsored Homophobia 2019* (Geneva; ILGA, March 2019), 522.

<sup>20</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 66-68.

<sup>21</sup> “Denuncien la detenció de l’activista pels drets LGTB Melibea Obono a Malabo” [They report the arrest of LGBT rights activist Melibea Obono in Malabo], *VilaWeb*, 21 August 2023.

<sup>22</sup> “More than five(5) of Mswati’s children are Gays, King’s Spokesperson says no Bill to legalize LGBTQ”, *Africa Press*, 24 February 2023.



## Ethiopia

In Ethiopia's [Penal Code](#) (2004), consensual same-sex sexual activity continued to be grounds for imprisonment under Article 629.<sup>23</sup>

Several Ethiopian activists informed ILGA World of an unprecedented surge in violence and incitement to violence against LGBTQ persons in Ethiopia since July 2023, forcing many groups to suspend operations temporarily. Such incitement to violence has also been said to spur online attacks against LGBTI people in Ethiopia in the form of outings, in addition to the physical violence taking place.<sup>24</sup> Videos of attacks by mobs were also allegedly shared across social media, particularly on TikTok. Local organisations such as the House of Guramayle issued statements to the international press identifying the State's complicity in the attacks. These attacks seem to be the result of the Addis Ababa city administration announcing a crackdown on nightclubs, bars and hotels where "promotion of homosexuality" and "homosexual activity" were believed to be taking place.<sup>25</sup> A statement from the office of the city's administration read: "If there is any sympathy towards those who committed and perpetrated this heinous act, hated by man and God, we will continue to take action".<sup>26</sup>

Since then, authorities in the capital city have raided various social venues, including restaurants, guesthouses and other places of entertainment suspected of being involved in "abhorrent acts" of "homosexuality". The general population have also been urged to report such venues to the police. LGBTI advocacy groups from Ethiopia informed ILGA World that the Addis Ababa Police Commission explicitly shared hotlines and telephone numbers for any member of the public to report such businesses and those they suspect to be homosexual.<sup>27</sup> Additionally, the local organisation, Addis Alliance, also received reports about gay men being arrested in the cities of Adama and Bishoftu following the crackdown in Addis Ababa.



## Ghana

Ghana currently criminalises same-sex sexual activity under Section 104(1)(b) of its [Penal Code](#) (1960), as amended in 2003.<sup>28</sup>

Despite this, the [Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill](#) (2021) was introduced in 2021 and later passed the parliamentary vote in February 2024. Section 6 of this bill would increase the minimum prison sentence for those found guilty of "sexual intercourse between or among persons of the same sex" to three years and the maximum to five years and/or a fine. The same provision further prescribes the same punishment for anybody who "marries or purports to marry a person who is of the same sex" or "a person who has undergone gender or sex reassignment, except [surgeries] to correct a biological anomaly, including intersex"; who "provides or participates in the provision of a surgical procedure for sex or gender reassignment" or any other procedure intended to "create a sexual category other than the sexual category of a person assigned at birth".

Notably, a concerning provision within the contents of the bill is the criminalisation of *publicly identifying* (i.e., "holding out") as "a lesbian, a gay, a bisexual, a transgender, a transsexual, a queer, an ally, a pansexual, or a person of any other sociocultural notion of sex or sexual relationship that is contrary to the sociocultural notions of male and female or the relationship between male and female". Historically, sexual acts were the primary target of criminalising provisions; with this bill, the act of simply *identifying* as a sexual or gender-diverse person could put one at risk of being placed in prison—a dire consequence for mere non-conformity to sociocultural norms.

On 31 March 2023, the Committee on Constitutional, Legal and Parliamentary Affairs submitted its report of the bill to Parliament, paving the way for formal debates and an eventual vote.<sup>29</sup> This came after the Ghanaian Attorney General voiced concerns about issues such as violations of the right to privacy, requiring redrafting of the bill. However, the "consensus" between the Committee and the Attorney General appears to have left most of the original bill intact.

In May 2023, a private citizen filed a legal action against the Speaker of Parliament and the Attorney General, challenging the validity of the bill's legislative procedure.<sup>30</sup>

On 5 July 2023, Ghana's parliament unanimously approved advancing the bill to a third and final vote, which would make identifying as LGBTQ punishable by up to three years' imprisonment. People who campaign for the rights of LGBTQ people could also face up to 10

<sup>23</sup> For more information, see: ILGA World, [ILGA World Database: Criminalisation of consensual same-sex sexual acts - Ethiopia](#) (retrieved: 5 April 2024).

<sup>24</sup> "Advocacy groups: Ethiopian government's anti-gay rhetoric spurs social media attacks", *Los Angeles Blade*, 11 August 2023..

<sup>25</sup> "Oparesheni yaanzishwa dhidi ya maeneo yanayodaiva kuendeleza ushoga Ethiopia" [The operation will be launched against the areas allegedly promoting homosexuality in Ethiopia], *Millard Ayo*, 11 August 2023; ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 68-70.

<sup>26</sup> "Etiyopya'da işletmelere "eşcinsel seks" baskını" ["Gay sex" raid on businesses in Ethiopia], *Medyascope*, 11 August 2023.

<sup>27</sup> "علاقات مثلية | إجراء عاجل في إثيوبيا ضد فنادق ودور ضيافة" [Homosexuality | Urgent action in Ethiopia against hotels and guesthouses], *Sada El Balad*, 11 August 2023; "Äthiopien geht gegen „homosexuelle Handlungen“ vor" [Ethiopia cracks down on "homosexual acts".], *Männer*, 14 August 2023; "Police in Ehtiopia beg public to snitch on LGBTQ+ people in anti-homosexuality crackdown", *LGBTQ Nation*, 14 August 2023.

<sup>28</sup> For more information, see ILGA World, [ILGA World Database: Criminalisation of consensual same-sex sexual acts - Ghana](#), retrieved on 29 August 2023.

<sup>29</sup> "Parliamentary committee recommends passage of controversial Anti-LGBTQ bill", *Joy FM*, 4 April 2023.

<sup>30</sup> "Farmer files suit to stop passage of anti-LGBTQ+ Bill", *Modern Ghana*, 9 May 2023.

years in prison.<sup>31</sup> Media outlets reported that the bill's first public hearing began on 10 November.<sup>32</sup> By early February 2024, debates and amendments around the bill remained ongoing, with some media reporting that an amendment was made to bring the penalty for those who "aid, facilitate, encourage, or promote LGBTQ custodians" down from five years in prison to a six-month custodial sentence, meaning allies of the LGBTI community would also be at risk of imprisonment.<sup>33</sup> Unconfirmed reports from around this time claimed that Ghanaian President Nana Akufo-Addo was planning to veto the bill.<sup>34</sup>

On 15 February, it was reported that the Deputy Majority Leader, Alexander Afenyo-Markin, had blocked the third reading of the bill seeking to replace the punishment of incarceration with "community service". He stated that while he was not opposed to the bill outright, he did not believe that incarceration would fix the "behavioural issue" of homosexuality and emphasised the need for "rehabilitation" instead.<sup>35</sup> Despite this, following strong opposition within Parliament, he withdrew these amendments to the bill.<sup>36</sup> On 28 February 2024, the Parliament of Ghana approved the Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill (2024), which, as of March 2024, awaits the President's signature before becoming law.<sup>37</sup>

International organisations have condemned the passing of this law, citing grave concerns surrounding discrimination towards already deeply marginalised communities. The UN High Commissioner for Human Rights and other UN experts are urging Ghana's President to reject the discriminatory bill, saying that the bill would "[tear] at the very fabric of human rights and democracy in the country".<sup>38</sup> The Finance Ministry also reportedly noted that Ghana could lose up to 3.8 billion USD from the International Monetary Fund (IMF) over the next five to six years due to internal IMF policies that prohibit discrimination based on personal characteristics if the bill becomes law.<sup>39</sup>

Following such internal pressure to sign the bill into law and external pressure to reject it, it was reported in late March 2024 that the President's office submitted an official letter to Parliament to refrain from sending the

bill for presidential assent. Reportedly, such a delay has been requested until legal challenges to the bill have been resolved. This includes the challenge initiated in May 2023 and another challenge in the Supreme Court to the law's passage on the grounds of insufficient parliamentary quorum.<sup>40</sup>

In a continued attempt to crack down on LGBTQ people, the Ghana Education Service issued an updated version of the [Code of Conduct for Students in the Pre-Tertiary Levels of Education in the Ghana Education Service](#) (2024). This code saw the inclusion of a clause categorising sexual acts between students of the same sex as "misconduct" warranting "disciplinary action". Local activists have claimed that this addition is intended only to stifle LGBT students and legitimise discrimination against them, as all sexual acts between students had already been classified as misconduct, regardless of gender.<sup>41</sup>

Moreover, in recent years, ILGA World has identified multiple documented instances of criminal enforcement by State actors, which (along with broader hate crimes committed by the public) are often violent and seem to spike in relation to media or political discourse around LGBTIQ+ issues and legislation.<sup>42</sup> One example from 2023 is a video which surfaced on the internet in March, revealing a pastor in Somanya propositioning a sexual encounter with another man, culminating in an arrangement to meet at a remote location. When the pastor arrived at the agreed spot, he was confronted by the young man and two accomplices, who subjected him to assault and demanded a sum of money that he was unable to provide. Subsequently, the Eastern Regional Police intervened, arresting both the pastor and the other individual involved.<sup>43</sup>



In March 2023, parliamentarian George Peter Kaluma announced the [Family Protection Bill](#) (2023), which aims to amend the definition of "family" contained in Article 45(2) of the Constitution and Section 162 of the [Penal Code](#) (1930). The draft bill has yet to be gazetted and has not been presented to parliament for debate.

<sup>31</sup> "Parliament to pass anti-LGBTQI bill by Friday", *Adom Online*, 12 July 2023.

<sup>32</sup> "Ghana Parliament heads toward vote on wide-ranging anti-LGBTQ bill", *76 Crimes*, 27 October 2023; "Parliament begins public hearing on LGBTQ+ bill", *Asaase Radio*, 25 November 2023.

<sup>33</sup> "Ghana Parliament Approves New Amendment To Anti-Gay Bill, Proposes New Jail Term For Allies", *Yen*, 8 February 2024.

<sup>34</sup> "Akufo-Addo has indicated to parliament he won't approve current anti-gay bill", *Ghana Web*, 2 February 2024.

<sup>35</sup> "Afenyo-Markin blocks 3rd reading over custodial sentencing", *Joy FM*, 16 February 2024.

<sup>36</sup> "Afenyo-Markin surrenders to Minority pressure, withdraws proposed amendments to anti-gay bill", *Happy Ghana*, 22 February 2024; "Parliament ready to pass Anti-LGBTQ+ Bill", *Ghana MMA*, 23 February 2024.

<sup>37</sup> "Human Sexual Rights and Family Values Bill, 2021 passed", *Ghana News Agency*, 29 February 2024.

<sup>38</sup> "UN experts urge Ghana's President to reject discriminatory bill", *Office of the High Commissioner for Human Rights*, 1 March 2024.

<sup>39</sup> "Ghana Anti-LGTQ+Bill Could Put IMF Funding At Risk, Finance Ministry Says", *VOA Africa*, 4 March 2024.

<sup>40</sup> "Ghana president caught in squabble over anti-LGBTQ bill", *Africa News*, 21 March 2024; "Ghana president won't act on anti-LGBTQ bill before legal challenge resolved", *Reuters*, 19 March 2024.

<sup>41</sup> "Ghana schools adopt anti-homosexuality policy; homophobia flourishes", *76 Crimes*, 16 January 2024.

<sup>42</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 73-78.

<sup>43</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 73-78.

This contentious draft bill came only weeks after the Supreme Court's decision that allowed the formal registration of the National Gay and Lesbian Human Rights Commission (NGLHRC) as a non-governmental organisation.<sup>44</sup> This ruling was also followed by waves of LGBTQ protests by detractor legislators and clerics.<sup>45</sup>

The text of the draft bill would bring harsher penalties for consensual same-sex sexual acts. Those found guilty of such acts could face imprisonment for at least ten years or even the death penalty. Moreover, owners of premises where same-sex sexual activities occur may be fined USD 14,000 or serve a seven-year jail term.<sup>46</sup> As it stands, Kenya already criminalises same-sex acts with penalties of up to 14 years in prison.<sup>47</sup>

Moreover, the announcement of the draft Family Protection Bill takes place against a backdrop of growing calls for the criminalisation of not only same-sex sexual acts but also of "being gay", as expressed by the Secretary-General of the biggest party in the opposition, Senator Edwin Sifuna.<sup>48</sup> Notably, several members of the clergy have been very vocal. In November 2023, the wife of Kenya's Deputy President, a pastor herself, urged Kenyan religious leaders to stand up against same-sex relationships.<sup>49</sup>

In March 2024, marking a year after the announcement of the draft Family Protection Bill, a multi-denominational group of clerics presented a petition to Parliament pledging their support for the bill and warning about an alleged "well-choreographed and well-financed plan to fight laws prohibiting homosexuality".<sup>50</sup>

## Libya

Under Article 407(4) of the [Penal Code](#) (1953), as amended in 1976, consensual "illicit sex" carries a potential punishment of up to five years in prison. Further, Article 408(4) states that whoever "disgraces the honour" of a person with their consent shall be

punished along with their partner. It must be noted, however, that the situation in Libya has remained in flux since the first Libyan Civil War in 2011 and the second in 2014. The details of how various factions on the ground implement legislation or *de facto* rules remain largely opaque to date.

In late May 2023, the General Authority for Endowments and Islamic Affairs, under the internationally recognised Government of National Accord (GNA), launched the "Guardians of Virtue" programme, aiming to "spread values and fortify society against moral deviation". This move has been decried by activists, who have expressed concern that it could be used as a means for Islamist groups to dominate citizens' fundamental rights. The Kun Organisation has claimed that the project "aims to legitimise and structure the ongoing campaign [of targeting]" and to be "the governmental body to pursue LGBTIQ individuals actively".<sup>51</sup>

Several examples of targeting by both the GNA and other *de facto* governments in Libya have been documented in recent years, with several occurring in 2023. On 27 January 2023, it was reported that the General Directorate for Combating Counter Activities and Criminal Acts arrested a group of eight men, of whom six were foreigners, suspected of being part of a "homosexual network". The General Directorate for Combating Counter Activities and Criminal Acts also arrested a gay man in Tripoli, according to a news article from 25 March 2023. Authorities reportedly entrapped him and forced him to confess to having sex with 25 other men.<sup>52</sup> It was reported in December 2023 that the Internal Security Service arrested an unknown number of university students accused of "embracing the ideology of atheism and homosexuality".<sup>53</sup>

In 2023, the Kun Organisation also published the testimony of a young gay man who had been targeted by authorities in Misrata the previous summer. He and some of his friends were socialising at the coast when armed men approached them to interrogate them, accusing them of being gay. They threatened to take

<sup>44</sup> For more information on this case, please refer to the chapter on restrictions to freedom of association.

<sup>45</sup> "Kenya's anti-gay bill proposes 50-year jail term", *Africa News*, 20 September 2023.

<sup>46</sup> "Details of Kaluma's bill on criminalizing LGBTQ", *Kenya Moja*, 9 April 2023.

<sup>47</sup> The Penal Code, as amended by [Criminal Law \(Amendment\) Act](#) (2003), prescribes under Section 162 a prison sentence of up to 14 years for consensual "carnal knowledge of any person against the order of nature". Attempted acts "against the order of nature" are also criminalised under Section 163 with imprisonment for seven years. Section 165 also prescribes a 5-year sentence for men found guilty of "gross indecency". For more information, see ILGA World, [ILGA World Database: Criminalisation of consensual same-sex sexual acts - Kenya](#), retrieved on 29 August 2023.

<sup>48</sup> "There is No Law in Kenya against Being Gay, Senator Edwin Sifuna Says", *Tuko*, 2 February 2024.

<sup>49</sup> "Second Lady Dorcas Gachagua urges religious leaders to stand up against LGBTQ", *Kenya Moja*, 18 November 2023; "Dorcas Rigathi Says Kenya Will Not Bow To Pressure to Endorse LGBTQ Activities", *Tuko*, 7 November 2023.

<sup>50</sup> "Clerics concerned over rise of LGBTQ agenda, urge MPs to probe it", *The Star (Kenya)*, 3 February 2024; "Clerics petition Parliament to ban gay relations", *Standard Digital*, 02 February 2024; "Religious Leaders Petition Parliament Over LGBTQ Agenda In Kenya", *Citizen Digital*, 1 February 2024.

<sup>51</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 85-87.

<sup>52</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 85-87.

<sup>53</sup> "صور | جهاز الأمن الداخلي برئاسة لطفى الحراري يُلقى القبض على عدد من الطلاب والطليات الجامعيين والشباب الليبيين متبني فكر الإلحاد والمتقية والشذوذ الجنسي" [Photos| The Internal Security Service, headed by Lutfi Al-Harari, arrests a number of male and female university students and Libyan youth who embrace the ideology of atheism, homosexuality, and homosexuality.], *Nabd*, 29 December 2023.

them to local militia groups with a history of forced disappearances if they did not cooperate. Still, when one of the young men stood up to them and asserted that they had done nothing wrong, the armed men threatened to shoot them and proceeded to beat them.<sup>54</sup>

## Malawi

Malawi continues to criminalise consensual same-sex sexual acts under Section 153(c) of the *Penal Code* (as amended in 2011).<sup>55</sup> In 2023, the issue of criminalisation garnered widespread attention from the media, religious leaders, and politicians due to a high-profile judicial case involving a trans woman convicted of “unnatural offences” and “obtaining by false pretence” for not disclosing her transgender identity to her sexual partners.<sup>56</sup>

Jana Gonani received an eight-year sentence from a Magistrate’s Court in Mangochi in December 2021. Despite her status as a first-time offender and the classification of the charges as misdemeanours, the court opted against granting her a suspended sentence. This specific decision hinged upon the perceived “gravity” of the charges levied against her. After the verdict, heightened media attention prompted a local civil society organisation to extend legal representation to ensure an appeal before the High Court. Simultaneously, a constitutional referral challenging Sections 153, 154, and 156 of the *Penal Code* was filed.<sup>57</sup> Due to the expected lengthy process, Jana’s legal team requested her release on bail. Still, the Magistrate reportedly refused to sign the necessary documents for a hearing on the bail request.

In January 2023, upon the appointment of the Constitutional Court, a troubling decision was made to consolidate Jana Gonani’s case with another constitutional referral initiated by a Dutch national facing nine criminal charges of sexual abuse and sodomy under Sections 153 and 156 for allegedly molesting students and employees at Timotheos Foundation between January 2018 and April 2020. The

court deemed these cases “similar enough” to warrant joint consideration, although they addressed profoundly distinct issues.

Moreover, throughout the course of this case, additional troubling decisions were made based on the premise that favourable opinions with regard to equality based on sexual orientation or gender identity constitute “bias” allegedly affecting impartiality. In effect, during the initial oral hearing on 27 April 2023, the State’s representative requested the recusal of one judge, alleging that his past public support for “homosexuality rights” would “predetermine the case”. The judge recused himself in response to the petition.<sup>58</sup> Additionally, during witness cross-examination, a medical professional and researcher from the University of Cape Town—presented by Gonani’s lawyers—was accused of “bias”, and State lawyers pressured her to disclose her sexual orientation, resulting in her admission of being a lesbian during the hearing. Consequently, the State Attorney impugned her research results as “they could not be objective” due to her sexual orientation. During the hearings, hostile crowds gathered with placards against same-sex practices, which prompted Gonani’s legal aid team to raise security concerns before the court.<sup>59</sup> Furthermore, in June 2023, several faith groups were admitted as “friends of the court” in the case, including the Catholic Episcopal Conference of Malawi, the Malawi Council of Churches, the Evangelical Association of Malawi, and the Muslim Association of Malawi.<sup>60</sup> The Court concluded hearing the case on 29 August 2023, reserving its judgment for an undetermined date.<sup>61</sup> As of the time of publication, the decision has yet to be rendered.

The hearings for Jana Gonani’s case unfolded amidst heightened media sensationalism and organised demonstrations by Catholic, Evangelical, and Muslim groups, accompanied by reported acts of intimidation against Gonani’s supporters. Religious authorities and the media consistently portrayed the decriminalisation of consensual same-sex acts as a “threat to traditional marriage”, deliberately provoking public outrage and shaping media framing.<sup>62</sup> This mischaracterisation was

<sup>54</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2nd Edition (Geneva: ILGA, November 2023), 85-87.

<sup>55</sup> Additionally, Section 156 of the *Penal Code* criminalises “indecent practices between males”, whether in public or private, imposing a penalty of imprisonment for five years. For more information, see ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Malawi*, retrieved on 11 October 2023.

<sup>56</sup> For a detailed analysis of this case, see: Sebastian Martínez Peralta, “The State of Malawi v. Jana Gonani: A case study on the non-justice of criminalising judiciaries” in ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2nd Edition (Geneva: ILGA, November 2023), 38-39.

<sup>57</sup> Nota bene: In Malawi, there is no institutionalised Constitutional Court as in other countries, but the Courts Act (1958), as amended, stipulates that for matters involving the interpretation and application of substantial constitutional issues, the High Court must sit with an expanded quorum. It is during these instances, often referred to as “constitutional court”, that the High Court assumes this specific role. For more information, see: Mwiza Jo Nkhata, *The High Court of Malawi as a constitutional court: constitutional adjudication the Malawian way* (2020), 3.

<sup>58</sup> “Judge Mambulasa out of same sex case”, *The Nation*, 28 April 2023; “CJ allocates same-sex case another judge”, *The Nation (Malawi)*, 6 May 2023.

<sup>59</sup> “AG satisfied with cross-examination in gay case”, *Malawi 24*, 6 June 2023; “Witness confesses of being lesbian in Court during same s3x case”, *Face of Malawi*, 7 June 2023.

<sup>60</sup> “Clergy, CSOs join same-sex case”, *The Nation (Malawi)*, 6 June 2023.

<sup>61</sup> “Court Finishes Hearing Homosexuality Case”, *Zodiak*, 1 September 2023.

<sup>62</sup> “Malawi Catholic Church condemns same sex marriages”, *Nyasa Times*, 2 May 2023; “BT Synod Reaffirms Stand Against Homosexuality”, *Zodiak*, 22 April 2023; “Malawi: Christen gegen gleichgeschlechtliche Partnerschaften” [Malawi: Christians against same-sex partnerships], *Vatican News*, 24 May 2023;

also evident in submissions to the court by religious groups.<sup>63</sup> Although initial news coverage omitted references to same-sex marriage, public statements from religious figures influenced media narratives, leading to widespread misconceptions. Multiple demonstrations—widely covered by the press—occurred between June and July across various cities, including in Lilongwe, Blantyre, Mangochi, Mzuzu, Zomba, Neno, and Dedza, with Christian and Muslim leaders urging President Lazarus Chakwera, a former evangelical preacher, to resist pressure to legalise same-sex marriage.<sup>64</sup> Several members of the Cabinet, including the Minister of Information and the Minister of Mining, participated in these demonstrations.<sup>65</sup>

After their second plenary in Lilongwe, Catholic Bishops of the Episcopal Conference of Malawi (ECM) issued a statement on 6 July 2023, urging Catholics to “defend the family” by participating in the demonstrations. The Malawi Council of Churches (MCC) also promoted preaching, prayers, and teaching against same-sex unions in July. Press conferences aimed at influencing media coverage blurring the case’s true purpose. A fabricated argument suggested Jana Gonani’s ruling would legalise same-sex marriage and force church leaders to marry same-sex couples in Churches against their beliefs.<sup>66</sup>

In parallel to the demonstrations, speakers and legislators from the Malawi National Assembly commended the Parliament of Uganda for passing the Anti-Homosexuality Law (2023) during an official visit led by the First Deputy Speaker, Madalitso Kazombo. Additionally, the Government Chief Whip from the Malawi National Assembly said, “It is time for Africa to stand up for sovereignty in its values. At times, we lose our focus because of the carrots that are dangled elsewhere, which makes us lose our dignity. I commend your Parliament for paving the way for this decision in Africa”.<sup>67</sup>

During the case hearings, one of the organisations openly supporting Jana’s case had its offices broken into by unknown individuals who stole documents and electronic equipment.<sup>68</sup> The organisation also reported that virtually all media outlets refused to include their testimonies while reporting these events.<sup>69</sup>

In August 2023, a Parliamentary Committee was reported to have drafted a report recommending holding a referendum on the issue instead of leaving the matter to judicial adjudication. Vice Chairperson of the Committee, Victoria Kingstone, stated to the press that this issue “should be left in the hands of Parliament to debate and should report to people to decide in the form of referendum”. Representatives of civil society indicated that “nobody in Malawi, not even LGBT organisations, is talking about same-sex marriage” but about fundamental human rights and stressed that a referendum on this matter would be a waste of time and resources.<sup>70</sup>



Mali currently lacks formal provisions criminalising consensual same-sex sexual activity. However, the present military government seems poised to enact such provisions. In 2023, several announcements were made towards this end, including adopting a new Constitution and the draft texts for a new Penal Code and a new Code of Criminal Procedure.

In March 2023, the President of the Observatory for Elections and Good Governance hailed the country’s new draft Constitution, citing “the fight against homosexuality” as a “major advance” in the text.<sup>71</sup> The final version, approved after a constitutional referendum in June 2023, includes a clause restricting

<sup>63</sup> “Malawi churches to protest against same-sex unions”, *Mamba Online*, 12 July 2023; “Same Sex Marriage On Trial”, *Face of Malawi*, 18 July 2023; “Malawi’s same sex marriages case adjourned to next month”, *Malawi Voice*, 19 July 2023.

<sup>64</sup> Information supplied to ILGA World by the Nyasa Rainbow Alliance.

<sup>65</sup> “Faith groups in Mzuzu march against legalization of same sex marriages”, *Face of Malawi*, 2 June 2023; “Pastors Fraternal Demonstrate against Homosexuality In Dedza”, *Face of Malawi*, 28 June 2023; “Kunkuyu Joins Lilongwe Demos Against Same Sex Marriages”, *Face of Malawi*, 14 July 2023; “Faith community calls on Chakwera to stand against legalising same sex marriages”, *Malawi 24*, 13 July 2023; “Religious groups in Malawi say no to homosexuality - Malawi24”, *Malawi 24*, 13 July 2023; “Religious Leaders in Malawi Protest Same-Sex Marriage”, *Kenya News*, 14 July 2023; “Malawi: ‘Don’t even try it in this country’ - Thousands march against same-sex marriage in Blantyre”, *Ruptly*, 14 July 2023; “Same sex marriages - The Times Group Malawi”, *The Times (Malawi)*, 14 July 2023; “Manifestations anti-LGBTQ au Malawi - Africa Radio” [Manifestations anti-LGBTQ au Malawi - Africa Radio], *Africa Radio*, 15 July 2023; “Kerken Malawi: protesteer tegen toestaan homoseksualiteit” [Churches Malawi: protest against allowing homosexuality], *Reformatorisch Dagblad*, 19 May 2023; “Malawi’s religious leaders rally against same-sex marriage”, *La Croix*, 23 July 2023; “Demos Against Same Sex Marriages Underway In Neno”, *Face of Malawi*, 18 July 2023.

<sup>66</sup> “Malawi cabinet ministers take part in anti-gay demonstrations”, *Malawi 24*, 16 July 2023.

<sup>67</sup> “Catholic bishops endorse nationwide demos against homosexuality”, *The Nation (Malawi)*, 7 July 2023; “Malawi Faith Groups call all faith groups to join it for peaceful march and prayers against legalization of same sex marriages”, *Maravi Express*, 9 July 2023; “Same sex law on trial”, *The Nation (Malawi)*, 9 April 2023.

<sup>68</sup> “Malawian Members of Parliament applaud Parliament for passing Anti-gay law”, *The Guardian (Nigeria)*, 12 July 2023; “Uganda: Malawian Members of Parliament applaud Parliament for passing Anti-gay law”, *ZAWYA*, 12 July 2023.

<sup>69</sup> “Thugs break into office of pro-gay rights group”, *Malawi 24*, 18 June 2023; “Unknown Thugs Plunders LGBT Offices In Blantyre”, *Face of Malawi*, 20 June 2023.

<sup>70</sup> Information supplied to ILGA World by the Nyasa Rainbow Alliance.

<sup>71</sup> “Malawi’s Parliament Recommends Referendum on Same-Sex Marriages”, *Voice of America*, 16 August 2023; “Bunge na viongozi wa dini wakubaliana kufanyika kura ya maoni juu ya ndoa ya jinsia moja” [Parliament and religious leaders agree to hold a referendum on same-sex marriage], *Kenya Moja*, 24 August 2023.

<sup>72</sup> “Projet de nouvelle Constitution : Les avancées et insuffisances constatées par l’Observatoire pour les élections et la bonne gouvernance au Mali” [Draft of the new Constitution: Progress and shortcomings noted by the Observatory for Elections and Good Governance in Mali], *Media Elles*, 6 March 2023.

marriage to one man and one woman but does not include explicit references to criminalisation.<sup>72</sup>

In September 2023, the Council of Ministers endorsed two draft laws regarding the new Penal Code and the Code of Criminal Procedure and sent them to the legislature for ratification.<sup>73</sup> If ratified as proposed, “obscene/lewd acts” (*actes impudiques*) would reportedly cover consensual same-sex sexual acts, aligning with recommendations from previous years’ consultations during the drafting process.

➤ *ILGA World was unable to secure access to a copy of the draft Penal Code as adopted by the Council of Ministers. Consequently, the exact provisions pertaining to consensual same-sex sexual acts, if included, cannot be confirmed at the time of this publication.*

Before this, in August 2022, a national gathering was held to review preliminary drafts of the Penal Code and the Code of Criminal Procedure, coinciding with a high-profile case involving lesbian behaviour within military ranks at a training centre in Ségou. During this event, Minister of Justice and Human Rights Mamoudou Kassogué reportedly labelled homosexuality as “an unnatural relationship”, lacking specific prohibitions under current Malian law. He declared the government’s resolution to impose sanctions on such acts. The assembly tasked with drafting the reforms, comprising members of the Permanent Legislative Commission, reportedly chose the term “lewd acts” to indirectly encompass “any sexual relationship or contact between two people of the same sex”.<sup>74</sup>

## Mauritius

On 4 October 2023, the Supreme Court of Mauritius delivered landmark judgments in two related cases: *Fokeerbux and others v Mauritius* (2023) and *Ah Seek v Mauritius* (2023). These rulings declared Section 250(1) of the Criminal Code, which criminalised “sodomy”, unconstitutional.<sup>75</sup> This provision stipulated that anyone found guilty of “sodomy” could face up to five years of “penal servitude”. In 2007, the Government introduced the *Sexual Offences Bill* (2007), which would have deleted the crime of sodomy (Section 24) and set an

equal age limit of 16 years for sexual acts (Sections 11 to 14). However, the bill was never passed in Parliament.

The *Fokeerbux* decision is the result of a legal action brought forward by four young Mauritians—Najeeb Ahmad Fokeerbux, Vipine Aubeeluck, Imesh Fallee, and Jürgen Soocramanien Lasavanne—who in September 2019 sought constitutional redress from the Supreme Court, contending that Section 250(1) of the Criminal Code violated their fundamental rights and freedoms. According to the Young Queer Alliance, three of the plaintiffs openly declared their sexual orientation while holding public office, marking a groundbreaking development in their respective professions. Notably, these individuals come from diverse religious backgrounds, including Hindu, Christian, and Muslim.<sup>76</sup> Shortly thereafter, in October 2019, Abdool Ridwan Firaas Ah Seek, a 29-year-old activist supported by the local organisation Collectif Arc-en-Ciel and the Human Dignity Trust, filed another challenge before the Supreme Court, which led to the *Ah Seek* decision.

Among the key elements highlighted by these two decisions are the considerations that Section 250(1) of the Criminal Code was contrary to the constitution, violating Section 16, and should accordingly be read to exclude consensual acts from its ambit. Additionally, in *Ah Seek*, the Court noted that Section 250 was not introduced in Mauritius to reflect any indigenous Mauritian values but was inherited as part of colonial history from Britain. Its enactment was not the expression of domestic democratic will but was a course imposed on Mauritius and other colonies by British rule. The court also acknowledged the global trend towards decriminalisation.

## Morocco

In 2023, Morocco continued to criminalise consensual same-sex sexual acts, notably under Article 489 of the *Penal Code* (1963). Discussions on reforming the Penal Code occurred throughout the year, culminating in its finalisation in November 2023.<sup>77</sup> Despite advocacy from local groups for the repeal of Article 489, the amendments did not address this issue.<sup>78</sup> Minister of Justice Abdellatif Ouahbi asserted to the press: “No one

<sup>72</sup> Decret No. 2023-0401/PT-RM du 22 Juillet 2023, portant promulgation de la constitution. Article 9.

<sup>73</sup> Conseil des Ministres du Mali, *Communiqué du Mercredi 11 Octobre 2023 - CM No.2023-42/SGG* (2023); Republic of Mali, Ministry of Justice and Human Rights, *Dixième Conférence des Etats parties à la Convention des Nations-Unies contre la corruption* [Tenth Conference of States Parties to the United Nations Convention against Corruption] (December 2023), 2; “Projet de code pénal : nouveau visage de la justice ?” [Draft criminal code: the new face of justice?], *Journal du Mali*, 19 October 2023.

<sup>74</sup> “Mali: l’homosexualité bientôt interdite et sanctionnée” [Mali: homosexuality soon banned and sanctioned], *Mali Actu*, 26 August 2022. See also: “Projet de code pénal : nouveau visage de la justice ?” [Draft criminal code: the new face of justice?], *Journal du Mali*, 19 October 2023.

<sup>75</sup> “La sodomie dépénalisée, PILS salue une victoire historique” [Sodomy decriminalized, PILS hails a historic victory], *Maurice Info*, 7 October 2023; “Cour suprême : criminaliser la sodomie consensuelle entre adultes est anticonstitutionnel” [Supreme Court: Criminalizing consensual sodomy between adults is unconstitutional], *Le Defi*, 4 October 2023; “LGBTQIA+ : Conseil des Religions affirme qu’il « est important de reconnaître que l’homosexuel est aussi notre prochain »” [LGBTQIA+ : Council of Religions affirms that “it is important to recognize that homosexuals are also our neighbors”], *Inside News*, 7 October 2023.

<sup>76</sup> “Mauritius: LGBTQ people no longer criminalised”, *Young Queer Alliance*, 4 October 2023.

<sup>77</sup> “Réforme du Code pénal : finalisation des 457 modifications et consultation en cours”, *Les Eco.ma*, 2 November 2023.

<sup>78</sup> “LGBTQ+ : l’association Akaliyat demande à participer au débat sur la réforme du Code pénal” [LGBTQ+: the Akaliyat association asks to participate in the debate on the reform of the Penal Code], *Telquel.ma*, 19 June 2023.



can legalise homosexuality in Morocco. We remain a Muslim country". He emphasised that the reform of the Penal Code was a government initiative supported by the majority. Accused by his detractors of aiming to "legalise debauchery and corrupt society" through the Penal Code reform, Ouahbi clarified that he had not proposed abolishing legal proceedings for extramarital sex either.<sup>79</sup>

There is abundant evidence of enforcement of provisions criminalising consensual same-sex sexual acts by State agents in recent years, including in 2023. Activist testimony and older statistics made public by the Moroccan government indicate that these probably represent only a tiny fraction of the total number. Examples of such enforcement from 2023 include the January case of two men in the town of Driouch who were arrested after the Royal Gendarmerie received complaints from the neighbourhood's residents. Both men were sent to Silwan Prison on charges of homosexuality. Two more men were reportedly arrested in March near the town of Oulad Taima. In April 2023, the Royal Gendarmerie raided a villa on the outskirts of Casablanca after complaints from the neighbouring residents regarding a "suspicious" party and heavy noise from a loudspeaker. Local media reported that the party was composed of "lesbians and homosexuals", "men dressing like women", and "perverts". Between 80 and 100 people were reportedly arrested during the raid.<sup>80</sup> In the latter half of 2023, four individuals were arrested in Marrakesh by the Judicial Police in September for "homosexuality and drug use", and in December, an Al-Hociema Court reportedly sentenced two men to three years in prison for engaging in same-sex sexual acts.<sup>81</sup>

Furthermore, in 2023, the local group "Akaliyat" conducted a community-driven study involving 248 individuals to investigate the needs of local communities, including with regard to the enforcement of legal provisions criminalising consensual same-sex sexual acts. Results indicated that 29% of participants had been arrested by local authorities, with over half attributing their arrest to "suspicions of homosexuality". Other reasons included gender expression, self-

defence, and identity verification. Trans and non-binary individuals were twice as likely to be arrested compared to others. Those earning over 8,000 Moroccan Dirhams (around USD 800) per month were less likely to face charges or arrests. Notably, access to legal representation was limited, with only 15.3% receiving assistance and nearly half declaring they had to finance legal expenses personally. In contrast, others relied on support from friends, family, or NGOs.<sup>82</sup>

## Namibia

Currently, Namibia *de jure* criminalises consensual same-sex sexual acts, as evidenced by Article 299 of the [Criminal Procedure Act 25](#) (2004). This provision initially stemmed from Roman-Dutch law in South Africa and was incorporated into Namibian law upon the nation's independence in 1990. While some public officials have endorsed decriminalisation, no legislative updates have been enacted.<sup>83</sup>

Litigation challenging the criminalisation of consensual same-sex sexual acts continued in 2023. The case, initially filed in June 2022 by Friedel Dausab, a gay Namibian man, challenges the compatibility of the common law sodomy offence and related offences with his rights under the Constitution of Namibia.<sup>84</sup>

In February 2023, media reports indicated that the Attorney General submitted an affidavit to the Windhoek High Court, arguing that a majority of Namibians still reject homosexuality and, thus, "sodomy" laws should remain in force. He stated:

I deny that the mere existence of the sodomy law promotes the stigmatisation of gay men. If these men suffer any stigma, it is in consequence of their choice to engage in sexual conduct considered to be morally taboo in our society.<sup>85</sup>

On 31 October 2023, the three judges of the Windhoek High Court reportedly reserved their judgement on the case until 17 May 2024.<sup>86</sup>

<sup>79</sup> "Personne ne peut légaliser l'homosexualité au Maroc", *Bladi.net*, 22 June 2023.

<sup>80</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 92-97.

<sup>81</sup> "إيقاف 4 أشخاص من بينهم أجنبي بسبب الفتنوة الجنسي بمرآكش" [4 people, including a foreigner, were arrested for homosexuality in Marrakesh], *Kech 24* (Morocco), 16 September 2023; "إدانة متهمين بالمثلثة الجنسية بالحسيمة" [Conviction of two accused of homosexuality in Al Hoceima], *Assabah* (Morocco), 17 December 2023.

<sup>82</sup> "Study Of The Needs Of Sexual And Gender Diversity Population In Morocco", *Association Akalyat*, 19 January 2024.

<sup>83</sup> In 2016, John Walters, the Ombudsman of Namibia, said while referring to anti-sodomy legislation that "I think the old sodomy law has served its purpose. How many prosecutions have there been? I believe none over the past 20 years. If we don't prosecute people, why do we have the [A]ct?". In May 2021 the Law Reform and Development Commission submitted two reports to the Minister of Justice, which among other areas of reform recommended the decriminalisation of consensual same-sex sexual acts. The Minister stated that she would be submitting the recommendations to Cabinet for consideration, though no further updates have been made public. For more information, see ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Namibia*, retrieved on 21 September 2023.

<sup>84</sup> "Namibia: Case before the High Court", *Human Dignity Trust*, 23 July 2022.

<sup>85</sup> "Attorney-General says sodomy law should stay", *Namibian Sun*, 13 February 2023; "Attorney general says homosexual conduct is 'immoral and unacceptable'", *The Namibian*, 21 February 2023.

<sup>86</sup> "Urteil zu Sodomie-Gesetzgebung im Mai 2024" [Verdict on sodomy legislation in May 2024], *Hit Radio*, 2 November 2023; "Namibia: Ruling On Sodomy Law Reserved for May 2024", *All Africa*, 1 November 2023.



In January 2023, the then President of Niger, Mohamed Bazoum, discussed the need for reform in the country's Criminal Code in a local radio interview. He mentioned ongoing efforts to establish a multi-disciplinary panel for this purpose and asserted that the future Penal Code would include a dedicated section on homosexuality. Bazoum clarified that homosexuality would be criminalised, with public displays of affection considered a separate offence. Additionally, he outlined penalties for those convening, hosting, or funding "gay clubs" or advocating for the rights of LGBT people. Moreover, participation in same-sex marriages would result in life imprisonment or even the death penalty.<sup>87</sup> Debates and discussions on criminalising consensual same-sex sexual acts gained momentum in late 2022 in Niger after a court in the region of Maradi reportedly acquitted two young lesbian women initially charged with indecent exposure in October 2022, as homosexuality was not formally deemed a crime. However, they were sentenced to two years in prison for sharing explicit videos on social media, allegedly depicting their "lesbian acts". Responding to their acquittal on same-sex charges, MP Nana Djibouti Harouna proposed a bill to Parliament to formally criminalise consensual same-sex sexual acts. During a press conference in the capital, Niamey, the MP explained that the decision was intended to safeguard the "rights and interests of the public" and characterised homosexuality as "a problem affecting society".<sup>88</sup>

Later, in July 2023, the Presidential Communication Office indicated that the new Penal Code would introduce penalties for consensual same-sex sexual acts. A Committee formed by the Ministry of Justice was tasked with reviewing and adapting both the Penal and Criminal Procedure codes. The revision process involved scrutinising 304 of the 408 articles in the codes, reportedly incorporating about a hundred new articles to address various offences. According to this official source, these additions included provisions imposing penalties on consensual same-sex sexual acts and others categorised as "indecent acts". As reported by the Nigerien Government Official News Agency, the Committee's President affirmed the adoption of these

reform proposals and reassured the public that the code included severe sanctions against engaging in "indecent acts", having same-sex relations, marrying a person of the same sex, officiating, or organising same-sex marriages, and supporting homosexual organisations or events. He stressed that such practices would be "permanently prohibited" in Niger, underscoring the committee's stance on what they deemed "immoral and unnatural".<sup>89</sup>

On 26 July 2023, Niger experienced a coup d'état as the presidential guard detained President Mohamed Bazoum. Following this, a military junta assumed control, implemented a curfew, and suspended all political party activities. The impact of the coup on the fate of the bill criminalising homosexuality remains uncertain. Notably, the junta has explicitly expressed opposition to any discussions or dissemination of ideas related to sexual and gender diversity (see chapter on freedom of expression).

## II Nigeria

Nigeria continued to criminalise consensual same-sex sexual acts under a complex patchwork of laws, including federal, state, and customary laws. At the federal level, the [Criminal Code Act \(2004\)](#) and the [Penal Code \(Northern States\) Federal Provisions Act \(1959\)](#) criminalise same-sex sexual acts. Twelve Northern states have adopted Sharia Penal Codes, prescribing the death penalty and corporal punishment for same-sex activity and criminalising diverse gender expressions. Moreover, the [Same-Sex Marriage \(Prohibition\) Act \(2013\)](#) prohibits same-sex marriages and civil unions, but Section 7 defines civil unions broadly, criminalising diverse forms of same-sex relationships. Public displays of "same-sex amorous relationships" are also criminalised.<sup>90</sup>

In 2023 and early 2024, ILGA World documented several instances of enforcement of these provisions, some of which included large groups of people being arrested in raids.<sup>91</sup>

On 25 January 2024, the Nigeria Police Force, Nigeria's primary law enforcement and principal security agency,

<sup>87</sup> "Le Niger s'apprête à criminaliser l'homosexualité, prévoyant jusque la peine capitale pour le" [Niger is preparing to criminalize homosexuality, even providing for the death penalty for], *Adheos*, 25 January 2023; "Niger leader plans to outlaw gay sex, execute married same-sex couples", *76 Crimes*, 24 January 2023; "Le Niger s'apprête à criminaliser l'homosexualité, prévoyant jusque la peine capitale pour le « mariage gay »" [Niger is preparing to criminalize homosexuality, even providing for the death penalty for "gay marriage"], *STOP homophobia*, 24 January 2023.

<sup>88</sup> "NIJAR: 'Yar Majalisar Dokoki Ta Bukaci Samar Da Dokar Hukunta Masu Yayata Batsa A Kafofin Sada Zumunta", *VOA Hausa*, 18 October 2022; "Kudurin dokar hukunta 'yam madigo da luwadi a kasar Nijar", *Aminiya (Nigeria)*, 25 October 2022; "Niger lawmakers want gay relationships criminalised", *The Star (Kenya)*, 10 December 2022; "Niger wants same sex relationships criminalised", *Citi News Room*, 11 December 2022; "Niger lawmakers want gay relationships criminalised", *The Star (Kenya)*, 10 December 2022.

<sup>89</sup> "Niger : Un nouveau code pénal en étude envisage des sanctions contre l'homosexualité" [Niger: A new penal code in study envisages sanctions against homosexuality], *Agence Nigérienne de Presse*, 12 July 2023; "Niger : Un nouveau code pénal en étude envisage des sanctions contre l'homosexualité (comité)" [Niger: A new penal code in study envisages sanctions against homosexuality (committee)], *A Niamey*, 14 July 2023.

<sup>90</sup> For further details, see: ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Nigeria* (retrieved: 1 March 2024).

<sup>91</sup> See, among others: "Security forces carry out mass arrest over 'gay wedding'", *First News (Nigeria)*, 24 October 2023; "21 out of 76 persons arrested in Gombe are homosexuals – NSCDC", *Nigerian Tribune*, 3 November 2023; "Hisbah arrests 8 drags 'cross dressers' in Kano", *Radio Nigeria*, 31 October 2023; "Nigeria. Les autorités doivent cesser leur chasse aux sorcières après l'arrestation de plus de 70 personnes lors d'une «fête gay»" [Nigeria. Authorities must stop witch hunt after more than 70 people arrested at 'gay party'], *Amnesty International*, 27 October 2023; "Police, Others Target LGBTQ+ People In Nigeria With Same-Sex Prohibition Law, Ignore Abuses Against Them –Activists", *Sahara Reporters*, 27 October 2023; ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 106.

issued a press release in response to a social media video where several individuals disclosed their LGBTQ identities. The statement announced arrest orders against all persons featured in the video and provided explanations on the legal framework regarding “unnatural offences” and “same-sex marriage” in Nigeria, implying that “identifying as queer” was unlawful. The Police Force also urged Nigerians to report “all suspicious activities related to unnatural offences or same-sex marriage” and provide crucial information to aid police efforts to enforce the law. Local groups criticised the statement for, among other reasons, stretching the scope of the legislation in force.<sup>92</sup>

## Senegal

In Senegal, consensual same-sex sexual acts remain illegal under Article 319 of the [Penal Code](#) (1966), punishable by imprisonment ranging from one to five years and a fine. However, in April 2023, a new bill aimed at further criminalising such acts was proposed to the National Assembly. This bill sought to intensify existing penalties for those engaging in “acts against nature” with individuals of the same sex.<sup>93</sup>

However, the bill was ultimately rejected by the Bureau of the National Assembly. Nevertheless, the lack of success of the bill was not grounded in human rights concerns but rather because the targeted acts were “already illegal”, rendering the proposed law “insignificant in reality”.<sup>94</sup> In this line, it’s crucial to note that the President of Senegal and multiple public authorities have made it clear in the past that homosexuality would not be decriminalised in Senegal.<sup>95</sup> The last iteration of these statements took place in January 2024, when Senegal’s Minister of Justice, Aïssata Tall, reaffirmed at the United Nations Human Rights Council in Geneva the country’s stance on LGBT rights, stating:

I wish to solemnly reiterate Senegal's position: we categorically reject any legalisation concerning LGBT matters.<sup>96</sup>

The legal provisions that criminalise consensual same-sex sexual acts continue to be actively enforced in Senegal. Local organisations have reported an ongoing “hunt” against non-heterosexual and non-cisgender individuals, escalating around 2018.

Moreover, ILGA World noted at least 36 suspected gay men arrested in 2020 alone (though actual numbers are likely to be higher), with more arrests, prosecutions, and sentences handed down in subsequent years.<sup>97</sup>

This high level of official hostility—legally backed by criminalising provisions, deeply conservative views on gender and morality, and politically mobilised local detractor groups—creates an environment where threats, assaults, and mob violence against people of diverse sexual orientations and gender identities can take place with little to no intervention from authorities.<sup>98</sup>

## Tanzania

Presently, Tanzania criminalises “carnal knowledge against the order of nature” through the [Sexual Offences Special Provisions Act](#) (1998), which punishes it with “imprisonment for life and in any case to imprisonment for a term of not less than 30 years”.<sup>99</sup>

In the first months of 2023, Tanzania saw a surge in discussions within the government, the Parliament, and among political and religious leaders to criminalise consensual same-sex sexual acts between adults further. In late March 2023, the head of the women’s wing in the Tanzanian government, Mary Chatanda, called for severe punishments, including castration, for same-sex sexual activities.<sup>100</sup> Also, in March 2023, the Vice-President of Tanzania, Philip Mpango, was

<sup>92</sup> Nigeria Police Force, “Press Release: Unnatural Offences, Same Sex Marriage Illegal in Nigeria”, Ref No. CZ.5300-FPRD-FHQ-ABJ-VOL.6-108, January 25, 2024. See also: “Nigerian Police threaten crackdown over viral LGBT TikTok trend”, *Rights Africa*, 19 February 2024; “They’re criminals’ - Police to go after LGBTQ members in Nigeria”, *Daily Post (Nigeria)*, 25 January 2024; “Police Launch Manhunt For Nigerian LGBTQ Members - GWG.ng”, *Green White Green*, 25 January 2024; “Police investigating video featuring Nigerians claiming to belong to LGBTQ community”, *Premium Times (Nigeria)*, 25 January 2024.

<sup>93</sup> “Criminalisation des LGBT: La nouvelle proposition déposée ce jeudi” [Criminalization of LGBT: The new proposal tabled this Thursday], *Senego*, 21 April 2023; “Criminalisation LGBT: « Avis de Bby, PDF, Moussa Diakhaté, mais Mimi et TAS »” [LGBT criminalization: “Notice of Bby, PDF, Moussa Diakhaté, but Mimi and TAS”], *Senego*, 21 April 2023.

<sup>94</sup> “La nouvelle proposition de loi rejetée par le bureau de l’Assemblée...” [The new bill rejected by the office of the Assembly...], *Senego*, 29 April 2023; “Senegal’s Parliament rejects bill to increase penalties for homosexuality”, 76 Crimes, 7 May 2023.

<sup>95</sup> “Macky Sall: ‘jamais, sous mon magistère, l’homosexualité ne sera légalisée sur le sol sénégalais’” [Macky Sall: “never, under my authority, homosexuality will be legalized on Senegalese soil”], *Senego*, 1 March 2016; Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Senegal*, A/HRC/40/5, 24 December 2018, para. 103.

<sup>96</sup> “Conseil des droits de l’homme de l’Onu à Genève : le Sénégal rejette encore l’idée de légalisation de l’Homosexualité” [UN Human Rights Council in Geneva: Senegal still rejects the idea of legalizing homosexuality], *Press Afrik*, 23 January 2024; “«Le Sénégal exclut toute idée de légalisation sur la question des LGBT», selon Me Aïssata Tall SALL.” [“Senegal excludes any idea of legalization on the LGBT issue,” according to Me Aïssata Tall SALL.], *Adheos*, 7 February 2024.

<sup>97</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 108-112.

<sup>98</sup> *Ibid.*

<sup>99</sup> “Carnal knowledge against the order of nature” was first punished under Section 154 of the [Penal Code of Tanzania](#) (formerly, Penal Code of Tanganyika) (1930) with imprisonment for up to 14 years until it was amended in 1998. For more information, see ILGA World, [ILGA World Database: Criminalisation of consensual same-sex sexual acts - Tanzania](#), retrieved on 10<sup>th</sup> October 2023.

<sup>100</sup> “قيادية حزبية تطالب بإخضاع المثليين ‘في تنزانيا’” [A party leader calls for the “castration of homosexuals” in Tanzania], *Hespress*, 20 March 2023.

reported by local media as stating that there had been an “erosion of values” and referred to same-sex marriage as something that “does not even exist for animals”.<sup>101</sup> Other government members, such as the Director of Information Services, Hassan Abbas, and the Vice-Minister for Constitution and Law, Pauline Gekul, also manifested their commitment to effectively banning the promotion of homosexuality and amending current legislation to achieve this aim.<sup>102</sup> Previously, President of Tanzania Samia Suluhu Hassan was also quoted as stating that LGBTI rights are “imported cultures”.<sup>103</sup>

On 11 and 12 April 2023, the parliamentary discussions on the 2023-24 national budget drifted towards a debate on stricter legislation against “the spread of homosexuality”. MP Abubakar Damian Asenga introduced a parliamentary motion calling on the government to “take immediate action” in expanding legislation against same-sex sexual acts. Asenga claimed that existing legislation was “ineffective” as it prohibited “carnal knowledge against the order of nature” but not “homosexuality” per se. He argued that the existing law was difficult to enforce as it often required the infringing of citizen’s right to privacy, and cited draconian new legislation from Uganda as an example of a “better approach” as it would criminalise hotels and other venues where “homosexuality” occurs, and prohibit “propaganda on homosexuality”.<sup>104</sup> Taking these sentiments further, MP Ahmed Katani called for the death penalty for anybody “confirmed to have engaged in homosexual acts” and reportedly went so far as to propose a bill requiring all members of Parliament to undergo examinations to identify those who engage in same-sex acts.<sup>105</sup>

Religious leaders also exerted pressure towards more severe legislation against consensual same-sex sexual acts. On 8 April 2023, Tanzanian media reported that the Christian Council of Tanzania (CCT) had called on Tanzanians “to abstain from homosexual practices, as it is a sin and against the law, culture and tradition of the country”. Moreover, the Bishop of the Anglican Church in the Ruvuma Diocese, Raphael Haule, stated that “Tanzanians should join hands in waging war against homosexuality since it’s not part of the tradition, law and directives of God”.<sup>106</sup>

This crackdown is exemplified by several cases of criminal enforcement identified by ILGA World, with a high number of such cases also being documented in prior years and more recent months. On 7 April 2023, two people from Mugumu were arrested after they

were reported by their landlord, who found them engaging in same-sex acts. The police took the two accused to a local hospital, where they were subjected to anal examinations. On 13 April 2023, another man was arrested after he allegedly contacted another man telephonically, seeking to engage in same-sex acts. After his arrest, he, too, was subjected to an anal examination and was later sentenced to 30 years in prison. Also reported in April 2023 was the case of an individual assigned male at birth but of an unknown identity, who was sentenced to 30 years’ imprisonment for “wearing women’s clothing while walking at midnight”. The Kyela District Court in Mbeya issued the lengthy sentence after the individual admitted “to the crime of allowing unnatural intercourse with men”. The resident Magistrate declared that the severe punishment had been issued “in accordance with the law so that it will be a lesson to other people who have habits contrary to nature”. Moreover, the African Queer Youth Initiative informed ILGA World that at least six gay men and trans women received 30-year prison terms between April and May 2023 after undergoing forced anal examinations and coerced confessions of engaging in same-sex conduct, thereby violating their right to a fair trial.<sup>107</sup>

## Tunisia

The first [Tunisian Penal Code \(1913\)](#) remains in effect and criminalises consensual same-sex sexual acts. Article 230 of the Code prohibits “sodomy” and “lesbianism” and prescribes a penalty of imprisonment of up to three years. Additionally, under Article 226, anyone found guilty of deliberately and publicly “promoting indecency” is liable to six months imprisonment and a fine. Article 226 bis imposes a penalty of six months’ imprisonment and a fine on whoever “publicly undermines good morals or public morals” by gesture or word or intentionally interferes with others in a way that undermines modesty”.

On 2 January 2023, a legal ordeal lasting more than seven years came to an apparent close when the Court of Appeal in Kairouan dismissed a case against a young LGBT activist due to procedural irregularities, including unauthorised police searches of his computer, back in December 2015. Police had raided the house of five university students and a minor in Kairouan without a search warrant on suspicion of terrorism, where they found and confiscated condoms, lipstick, a dress, and a

<sup>101</sup> “Ndoa za jinsia moja zamuibua Makamu wa Rais, atoa tamko 'hata wanyama hawafanyi'” [Same-sex marriage raises the issue of the Vice President, he makes a statement ‘even animals don’t do it’], *Millard Ayo*, 25 March 2023.

<sup>102</sup> “Kauli ya serikali kuhusu mapenzi ya jinsia moja” [Government statement on homosexuality], *East Africa TV*, 14 April 2023; “Marekebisho ya Sheria Kudhibiti ya Ushoga yaiva Bungeni” [Amendment of the Law Controlling Homosexuality was in Parliament], *Tanzania Web*, 17 April 2023.

<sup>103</sup> “Tanzania: MPs seek to tighten anti-LGBT laws”, *Mamba Online*, 14 April 2023.

<sup>104</sup> “Mbunge acharuka wimbi la ushoga ‘Samia, Mpango, Majaliwa mtaulizwa’” [Member of Parliament will jump the wave of homosexuality ‘Samia, Program, Majaliwa will be questioned’], *Tanzania Web*, 11 April 2023.

<sup>105</sup> “Tanzanie : des députés veulent la peine de mort pour les homosexuels - Mayotte la 1ère” [Tanzania: MPs want the death penalty for homosexuals], *Guadeloupe 1*, 15 April 2023; “MPs call for tough on same-sex relations”, *The Citizen (Tanzania)*, 12 April 2023.

<sup>106</sup> “Clerics decry homosexuality”, *Daily News (Tanzania)*, 8 April 2023.

<sup>107</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 116-121.

pornographic video downloaded onto a laptop. The “Kairouan Six” were thus arrested on suspicion of being gay and made to undergo forced anal examinations. They were sentenced to three years’ imprisonment and fines of 400 dinars each (USD 195), as well as being exiled from Kairouan for three years. The sentence was reduced to one month (served) after an appeal, and their ban from the Kairouan area was lifted. In 2018, the Court of Cassation sent the case back for appeal.<sup>108</sup> The ruling signified a major win, but decisions like these are rare in Tunisia. The public prosecutor filed another cassation request, but the Court dismissed the appeal. ILGA World has continued to identify numerous examples of criminal enforcement in recent years, including multiple people being sentenced to prison for consensual same-sex sexual acts or diverse gender expressions. This includes cases where trans and gender-diverse persons are targeted for their appearance, with authorities and media often conflating gender expression and identity with “homosexuality” and, by extension, will punish them under laws against same-sex sexual activity.<sup>109</sup>

In February 2023, Human Rights Watch published a report evincing the digital targeting of lesbian, gay, bisexual, and transgender individuals in several countries in the SWANA region, including in Tunisia. The report documented how State actors utilise social media and dating applications to entrap LGBT individuals, leading to online extortion, harassment, outings and arrests. Illegitimately obtained digital content—such as videos, photos, and chats—has been used in prosecutions, violating rights to privacy and due process.<sup>110</sup>

## Uganda

In 2021, the “Sexual Offences Bill” was passed by Parliament, which listed “sexual act[s] contrary to the order of nature” as one of the sex crimes for which offenders could be imprisoned for up to 10 years and listed on a national sex offender registry. However, the bill was vetoed by President Yoweri Museveni, reportedly because other laws already cover the provisions therein. The [Penal Code \(2020\)](#) also disproportionately targeted sex workers, trans women, and other marginalised groups through areas including 168(1)(c) and 168(1)(d). These provisions against “rogues and vagabonds” criminalised loitering, among

other things, but were declared unconstitutional and therefore void in December 2022 by the Constitutional Court of Uganda in [Francis Tumwesige Ateenyi v. Attorney General \(2022\)](#).<sup>111</sup>

Before the Sexual Offences Bill, the contentious [Anti-Homosexuality Act \(2014\)](#) would have prescribed the death penalty for certain forms of same-sex sexual activity before being revised to “life imprisonment”. The Constitutional Court annulled the law on “procedural grounds”.<sup>112</sup>

On 9 March 2023, the Ugandan Parliament granted leave to allow MP Asuman Basalirwa to table a new Anti-Homosexuality Bill (2023) as a private member’s bill (i.e., a bill moved by a backbench MP, as opposed to a government’s bill). The introductory memorandum for the bill explained that the object thereof was “to protect the traditional family” by “strengthening the nation’s capacity to deal with emerging internal and external threats to the traditional, heterosexual family” by “protecting the cherished culture of the people of Uganda, legal, religious, and traditional family values of Ugandans against the acts of sexual rights activists seeking to impose their values of sexual promiscuity on the people of Uganda” and by “protecting children and youth who are made vulnerable to sexual abuse through homosexuality and related acts”.<sup>113</sup> Basalirwa also described homosexuality as a “cancer eating up the world” and urged legislators to join him in ensuring the establishment of a law to curb it.

The memorandum also explained that the law was supposed “to address the gaps in the provisions of other laws in Uganda, for example, the Penal Code Act, Cap. 120. The Penal Code Act, Cap. 120 has no comprehensive provision catering to anti-homosexuality. It focuses on “unnatural offences” under section 145 and lacks provisions for penalising the procurement, promotion, and dissemination of literature and other materials concerning the offences of homosexuality. As a result, there is a need for legislation to enhance offences relating to homosexuality and clear provisions for charging, investigating, prosecuting, convicting, and sentencing of offenders”.<sup>114</sup>

Particularly concerning, Section 2(1)(d) of this bill featured a definition for the offence of “homosexuality”, which included anyone who “holds out as a lesbian, gay, transgender, a queer or any other sexual or gender

<sup>108</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 125. See also: “Tunisia: archiviato il caso dell’attivista arrestato per “atti omosessuali” nel 2015” [Tunisia: case of activist arrested for “homosexual acts” in 2015 dismissed], *Gay.it*, 5 January 2023; “Tunisie: la justice annule la condamnation d’un militant LGBT+” [Tunisia: justice overturns the conviction of an LGBT + activist], *RFI*, 4 January 2023

<sup>109</sup> For more information and documented cases please check: ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 122-130.

<sup>110</sup> 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)*, 82-84, 90.

<sup>111</sup> “Court kills ‘rogue and vagabond’ laws that target Ugandan sexual minorities”, *76 Crimes*, 14 January 2023.

<sup>112</sup> There were reported plans to reintroduce the bill that imposes the death penalty for “aggravated homosexuality, as there was considerable support from several Members of Parliament, however, the plans to reinstate the bill were denied by the government. For more information, see ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Uganda*, retrieved on 10 October 2023.

<sup>113</sup> “Memorandum: The Anti-Homosexuality Bill”, Bills Supplement No. 3 to The Uganda Gazette No. 16, Volume CXVI (3 March 2023).

<sup>114</sup> “Memorandum: The Anti-Homosexuality Bill”, Bills Supplement No. 3 to The Uganda Gazette No. 16, Volume CXVI (3 March 2023).

identity that is contrary to the binary categories of male and female” [sic], thus criminalising the mere fact of identifying as non-cisgender or non-heterosexual. This clause was later replaced by a definition based on conduct, i.e., when a person “performs a sexual act on another person of the same sex or allows a person of the same sex to perform a sexual act on him or her”.

A report by the Sectorial Committee on Legal and Parliamentary Affairs noted that whereas “homosexuality” as an offence already existed in the Penal Code, there was a need to “redefine” the law to address the “new and emerging matters” not contained in the Code, such as the “promotion of homosexuality” and the alleged “recruitment of children into homosexuality”.<sup>115</sup> The report also incorrectly established that “homosexuality is mainly an acquired and learnt sexual practice, with little or no influence from nature”.<sup>116</sup>

On 21 March 2023, the bill was passed by Parliament following a period of increased hateful rhetoric against sexual and gender diversity in Uganda.<sup>117</sup> However, after the expiration of the 30 days to sign the bill into law, President Yoweri Museveni sent it back to Parliament, requesting amendments based on concerns raised by the Attorney General regarding the bill’s constitutionality.<sup>118</sup>

Subsequently, on 29 April 2023, the Committee on Legal and Parliamentary Affairs announced that they had sent a revised version of the bill back to Parliament for a new vote.<sup>119</sup> On 2 May 2023, the Ugandan Parliament passed the amended bill with a vote of 341-1, and on 26 May 2023, the President signed the bill into law as the *Anti-Homosexuality Act (2023)*.<sup>120</sup>

Section 2 of the Act criminalises any person who “performs a sexual act or allows a person of the same sex to perform a sexual act on him or her” and imposes a penalty of life imprisonment for such acts and ten years imprisonment for any attempt to commit such acts.

The most alarming provision, Section 3, prescribes the death penalty for “aggravated homosexuality”. Many of the subsections in this clause encompass consensual same-sex sexual acts, for example, in cases where the individual convicted is a “serial offender” (which includes anyone with a prior conviction for engaging in same-sex sexual acts between consenting adults) or when “the person against whom the offence is committed contracts a terminal illness”.<sup>121</sup> Furthermore, the death penalty could potentially be used when one

of the adults involved is a person with a disability or of advanced age, regardless of their ability to consent. Minors face three years’ imprisonment if convicted of homosexuality under Section 4 of the law.

Under Section 9, landlords can be sentenced to up to seven years’ imprisonment for allowing premises to be “used for homosexuality” or to commit any other offence stipulated under the Act, which could effectively prevent LGBTI individuals from accessing housing or expose them to evictions. Indeed, local organisations reported numerous cases of individuals suspected of homosexuality being evicted by landlords in the months leading up to and following the adoption of this law.

Despite the absence of legal recognition of same-sex marriage in Uganda, Section 10 imposes a 10-year prison sentence for intending to marry a person of the same sex, as well as for presiding over, attending, or participating in the preparation of a same-sex wedding.

Section 14 establishes a “duty to report acts of homosexuality” to the police in broad terms, providing that “a person who knows or has a reasonable suspicion that a person has committed or intends to commit the offence of homosexuality or any other offence under this act shall report the matter to the police for appropriate action”. The law also provides whistleblower protections for those who report under Section 14(4).

Finally, Section 16 grants courts the authority to order the provision of “social services for purposes of rehabilitating the convicted person”, which may amount to court-ordered “conversion therapy”. The law also includes an extensive prohibition of the “promotion of homosexuality”, which is explained in the chapter about restrictions on freedom of expression.

Hours after the law was enacted, a group of local activists filed a petition—Draft Petition No. 15 (2023)—against the *Anti-Homosexuality Act (2023)* before the Constitutional Court. The petition was based on procedural issues such as inadequate public consultation and multiple violations of the Constitution.<sup>122</sup> ILGA World was informed by local activists that the Attorney General responded in full defence of the Act, maintaining that it was passed with full public participation, that the provisions of the law are not vague, and that consensual same-sex conduct goes against Ugandan values and aspirations among other reasons. In late September 2023, all parties presented their written submissions on the matter at

<sup>115</sup> Office of the Clerk to Parliament, *Report of the Sectorial Committee on Legal and Parliamentary Affairs on the Anti-Homosexuality Bill, 2023* (March 2023), 9.

<sup>116</sup> *Id.*, 21.

<sup>117</sup> “Parliament passes anti-homosexuality bill”, *Nile Post*, 22 March 2023.

<sup>118</sup> “NRM caucus returns the anti-gay bill to parliament”, *The Independent (Uganda)*, 26 April 2023.

<sup>119</sup> “MPs finalize report writing on anti-homosexuality bill after review”, *Daily Monitor*, 29 April 2023.

<sup>120</sup> “Amnesty International: The signing of Anti-Homosexuality Bill is a dark day for LGBTI community”, *Eagle Online*, 31 May 2023.

<sup>121</sup> According to the Act’s definitions contained under Section 1, this provision could be applied to impose capital punishment if one of the individuals involved contracts HIV as a result of the sexual act, given that “terminal illness” is defined as a “disease without a scientific cure.” The original bill aggravated the offense of homosexuality if “the offender is a person living with HIV.” See: “The Anti-Homosexuality Bill”, Bills Supplement No. 3 to The Uganda Gazette No. 16, Volume CXVI (3 March 2023), Section 3(1)(b).

<sup>122</sup> “Mwenda, MP Odoi and nine others ask court to block implementation of anti-gay law”, *Daily Monitor*, 29 May 2023.

the request of the Constitutional Court.<sup>123</sup> It was later reported in November that the Constitutional Court consolidated all petitions and other applications filed by different groups and individuals against the Act to hear them together.<sup>124</sup> Activist Kiggundu Ronald Reagan informed ILGA World that on 28 November 2023, the constitutional court of Uganda set 11 December 2023 as the hearing date for the Anti-Homosexuality Act 2023 and on 3 December 2023, the Constitutional Court of Uganda allowed Pastor Sempa of Makerere Christian Church and Steven Lwanga of Family Life Network to join Attorney General in defending the Anti-Homosexuality Act.

Following the Anti-Homosexuality Act's enactment into law, the Ministry of Health published a [Circular on Provision of Services to All People Without Discrimination](#) (2023) in June 2023, reminding all healthcare workers that healthcare services are to be provided "without any form of discrimination" and that healthcare workers are not to be discriminate or stigmatise any individual who seeks healthcare for any reason, including "sexual orientation". Nevertheless, the local organisation, HRAPF noted that such Ministry directives do not override acts of Parliament, meaning the "duty to report" required by law would still be mandatory where one knows or reasonably suspects that homosexuality has been committed.

Additionally, shortly after the passing of the Anti-Homosexuality Act (2023), a bizarre incident occurred in the Parliament of Uganda, where some MPs vehemently opposed granting tax exemptions for adult diapers meant to assist senior Ugandans. As quoted directly from the Parliamentary Hansard on 4 May 2023, MP Aisha Kabanda stated:

We just passed the Anti-Homosexuality Bill, and we know for a fact that the biggest number of people that use diapers for adults are actually homosexuals. So, when you say diapers for adults, you are going to benefit, to a bigger extent, the homosexuals.<sup>125</sup>

Furthermore, MP Agnes Kirabo expressed, to a round of applause:

These adult diapers could be a result of homosexuals. If we do not tax them, we are going to promote homosexuality.<sup>126</sup>

The response to these arguments was no less shocking. MP Jane Pacuto stated:

When we were debating this bill, we agreed that when a homosexual graduates [sic] to the level where he or she has to use diapers, then it is a medical issue. Therefore, he or she should be treated as an adult.<sup>127</sup>

The Ministry of Finance had asked Parliament to exempt adult diapers on medical grounds, but the measure was defeated.<sup>128</sup> This incident is perhaps illustrative of the degree to which the anti-gay moral panic and paranoia seem to have taken hold over legislators in the country.

In addition to the moral panic, human rights organisations have also documented the extent to which the Anti-Homosexuality Act has impacted the lives of LGBTI people in Uganda since its enactment. A report by Liberty for Marginalized Persons Uganda and Rainbow Advocacy revealed that between the period of January to October 2023, LGBTQ+ persons were subjected not only to state-sanctioned arrests and arbitrary investigations but also evictions, beatings, and blackmails from non-state actors.<sup>129</sup> Other organisations like Rainbow Railroad also saw increased requests for assistance and reported human violations from Uganda following the Act's enactment into law, indicating the real and adverse effects such laws have on sexual and gender minorities.<sup>130</sup>

On 3 April 2024, the Ugandan Constitutional Court upheld most of the draconian Anti-Homosexuality Act (2023). The court's ruling, prompted by petitioners and human rights groups, deemed certain sections of the law unconstitutional. These sections include those criminalising owners of premises being used for the purposes of homosexuality or anyone who knowingly allowed the use of such premises and the duty to report. Specifically, Sections 3(2)(c), 9, 11(2)(d) and 14 of the Act were nullified for being inconsistent with the Constitution as they violated the rights to health, privacy and freedom of religion. However, the ruling does not address other concerning provisions, leaving LGBTQ individuals and allies disheartened in Uganda. Nicholas Opiyo of Chapter Four Uganda stated

While we respect the court, we vehemently disagree with its findings and the basis on which it was reached. We approached the court expecting it to apply the law in defence of human rights and not rely on public sentiments and vague cultural values arguments.<sup>131</sup>

<sup>123</sup> "Court sets rules ahead of anti-gay law petition hearing", *Daily Monitor*, 13 September 2023.

<sup>124</sup> "Court sets date to hear petition against anti-gay law", *Daily Monitor*, 1 December 2023.

<sup>125</sup> Parliamentary Debates (Hansard), *Official Report Second Session - Third Meeting Thursday, 4 May 2023* (2023), 8508.

<sup>126</sup> *Id.*, 8520

<sup>127</sup> *Id.*, 8521.

<sup>128</sup> "MPs claim adult diapers are 'promoting homosexuality'", *Mamba Online*, 8 May 2023; "Biggest No. Of People Who Use Adult Diapers Are Homosexuals"- MPs Impose Tax On Adult Diapers To Curb Homosexuality", *TV 47*, 6 May 2023.

<sup>129</sup> Liberty for Marginalised Persons Uganda and Rainbow Advocacy, *A Report of the Adverse Impacts of Anti-Homosexuality Act 2023 onto the lives and livelihoods of LGBTIQ+ Ugandans*, (Uganda: LMP Uganda; Rainbow Advocacy, December 2023).

<sup>130</sup> Rainbow Railroad, *Rainbow Railroad Update on the Situation in Uganda* (Canada: Rainbow Railroad, June 2023).

<sup>131</sup> "Uganda's Constitutional Court Fails to Repeal the Anti-Homosexuality Act", *Convening for Equality*, 3 April 2024.

On 15 April 2024, a group of human rights activists and advocates appealed to the Supreme Court to oppose the ruling of the Constitutional Court.

- *Due to the timing of the decision's release, which took place subsequent to the cut-off date of this report, ILGA World has been unable to perform a comprehensive analysis of its content and legal implications. We urge our readers to consult the ILGA World Database for forthcoming updates.*

## Zambia

In March 2023, calls for more stringent criminalising provisions and the effective enforcement of existing provisions were made at the National Assembly. One MP specifically highlighted that Zambia relied on “a piece of legislation that talks about the order of nature” and called for the enactment of a law that would “specifically target those who are involved in homosexuality”. In so doing, he also stated that “even those men who are dressing like women must be punished under that law”.<sup>132</sup>

The same month also saw the President of Zambia, Hakainde Hichilema, deny claims that his government was planning on decriminalising homosexuality. Rumours to that end have plagued his administration since before being elected to office, demonstrating the politicisation of this topic in Zambia and the broader region. Hichilema stated that no law would be changed without extensive consultations with the public and encouraged Zambia’s religious leaders to continue preaching against LGBTQ+ identities.<sup>133</sup>

Zambia’s continued criminalisation of persons of diverse sexual orientations and gender identities has, in the past, resulted in real-world arrests, prosecutions and discrimination, continuing into 2023. Between June 2022 and June 2023, for example, three trans women known to ILGA World were detained by police in a number of separate incidents. Two of the women were released after paying bribes. At least one of the women was detained twice and harassed by police numerous times during this period.<sup>134</sup>

## Zimbabwe

Article 73(1) of the [Criminal Law \(Codification and Reform\) Act \(2004\)](#) continued to criminalise anal intercourse between males as well as “any act involving physical contact other than anal sexual intercourse that would be regarded by a reasonable person to be an indecent act” into 2023. For these two types of conduct, the Code imposes a penalty of imprisonment for up to a year and/or a fine.

Several cases of State actors targeting LGBTQ+ individuals and activists have been documented in recent years. For example, on 15 February 2023, an activist in Bulawayo was arrested and questioned by three men identifying themselves as police for organising a social event for queer students. Further details of the incident are not known. In September 2023, two men were reportedly arrested for cohabitation and faced sodomy charges. And in December, a lesbian couple were charged under the Censorship and Entertainment Control Act when a video of the pair having sex leaked online.<sup>135</sup>

<sup>132</sup> National Assembly of Zambia, *Order Paper (2024) Friday, 10 March 2023* (retrieved 1 April 2024).

<sup>133</sup> “HH maintains stance against homosexuality”, *News Diggers*, 15 March 2023.

<sup>134</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 140-141.

<sup>135</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 141-143; “Lesbians arrested after their s3x tape was shared online”, *Linda Ikeji’s Blog*, 4 December 2023.



# Asia

## Afghanistan

Since the Taliban takeover in August 2021 as Afghanistan's *de facto* government, the extent to which the laws of the Islamic Republic of Afghanistan remain in force and how they are considered within the current legal framework of the country has become unclear. However, extreme levels of persecution and violence by representatives of the Taliban and declarations made by Taliban leaders reveal that the criminalisation of diverse SOGIE is an indisputable fact of life in 2024. ILGA World has noted numerous cases in recent years in which Taliban officials enforce harsh penalties, such as the deprivation of liberty, public floggings in stadiums, and even capital punishment. The erosion of the rule of law has also resulted in the absence of due process, with numerous cases involving instances where Taliban members or their associates have resorted to physical violence, sexual assault, psychological abuse, entrapment, public exposure, extortion, public humiliation, and even coerced repentance rituals.<sup>136</sup>

It is impossible at present to accurately determine the actual number of such cases. However, some examples identified from 2023 alone include a January report of nine men who were publicly flogged at a sports stadium in Kandahar Province. The lashings were carried out in front of officials, religious clerics, elders, and local people, with each man being struck between 35 and 39 times. While the Taliban did not disclose the specific crimes of the men, the country's Supreme Court stated that they were charged with robbery and "sodomy", according to a local news broadcaster.

In May 2023, the Afghan LGBT Organisation (ALO) reported that the Taliban Supreme Court had also sentenced 37 people to death by stoning and four more to death by "killing under the wall" for "adultery and sodomy". The ALO has indicated that the four people receiving the latter punishment were accused of "sodomy".<sup>137</sup>

ILGA World is collecting information on four additional cases of mass flogging and imprisonment in the later months of 2023. However, sparse information and conflicting reports make it difficult to verify many details.

## Bahrain

In April 2023, local media reported on a proposed law prepared by MP Mohammed Al-Ma'arafi to impose penalties for "sexual deviance" and to explicitly criminalise consensual same-sex sexual acts with a prison term of no less than six months and a fine.<sup>138</sup> MP Al-Ma'arafi reportedly justified this proposal by referring to society's values and traditions and the principles of Islamic Sharia law. The proposed law aims to address "practical challenges" in prosecuting cases related to "sexual deviance" while also criminalising the promotion and defence of such behaviour.<sup>139</sup>

It was reported that Al-Ma'arafi's amendments were passed by the House of Representatives in February 2024, meaning it will likely proceed to the Consultative Council for consideration next. The amendments, as tabled during the vote, would punish "anyone who commits an act of deviance with a person of the same sex" with imprisonment for not less than six months and a fine of up to 2,000 Dinars (approximately 5,300 USD). Moreover, anyone who "promotes, glorifies, justifies, or encourages acts that constitute an act of deviance with a person of the same sex" would also be punished with imprisonment or a fine. However, the National Institute for Human Rights (NIHR) criticised the bill's wording because it failed to adequately define "acts of deviance". For its part, the Bahraini Lawyers Society—the official professional body for lawyers—reportedly recommended that the Parliament add a provision defining "acts of deviance" as acts "that deviate from the perceived standards of sexual orientation, variations in normal sexual life, unusual sexual practices, or

<sup>136</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 154-157.

<sup>137</sup> *Ibid.*

<sup>138</sup> The Kingdom of Bahrain decriminalised consensual same-sex sexual acts between adults through the current Penal Code (1976), though it is important to note that the Criminal Code could be used to criminalise general public displays of affection, either homosexual or heterosexual. In 2018, in response to a specific inquiry presented by the UN Human Rights Committee concerning reports of individuals being prosecuted for engaging in same-sex conduct under sections of the Penal Code related to "debauchery" and "obscenity", the Bahraini delegation before the United Nations responded: "No trials have been conducted based on gender identity or homosexual behaviour, but they would be if such acts were to take place in public, where they would constitute the offence of a "scandalous act offending public decency" under Article 350 of the Criminal Code, or "indulging in an immoral practice without remuneration" under Article 326 of the Criminal Code. While the formal response did not provide a detailed definition of the term "homosexual behaviour", it may be inferred that its scope extends beyond mere homosexual intercourse to encompass any public display of affection, or any act perceived as challenging heterosexuality in any manner. For more information, see ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Bahrain*, retrieved on 25 March 2024.

<sup>139</sup> "Homo-You-Don't: MPs seek jail sentences, hefty fines for people promoting homosexuality", *Gulf Daily News*, 12 April 2023.

deviations from sexual norms, according to the natural variables of sexual interests, and any sexual acts other than natural”.<sup>140</sup>

These laws arguably would serve only to legitimise and expand existing practices by State actors, as ILGA World has identified several examples of targeting against persons of diverse SOGIE in prior years for “cross-dressing” and “inciting debauchery and public indecency”, to cite some recorded instances.<sup>141</sup>

## Bangladesh

Against this backdrop of criminalisation in the country,<sup>142</sup> prominent political and government figures have also expressed their positions against recognising LGBTI rights in the country through 2023 and early 2024. Most recently, in January 2024, the Home Minister, Azaduzzaman Khan Kamal, said to the media that the government does not recognise transgender individuals, considers their identity as “haram” [forbidden] in Islam, and that no “anti-Islamic” law will be passed in the country.<sup>143</sup>

Despite limited information and resources available to ILGA World surrounding the use of criminalising provisions and state policy to enforce such regulations, reports from Bangladeshi organisations reveal that crackdowns and violence against the LGBTI community remain prevalent. A report published in 2023 on the violence perpetrated against the LGBTI community reveals a concerning number of arrests by law enforcement and members of the public, as well as consistently high levels of violence with up to 51 reported incidents in the form of physical assault, murder, harassment, and arrest among others.<sup>144</sup>

Justice Makers Bangladesh in France (JMBF) informed ILGA World of several cases of arrest carried out by law

enforcement during the reporting period of this publication. For instance, in January 2024, two girls in a same-sex relationship were reportedly taken into police custody after local citizens found that the two were living together in a house in Kalaroa of the Satkhira District in the Division of Khulna. The Kalaroa police officer reportedly confirmed that they were brought into custody and that efforts were made to return them to their respective families.<sup>145</sup>

Other reports also surfaced in March 2024 concerning the detainment of two lesbian couples in the districts of Manikganj and Natore respectively who were handed over to the police by homophobic neighbours. They were reportedly released without being charged, but local activists have criticised such instances as part of a concerning trend of interference in the personal lives and privacy of sexual and gender minorities in Bangladesh.<sup>146</sup>

## India

On 11 August 2023, the Home Minister of India introduced the [Indian Penal Code Amendment Bill \(2023\)](#), a comprehensive code that would replace the existing Penal Code. If passed, the proposed code would repeal offences previously struck down by courts, including Section 377.<sup>147</sup> Though no longer enforceable, the law has not yet been formally repealed.

Prior to the Supreme Court ruling against Section 377 in 2018, the High Court of Delhi at New Delhi had decided in [Naz Foundation v. Government of NCT of Delhi and Others](#) (2009) that Section 377 was unconstitutional. However, in 2013, the Supreme Court quashed this decision in [Suresh Kumar Koushal & Anr v. Naz Foundation and Others](#) (2013), which reinstated the colonial-era law. A curative petition was thus filed in response to this ruling, challenging the reinstatement of

<sup>140</sup> “أخرجية النواب: محبس وغرامة 2000 دينار لمركب أفعال الشذوذ الجنسي أو الترويج لها” [“Foreign Representatives”: Imprisonment and a fine of 2,000 dinars for anyone who commits acts of homosexuality or promotes them], *Al Watan (Bahrain)*, 4 February 2024; “النواب يوافق على تحريم أفعال الشذوذ الجنسي والترويج له” [Representatives agree to criminalize acts of homosexuality and its promotion], *Al Bilad*, 7 February 2024.

<sup>141</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 158-160.

<sup>142</sup> Section 377 of the Bangladeshi Penal Code (Act XLV of 1860) criminalises “unnatural offences” defined as “carnal intercourse against the order of nature with any man, woman or animal”, and penetration is “sufficient to constitute the carnal intercourse”. Those found guilty are punished with up to imprisonment for life and shall also be liable to a fine. For more information, see ILGA World, [ILGA World Database: Criminalisation of consensual same-sex sexual acts - Bangladesh](#), retrieved on 25 March 2024.

<sup>143</sup> “আমরা ট্রান্সজেন্ডারকে স্বীকৃতি দিইনি: স্বরাষ্ট্রমন্ত্রী” [We did not recognize transgenders: Home Minister], *RTV Bangladesh*, 25 January 2024; “সরকার ট্রান্সজেন্ডারকে স্বীকৃতি দেয়নি, কারণ এটি ইসলামবিरोधी: স্বরাষ্ট্রমন্ত্রী” [Govt doesn't recognize transgenders, as it's anti-Islam: Home Minister], *Amader Shomoy*, 26 January 2024.

<sup>144</sup> See JusticeMakers Bangladesh: Shahanur Islam, *2022 Annual Report: An Updated State of LGBTQI+ Rights in Bangladesh* (Paris: JusticeMakers Bangladesh, November 2023).

<sup>145</sup> “সমকামী বান্ধবীকে বিয়ে করতে সাতক্ষীরায় সিলেটের তরুণী” [Young girl from Sylhet in Satkhira to marry gay girlfriend], *Barishal Times*, 4 January 2024; “সমকামী বান্ধবীকে বিয়ে করতে সিলেটের তরুণী সাতক্ষীরায়” [Sylhet young woman to marry gay girlfriend in Satkhira], *Amader Shomoy*, 4 January 2024; see also “Statement: JMBF Strongly Condemns the Arrest of Two Lesbian Girls in Satkhira”, *Shahanur Islam (Blogspot)*, 12 March 2024.

<sup>146</sup> “LGBTQ rights activists denounce detention of 4 lesbians in Bangladesh”, *6 Erasing 76Crimes*, 23 March 2024; for more information and detailed monitoring of instances of arrest, homophobia, violence and discrimination against LGBTI people in Bangladesh, see “Bangladesh Human Rights Violation Monitor by JusticeMakers Bangladesh in France (JMBF)”, *Blogspot*, retrieved on 30 April 2024.

<sup>147</sup> In September 2018, India decriminalised consensual same-sex acts between adults when the Supreme Court declared in [Navtej Singh Johar v. Union of India](#) (2018) that Section 377 of the Penal Code (1860) was unconstitutional. Section 377 punished any person who voluntarily had “carnal intercourse against the order of nature with any man, woman or animal” with imprisonment for life or imprisonment for a term of up to 10 years and a fine. See as well: “Explainer: How Centre's new bill can drop Section 377; decriminalize sexual assault of men, LGBTQ, adultery”, *Daily News and Analysis*, 13 August 2023.

Section 377.<sup>148</sup> However, in February 2024, the Supreme Court declared this curative petition ineffective following its 2018 judgment, which had already decriminalised homosexuality, rendering the petition obsolete. Essentially, the court restated its position that the 2018 judgment overturned the earlier decision on Section 377, making the grounds for the curative petition against the 2013 decision irrelevant.<sup>149</sup>

## Indonesia

Having achieved independence from the Netherlands in 1945, the Indonesian *Penal Code* (1952) has no provisions prohibiting consensual same-sex sexual acts in private.<sup>150</sup> However, 2023 saw several legislative developments that could have the effect of criminalising certain consensual same-sex sexual acts under specific circumstances in the future, particularly if any of such acts are committed in public.

In December 2022, the *Criminal Code* (2023) was passed in the country's Parliament and later received the President's signature on 2 January 2023, though it will only take effect in January 2026. Before its passing, international human rights organisations warned against the disproportionate impact the law would have on marginalised communities, particularly women and people of diverse sexual orientations, gender identities and gender expressions.

The new Criminal Code does not technically criminalise consensual same-sex sexual acts in private. However, at least two provisions using vague language (*kesusilaan*: "decency" and *perbuatan cabul*: "obscene/lewd act") effectively criminalise certain acts that encompass consensual same-sex sexual conduct carried out in public.

First, Article 414, paragraph 1, establishes that any person who commits an "obscene/lewd act" with another person of the same or different gender in public, is liable to imprisonment of up to 1 year and 6

months or a fine. Local commentators have explained that under the new Criminal Code, even if same-sex attraction is not criminalised, "criminal charges for homosexuality do exist if followed by obscene acts" or if "published as pornographic content".<sup>151</sup> The "obscene" nature of public acts remains legally undefined, leaving considerable space for discretionary interpretation. For instance, in July 2023, the Deputy Chairman of the People's Consultative Assembly of the Republic of Indonesia, Hidayat Nur Wahid, publicly argued that the principles of *Pancasila*,<sup>152</sup> the 1945 Constitution, and the recently enacted Criminal Code collectively denounce "LGBT and all its deviations", explicitly mentioning Article 414 as the legal basis for his reasoning.<sup>153</sup>

Moreover, Article 406 of the new Criminal Code criminalises "violations of decency in public", which are explicitly defined as "sexual acts against the current values of the local community" and punished with imprisonment of up to one year or a fine. Local legal commentators have explained that these acts include those carried out in public that are "considered outrageous and when others look, can cause feelings of displeasure and shame". Among the examples provided, they explicitly include "homosexual and lesbian", i.e. same-sex relationship between two men (homosexual) or same-sex relationship between two women (lesbian) who love each other", alongside sodomy, adultery, voyeurism, rape, abortion and sexual harassment.<sup>154</sup>

In addition to these concerning developments at the federal level, other developments took place in 2023 at the *Kabupaten* (or regency) level, and the district level in Indonesia. In January 2023, 24 local organisations voiced their opposition through a collective press statement against the 2021 bylaw in Bogor City on the "prevention and countermeasures of sexual deviant behaviours". This bylaw—which mentions explicitly "lesbians", "homosexuals", "bisexuals", and "transgender" people, among others—delineates the principles and responsibilities of the local government to prevent and address such behaviours through "education and counselling".<sup>155</sup>

<sup>148</sup> A curative petition refers to a legal recourse pursued by individuals or groups dissatisfied with a judicial decision, particularly in cases involving constitutional matters. Specifically, after the Supreme Court of India reinstated Section 377 of the Indian Penal Code in 2013, a curative petition was filed. This petition aimed to challenge the Supreme Court's decision and seek a reconsideration of the matter.

<sup>149</sup> "Supreme Court: समलैंगिक संबंधों से जुड़े फेसले के खिलाफ अपूरुदित पिटीशन पर 'सुप्रीम टिप्पणी" [Supreme Court: 'Supreme' comment on curative petition against the decision related to homosexual relations], *Amar Ujala*, 8 February 2024.

<sup>150</sup> Articles 290 and 292 of the Penal Code, as well as the *Child Protection Law* (2002) set a higher age of consent for same-sex sexual acts than for different-sex sexual acts. For more information, see ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Indonesia*, retrieved on 17 January 2024.

<sup>151</sup> "Apakah Homoseksual Bisa Dipidana?" [Can homosexuals be convicted?], *Hukum Online*, 14 August 2023.

<sup>152</sup> Nota bene: *Pancasila* is the official philosophical foundation of the Indonesian state. The term derives from two Sanskrit words: *panca* ("five") and *sila* ("principles" or "values"). *Pancasila* is composed of five core values: (1) Belief in one God; (2) Just and civilized humanity; (3) Unity of Indonesia; (4) Democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives; (5) Social justice for all the people of Indonesia. *Pancasila* holds immense importance in Indonesia. It provides a framework for national identity, guiding principles for governance, and a common ground for Indonesians to unite despite their diverse backgrounds. It's enshrined in the Indonesian constitution and plays a crucial role in shaping the nation's policies and societal values.

<sup>153</sup> "Dukung MUI, HNW: LGBT Tak Sesuai Pancasila & UUDNRI 1945, Agar Pemerintah Tegas Melarang Pertemuan dan Propaganda LGBT se-ASEAN di Jakarta" [Support MUI, HNW: LGBT Not In Accordance with Pancasila & the 1945 UUDNRI, So that the Government Firmly Bans ASEAN-wide LGBT Gatherings and Propaganda in Jakarta], *People's Consultative Assembly*, 16 July 2023.

<sup>154</sup> "Tentang Tindak Pidana Asusila: Pengertian dan Unsurnya" [About Immoral Crimes: Definition and Elements], *Hukum Online*, 14 June 2023, citing R. Soesilo, *The Criminal Code (KUHP) and its Complete Commentaries Article by Article* (Bogor: Politeia, 1995).

<sup>155</sup> "Bima Arya Persilakan YLBHI dkk yang Tolak Raperda Anti-LGBT Gugat ke MK" [Bima Arya invites YLBHI and friends who reject the Raperda Anti-LGBT to sue the Constitutional Court], *Detik News (Indonesia)*, 02 February 2023.

Several months later, in July 2023, the Garut Regency passed a similar bylaw prohibiting “LGBT activities”. The Regent of Garut, Rudy Gunawa, said that the regulations were enacted as a response to an alleged increase in local HIV cases [sic], incidents of sexual harassment, and the presence of “homosexual groups” on Facebook. Similar to the bylaw in Bogor, this policy emphasises preventing and remedying “deviant behaviour”, with Rudy Gunawa characterising such behaviours as “infectious diseases that must be cured”.<sup>156</sup>

In November 2023, a member of the People’s Representative Council in Indonesia called for stoning as a punishment for LGBT individuals to “suppress the increasing prevalence of [such] practices”.<sup>157</sup> The politician cited religious sentiments as her reasonings behind the proposal during an Islamic Education forum held in West Java while urging parents to monitor their children’s behaviour to avoid their involvement in “promiscuity”. The local organisation *Arus Pelangi* noted that there were 45 anti-LGBT regulations in Indonesia as of January 2023.<sup>158</sup>

These attitudes from State actors and public figures resulted in numerous cases documented over recent years in which authorities appear to be targeting LGBT persons, with varying—often unclear—levels of legality and official sanction. One notable example came on 28 May 2023, when the Civil Service Police Unit of Pekanbaru City and the Sukajadi Police Station arrested 73 people in joint raids across the city. Around eight were arrested for possession of “sharp weapons” and narcotics, and many were targeted on suspicion of engaging in sex work. Still, some of those detained “were strongly suspected to be lesbian, gay, bisexual and transgender perpetrators”. A police spokesperson told local media that this suspicion stemmed from “lipstick and other makeup tools in the bags of the men” and that some were caught engaging in “deviant behaviour” with persons of the same sex. The Mayor of Pekanbaru reportedly stated at the time:

We agreed with Forkopimda some time ago [to] conduct raids at locations where there are indications of LGBT activity.<sup>159</sup>

The Pekanbaru Mayor added that the raids had been part of ongoing “persuasive” and “pre-emptive” measures meant to counter the influence of LGBT people. For his part, the Governor of Riau Province, of

which Pekanbaru is the capital, urged the authorities to impose stringent sanctions on LGBTQ people and stated:

For those who join LGBT, I ask them to immediately change and repent and pray to ask forgiveness from the Creator because this activity invokes divine wrath.<sup>160</sup>



The [Iran Islamic Penal Code \(2013\)](#) includes several provisions that prescribe severe punishments such as the death penalty, imprisonment, and flogging for various crimes related to same-sex sexual acts. Additionally, other provisions within the code continue to be used as tools of oppression against individuals of diverse sexual and gender identities.<sup>161</sup>

ILGA World has documented numerous instances in which consensual same-sex sexual acts have resulted in punishment by Iranian state actors. Moreover, there have been cases of human rights defenders and bloggers being targeted for advocating on behalf of these issues. Following the death of Jina Mahsa Amini in 2022 and the subsequent protests in Iran, the Iranian Lesbian & Transgender Network (6Rang) reported numerous human rights violations committed by state agents.<sup>162</sup>

Additionally, in January 2023, a non-binary blogger was detained but was eventually released. The blogger seems to have been arrested for speaking out in support of anti-government protests which had spread across much of Iran in the preceding months. They made statements on social media indicating that they expected to be arrested soon, and implied that if the authorities claimed they died of suicide or illness while in custody this should not be believed.<sup>163</sup>



Iraq’s Penal Code ([Law No. 111](#)) (1969) does not explicitly prohibit consensual same-sex sexual acts. However, due to a range of factors on the ground, from the use of related legislation to target persons of

<sup>156</sup> “LGBT: Kabupaten Garut sahkan peraturan anti-homoseksual, awasi kos libatkan ormas” [LGBT: Garut Regency passes anti-homosexual regulations, oversees the cost of involving mass organizations], *BBC News*, 13 July 2023.

<sup>157</sup> “Hukuman Rajam untuk Pelaku LGBT, Anggota DPR Ini Bilang Perlu karena Makin Mewabah” [This DPR Member Says Stoning Punishment for LGBT Perpetrators is Necessary Because It is Increasingly Endemic], *Tribun News*, 13 November 2023.

<sup>158</sup> “Rancangan Perda anti-LGBT di Makassar dan Garut disebut ‘tren jelang tahun politik’”, [Draft anti-LGBT regulations in Makassar and Garut called ‘trend ahead of political year’] *BBC News Indonesia*, 10 January 2023.

<sup>159</sup> “Forkopimda” is the Regional Leadership Coordination Forum where regional and local governments discuss coordinating and implementing general government affairs across jurisdictions.

<sup>160</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 164.

<sup>161</sup> For more information, refer to ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Iran* (retrieved: 21 April 2024).

<sup>162</sup> 6Rang (Iranian Lesbian & Transgender Network), *War on Bodies and Minds Gender Persecution of LGBTQ+ Protestors in the Context of the 2022-23 Iran Uprising* (2023), 20-22.

<sup>163</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 169-176.

diverse SOGIE to extensive extrajudicial targeting from State actors, same-sex sexual acts are considered *de facto* illegal.<sup>164</sup>

To address this “legal vacuum”, the Deputy Speaker of Parliament officially endorsed the introduction of a bill that would explicitly criminalise same-sex sexual acts. On 1 July 2023, the Secretary-General of the military group “League of the Righteous”, Qais Al-Khazali, called on the House of Representatives to pass a law criminalising homosexuality to “ensure immunity and adequate protection for Iraqi society’s authentic values, beliefs and morals”.<sup>165</sup> Soon after, MP Raad Hamdan AL-Maliki submitted the *Bill to amend the Law against Prostitution* (2023) to the chairman of the Legal Committee.<sup>166</sup> This bill aims to rename the Law against Prostitution (Law No. 8) (1988) as “Law against Prostitution and Sexual Deviance” and effectively criminalise so-called “acts of sexual deviance”. Iraqi LGBT activists have warned that passing this law would “put the lives of community members in severe danger amid increasing efforts by several Iraqi politicians urging violence against them.”<sup>167</sup> Among such acts to be criminalised are “homosexual relations”, defined as “a relationship between two persons of the same sex, male and male, or female and female, for the purpose of engaging in a continuous sexual relationship, and includes any sexual intercourse between two individuals of the same sex if it is repeated more than three times, whether it occurs between the same individuals or with others of the same sex”.

Alarmingly, Article 5 of the bill establishes the death penalty as the legally prescribed penalty for “homosexual relations”. Life imprisonment is included as an alternative punishment under the same provision. Under Article 2 of the bill, “acts of effeminacy” are defined as “the practice of imitating women” by any of the following actions:

- (a) putting on women’s cosmetics and wearing women’s clothes in public places or appearing in an appearance similar to women’s appearance, if these acts are practised in the acting profession.
- (b) taking medication that has the effect of increasing female hormones in a way that contributes to showing signs of femininity in the male.

(c) any other acts that are an intended practice of effeminacy according to medical and social standards.

The “promotion of sexual deviance” is also prohibited, as well as acting as an intermediary between two individuals to promote or encourage “sexual deviance” and facilitating homosexual activities.

To further criminalise consensual same-sex sexual relations, on 2 July 2023, the deputy head of the Legal Affairs Committee of the Federal Parliament of Baghdad, Dr Saadoun Ali, submitted another *Bill to amend the Penal Code to Criminalise Homosexuality* (2023) to the speaker of the Iraqi Parliament, Mohamed al-Halbousi. He also urged the president to include the bill in the country’s next legislative season, which began in September.<sup>168</sup> On 15 July 2023, the Representative of the Higher Education and Scientific Research Committee, Firas Al-Maslamawi, confirmed in a TV interview that signatures were being collected to pass a law to criminalise “homosexuality and everything that contradicts Islamic principles”. He added that after the law is passed, “security services can take their role in confronting and arresting anyone who seeks, supports, and encourages these deviant ideas that contradict the principles they were raised on in Iraq”.<sup>169</sup>

On 18 August 2023, local media reported that the Iraqi Parliament had made the first reading of the *Bill to amend the Law against Prostitution* (2023). Furthermore, Dara Sekaniani, a lawmaker from the Kurdistan Islamic Union’s bloc and member of the parliament’s legal committee, confirmed that as per the proposals submitted for amending the law, consensual same-sex sexual acts could be punished with the death penalty, a life sentence, a significant fine or imprisonment for up to five years.<sup>170</sup> Other members of the parliamentary legal committee have said that “the new law will hold homosexuals to account and impose the most severe penalties on them”.<sup>171</sup> It was also reported that Saud Al-Saadi, the head of the Huquq Party, expressed support for the Bill and even suggested amendments considering other terms linked with the LGBT community, such as “gender”, to “fill any void” in the law.<sup>172</sup> International human rights organisations like Human Rights Watch have called on the Iraqi government to withdraw the proposed law,

<sup>164</sup> Article 401 of the Penal Code criminalises “immodest acts” in public, which are punishable by a period of detention of up to six months and/or a fine. There have been cases of same-sex couples and individuals being prosecuted on the basis of this criminal provision as well as on “prostitution” charges. For more information, see ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Iraq*, retrieved on 10 October 2023.

<sup>165</sup> “الشيخ الخزعلي يدعو الى تشريع قانون يجرم الشذوذ الجنسي” [Sheikh Khazali calls for the enactment of a law criminalising homosexuality], *Al-Ahed News*, 1 July 2023.

<sup>166</sup> “Iraq bill calling for homosexuality ban submitted to parliament”, *Pink News*, 4 July 2023.

<sup>167</sup> “Iraqi parliament proposes amendments for anti-prostitution law to criminalise homosexuality”, *The New Arab*, 18 August 2023.

<sup>168</sup> “البرلمان يعود عمله بالتهيئة لتشريع قانون «حظر المثلية»” [Parliament resumes its work by preparing to legislate the “Prohibition of Homosexuality” law], *Sout Al Iraq*, 9 July 2023.

<sup>169</sup> “التعليم النيابية: الفصل التشريعي الحالي سيشهد تشريع قانون يجرم «الشذوذ الجنسي»” [Parliamentary Education: The current legislative term will witness the enactment of a law criminalizing “homosexuality”], *Al-Ahed News*, 16 July 2023.

<sup>170</sup> “Iraq prüft Todesstrafe für Homosexuelle” [Iraq considers death penalty for homosexuals], *Männer*, 28 August 2023.

<sup>171</sup> “Iraq bill calling for homosexuality ban submitted to parliament”, *Pink News*, 4 July 2023.

<sup>172</sup> “الإعدام أو السجن... البرلمان العراقي يعد مشروع قانون يستهدف المثليين” [Death or imprisonment... The Iraqi parliament is preparing a draft law targeting homosexuals], *Asharq Al-Awsat (Arabic)*, 15 February 2024.

noting that it would “threaten the lives of Iraqis already facing a hostile environment for LGBT people”.<sup>173</sup>

In January 2024, it was reported that the Speaker of the House of Representatives, Muhammad Al-Halbousi, had withdrawn from the Parliamentary agenda the Bill to amend the Law against Prostitution (2023). Subsequently, Representative Raed Al-Maliki, a member of the Legal Committee of the House of Representatives, initiated legal proceedings contesting the constitutionality of the Speaker’s decision. Al-Maliki argued that the withdrawal lacked adequate explanation. The Federal Supreme Court of Iraq, in [Case No. 254/Federal/2023](#) (2024), ruled in January 2024 in favour of Al-Maliki, thereby reinstating the proposed law onto the legal agenda and permitting its progression to the second reading stage. In response to the court’s decision, Al-Maliki denounced what he perceived as “external interference and objections from Western countries” in the legislative process. This stance underscores his determination to see the law enacted during the ongoing legislative session.<sup>174</sup>

On 27 April 2024, it was reported that the Iraqi Parliament passed the Law against Prostitution and Sexual Deviance (2024). The Law dropped the amendment to impose the death penalty, but still effectively imposes a maximum 15-year prison sentence for consensual same-sex sexual relations, and at least seven for anyone convicted of ‘promoting homosexuality’.<sup>175</sup>

- *Due to the timing of the law’s approval, subsequent to the cut-off date of this report, ILGA World was unable to obtain access to the final approved version of the law’s text. As a result, detailed information regarding the latest amendments, specific provisions and other aspects of the law are not included in this report. We kindly request that our readers consult the ILGA World Database for updates shortly.*

## Jordan

Jordan does not technically criminalise consensual same-sex sexual acts. However, in December 2021, the General Iftaa Department issued [Fatwa No. 3670](#)

(2021), declaring homosexuality and advocating for LGBTI+ rights illegal under Islamic law. Officials have stated that the prohibition of sodomy under Sharia law holds greater significance than any provisions in secular legislation. Consequently, they largely regard anything related to homosexuality and LGBT activities and advocacy as contrary to local laws and customs. Additionally, security forces exploit vague morality laws to target LGBT people, operating with impunity due to the absence of legal protections.

Human Rights Watch’s has documented the extensive offline repercussions of enacting the [Cybercrime Law](#) (2023), including entrapment, online extortion, harassment, and the use of unlawfully obtained digital data from arbitrary phone searches in legal proceedings. LGBT individuals expressed feeling unable to safely express themselves, leading many to pre-emptively disband their work and groups to avoid prosecution.<sup>176</sup>

ILGA World has also noted several instances of enforcement, particularly by the General Intelligence Directorate (GID), Jordan’s domestic intelligence agency. The two recorded instances involved human rights defenders, where members of the GID detained and harassed the victims, threatening to and outing them to their families. Authorities have also been noted to freeze their bank accounts to push them to cease their advocacy work.<sup>177</sup>

## Kuwait

In 2023, ILGA World noted multiple examples of criminal enforcement against individuals for both alleged same-sex acts and for having diverse gender expressions.<sup>178</sup> Still, numbers are difficult to calculate given the apparent trend of law enforcement informally abusing or extorting people in exchange for their freedom rather than putting them through the legal system.<sup>179</sup>

Formal criminal enforcement did continue into 2023, though, as it was reported in February 2023 that Kuwaiti authorities in Salmiya arrested and deported three Saudi Arabian men charged with “practising acts against public morals” for engaging in consensual same-

<sup>173</sup> “Iraq: Scrap Anti-LGBT Bill; Death Penalty for Same-Sex Conduct; Imprisonment for Transgender Expression”, *Human Rights Watch*, 23 August 2023.

<sup>174</sup> “المحكمة الاتحادية تحكم بعدم دستورية سحب الحلويسي مقترح تجريم الشذوذ الجنسي” [The Federal Court rules that Al-Halbousi’s withdrawal of the proposal to criminalize homosexuality is unconstitutional], *Shafaq News*, 11 January 2024; “البرلمان العراقي يعد مشروع قانون يستهدف المثليين” [Death or imprisonment... The Iraqi parliament is preparing a draft law targeting homosexuals], *Asharq Al-Awsat (Arabic)*, 15 February 2024; “تلاش دادگاه فدرال عراق برای تصویب پیش‌نویس قانون رد” [The Iraqi Federal Court’s attempt to approve the rejected draft law “Criminalizing homosexual relations”], *Iranian Lesbian and Transgender Network (6Rang)*, 19 January 2024.

<sup>175</sup> “Iraq: Authorities must urgently repeal new law criminalizing same-sex relations”, *Amnesty International*, 29 April 2024.

<sup>176</sup> “Jordan: Security Forces Target LGBT Activists”, *Human Rights Watch*, 4 December 2023. For more information, please refer to the chapters on freedom of expression and freedom of association in this report.

<sup>177</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 176-178.

<sup>178</sup> Article 193 of the Penal Code (Law No. 16) (1960) criminalises consensual intercourse between men of full age (from the age of 21), which carries a possible imprisonment of up to seven years.

<sup>179</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 178-183.

sex sexual acts with one another, possibly in exchange for money.<sup>180</sup>

Additional reports were noted in September 2023, in which the General Department of Criminal Investigation are said to have arrested 71 people on charges of “acts contrary to public morals and incitement to debauchery” in Mahboula, Salmiya, Hawalli, and Farwaniy.<sup>181</sup>

## Lebanon

On 17 July 2023, nine members of the House of Representatives submitted a [law proposal](#) (2023) to repeal Article 534 of the [Penal Code](#) (1943). Proponents of the bill, such as MP Mark Daou, have said that the bill adheres to Articles 7 and 8 of the Lebanese Constitution, guaranteeing equality, personal freedom, and protection under the law for all Lebanese citizens.<sup>182</sup> Other signatories have since been subjected to a campaign of online harassment by political and religious authorities, prompting one to withdraw his signature.

In reaction to this bill, on 16 August, the Minister of Culture submitted a draft law proposal aimed at strengthening measures against “the promotion of homosexuality”. The proposed law criminalises “any act that explicitly or implicitly promotes “abnormal sexual relations” with up to three years in prison and a fine of 5 million Lebanese pounds (approximately USD 333). The proposed law also punishes “any act that would promote the possibility of changing sex or publish information directed at minors that makes them want to change their sex or sexual orientation,” and imposes the same prison sentence on them.<sup>183</sup>

Subsequently, on 17 August, MP Ashraf Rifi submitted an expedited law proposal to criminalise the “promotion of homosexuality and sexual deviance”. This bill seeks to amend Article 534, explicitly criminalising “indecent or unnatural sexual acts” between individuals of the same gender, whether consensual or coerced. It prescribes penalties ranging from one to three years of imprisonment and a fine of at least five times the minimum wage for such acts. Furthermore, the bill

extends these penalties to those who “promote, facilitate, conceal, or incite” others to commit the mentioned acts through any means.<sup>184</sup>

## Malaysia

Malaysia currently criminalises consensual same-sex relations both at the federal level through the [Penal Code](#) (1936) and at the state level through individual State Syariah Enactments.<sup>185</sup> Throughout 2023, Prime Minister Anwar Ibrahim and his administration made conflicting statements regarding the rights of LGBTI individuals in Malaysia. Two months after assuming office as Prime Minister, in January 2023, he declared that the recognition of LGBT people and their rights “will never happen under [his] administration”.<sup>186</sup> Later, in September 2023, in an interview with the media regarding the raids of 11 Swatch stores and the confiscation of its pride-themed collection, Ibrahim expressed that harassment against the LGBTI community should be avoided and condemned in Malaysia. In the same interview, however, he acknowledged that he was required to “respect the consensus of Malaysians” who do not accept the LGBTQ+ community.<sup>187</sup> Similarly, the religious affairs minister of the Prime Minister’s office affirmed that the government would not “deny the rights of the LGBT community” guaranteed under the Federal Constitution while also reiterating the government’s stance against their “lifestyle”, promoting government initiatives to “help the group return to the *fitrah* (natural state) and become aware of their mistakes”.<sup>188</sup>

Amid the political sentiments surrounding the criminalisation of LGBTI people in 2023, the Federal Court of Malaysia began hearing a legal challenge against 20 Syariah provisions in the [Kelantan Syariah Criminal Code \(i\) Enactment](#) (2021) in August 2023.<sup>189</sup> Among the provisions challenged are Sections 14 and 15 criminalising same-sex sexual relations. The plaintiffs argue that the State Legislature of Kelantan did not have the power to enact laws on such offences as there are already federal laws covering the same crimes, citing the 2021 judgement of *BKA-3-11/2019* (2021) in

<sup>180</sup> *Ibid.*

<sup>181</sup> “تمكنت الإدارة العامة للمباحث الجنائية ممثلة في ادارة حماية الاداب العامة من ضبط 71 (شخصاً بتهمة الأعمال المنافية للآداب العامة) بممارسة الرذيلة (والتحريض على الفسق والفجور، في المهبول” [The General Department of Criminal Investigation, represented by the Department for the Protection of Public Morals, was able to arrest (71) people on charges of acts contrary to public morals (practicing vice) and incitement to immorality and debauchery, in Mahboul.], *Nabd (Kuwait)*, 22 September 2023.

<sup>182</sup> ““An Insult to Culture”: MP Mark Daou Criticizes Minister Mourtada for Opposing Homosexuality Decriminalization Proposal in Lebanon” *LBC TV*, 13 August 2023.

<sup>183</sup> “المرئى سيصدر قانون معاقبة ترويج الشذوذ الذي كان لنا شرف اقتراحه وسيجري اقراره قريبا” [AI-Murtada: A law will be issued to punish the promotion of homosexuality, which we had the honor to propose, and it will be approved soon], *El Nashra*, 27 August 2023.

<sup>184</sup> “رئى تقدم باقتراح قانون معجل إلى مجلس النواب يقضى بتجريم الترويج للمثلية الجنسية” [Rifi submitted an expedited law proposal to Parliament to criminalize the promotion of homosexuality], *El Nashra*, 18 August 2023.

<sup>185</sup> Punishments vary by state but have a maximum sentence of up to 3 years in prison, or a fine of up to RM5,000, or up to 6 strokes of the whip, or a combination of these sentences. Penalties for consensual same-sex sexual acts at the federal level, however, may go up to 20 years imprisonment with flogging as an alternative penalty. For more information, see ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Malaysia*, retrieved on 17 January 2024.

<sup>186</sup> “We’ll never recognize secularism, communism, LGBT, says Anwar”, *Free Malaysia Today*, 7 January 2023.

<sup>187</sup> “Anwar on Malaysia’s stand on LGBTQ+ issue: We have to respect the consensus of the people [NSTTV]”, *New Straits Times*, 23 September 2023.

<sup>188</sup> “Govt won’t deny LGBT community’s rights under the constitution, says minister”, *Free Malaysia Today*, 18 October 2023.

<sup>189</sup> “Apex Court nine-man bench hears legal challenge seeking to declare 20 Syariah criminal offences unconstitutional”, *The Sun (Malaysia)*, 17 August 2023.

the state of Selangor which struck down the provision banning consensual same-sex acts.

On 9 February 2024, the Federal Court struck down 16 of the Syariah provisions challenged, including the provision criminalising "sodomy". In *Petition No. BKA-2-05-2022(D)* (2024), the court based its decision on the 2021 court ruling of BKA-3-11/2019 (W) (2021), declaring such provisions "null and void". The ruling was grounded in the understanding that the "Legislature of the State of Kelantan has no power to enact laws" on matters exclusive to the federal Parliament's jurisdiction, reaffirming such provisions' unconstitutionality. Furthermore, the court acknowledged that although these laws pertain to the "precepts of Islam", they can equally apply to non-Muslims as they do to Muslims. Consequently, they are not purely religious offences and, thus, fall outside the jurisdiction of the state legislature. Notably, the state legislation prescribes a shorter sentence (3 years) compared to the 20 years under federal law, meaning consensual same-sex acts still face the risk of harsher punishment. Nonetheless, activists have welcomed the judicial decision, highlighting that Syariah enactments criminalising consensual same-sex acts are more vigorously enforced than those outlined in the Penal Code at the federal level.<sup>190</sup> Following the decision, the lawyer-activist and her daughter, who initiated the challenge, have reported that they had been receiving death threats. Nik Elin informed media that she had filed three police reports regarding the online death threats made to her, as well as threats to "slaughter" her and "burn her house down". These threats surfaced following a campaign by political and religious leaders characterising the challenge as a threat to Malaysia's Syariah court system.<sup>191</sup>

Enforcement of criminalising provisions in Malaysia, particularly those within the Syariah system, remained consistent in 2023.<sup>192</sup> ILGA World monitored an investigation conducted in June by the Penang State Islamic Religious Council (MAINPP) following photos of two women allegedly engaging in a wedding proposal and "displaying affection in a private lodging facility in Balik Pulau" circulating on social media. Media sources were told that MAINPP would gather more information on the case and "take legal action as the country prohibits LGBT activities" if the incident did indeed take place.<sup>193</sup>

## Maldives

Section 411(a)(2) of the Penal Code (*Law No. 6*) (2014) still criminalises "unlawful sexual intercourse", which is committed when a person engages in sexual intercourse with a person of the same sex.

In February 2023, a Maldivian police officer was convicted of homosexuality, resulting in dismissal from the force, imprisonment, and public exposure through a newspaper publication. The officer had maintained a relationship with a Bangladeshi national working in the Maldives. The pair were filmed together, with the video circulated on social media, leading to the officer's immediate arrest. Initially sentenced to one year, two months, and twelve days' imprisonment, the officer successfully appealed, reducing the sentence to one year. The whereabouts of his partner remain unknown.<sup>194</sup>

## Myanmar

In Myanmar, while no significant strides have been observed between January 2023 and March 2024 in terms of legal reform, reports published by local civil society organisations underscore the systematic employment of existing laws to suppress and discriminate against people of diverse sexual orientations and gender identities. Since the occurrence of the 2021 coup d'état, various provisions within the legal framework have been wielded by members of the military and law enforcement agencies to instil fear, and to arrest LGBT individuals under false pretences.

Noteworthy among the statutes invoked for such purposes is the infamous 1860 *Penal Code* Section 377, alongside Sections 312 and 320, Section 30 of the Rangoon Police Act (1899), Section 35 of the Police Act (1945)—colloquially called "Shadow Laws" or "Darkness Laws"—and the 1949 Suppression of Prostitution Act, among others. Furthermore, additional legal instruments, such as Penal Code Section 268, criminalising acts of "public nuisance", and Section 66(D) of the Electronic Communications Law, have also been deployed to persecute LGBT individuals under the auspices of the prevailing military regime.<sup>195</sup>

<sup>190</sup> "Nik Elin: Federal Court's ruling in Kelantan Syariah criminal provisions a testament to Federal Constitution's supremacy", *Malay Mail*, 9 February 2024; "ULASAN | Kes Nik Elin: Hakim putuskan kes berdasarkan Perlembagaan" [REVIEW | Nik Elin case: The judge decided the case based on the Constitution], *Malaysiakini*, 14 February 2024; "Keputusan kes Nik Elin tidak jejas Mahkamah Syariah - Mohd Na'im" [The decision of the Nik Elin case is not affected by the Syariah Court - Mohd Na'im], *Astro Awani*, 9 February 2024.

<sup>191</sup> "Nik Elin terima banyak ugutan bunuh" [Nik Elin received many death threats], *Sinar Harian*, 11 February 2024; "Keputusan kes Nik Elin tak hakis kuasa mahkamah syariah - Amanah" [The decision of the Nik Elin case does not erode the authority of the sharia court], *Sinar Harian*, 15 February 2024.

<sup>192</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 189-195;

<sup>193</sup> "Investigation launched into alleged same-sex wedding proposal in Penang", *New Straits Times*, 8 July 2023.

<sup>194</sup> "Maldives : Les homosexuels sont punis, sauf les touristes - Mayotte la 1ère" [Maldives: Homosexuals are punished, except tourists], *Franceinfo*, 4 March 2023; "Un policier maldivien condamné à un an de prison pour homosexualité" [Maldivian police officer sentenced to one year in prison for homosexuality], *STOP homophobie*, 4 March 2023.

<sup>195</sup> See, among others: Myanmar LGBTQIAs Human Rights Watch Forum, *Rainbow amid the storm: Exposing the harsh realities of LGBTQIAs in post-coup Myanmar* (2023); ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 197.



## Pakistan

In May 2023, the Federal Shariat Court issued [Shariat Petition No. 5 \(2023\)](#) following a legal challenge to various provisions of the Transgender Persons (Protection of Rights) Act (2018) and the Transgender Persons (Protection of Rights) Rules (2020), among others. A primary contention of the plaintiffs centred on the notion that the Transgender Persons (Protection of Rights) Act (2018) provided “legal cover for homosexuality”, facilitating its indulgence by those deemed “sexually perverted”. They further argued that the Act promoted illicit sexual activities, particularly homosexuality, within society. Same-sex sexual acts of course remain illegal in Pakistan, per Section 377 of the Penal Code ([Act No. XLV](#)) (1860).

The ruling substantially altered the Act's provisions by affirming the absence of individual autonomy to alter gender and deeming certain provisions incongruous with Shariah law.<sup>196</sup> In July 2023, the decision was challenged in the Supreme Court.<sup>197</sup>

## Qatar

Article 285 of Qatar's Penal Code ([Law No. 11](#)) (2004) states that whoever “copulates with a male over sixteen years of age without compulsion, duress, or ruse shall be punished with imprisonment for a term up to 7 years”. The same penalty applies “to the male for his consent”. Moreover, Article 296(3) criminalises the “leading”, “instigating”, or “seducing” of a male to commit sodomy, while Article 296(4) criminalises the “inducing” or “seducing” of a male or female in any way to commit illegal or immoral actions. Both may result in imprisonment for up to three years. Further, Article 298 criminalises “sodomy as a profession or for a living” with imprisonment for a term of up to ten years.<sup>198</sup>

These laws remain actively enforced, putting people of diverse SOGIE living in Qatar at risk of criminalisation and hostility from State actors and the public. Several

reports from prior months and years demonstrating this surfaced in the leadup to the December 2022 FIFA World Cup, hosted by Qatar.

2023 in particular saw an Indonesian national deported for being caught at a restaurant with his friends wearing tinted moisturiser, considered by the Criminal Investigation Department (CID) to be in violation of Qatar's dress code. They were all reportedly questioned in separate rooms about their personal details and whether they were involved in sex work and were denied the opportunity to phone their in-country sponsors for assistance.<sup>199</sup>

In February 2024 a gay British-Mexican national visiting Qatar was entrapped by police officers on a gay dating app, and arrested for possession of illegal narcotics. He was also reportedly denied access to his HIV medication while in custody. Qatari authorities have denied his sexual orientation had any bearing on the arrest, though several activists and the man's family have seemingly called this claim into question.<sup>200</sup>

## Singapore

After the 2022 Court of Appeal [decision](#) to rule Section 377A unenforceable, the Singaporean Prime Minister announced plans during his National Day Rally Speech to repeal Section 377A.<sup>201</sup> However, in the same speech, he announced that the government would also amend the constitution to “safeguard the institution of marriage” as being defined as between a man and a woman. Later that year, in October 2022, the [Penal Code \(Amendment\) Bill No. 31](#) (2022) was introduced for the First Reading in Parliament to repeal Section 377A and amend all laws that reference Section 377A, including the Criminal Procedure Code (2010) and Evidence Act (1893). The bill was passed in November 2022, and on 3 January 2023, the [Penal Code \(Amendment No. 39\)](#) (2022) was officially gazetted after having received assent from Singapore's President, thus officially repealing Section 377A and decriminalising same-sex sexual acts.<sup>202</sup> It is to be noted that this move came with an amendment to the

<sup>196</sup> “A person can't change gender at will, rules FSC”, *The Nation (Pakistan)*, 20 May 2023.

<sup>197</sup> “Trans community challenges Shariat court's decision in SC”, *The Express Tribune*, 16 July 2023; “The Battle for Inclusion: Pakistan's Transgender Community Faces Setbacks with Shariat Court Verdict”, *Jurist*, 27 June 2023. For additional information, see ILGA World, *ILGA World Database: Legal gender recognition - Pakistan*, retrieved on 10 October 2023.

<sup>198</sup> It is important to note that Article 1 of the Penal Code mandates that courts apply Sharia law for zina (adultery; extramarital sex). Consequently, Courts could in theory rely on this provision to impose the death penalty for consensual same-sex sexual acts, if interpreted as a form of zina (as same-sex marriage is not permitted in Qatar). However, in 2022, the Qatari delegation at the United Nations stated before the Human Rights Committee that the death penalty was prescribed only for extremely serious criminal offences such as murder and terrorist offences, and “not for homosexual acts”. See: Human Rights Committee, Summary Record 134th session, CCPR/C/SR.3837, 4 March 2022. For more information, see ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Qatar*, retrieved on 23 April 2024.

<sup>199</sup> ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 202-205.

<sup>200</sup> “Gay Man Jailed and Denied HIV Medication in Qatar”, *Mamba Online*, 5 March 2024; “Qatar targeted my brother on Grindr-I want him home”, *BBC*, 2 May 2024.

<sup>201</sup> Several constitutional challenges were brought against Section 377A, such as in *Ong Ming Johnson v. Attorney General* (2020), where the High Court dismissed three of these challenges stating that Section 377A “serves the purpose of safeguarding public morality by showing societal moral disapproval of male homosexual acts”, despite it not being actively enforced. The High Court ruling was appealed, and in 2022 the Court of Appeal ruled against the petitioners in *Tan Seng Kee v. Attorney General* (2022) but stated that “the entirety of Section 377A is unenforceable unless and until the [Attorney General] of the day provides clear notice that he [...] intends to reassert his right to enforce s 377A proactively by way of prosecution”. For more information, see ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Singapore*, retrieved on 23 January 2024.

<sup>202</sup> “Singapore repeals gay sex ban but limits prospect of legalizing same-sex marriage”, *Reuters*, 29 November 2022.

country's Constitution to strengthen the definition of marriage as between a man and a woman – a move the government said reflected societal preferences.<sup>203</sup>

A year after the official decriminalisation of consensual same-sex sexual acts, in January 2024, in a [written reply](#) (2024) to a parliamentary question, the Ministry of Home Affairs stated that individuals whose conviction records are not automatically considered nullified may apply to the Commissioner of Police to have them expunged.<sup>204</sup> It was reported by local media that there were more than 250 living people who were convicted under Section 377A between 1988 and 2007 who can thus have their convictions cleared by such an application.<sup>205</sup>

## South Korea

Although South Korea's [Criminal Act](#) (as updated in 2009) contains no provisions criminalising consensual same-sex sexual acts between adults, Article 92(6) of the [Military Criminal Act](#) (1962) criminalises “indecent acts” and punishes military personnel who “commit anal intercourse” with “imprisonment with labour for not more than two years.”<sup>206</sup> Following a Supreme Court ruling ([Judgement 2019 – Decree 3047](#)) in 2022 that acquitted two soldiers for engaging in consensual same-sex sexual acts, the Ministry of National Defence reportedly stated in February 2023 that they were studying the possibility of formalising an exception so that soldiers engaging in voluntary same-sex activities outside military premises would not be penalised.<sup>207</sup>

In October 2023, the Constitutional Court, in [Case No. 16](#) (2023), upheld Article 92-6 of the Military Criminal Act with a 5-4 majority vote. Notably, this marks the fourth occasion when the law's constitutionality has

been debated.<sup>208</sup> In previous judgments, the tally stood at seven constitutional versus two unconstitutional in 2002, five constitutional versus four unconstitutional in 2008, and five constitutional versus four unconstitutional in 2016, resulting in a 15-year deadlock in the discussion.<sup>209</sup>

## Sri Lanka

Currently, Article 365 of Sri Lanka's [Penal Code](#) (1885), as amended by the [Penal Code \(Amendment\) Act](#) (Act No. 22) (1995), punishes “unnatural offences” (defined as “carnal intercourse against the order of nature with any man, woman or animal”) with imprisonment for up to 10 years.<sup>210</sup>

In April 2023, the [Penal Code \(Amendment\) Bill](#) (2023) was placed in official parliamentary business after being introduced sent to the President as a private member's bill in August 2022.<sup>211</sup> The bill seeks to amend Section 365 of the Penal Code to only criminalise “carnal intercourse” with an animal, removing reference to intercourse with a man or woman. The bill also seeks to repeal Section 365A regarding “gross indecency”.<sup>212</sup> Representatives from several major political parties in Sri Lanka signalled their support for the bill, with many members of parliament discussing their views on ensuring the rights of LGBT Sri Lankans.<sup>213</sup> In the same month, however, a petition was filed before the Supreme Court of Sri Lanka to declare the Penal Code (Amendment) Bill unconstitutional. The petitioners reportedly argued that the repeal of Section 365A would “promote homosexual activities” and would “expose children to LGBT programmes in schools, impacting the rights of children”.<sup>214</sup> Other arguments by the petitioners included that decriminalisation would exacerbate the situation of HIV/AIDS although

<sup>203</sup> “After gay sex ban repeal, Singapore LGBTQ campaigners look to tackle conservative family values”, *Eco-Business*, 25 June 2023.

<sup>204</sup> In Singaporean law, when a conviction is “spent,” it means that after a certain period of time has passed, the conviction is considered to be wiped from a person's criminal record for most purposes. This means that in many situations, such as applying for a job or seeking housing, the person does not have to disclose the spent conviction. The purpose of spent convictions is to give individuals who have committed minor offences a chance to move on with their lives without the burden of their past mistakes affecting them indefinitely.

<sup>205</sup> “Past criminal records for 377A can now be rendered spent because of repeal: MHA”, *Singapore Law Watch*, 11 January 2024; “Past criminal records for 377A can now be rendered spent because of repeal: MHA”, *The Straits Times*, 9 January 2024.

<sup>206</sup> In 2016, the Constitutional Court upheld the law, after its constitutionality was challenged. However, in 2022, the Supreme Court overturned a decision issued by the Higher Military Court where two lieutenants were charged under the Military Criminal Act (1962) for having sex outside of working hours in another country in 2019. In the judgement, the Supreme Court stated that sexual intercourse between two male soldiers under mutual consent in private spaces is not punishable and that this type of same-sex sexual activity is not an “indecent act” within the scope of Article 92(6). For more information, see ILGA World, [ILGA World Database: Criminalisation of consensual same-sex sexual acts - South Korea](#), retrieved on 12 October 2023.

<sup>207</sup> “‘자발적인 부대밖 동성 성행위는 처벌 안 한다’” [Military “Voluntary same-sex sexual activity outside the unit will not be punished”], *MT News*, 28 February 2023; “Military decides not to view homosexual intercourse as harassment”, *Korea Herald*, 17 May 2023.

<sup>208</sup> “[뉴스] ‘군형법 추행죄’ 차별과 혐오에 20년 눈 감은 헌재” [The Constitutional Court turned a blind eye to discrimination and hatred for ‘Military Criminal Act Disgrace’ for 20 years], *The Hankyoreh*, 29 October 2023; “헌재, ‘동성애 처벌’하는 군형법 조항에 합헌결정” [Constitutional Court rules on constitutionality of provisions of military criminal law that ‘punish homosexuality’], *Pressian*, 27 October 2023.

<sup>209</sup> “성소수자 차별 악법에 끝내 ‘합헌’... 부끄러운 헌재” [The law that discriminates against sexual minorities is finally deemed ‘constitutional’... Shame on the Constitutional Court], *Oh My News*, 23 November 2023.

<sup>210</sup> Article 365A of the Code also criminalises “acts of gross indecency” in public or private with imprisonment of up to 2 years and/or a fine. For more information, see ILGA World, [ILGA World Database: Criminalisation of consensual same-sex sexual acts - Sri Lanka](#), Retrieved on 22 September 2023.

<sup>211</sup> “Amendment to the Penal Code handed over to President”, *Presidential Secretariat Official Website*, 24 August 2022; “සමලිංගිකත්වයට එරෙහි නීතියක් සංශෝධනයට යෙදවීම” [Proposals to amend a law against homosexuality], *The Leader (Sri Lanka)*, 28 March 2023; see also “Order Paper of Parliament for Tuesday, 4 April 2023 at 9.30 a.m.”, *Parliament of Sri Lanka*, retrieved on 30 April 2024.

<sup>212</sup> “Bill To Empower LGBTQI Community Presented To Parliament”, *Menafn.com*, 6 April 2023.

<sup>213</sup> “Several parties pledge to ensure rights of LGBTQ community in Sri Lanka”, *The Island*, 20 February 2023.

<sup>214</sup> “Petition filed against proposed Penal Code (Amendment) Bill”, *Adaderana*, 18 April 2023.

evidence suggests otherwise while also arguing that national standards of culture and morality deem homosexuality as 'prejudicial'.<sup>215</sup>

In May 2023, the Supreme Court rejected such arguments. It determined in *SC SD No. 13* (2023) that the bill is not unconstitutional and that the legislation "would, in fact, ensure that all persons shall be equal before the law and be entitled to the equal protection of the law, irrespective of their sexual orientation", clearing the way for a Parliamentary debate and vote on the subject.<sup>216</sup> It was reported that the Committee on Parliamentary Business held its first reading of the bill on 20 November 2023, with a second on 12 December.<sup>217</sup> Amid these discussions, in November 2023, the Human Rights Commission of Sri Lanka (HRCSL) submitted recommendations to Justice, Prison Affairs, and Constitutional Reforms Minister Wijeyadasa Rajapakse, urging the prompt repeal or amendment of Sections 365 and 365A of the Penal Code.<sup>218</sup>

## Tajikistan

Tajikistan does not explicitly outlaw consensual same-sex sexual acts. However, ILGA World has documented multiple instances of arrests and detentions of LGBT people in recent years. Additionally, there are reports of widespread police extortion attempts targeting suspected gay individuals, exploiting social stigma that deters many from safely disclosing their sexual orientation.

In February 2023, Barotali Khamidzoda, the head of the Ministry of Internal Affairs, announced the detention of ten gay men in Dushanbe on suspicion of "deliberately infecting citizens with HIV". Rakhimzoda stated that the Ministry "does not carry out special raids against gays and lesbians. However, they are constantly under our supervision".<sup>219</sup>

## Yemen

Yemen's criminalising laws are enforced by various factions, including the internationally recognised government and insurgent forces, amid an ongoing civil war and humanitarian crisis. All parties in the conflict have targeted individuals of diverse sexual orientations, gender identities, and expressions, with the UN documenting violations of international humanitarian law. Concerns persist about the resurgence of oppressive gender norms and their impact on gender non-conforming individuals, as highlighted by the UN Group of Eminent International and Regional Experts in 2019.<sup>220</sup> Throughout 2023, ILGA World monitored numerous reports of arrests targeting individuals accused of engaging in consensual same-sex relations or promoting homosexuality in Yemen. Among these, on 1 January, four men were reportedly arrested in Al-Hodeidah's Al-Zahra Directorate for allegedly trying to "spread homosexuality". Public calls for the death penalty heightened tensions. In July, eight Houthi militia members were also reportedly detained in a Dhamar hotel for "promoting homosexuality". In October, further reports surfaced that Houthi militia members were facing charges of homosexuality and sodomy, prompting referral to a criminal court.<sup>221</sup>

In January 2024, disturbing reports surfaced when a criminal court in Dhamar, northern Yemen, reportedly sentenced nine individuals to death. Seven were to be executed by stoning, two by crucifixion, and 23 others received prison terms of six months to 10 years on charges such as 'homosexuality' and 'spreading immorality'. Similarly, in February, a court in Ibb condemned 13 students to death and three to flogging for 'spreading homosexuality'. Amnesty International's Crisis Evidence Lab analysed videos showing individuals being publicly flogged in the presence of Houthi officials, suggesting the imposition of the penalties occurred in public spectacles aimed at instilling fear.<sup>222</sup>

<sup>215</sup> "Will Sri Lanka Decriminalize Same-Sex Relations?", *Ground Views*, 5 May 2023; "Dr. Paikiasothy Saravanamuttu, Bhavani Fonseka and Mirak Raheem intervene in Supreme Court Special Determination (SC SD 13/2023) in support of the Penal Code (Amendment) Bill", *Centre for Policy Alternatives*, 19 April 2023.

<sup>216</sup> "සමලිංගිකත්වය අපරාධ වරදක් නොකරන නීති සංශෝධනයට සහය දෙන්න" [Support the amendment to decriminalize homosexuality], *The Leader* (Sri Lanka), 12 May 2023; "SC deems pro-LGBT Bill consistent with Constitution", *The Morning*, 12 May 2023; "श्रीलंका में समलैंगिकता अपराध की श्रेणी से बाहर, SC ने एक दर्शन से अधिक याचिकाओं को सुनने के बाद दिया फैसला" [Homosexuality decriminalized in Sri Lanka, SC gives verdict after hearing over a dozen petitions], *Prabha Sakshi*, 10 May 2023; "[CJ welcomes SC's determination on proposed amendment decriminalising consensual same-sex sexual relations between adults" [ICJ welcomes SC's determination on proposed amendment decriminalising consensual same-sex sexual relations between adults], *Lanka News Web*, 12 May 2023.

<sup>217</sup> "Parliament asks Dolawatta to move Penal Code (Amd) Bill proposing decriminalisation of same-sex conduct for second reading", *Lanka News Web*, 13 December 2023.

<sup>218</sup> "සමලිංගිකත්වය : දණ්ඩ නීති සංග්‍රහයේ සංශෝධන නොසලකාහැරුවා" [Homosexuality: Penal Code Amendments Ignored], *TheLeader.lk*, 13 January 2024; "HRCSL writes to Justice Minister urging decriminalisation of same-sex conduct", *Lanka News Web*, 23 November 2023; see also "Official Press Release No: HRC/P//E/23/11/23", *Human Rights Commission of Sri Lanka*, retrieved on 30 April 2024.

<sup>219</sup> "В Душанбе геи подозреваются в заражении ВИЧ более 80 человек" [In Dushanbe, gay men are suspected of infecting more than 80 people with HIV], *Radio Ozodi*, 15 February 2023.

<sup>220</sup> For more information, see: ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 225-227, citing, among others: Human Rights Council, *Situation of human rights in Yemen, including violations and abuses since September 2014: Detailed findings of the Group of Eminent International and Regional Experts on Yemen*, A/HRC/45/CRP.7, para. 214.

<sup>221</sup> See, among others: "المليشيا تقر بحادث زواج مليونين في منطقة خاضعة لسيطرتها غرب اليمن وتزعم القبض على مرتكبي" [The militia acknowledges the occurrence of same-sex marriage in an area under its control in western Yemen and claims to have arrested the perpetrators], *News Line (Yemen)*, 2 January 2023; "قبض عليها الأمن" [Security arrested her and the Houthis released her members of a cell promoting homosexuality and drugs in the city of Dhamar], *Akhbar News Agency*, 31 July 2023.

<sup>222</sup> "Yemen: Huthis must stop executions and release dozens facing LGBTI charges", *Amnesty International*, 9 February 2024.

## Europe

### France

In August 2022, the [Bill to grant reparations to those convicted of homosexuality \(2022\)](#) was introduced in the French Senate. According to Article 2, people who were sentenced under laws criminalising same-sex sexual acts between consenting adults would be entitled to a fixed compensation of 10,000 euros, a compensation of 150 euros per day of imprisonment, and to the reimbursement of any fines they had been obligated to pay. By March 2024, it had already been supported by both chambers of the French Parliament and was awaiting a second vote by the Senate.<sup>223</sup>

### Russia

The Russian Federation has not explicitly criminalised consensual same-sex sexual acts since 1993.<sup>224</sup> Nevertheless, over the past decade, a complex and regressive series of laws and judicial rulings have coalesced to form an oppressive legal framework which criminalises individuals of diverse sexual orientations and gender identities. Stringent limitations on freedom of expression and association have led to the imposition of fines, arrests, prosecutions, and incarceration of activists and members of the LGBT community. Furthermore, persistent efforts to dismantle and suppress organisations have decimated the local movement. The most recent manifestation of this strategy is evident in a Supreme Court decision that designated the LGBT movement as “extremist”, imposing substantial restrictions and impeding the dissemination of information or advocacy for LGBT rights.

Notably, these measures have been implemented despite the absence of explicit criminalisation of consensual same-sex sexual acts. This fact has been cynically exploited by senior officials, including President Vladimir Putin, to suggest that homosexuality is not officially persecuted in the country.

- *For a detailed examination of the legal developments that took place between January 2023 and April 2024 that contributed to this situation in Russia, please refer to the chapters on restrictions to freedom of expression and freedom of association in the referenced report.*

## Latin America and the Caribbean

### Dominica

Until April 2024, Section 16 of the [Sexual Offences Act \(1998\)](#) punished the crime of “buggery” with imprisonment of up to 10 years, and if deemed fit by the court, the convicted person could be sent to a psychiatric hospital for treatment, making Dominica the only UN Member State retaining court-mandated “conversion therapy” as a legally prescribed penalty for consensual same-sex sexual acts.

Acts of “gross indecency”—understood as “an act other than sexual intercourse by a person involving the use of genital organs for the purpose of arousing or gratifying sexual desire”—were also punished under Section 14 with imprisonment for five years.

However, on 22 April 2024, these provisions were declared unconstitutional and void in *B.G. v. Attorney General of the Commonwealth of Dominica et al.* (2024),<sup>225</sup> as they contravene fundamental rights guaranteed by the Constitution of Dominica, specifically the rights to liberty, freedom of expression, and protection of personal privacy.

In order to give effect to these declarations, the court determined that Section 14(2) of the Sexual Offences Act is to be interpreted in a manner that excludes consensual acts of gross indecency committed in private between consenting adults from the scope of the offence. Similarly, section 16(1)(b) is to be read to specify that consensual acts between adults conducted in private are not subject to prosecution.

- *Due to the timing of the decision's release, subsequent to the cut-off date of this report, ILGA World has been unable to perform a comprehensive analysis of its content and legal implications. We urge our readers to consult the ILGA World Database for forthcoming updates.*

### Jamaica

In March 2023, the Court of Appeal adjourned the case of *Attorney General v. Maurice Tomlinson* (2023), which aimed to challenge the constitutionality of Jamaica's anti-sodomy laws.<sup>226</sup> The Court ordered a

<sup>223</sup> “[Condamnations pour homosexualité : le vote des députés en faveur d'une réhabilitation](#)” [Convictions for homosexuality: the vote of deputies in favour of rehabilitation], *Komitid*, 9 March 2024; “[France's lower house backs compensating victims of anti-gay laws](#)”, *France 24*, 8 March 2024.

<sup>224</sup> For more information, refer to: ILGA World, [ILGA World Database: Criminalisation of consensual same-sex sexual acts - Russia](#) (retrieved: 1 April 2024).

<sup>225</sup> Full title: *B.G. v. Attorney General of the Commonwealth of Dominica, the Bishop of Roseau, the Methodist Church, the Anglican Church and Dominica Association of Evangelical Churches*, DOMHCV2019/0149, 22 April 2024.

<sup>226</sup> In Jamaica, consensual same-sex sexual acts are criminalised under various provisions of the [Offences Against the Person Act \(1864\)](#). For more information, see ILGA World, [ILGA World Database: Criminalisation of consensual same-sex sexual acts - Jamaica](#), retrieved on 10 October 2023.

separate trial to determine whether the constitutionality of Sections 76, 77, and 79 of the Offences Against the Person Act (1864) could be considered.<sup>227</sup> In October 2023, this new case was dismissed, with the Court indicating that it considered this issue under the legislature's purview instead.<sup>228</sup> The Court also referenced the Constitution's Savings Law Clause, which was intended to protect pre-independence, colonial laws from constitutional challenges. The Court, however, acknowledged the State's ability to preserve the country's buggery laws and utilisation of the Savings Law Clause to prevent scrutiny of the laws violating citizens' rights. The main plaintiff and activist, Maurice Tomlinson has since reportedly expressed interest in taking this matter to the country's apex court, the Privy Council, located in the United Kingdom.

## Saint Vincent and the Grenadines

On 16 February 2024, in the case of *Javin Kevin Vinc Johnson v Attorney General* (2019), consolidated with *Sean Mcleish v Attorney General* (2019), Justice Esco Henry—sitting as a High Court Judge within the Eastern Caribbean Supreme Court—ruled against the claimants and thereby validated Sections 146 and 148 of the Criminal Code of Saint Vincent and the Grenadines (informally referred to as the “buggery” law).<sup>229</sup> These provisions prescribe a penalty of up to ten years imprisonment for individuals engaging in “buggery” and a maximum penalty of five years for those involved in acts of “gross indecency”, respectively. The lawsuits were filed in 2019 by two gay men residing abroad and challenged the constitutionality of these Criminal Code provisions.

Shortly after the case was admitted, a coalition of ten Christian churches was added as “interested parties” in the litigation, granting them the opportunity to submit written arguments and oral presentations during the proceedings. Ultimately, they played a highly influential role in the decision.<sup>230</sup> The coalition also mobilised politically during the case, organising a significant rally in November 2019 under the theme “A Call to

Righteousness, Calling Our Nation to God” to demonstrate against the case in the capital city of Kingstown. During the rally, the leader of the Coalition, Mandella Peters, described the case as “an assault on Christian beliefs about sexual relations” and asserted that the litigation represented the first step of the “LGBT Agenda” in Saint Vincent and the Grenadines, aiming to legitimise same-sex marriage and “the promotion of transgenderism”.<sup>231</sup>

In her decision, Justice Esco Henry established that as neither claimant was a resident of Saint Vincent and the Grenadines any longer, they had no legal standing to bring such a case and had, in any event, failed to demonstrate the harm caused to them by the existence of the law.

Regarding the substantive issue, the Attorney General argued that two main objectives justified keeping the law: public health and public morality. Concerning public health, the Attorney General contended that “the increasingly high cost of supplying medication to persons stricken with HIV provides a reasonably justifiable rationale” for upholding criminalisation. Justice Esco Henry alarmingly supported the disproven argument that decriminalising same-sex sexual acts could lead to a surge in HIV cases, stating that “the thought of a public health crisis occasioned by an unstemmed deluge of new HIV cases is a real and serious concern, which reasonably justifies a public health response of the kind embedded in the challenged provisions”.

As for the public morality argument, Justice Henry indicated that the testimonies provided by Pastor Haynes and Reverend Davis on “the content of the prevailing mores” were reflective of the public morality standards by which Vincentian society governs itself. In his testimony, Pastor Haynes notably stated that the rights of Churches and their members “would be adversely affected” with the repeal of the buggery law, including their right to seek and disseminate information in opposition to buggery, their equality before the law, their right to enjoy a healthy environment, and their right to freedom of religion, among others. For his part, Reverend Davis—who had been a fervent speaker at the rally against the litigation in 2019—expressed that the repeal of the “buggery” law

<sup>227</sup> “Gay rights activist's constitutional challenge delayed”, *Jamaica Observer*, 4 April 2023; “Court seizes on a new way to delay challenge to Jamaica's anti-gay law”, *76 Crimes*, 15 April 2023.

<sup>228</sup> “Court dismisses challenge to buggery law”, *Jamaica Observer*, 27 October 2023; “Tomlinson prepared to escalate gay rights battle to Privy Council”, *The Gleaner*, 21 December 2023.

<sup>229</sup> “SVG High Court dismisses case brought by LGBTQ+ men”, *Searchlight*, 22 February 2024; “St. Vincent—Court Rejects Challenge to Gay Laws”, *NY Carib News*, 21 February 2024; “Deep disappointment as St Vincent High Court fails to overturn discriminatory anti-LGBT laws”, *The Daily Observer*, 17 February 2024; “Court in St Vincent upholds buggery laws, blow to activists”, *The Gleaner*, 17 February 2024; “St. Vincent upholds laws criminalizing gay sex in Caribbean island nation in setback for activists”, *Associated Press*, 17 February 2024; “SVG: Court dismisses legal challenges to buggery laws”, *Caribbean Broadcasting Corporation*, 17 February 2024; “ERAO SVG Disappointed That Cases Challenging Anti-LGBTQ+ Laws in St. Vincent Were Unsuccessful”, *The Voice (Saint Lucia)*, 18 February 2024.

<sup>230</sup> “Judge allows churches to join SVG's buggery case”, *iWitness News*, 20 November 2019; “High Court rules on churches to join State in defending SVG's buggery laws”, *SKN Vibes*, 23 November 2019.

<sup>231</sup> “Christians march in protest of anti-buggery laws challenge”, *Searchlight*, 15 November 2019; “Christian coalition set for march and rally around Kingstown”, *Searchlight*, 8 November 2019.

would “enable the LGBT agenda to be forced upon a community whose religious ethos is totally at odds with it.”

In conclusion, Justice Esco Henry indicated that he harboured “no doubt” that criminalising consensual same-sex sexual acts has “a rational connection” with public health and public morality concerns within the context of the State’s limited resources and the “local mores”.

In response to the decision, UNAIDS said in a statement that it was “particularly concerned that the judgment referred to protecting public health and tackling the HIV epidemic as justifying punitive anti-LGTBQ laws because the evidence shows that such laws hinder efforts to protect public health and tackle the HIV epidemic”. The statement went on to indicate that “in fact, studies show that these laws have negative health outcomes. A punitive legal environment, including criminalisation of same-sex relationships, drives people underground and away from vital health services, including HIV prevention, testing, treatment, and care” and that “to achieve the goal of ending AIDS as a public

health threat by 2030, it is vital to ensure that everyone has equal access to essential services without fear, stigma or discrimination”.<sup>232</sup>

VincyCHAP, a local civil society organisation that joined the claimants as an interested party to the case stated: “It is a dark day in Saint Vincent and the Grenadines for minorities who are LGBT persons. This has now weaponised hate, it has now weaponised discrimination, it has now weaponised homophobia, sanctioned by the highest court”.<sup>233</sup>



Although consensual same-sex sexual activity has not been criminalised since Venezuela enacted its first [Penal Code \(1836\)](#), it was outlawed in the military until 2023 under Article 565 of the Military Justice Code, which prohibited “sexual acts against nature”.<sup>234</sup> In March 2023, the Supreme Court struck down this article in [Judgment No. 0128 \(2023\)](#) for lack of precision with regard to the punishable behaviour.<sup>235</sup>

## Oceania



### Cook Islands (New Zealand)

April 2023 marked a significant victory for local communities in the Cook Islands as the [Crimes \(Sexual Offences\) Amendment Bill \(2023\)](#), encompassing provisions for the decriminalisation of consensual same-sex acts, was successfully enacted after passing its second and third readings in the local Parliament.<sup>236</sup> Before this date, Section 155 of the [Crimes Act \(1969\)](#) had penalised “sodomy” with varying consequences based on the nature of the offence. Earlier attempts to repeal this provision, including the [Crimes Bill \(2017\)](#), faced multiple deferrals. In 2019, the Crimes Bill Select Committee briefly proposed heightened penalties for “sodomy” and an extension to cover same-sex acts

between women; however, this was abandoned after widespread public backlash.<sup>237</sup>

According to local media, Prime Minister Mark Brown stated in Parliament that the amendment brings outdated laws, enacted nearly 60 years ago, into the 21st century by eliminating “legal language that is no longer appropriate in this day and age”.<sup>238</sup> For its part, UNAIDS issued a statement welcoming the decision. UNAIDS Asia Pacific Regional Director, Eamonn Murphy, stated that “by decriminalising sex between same-sex partners, the Pacific nation joins a global movement toward affirming the human rights to non-discrimination and privacy” and that the “abolition of punitive and discriminatory colonial laws across the world is essential for public health, including for ensuring the end of AIDS”.<sup>239</sup>

<sup>232</sup> “Statement from UNAIDS on the decision of the High Court of St. Vincent and the Grenadines to uphold discriminatory and harmful laws”, UNAIDS (Website), 25 February 2024; “UNAIDS comments on High Court ruling on challenge to Buggery laws”, Searchlight, 27 February 2024.

<sup>233</sup> “High Court ruling undermines the rights of LGBTQ+ Vincentians”, *Eastern Caribbean Alliance for Diversity and Equality*, 19 February 2024.

<sup>234</sup> For more information, see ILGA World, [ILGA World Database: Criminalisation of consensual same-sex sexual acts - Venezuela](#), retrieved on 1 June 2023.

<sup>235</sup> “TSJ anula artículo que castigaba con cárcel a militares homosexuales” [TSJ annuls article that punished gay soldiers], *El Carabobeño*, 18 March 2023.

<sup>236</sup> “Historic day: Cook Islands Parliament decriminalises homosexuality”, *Cook Islands News*, 15 April 2023; “We are now truly one nation and one people, says Pride Cook Islands”, *Cook Islands News*, 17 April 2023; “Bisher drohten 5 Jahre Knast: Cookinseln legalisieren Homosexualität!” [So far threatened 5 years jail: Cook Islands legalize homosexuality!], *Bild*, 18 April 2023; “Postkolonialismus: Cookinseln befreien sich vom homophoben Erbe” [Postcolonialism: Cook Islands shed homophobic legacy], *Männer*, 18 April 2023.

<sup>237</sup> For more information, see ILGA World, [ILGA World Database: Criminalisation of consensual same-sex sexual acts - Cook Islands \(New Zealand\)](#), retrieved on 10 October 2023.

<sup>238</sup> “Historic day: Cook Islands Parliament decriminalises homosexuality”, *Cook Islands News*, 15 April 2023;

<sup>239</sup> “UNAIDS welcomes the decriminalisation of same sex relations by the Cook Islands parliament”, UNAIDS, 17 April 2023; “Cook Islands’ original path toward equality”, UNAIDS, 27 April 2023.



## Papua New Guinea

Section 210 of the *Criminal Code* (1974) still penalises “unnatural offences” with imprisonment of up to 14 years. The crime is defined as “sexual penetration” against the order of nature”. Attempts to commit this “crime” can be punished with imprisonment for seven years. Further, “indecent practices between males” are criminalised under Section 212, with a penalty of imprisonment of up to three years.

In March 2023, two men were due to appear in court after being granted bail by the Lae Committal Court in Morobe. They were reportedly arrested for engaging in consensual sexual activity at a healthcare centre. Magistrate Lorna Sani instructed each man to pay bail of 700 Kina (approx. USD 182) and charged them with committing an “unnatural offence”. The magistrate said in court that the alleged offence “was out of the order of nature and an infringement of the Constitution”.

Police had earlier asked the court to issue a higher bail due to the type of offence.<sup>240</sup>

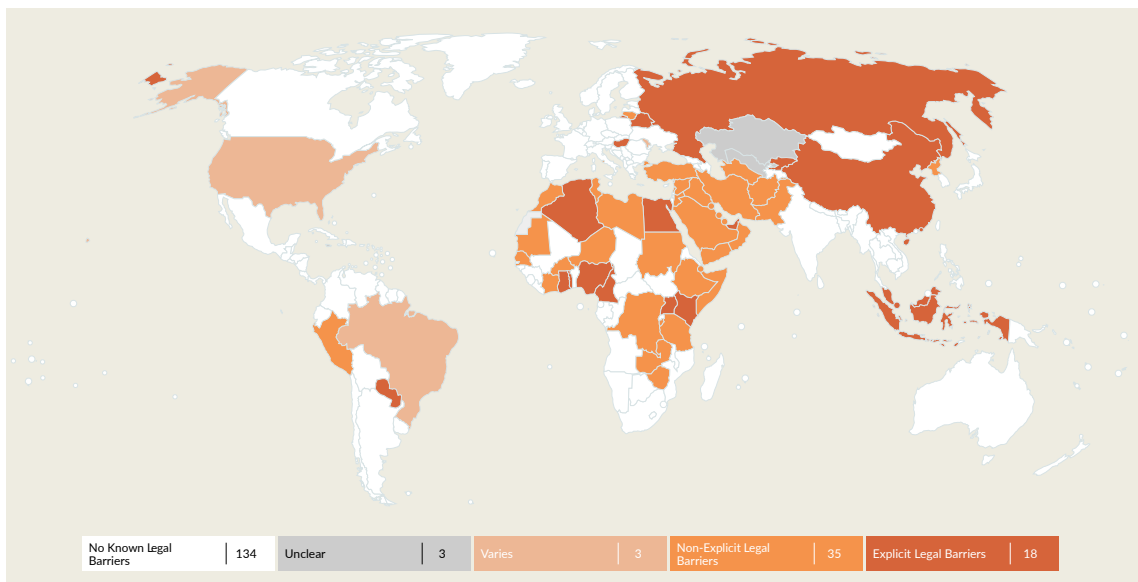
During Pride Month in 2023, the Prime Minister of Papua New Guinea, James Marape, clarified that his government had not introduced any measures to “endorse or promote homosexuality” and reiterated his stance against “such initiatives” during his tenure. Moreover, he emphasised that there was no bill under consideration by Parliament aimed at “legitimising lesbian and gay rights”, nor did he foresee any such legislation being passed shortly. He stressed the “cultural and religious perspectives of both Melanesian and Christian traditions”, asserting that practices deemed unnatural are not locally condoned and called upon residents and visitors to respect the national ethos and values of Papua New Guinea. His statement was reportedly prompted by concerns Kundiawa-Gembogl MP Muguwa Dilu raised regarding flying the Rainbow flag at the United States embassy in Port Moresby.<sup>241</sup>

<sup>240</sup> The sources pertinent to this case have been redacted because they contain information pertaining to the individuals who were apprehended. Should you require specific details regarding this case for COI research, kindly contact [research@ilga.org](mailto:research@ilga.org). See also: ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2<sup>nd</sup> Edition (Geneva: ILGA, November 2023), 245-246.

<sup>241</sup> “No bill to legitimise lesbians, gays: PM”, *The National (Papua New Guinea)*, 12 June 2023.

## Restrictions to Freedom of Expression

**Global Summary** – There has been an alarming acceleration of UN Member States enacting and debating new legal barriers to freedom of expression. Laws regulating speech are increasingly prominent as mechanisms for criminalisation.



### Top Legal Developments (January 2023 – April 2024)

- ▶ Increasing trend towards enacting general restrictions to freedom of expression (specific wording varies between the promotion of “homosexuality”, “debauchery”, “non-traditional sexual relations”, etc.):
  - Three (3) UN Member States have formally enacted legal provisions against so-called “promotion” (**Jordan, Kyrgyzstan and Uganda**).
  - One (1) UN Member State (**Russia**) has significantly tightened existing restrictions by designating the “international LGBT movement” as “extremist” and imposing further limitations on “foreign agents”, among other regressive measures.
  - One (1) UN Member State (**Belarus**) has enacted legal restrictions by categorising content related to sexual and gender diversity as “pornography”, thereby criminalising its “promotion” under the Penal Code.
  - In one (1) UN Member State (**Zambia**), authorities announced that anyone found promoting “unnatural offences” or “acts of indecency” would be liable to prosecution in a court of law.
- At least nine (9) UN Member States considered bills that include provisions against so-called “promotion”/ “propaganda” (**Bahrain, Belarus, Georgia, Ghana, Indonesia, Iraq, Lebanon, Romania and Uzbekistan**). Additionally, in one (1) UN Member State (**Namibia**), a bill specifically targets the “promotion of same-sex marriage”. Similar initiatives were announced in other jurisdictions, including **Kazakhstan, Kenya** and **Transnistria (Moldova)**.
- ▶ Increasing administrative restrictions imposed on the media:
  - In at least ten (10) UN Member States, governmental agencies or media oversight bodies issued new regressive directives or measures imposing broad bans on content related to sexual and gender diversity (**Burkina Faso, Cameroon, Democratic Republic of the Congo, Iraq, Jordan, Malaysia, Mauritania, Morocco, Niger, and Nigeria**)
  - In at least eight (8) UN Member States, media authorities banned films and suspended TV programmes and channels due to references to



sexual and gender diversity (**Algeria, Cameroon, Egypt, Iraq, Kuwait, Lebanon, Saudi Arabia, and the United Arab Emirates**).<sup>1</sup>

- Continued trend of associating rainbow-coloured goods with the promotion of homosexuality:<sup>2</sup>
  - In at least eight (8) UN Member States, authorities persisted in seizing, banning, and even destroying rainbow-coloured goods, deeming them to “promote homosexuality” (**Algeria, Democratic Republic of the Congo, Libya, Sudan, Malaysia, Tanzania, Oman and Yemen**).
- Rising trend to ban books and educational content on sexual and gender diversity:
  - In at least nine (9) UN Member States, measures were implemented to ban and confiscate books and educational material perceived as conflicting with moral standards or promoting homosexuality (**Bangladesh, Belarus, Burundi, Egypt, Malaysia, Morocco, Nigeria, Pakistan, and Tanzania**).
- In at least twelve (12) UN Member States, bills, laws, and specific plans or policies have been developed or enforced to restrict content pertaining to sexual and gender diversity in schools and educational institutions (**Bulgaria, Indonesia, Iraq, Kenya, Morocco, Niger, Paraguay, South Korea, Tanzania, Uganda, the United States of America and Zimbabwe**).
- As a matter of policy, online censorship persisted as a widespread practice in numerous UN Member States.
  - Notable instances of rigorous monitoring and crackdowns on online platforms discussing matters of sexual and gender diversity occurred in numerous UN Member States including **China, Iran, Iraq, Jordan, Kazakhstan, Malaysia, Russia, Tanzania, and Zimbabwe**. In several cases, individuals faced arrests and prosecution for their online activities.
  - Furthermore, in **Algeria and Senegal**, cybercrime legislation was utilised to persecute individuals based on their online activities.

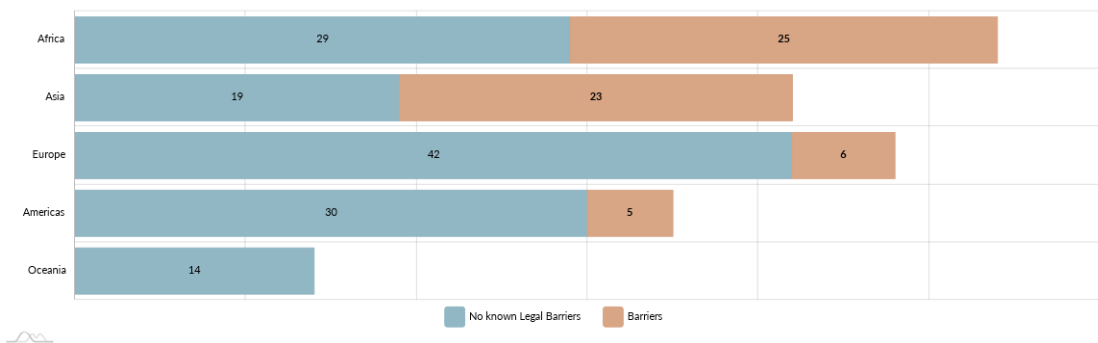
## Global Tallies (UN Member States) – April 2024

AT LEAST  
**59**  
UN Member States with  
legal barriers (total)

AT LEAST  
**19**  
UN Member States with  
specific barriers in **education**

AT LEAST  
**30**  
UN Member States with  
specific barriers in the **media**

## Legal barriers to freedom of expression by region



<sup>1</sup> Nota Bene: The actual number of UN Member States where similar measures were issued is likely higher.

<sup>2</sup> For further information on this continuing trend, see: “Rainbow Items and the Morality of Colors in Arab Countries”, *Arab Reform Initiative* (retrieved 1 April 2024).

## Legal developments | January 2023 – April 2024

### Regional

In May 2023, a coalition of countries launched the “International Program for the Protection of Family Values”. The round table “Family. Traditions. Mercy.” held in Minsk, Belarus, brought together MPs, activists, and clergy from Russia, Belarus, Serbia, Uzbekistan, Egypt, Turkey, Syria, Lebanon, Georgia, Armenia, and Kazakhstan. Anna Kuznetsova, Deputy Chairman of the Russian State Duma, opened the event and highlighted the increasing global demand for “safeguarding traditional family values” amidst an alleged rising number of people who identify as LGBT, warning against “radical LGBT initiatives” and the alleged “European proposals on legalising paedophilia” [sic]. During the round table, proposals were made on how to counter the “destructive Western ideology”, with proposals to adopt verification mechanisms to test all adopted legislative acts for compliance with “spiritual values”.<sup>3</sup>

### Africa

#### Algeria

In January 2023, the Algerian Minister of Trade and Export Promotion, Kamel Rezig, initiated a national campaign to confiscate and destroy products featuring rainbow colours in physical stores and electronic sales platforms alongside an awareness-raising component. The Minister stated that these products are perceived to be detrimental to “the religious faith and moral values of Algerian society”. He emphasised a firm stance against those infringing upon the religious beliefs of Algerians or compromising “the moral interests of consumers” and expressed concerns about the proliferation of colours, symbols, and logos conveying similar suggestions, arguing that such products intentionally target the youngest demographic. Furthermore, he broadened the scope of concern to include television programs, movies, games, and electronic applications.<sup>4</sup>

Simultaneously, the awareness campaign mobilised the Ministry of Religious Affairs and community actors to collectively contribute “to consumer protection”. Under the slogan “Protect your family, beware of products that carry colours and symbols contrary to faith and our moral values”, the campaign encouraged individuals to refrain from acquiring such products via targeted SMS messages, urged economic operators to abstain from importing or manufacturing them, and emphasised the supervisory and preventive roles of control services in safeguarding the “material and moral interests of consumers”. Additionally, the Minister highlighted the pivotal role expected from professional organisations and civil society, notably the Consumer Protection Association, calling on them to educate economic agents about their responsibilities regarding the importation and display of products conflicting with the relevant interests of citizens.<sup>5</sup>

Media outlets have also contributed to amplifying this campaign,<sup>6</sup> which was widely reported in the SWANA region.<sup>7</sup> Moreover, the Algerian newspaper *En-Nahar*

<sup>3</sup> “В Минске проходит международный круглый стол по защите традиционных семейных ценностей” [Minsk hosts an international round table on the protection of traditional family values], *Sovetskaya Belorussia*, 16 May 2023; “Страны объединяются: запущена международная программа по защите семейных ценностей” [Countries Unite: International Program to Protect Family Values Launched], *Sovetskaya Belorussia*, 17 May 2023.

<sup>4</sup> “Campagne contre les couleurs LGBT en Algérie : les précisions de Rezig - Algerie360” [Campaign against LGBT colors in Algeria: details from Rezig - Algerie360], *Algerie 360*, 4 January 2023; “Société : Rezig mène son offensive contre les produits arborant les couleurs arc-en-ciel” [Society: Rezig leads its offensive against products bearing rainbow colors], *Algerie Focus*, 4 January 2023; “عقوبات قاسية لمن يروج للفحشاء. الجزائر تضيق منتجات منافية للأداب وتمس العقيدة” [Harsh penalties for those who promote homosexuality.. Algeria seizes immoral products that violate faith], *Faith News (Egypt)*, 4 January 2023; “الجزائر: حملة ضد منتجات ‘تروج للمثلية ومناقية للأداب’” [Algeria: Campaign against products that “promote homosexuality and immorality”], *Mosaïque FM*, 4 January 2023.

<sup>5</sup> “عقوبات ضد منتجي ومستوردي المنتجات ذات الألوان والرموز المسيئة للدين” [Sanctions against producers and importers of products with colours and symbols offensive to religion], *En-Nahar Online*, 4 January 2023; “Société : Rezig mène son offensive contre les produits arborant les couleurs arc-en-ciel” [Society: Rezig leads its offensive against products bearing rainbow colors], *Algerie Focus*, 4 January 2023; “L’Algérie veut bannir les couleurs arc-en-ciel dans le commerce” [Algeria wants to ban rainbow colours in commerce], *TSA*, 2 January 2023.

<sup>6</sup> See for example: [Egypt] “كيف نتعرفون عليها؟.. كيف نتعرفون عليها؟” [Toys, tools, and clothes that promote gay ideas.. How do you recognise them?], *Echorouk El Yawmi*, 6 January 2023.

<sup>7</sup> See for example: [Egypt] “وزارة التجارة الجزائرية تطلق حملة وطنية لمصادرة المنتجات التي تحمل ألوان قوس قزح” [The Algerian Ministry of Trade launches a national campaign to confiscate products bearing the colours of the rainbow], *Misr News*, 9 January 2023; [Iraq] “وزارة التجارة الجزائرية تطلق حملة وطنية لمصادرة المنتجات التي تحمل ألوان قوس قزح” [The Algerian Ministry of Trade launches a national campaign to confiscate products bearing the colors of the rainbow], *Attessia TV*, 12 January 2023; [Kuwait] “الجزائر تطلق حملة لمنع تسويق منتجات بألوان المثليين” [Oras | Algeria launches a campaign to prevent the marketing of homosexual products.], *Nabd*, 4 January 2023; [Morocco] “L’Algérie débute l’année 2023 par une chasse nationale visant les couleurs de l’arc-en-ciel” [Algeria begins

informed the public about the campaign's outcomes, disclosing that control services had seized over 38,000 toys and school supplies with rainbow colours valued at 3.5 million Algerian dinars (about USD 26,000). Moreover, 4,561 Qur'ans of various sizes featuring rainbow colours, deemed "offensive to religious belief", were destroyed, amounting to a value of 4.5 million Algerian dinars (about USD 33,500). The Minister commended the critical role played by the National Gendarmerie, highlighting the increased regulatory efforts carried out in coordination with customs authorities to prevent the entry and marketing of rainbow products.<sup>8</sup> Later, in March, it was reported that the regional unit of the National Gendarmerie in the municipality of El Kharroub in Mila province had further seized 162 copies of the Qur'an featuring rainbow colours. The seized copies were subsequently handed over to Mila province's Directorate of Religious Affairs and Endowments.<sup>9</sup>

In a statement to the French press, journalist Ali Boukhlef alleged that this campaign is a tactic to divert attention from pressing issues such as unemployment, high prices, scarcity of some raw materials, and the absence of a clear direction. Public reactions in Algeria reportedly varied, with some perceiving it as a diversion and others supporting punitive measures against those responsible.<sup>10</sup>

In August 2023, the Algerian Regulatory Authority for Audiovisual Communication (Autorité de Régulation de l'Audiovisuel, "ARAV") temporarily suspended the Al-Salam TV channel due to the broadcast at midnight on 10 August of a scene depicting a same-sex couple getting married, which was deemed "contrary to Islamic precepts and the morals of Algerian society." Consequently, the ARAV decided to temporarily suspend all programs on this channel pending a final decision.<sup>11</sup>

In September 2023, local media reported that an individual identified as "M. H." was arrested by the Cybercrime Unit of the Provincial Judicial Police in Ain Temouchent for "promoting homosexuality" on Facebook. The arrest was reportedly part of a broader

effort to combat various cybercrimes, particularly those affecting "public morals", aiming to prevent the spread of ideas deemed "foreign to society" and "inciting immorality". The accused was brought before the Public Prosecutor at the Ain Temouchent Court, where an immediate trial resulted in an 18-month prison sentence and a fine. The charges included "engaging in homosexuality" and "inciting immoral behaviour".<sup>12</sup>

## Benin

In late November 2023, local media reported that rumours about "the introduction of homosexuality into school curricula" in Benin had sparked controversy. The issue was raised during the plenary session of the National Assembly. Still, the Parliament's spokesperson had to clarify that no bill or proposal regarding "the practice of homosexuality" was on the agenda and that such a proposal had never been discussed. Furthermore, the Minister of Secondary, Technical, and Vocational Education denounced this move as "disinformation" and clarified that the content of the Life Sciences and Earth Sciences (SVT) teaching guide clearly explains that homosexuality is a "deviation from natural sexual behaviour".<sup>13</sup>

## Burkina Faso

In August 2023, the Superior Council of Communication (CSC) adopted a decision (See [Press Release](#)) (2023) that restricts the broadcast of LGBT-related content. The CSC cited concerns about "the resurgence of audiovisual programmes accessible to minors that depict or promote homosexuality" as the basis for their decision, deeming it inappropriate for their age and societal norms. This decision prohibits television channels from airing content "promoting homosexuality" and bans any content or scenes of a "homosexual character" on channels targeted at children and young audiences.<sup>14</sup>

<sup>8</sup> "الجزائر: حملة ضد منتجات 'تروج للمثلية ومناقية للأداب' " [Algeria: Campaign against products that "promote homosexuality and immorality"], *Mosaïque FM*, 04 January 2023.

<sup>9</sup> "تحمل الألوان..حجز أكثر من 38 ألف لعبة أطفال وأدوات مدرسية" [Carrying the colours...more than 38 thousand children's toys and school tools were seized], *En-Nahar Online*, 4 January 2023; "ألوان الشواد وصلت إلى المصاحف في الجزائر" [The colours of homosexuals reached the Qurans in Algeria], *Al Bawaba*, 5 January 2023.

<sup>10</sup> "مصلحة 162 مصحفا شريفا يحمل شعار المثليين" [Mila: 162 Holy Qur'ans with the gay slogan were seized], *En-Nahar Online*, 14 March 2023; "حجز 162 مصحفا للقرآن" [Seizure of 162 Holy Qur'an bearing the slogan of homosexuals in Mila], *Djaziress*, 15 March 2023.

<sup>11</sup> "وزارة التجارة الجزائرية تطلق حملة وطنية لمصادرة المنتجات التي تحمل ألوان قوس قزح" [The Algerian Ministry of Trade launches a national campaign to confiscate products bearing the colors of the rainbow], *France 24*, 10 January 2023; "What will they do on a nice sunny rainy day?: Algeria vows to ban rainbows from Algerian market", *The New Arab*, 5 January 2023.

<sup>12</sup> "Scène de mariage homosexuel à la télévision en Algérie : L'ARAV sévit et suspend la chaîne Essalam TV" [Gay marriage scene on television in Algeria: ARAV cracks down and suspends the Essalam TV channel], *Observe Algeria*, 13 August 2023; "فيلم يتسبب في تعليق بث برامج قناة جزائرية...ما قصة؟" [A film causes the suspension of broadcasting of an Algerian channel... What is the story?], *Tunis Scope*, 14 August 2023; "يقف بث قناة جزائرية 20 يوماً بسبب عرض فيلم يحتوي" [Stop broadcasting an Algerian channel for 20 days due to the showing of a movie containing marriage between same-sex couples], *Alaraby UK (Arabic)*, 28 August 2023.

<sup>13</sup> "الإطاحة بشخص يروج للشذوذ الجنسي - جزايرس" [Arrest of a Person Promoting Sexual Deviance], *Djaziress*, 26 September 2023.

<sup>14</sup> "Bénin : supposée légalisation de l'homosexualité, le gouvernement clarifie" [Benin: supposed legalization of homosexuality, the government clarifies], *Afrique sur 7*, 4 December 2023.

<sup>15</sup> "Burkina : Le CSC vent debout contre la promotion de l'homosexualité dans les programmes audiovisuels" [Burkina: The CSC stands up against the promotion of homosexuality in audiovisual programs], *Minute.bf*, 25 August 2023.



## Burundi

In a case documented in *Our Identities Under Arrest* (2023) and referenced in the chapter on criminalisation in this report, in March 2023, a mass arrest of 24 individuals occurred during a seminar organised by MUCO Burundi, a non-profit organisation focused on HIV, in the Gitega province. Documents and leaflets advocating for the rights of LGBT people—along with the discovery of condoms—served as the “primary evidence” leading to the incrimination of the attendees.<sup>15</sup> However, they were accused of “engaging in homosexual practices and allegedly inciting such behaviour among adolescents by providing financial incentives”, a claim dismissed as “absurd and baseless” by local activists.<sup>16</sup>



## Cameroon

In June 2023, the National Communication Council (CNC), the entity in charge of supervising and regulating local media, issued an official notification to broadcasters in Cameroon to withdraw programs with “revealing scenes of homosexuality” deemed as “harmful to social order, especially to children and youth”. These measures were reportedly implemented based on reports from media monitoring conducted by the NCC’s services.<sup>17</sup> The President of the Council stated that programmes which “violate the law, good morals and customs of our country” will be punished with the outright suspension of the media organisations and channels. They emphasised that such content goes against cultural practices and national laws, and given that homosexuality is prohibited by Cameroonian law, broadcasting scenes associated therewith is considered a “violation of professional ethics” and “the laws of nature”.<sup>18</sup>

Subsequently, in September 2023, the CNC instructed the immediate suspension of *Canal+ Elles* broadcasts in Cameroon until further notice, denouncing

“programmes conveying obscene practices with homosexual tendencies and undermining the laws and values in force in the country”.<sup>19</sup>



## Democratic Republic of the Congo

In June 2023, the “DRC Mining Week,” a major mining event in the city of Lubumbashi, faced controversy when gift bags distributed to attendees were found to have a six-striped rainbow pattern on both sides. Certain observers interpreted these rainbow colours as “symbols of homosexuality and lesbianism,” leading to social media uproar and outrage among the event’s participants and visitors. In response, the organisers swiftly removed the bags.<sup>20</sup>

Following this incident, the High Council for Audio-visual and Communication (CSAC), which oversees media content in the DRC, issued a statement to address the situation. The Council stated that “homosexuality and lesbianism, along with their associated practices” are “degrading” and “unconstitutional” and, in keeping with its duty to protect minors and “good morals”, demanded that all media outlets in the DRC refrain from any involvement in “shameful” campaigns to “promote homosexuality”. It also stated that media outlets “involved in these campaigns” could face legal consequences under Congolese law.<sup>21</sup>



## Egypt

Since 2018, Law No. 180 (2018) regulates the press, media, and the Supreme Council for Media Regulation. The law includes provisions addressing issues such as the “violation of public morals” and the “disturbance of peace”. Numerous television shows, phone apps, video games, and films have faced bans for featuring—or allegedly featuring—representations of diverse

<sup>15</sup> Article 564 of the *Penal Code* (2009) in Burundi prohibits the exhibition, sale, or distribution of writings, documents or other materials “contrary to good morals” and anyone in possession of them in meetings or public places in front of several people is punished with a fine. This provision is included in the same chapter as the provisions criminalising sexual acts with beasts and people of the same sex.

<sup>16</sup> “24 Burundians Arrested for Alleged Homosexual Acts”, *VOA Africa*, 3 March 2023; “Burundi charges 24 people with ‘homosexual practices’ in anti-gay crackdown”, *RFI*, 21 April 2023.

<sup>17</sup> “Scènes d’homosexualité à la télé: Le Cameroun met en garde les chaînes étrangères” [Scenes of homosexuality on TV: Cameroon warns foreign channels], *Afrique sur 7*, 16 June 2023; “Cameroon threatens to suspend TV channels broadcasting homosexuality”, *Africa News*, 15 June 2023.

<sup>18</sup> “NCC launches fight against the promotion of LGBT practices in Cameroon’s media landscape”, *Cameroon News Agency*, 15 June 2023; “Le Cameroun menace de suspendre des chaînes télé qui diffusent « des scènes d’homosexualité »” [Cameroon threatens to suspend TV channels that broadcast ‘scenes of homosexuality’], *Komitéid*, 15 June 2023; “Cameroon Communication Council Prohibits LGBT Scenes on TV”, *VOA News*, 16 June 2023.

<sup>19</sup> “Au Cameroun, Canal+ Elles suspendue pour programmes « à tendance homosexuelle” [In Cameroon, Canal+ Elles suspended for programs with ‘homosexual tendencies’], *Jeune Afrique* (2), 26 September 2023; “Promotion de l’homosexualité dans les médias : le CNC resserre l’étou - Cameroon-Tribune” [Promotion of homosexuality in the media: the CNC tightens the noose - Cameroon-Tribune], *Cameroon Tribune*, 26 September 2023.

<sup>20</sup> “DRC censors jump on anti-LGBTQ+ bandwagon”, *Mamba Online*, 5 July 2023; “Government censors in DR Congo demand news outlets stop reporting on LGBT issues”, *76 Crimes*, 4 July 2023; “Congolese government cautions media not to promote LGBTQ-specific content”, *Washington Blade*, 24 June 2023.

<sup>21</sup> Council for Audio-visual and Communication, *Communiqué Officiel 004/CSAC/RAP/OK/06/23*, 19 June 2023. Note: Article 176 of the *Penal Code* (1940) criminalises “insulting morals” by acts “offending modesty,” which has been used to prosecute LGBT people. In addition, Article 175 prohibits different forms of production and dissemination of information “contrary to good morals”. Similar language is used under Article 176 of the *Penal Code* which has been reported as a provision largely used to de facto target people of diverse sexual orientations and gender identities and expressions. For more information, see ILGA World, *ILGA World Database: Legal barriers to freedom of expression - Democratic Republic of Congo*, retrieved on 19 January 2024.

SOGIESC, regardless of the brevity of such representations.

In January 2023, "Doctor Strange in the Multiverse of Madness" was prohibited due to its depiction of a lesbian character, despite her sexual orientation not being a central aspect of the film's plot. Similarly, "Spider-Man: Across the Spider-Verse" encountered a ban prior to its release due to the visibility of a trans flag and trans-positive messages in the background of a scene.<sup>22</sup>

In July, the screening of "Barbie" was postponed to August, and certain scenes were edited due to concerns surrounding perceived "homosexual stories" depicted in the film. The film underwent parliamentary scrutiny, with a representative formally petitioning the government for measures to ban it completely and prevent the dissemination of what was termed "homosexual propaganda" and the erosion of "family values".<sup>23</sup> However, it remains unclear which specific content provoked these concerns, as the representative did not cite any particular scenes. Additionally, another Member of Parliament advocated for the necessity of blocking the Disney+ platform in Egypt, alleging that it was "promoting homosexuality" and aiming to "corrupt the youth" by spreading toxic and atheistic ideas among Egyptian children.<sup>24</sup>

In 2023, Egyptian parliamentarians also directed their attention beyond films. In June, a representative questioned the Prime Minister and the Minister of Telecommunications and Information Technology about the video game "Subway Surfers", which apparently had added rainbow flags and banners supporting Pride in a recent update. According to the MP, "Subway Surfers" had become "a serious threat to Egyptian national security", posing the risk of "children accepting the idea of homosexuality as something natural that is not morally or religiously forbidden and that is not incompatible with our culture".<sup>25</sup> More broadly, another representative called for "Arab legislation" against the "promotion of homosexuality and atheism", particularly in sports events.<sup>26</sup>

The parliamentary emphasis on curbing the dissemination of "homosexual propaganda" reflects a mounting moral panic evident in both media and society. For instance, in June 2023, controversy erupted over rumours of a new 20 Egyptian Pound banknote featuring a multi-coloured watermark that some believed resembled a rainbow. This design had reportedly already caused uproar in August 2021, prompting an apparent redesign of the banknote. It is unclear what reignited the uproar in June 2023, but the media frenzy was such that the Central Bank had to officially clarify that there were no plans to introduce the rainbow banknote design. This highlights how swiftly backlash against perceived "propaganda of homosexuality" can emerge in Egypt.<sup>27</sup>

Later, in July, a bookstore in Sheikh Zayed (a city in the Greater Cairo urban area) was targeted by a social media content creator who discovered a book on family diversity titled "Love Makes a Family" and criticised it on their social media platforms. The store responded with a statement acknowledging an "error" in acquiring books from abroad. However, the matter subsequently became a topic of discussion in Parliament. A representative urged the Government to ban books "promoting homosexuality among children" as they were deemed to potentially cause a "moral catastrophe in Egyptian society, endangering future generations".<sup>28</sup>

This moral panic also elicited a response by government authorities in August 2023, when the Ministry of Endowments cautioned against the so-called "promotion of homosexuality", deeming it a "bad omen for all humanity". In an official statement, the Ministry asserted that "our religion, our civilisation, our values, our morals, and our humanity reject this serious anomaly, and we warn of its terrible consequences".<sup>29</sup> Moreover, in December, the president of the Supreme Council for Media Regulation announced that a committee was working on new standards and control mechanisms for platforms such as Netflix and Disney+. He claimed that these platforms were attempting to "control media worldwide" and "promote homosexuality, atheism, and extremism". He

<sup>22</sup> "Spider-Man: Across the Spider-Verse' Will No Longer Screen in Egypt", *Egyptian Streets*, 15 June 2023.

<sup>23</sup> "ممنوع بدول كثيرة إما قصة فيلم باربي المثير للجدل وهل يعرض في مصر؟" [Banned in many countries What is the story of the controversial Barbie movie, and is it shown in Egypt?], *Sada El Balad*, 06 August 2023; "ترويج المثلية الجنسية.. النائب محمود عصام يتقدم بمسألة للحكومة عن إجراءات منع فيلم باربي" [For promoting homosexuality. Representative Mahmoud Essam submits a question to the government about measures to ban the Barbie movie], *Tahia Masr (Egypt)*, 19 August 2023; "تحرك برلماني لوقف عرض فيلم 'باربي' في مصر" [Parliamentary action to stop showing the movie "Barbie" in Egypt], *Masrawy*, 20 August 2023; "Highly anticipated Barbie movie rated 12+ in Egyptian cinemas", *Ahram Online*, 13 Aug 2023.

<sup>24</sup> "مصر.. نواب يطالبون بالتصدي للمثلية ومنع الكتب والمواقع المروج لها" [Egypt. Representatives call for addressing homosexuality and banning books and websites that promote it], *Russia Today Arabic*, 27 July 2023; "برلماني يطالب بالتصدي لظاهرة المثلية وحجب المواقع المروج لها" [A parliamentarian calls for addressing the phenomenon of homosexuality and blocking websites that promote it], *Sada El Balad*, 26 July 2023.

<sup>25</sup> "سبب دعصا للمثلية الجنسية subway تحرك في البرلمان لحظر لعبة" [Moved in Parliament to ban Subway due to its support of homosexuality], *Cairo 24*, 24 June 2023.

<sup>26</sup> "برلماني يطالب بإصدار تشريعات عربية لتجريم الترويج للمثلية والشذوذ" [A parliamentarian calls for the issuance of Arab legislation to criminalize the promotion of homosexuality and homosexuality], *Sada El Balad*, 06 August 2023.

<sup>27</sup> "Egypt has released new bank note that contains 'rainbow pride colours' and people are freaking out", *The New Arab*, 2 August 2021; "Bank of Egypt forced to confirm new rainbow note isn't for LGBT+ rights after backlash", *Pink News*, 3 August 2021; "عمرو أديب يشكك في الشكل المتداول للـ20 جنيه البوليمر الجديد" [Amr Adib doubts the typical appearance of the new 20-pound polymer note: "The flag of homosexuality is present on the mosque"], *Al Shorouk*, 19 June 2023; "مش نفس الورقة المنتشرة.. «أول رد من البنك المركزي على الـ20 جنيه البلاستيكية المثيرة للجدل»" ["Not the same bill that's circulating"... The Central Bank's first response to the controversial 20-pound plastic note], *Al Masry Al Youm*, 19 June 2023.

<sup>28</sup> "مكتبة 'ببليوثيكا مصر' تكشف سبب وجود كتب المثلية الجنسية بمحتوياتها" [The "Bibliotheca Egypt" library reveals the reason for the existence of homosexual books with their contents], *Awan Masr (Egypt)*, 06 July 2023; "نواب يطالبون بالتصدي للمثلية ومنع الكتب والمواقع المروج لها" [Egypt.. Representatives call for addressing homosexuality and banning books and websites that promote it], *Press Bee*, 27 July 2023

<sup>29</sup> "وزير الأوقاف: الدعوة إلى المثلية والترويج لها نذير شوم على البشرية كلها" [Minister of Awqaf: Calling for and promoting homosexuality is a bad omen for all humanity], *Al Ahram*, 06 August 2023.

emphasised that protecting society against homosexuality was “a matter of national security”.<sup>30</sup>

## Ghana

In early March 2024, Ghana’s parliament approved the contentious [Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill \(2021\)](#) after nearly three years of the bill’s initial introduction in 2021.<sup>31</sup> If enacted, it would impose a prison sentence of three to five years and a fine on individuals who “hold out” (i.e. identify) as lesbian, gay, transgender, transsexual, non-binary, queer, pansexual, bisexual, or even as an “ally” of the LGBT+ community. The nature of this kind of provision in criminalising LGBTI people by mere identification as part of the LGBTI community is deeply alarming and a development that UN experts have warned would “[tear] at the very fabric of human rights and democracy in the country”.<sup>32</sup>

The bill also prohibits “propaganda”, “promotion”, and “advocacy” for any of the activities and identities prohibited within the bill, carrying a penalty of five to 10 years in prison for any breach in the media or on social media platforms.

The bill mandates media companies, creative industries, teachers, educators, clergy, and government officials with the “duty to promote proper human sexual rights and Ghanaian family values”. This duty applies to all legacy media, including television broadcasts, newspapers, radio, social media, and any use of digital devices to create or publish such content.

Additionally, individuals who, outside the media and publications space, “undermine” “Ghanaian family values” by instigating, encouraging, or promoting “illegal activities” may face imprisonment for two to four months. The bill also mandates teachers and educators with the “duty to promote proper human sexual rights and Ghanaian family values” and criminalises advocacy for and allyship to the LGBT+ community. It prescribes a six to 10-year prison sentence for anyone creating content or information that might “evoke the interest of a child” related to prohibited activities or identities or “teach the child to explore any gender or sex other than the binary category of male or female”.

Following internal pressure to sign the bill into law and external pressure to reject the bill, it was reported in late March 2024 that the President’s office submitted an official letter to Parliament to refrain from sending the bill for presidential assent. Reportedly, such a delay

has been requested until legal challenges to the bill have been resolved. This includes a challenge initiated in May 2023, where a private citizen filed a legal action against the Speaker of Parliament and the Attorney General, challenging the validity of the bill’s legislative procedure,<sup>33</sup> and another challenge in the Supreme Court to the law’s passage on the grounds of insufficient parliamentary quorum. A resolution to these challenges remains uncertain.<sup>34</sup> The Finance Ministry also reportedly said that Ghana could lose up to 3.8 billion USD from the International Monetary Fund (IMF) over the next five to six years due to internal IMF policies that prohibit discrimination based on personal characteristics if the bill becomes law.<sup>35</sup>

## Kenya

In 2023, Kenya saw several legislative initiatives to restrict freedom of expression regarding sexual and gender diversity in education and the larger public sphere.

In March 2023, MP George Peter Kaluma announced the draft [Family Protection Bill \(2023\)](#), which aims to prohibit “activities that seek to advance, advocate, promote or fund homosexuality and unnatural sexual acts”, which would directly curb freedom of expression, among other human rights. Section 12 of the bill lists out the various acts considered as the “promotion of prohibited activities”, which include different forms of published and digital media deemed to be “promoting or encouraging homosexuality”, as well as providing financial support and offering premises to operating organisations that promote such activities. Additionally, about education, the bill aims to prohibit Comprehensive Sexuality Education (CSE) in pre-primary, primary, and secondary school education programs. The bill also seeks to “uphold the prior rights of parents and guardians to their children’s education” and reaffirms “the rights of parents to be informed and to consent to sexuality education involving their children”.<sup>36</sup>

In March 2023, the Kenya parliament voted to pass a [motion](#) during the thirteenth parliamentary session stating that the Government should “immediately ban discussing, publishing and distributing information that promotes same-sex relationships in the country and set up a strategy to control such content in accordance with Article 45(2) of the Constitution and Article 162 of the Criminal Law “in order to protect society, especially

<sup>30</sup> “منصات المثلية والإلحاد.. المجلس الأعلى لتنظيم الإعلام يحذر من محتوى ديزني ونيتفلكس” [Homosexuality and atheism platforms. The Supreme Council for Media Regulation warns against Disney and Netflix content], Al Dostor, 31 December 2023; “بعض المنصات العالمية تشجع على المثلية والنظر في الإلحاد” [Karam Jabr: Some global platforms encourage homosexuality, extremism, and atheism], Sada El Balad, 30 December 2023.

<sup>31</sup> “Ghana’s anti-LGBTQ bill draws international condemnation after it is passed by parliament”, NBC News, 01 March 2024.

<sup>32</sup> See: UN experts urge Ghana’s President to reject discriminatory bill | OHCHR, OHCHR, retrieved on 25 March 2024.

<sup>33</sup> “Farmer files suit to stop passage of anti-LGBTQ+ Bill”, *Modern Ghana*, 09 May 2023.

<sup>34</sup> “Ghana president caught in squabble over anti-LGBTQ bill”, *Africa News*, 21 March 2024; “Ghana president won’t act on anti-LGBTQ bill before legal challenge resolved”, *Reuters*, 19 March 2024.

<sup>35</sup> “Ghana Anti-LGTQ+Bill Could Put IMF Funding At Risk, Finance Ministry Says”, *VOA Africa*, 04 March 2024.

<sup>36</sup> “Details of Kaluma’s bill on criminalising LGBTQ”, Kenya Moja, 09 April 2023.

children and young people, against being approached by the perverted tendencies of same-sex love and marriage".<sup>37</sup>

In the same month, the Education Cabinet Secretary announced a plan to "prevent LGBTQ education" in schools and to install chaplaincies in all schools. According to media outlets, religious leaders will be included in a new governmental committee, which an Anglican archbishop will chair.<sup>38</sup>

## Libya

Joining the increasing number of countries confiscating products that are deemed to "promote homosexuality", in March 2024, media outlets reported that customs officials at the Misrata Port Customs Centre intercepted a container from Europe.<sup>39</sup> The shipment, consisting mainly of items of clothing, featured designs deemed offensive to Islamic teachings and appeared to promote homosexuality.<sup>40</sup>

## Mauritania

In August 2023, the screening of "Barbie" was prohibited over claims that the film purportedly served as a "vehicle for moral corruption and contravention of Islamic values". The ban was communicated by the president of the Advertising Regulatory Authority through his Facebook page.<sup>41</sup> In the announcement, he specified that this decision was made under the guidance and oversight of the Mauritanian Minister of Culture. Additionally, he encouraged individuals to report any perceived instances of "propaganda" to the authorities through "any means".<sup>42</sup>

## Morocco

Restriction to freedom of expression was seen to take place even within civic spaces in Morocco. ILGA World was informed by local activists that in June 2023, a women's rights protest in Casablanca, Morocco, was organised by the newly established Moroccan women's rights movement, Hiya. The protest aimed to address gender disparities in the law, particularly in family and penal codes. Among the participants was a transwoman who raised the rainbow flag to highlight the marginalized LGBTQ+ community. This action provoked backlash from some protesters and passers-by, resulting in homophobic slurs directed at her from the public as well as death threats over social media since the incident. Eventually, she left the protest for her safety, and authorities followed up after the incident.<sup>43</sup>

In April 2023, reports surfaced regarding a teacher from a school operating under the French mission in the city of Kenitra (in northwestern Morocco) who was dismissed for allegedly "presenting information on homosexuality" to students. A group of parents reportedly sued the professor, accusing her of introducing students to "abnormal tendencies" and spreading insulting ideas about personalities and symbols of Islam.<sup>44</sup>

In August 2023, due to parental outcry on social media about a French book allegedly "promoting homosexuality", authorities removed the contentious textbook from Rabat's libraries and markets. Additionally, the Moroccan Publishers Association instructed libraries nationwide to remove the book promptly.<sup>45</sup> In parallel, other media outlets reported on Canadian and Spanish schools in Morocco "promoting homosexuality" and teaching about rainbow families.<sup>46</sup>

These cases prompted the Ministry of Education to announce, the day after the start of the new school year, "heightened surveillance" over the content taught in foreign-run schools in Morocco, aiming to prevent the promotion of "LGBT ideology". The Minister

<sup>37</sup> "Kenyan MPs approve resolution to ban public discussions of LGBTQ issues", *Washington Blade*, 27 March 2023.

<sup>38</sup> "Kenya yaanzisha msako dhidi ya LGBTQ shuleni" [Kenya starts anti-LGBTQ campaign in schools], *Radio Jambo*, 11 March 2023.

<sup>39</sup> Nota Bene: It appeared that the authorities controlling Misrata were made up of the internationally-recognised Government of National Accord, and possibly members of allied militia groups, as opposed to the unrecognised Libyan National Army. This information could not be confirmed.

<sup>40</sup> " [ يمكن مركز جمرك ميناء مصراتة بالمنطقة الحرة الأحد الماضي من ضبط حاوية تحمل شحنة ملابس عليها رسوم مخالفة للدين الإسلامي تدعو للصرائية وإلى الشذوذ الجنسي قادمة من إحدى الدول الأوروبية ] " [ Last Sunday, the Misrata Port Customs Center in the free zone was able to seize a container carrying a shipment of clothing bearing graphics that violate the Islamic religion, calling for Christianity and homosexuality, coming from a European country.], *Nabd*, 19 March 2024.

<sup>41</sup> Screen capture of the Facebook post by the president of the Mauritanian Advertising Regulatory Authority, Mohamed Abdellahi Lehbib, announcing the banning of "Barbie" in Mauritania ([link](#)), 19 August 2023.

<sup>42</sup> "Mauritania prohíbe la proyección de 'Barbie' por contradecir los valores islámicos" [Mauritania bans the screening of 'Barbie' for contradicting Islamic values], *La Vanguardia*, 21 August 2023.

<sup>43</sup> "We don't get to pick and rank freedoms': Pride flag raised in Casablanca, divides Moroccan activists", *New Arab*, June 27, 2023.

<sup>44</sup> "Homosexuality" and "perverse inclinations" drag a professor to court], Morocco News Ambassador, 5 April 2023; "القيظرة، مدرسة "بالزاك" الفرنسية تطرد مدرسة المثلية الجنسية داخل القسم، اقرأ التفاصيل"; "القيظرة، مدرسة "بالزاك" الفرنسية تطرد مدرسة المثلية الجنسية داخل القسم، اقرأ التفاصيل", *Press Bee*, 15 April 2023.

<sup>45</sup> "السلطات المغربية ت سحب كتابا مدرسيا أجنيا يشجع على المثلية الجنسية" [Moroccan authorities withdraw a foreign textbook that encourages homosexuality], Morocco News Ambassador, 23 August 2023; "جبل في المغرب بسبب كتاب مدرسي فرنسي يشجع على المثلية..والسلطات تتدخل - نض"، *Nabd* (Kuwait), 24 August 2023; "السلطات المغربية ت سحب كتابا مدرسيا أجنيا يشجع على المثلية" [Moroccan authorities withdraw a foreign textbook that encourages homosexuality], *Hespress*, 26 August 2023; "سحب كتب أجنبية جديدة من المكتبات"; "السلطات المغربية ت سحب كتابا مدرسيا أجنيا يشجع على المثلية الجنسية" [Moroccan authorities withdraw a foreign textbook that encourages homosexuality], *Agadir 24 (Morocco)*, 29 August 2023.

<sup>46</sup> "Homosexuality" invades the curricula and activities of foreign schools in Morocco], *Al-3omk*, 21 August 2023.

stressed that Moroccans “have [their] own values, and everyone, including foreign institutions, must adhere to the law”.<sup>47</sup> Moreover, in September 2023, the Ministry of Education launched an investigation into a purported student form that allegedly included a “third gender” option. The school reportedly denied having issued that document in an official statement.<sup>48</sup>

Furthermore, several movies continued to face strong criticism and condemnation for allegedly “promoting homosexuality”, including from public authorities and political leaders. For instance, in June 2023, the leader of the Islamist Justice and Development Party (PJD) expressed vehement disapproval of the movie “The Blue Caftan”, advocating for its legal prohibition. The film ignited significant controversy in Morocco, with the PJD asserting that it “promotes homosexuality” and represents a “serious violation of the religious, national, and moral values of the Moroccan Muslim people”, as outlined in a statement released by the party.<sup>49</sup>

## Namibia

In July 2023, two bills were introduced by lawmakers from the governing SWAPO Party in response to a Supreme Court decision that ordered the recognition of same-sex partners as “spouses” for migration purposes under Namibian law. One of these two bills, the [Marriage Amendment \(Bill\) \(2023\)](#), defines the term “spouse” to only include those of the “opposite sex”. Notably, the bill imposes fines and imprisonment on those who “promote or propagate” same-sex marriages.

## Niger

In October, the Official News Agency of Niger reported that the transitional military government, which assumed power after the July 2023 coup d'état, denounced alleged “attempts to introduce homosexual practices into the country's education system”. The Minister of National Education, Elisabeth Shérif, communicated the government's position during a cabinet meeting. According to the Minister, the

government was cognisant of “subversive attempts by certain ‘satanic’ [sic] elements, in collaboration with a foreign power and a group of greedy Nigeriens, to introduce LGBT practices and discussions into society, particularly within the educational sphere”.<sup>50</sup> The minister expressed concern over a group of young Nigeriens being “misled” into attending an educational forum discussing and advocating for the rights of LGBT people in Geneva in October 2023.

The government thus announced “stringent measures” to counter any efforts to promote LGBT rights within the country, including “drastic actions”, such as identifying and prosecuting those involved in activities deemed “contrary to Niger's laws and morals” and imposing “severe sanctions” on those found responsible. Additionally, the Minister explained that the transitional government would ensure that the actions and messages of Nigeriens worldwide “align with the nation's laws, culture, and religion”.<sup>51</sup>

## Nigeria

In October 2023, a series of peculiar events unfolded, leading to a media frenzy, parliamentary sessions, inflammatory speeches by legislators, and the involvement of authorities from the Ministry of Education, the Committee on Basic Education, the National Library of Nigeria, and state authorities in Kano—including the Kano State Films and Censorship Board—and other stakeholders. The catalyst for this uproar was the “Queen Primer”, a schoolbook with historical roots dating back to the 19<sup>th</sup> century, which had been in use in Nigeria's education system for decades and is considered by local experts as a “critical resource” to reduce illiteracy in the country. The controversy centred around the “discovery” that the word “gay” appeared in the book's second volume.

Based on this, members of the House of Representatives suggested a “covert attempt” to introduce what was labelled as “immoral culture” into Nigerian schools through the “Queen Primer”. It was primarily argued that the book's inclusion of the term “gay” aimed to “communist sexual perversion and

<sup>47</sup> “Le ministère de l'Éducation nationale se mobilise contre la diffusion de l'idéologie LGBT” [The Ministry of National Education mobilizes against the spread of LGBT ideology], Maghress (Morocco), 08 September 2023.

<sup>48</sup> “Morocco Investigates Controversial Student Form with ‘Third Gender’ Option”, Morocco World News, 7 September 2023; “استمارة تقترح الجنس الثالث في مدرسة” [A form proposing a third gender in a Moroccan school...an official denial of the document], *Tangier* 7, 7 September 2023.

<sup>49</sup> “Le Blue Du Caftan: PJD Condemns Screening of Film Depicting Homosexuality”, Morocco World News, 17 June 2023; “العدالة والتنمية تستنكر السماح بعرض فيلم” [Justice and Development condemns allowing a movie that promotes “homosexuality” to be shown in cinemas], *Al Ayam* 24, 17 June 2023; “التفتان الأزرق” [“Al-Bajdi” denounces the “promotion” of homosexuality in cinemas through the movie “The Blue Caftan”], *Rassd*, 17 June 2023.

<sup>50</sup> “Niger: le gouvernement de la transition vent debout contre l'introduction des pratiques LGBT dans le système éducatif national” [Niger: the transition government stands against the introduction of LGBT practices in the national education system], Agence Nigérienne De Presse, 18 October 2023; “Niger: le gouvernement de la transition vent debout contre l'introduction des pratiques LGBT dans le système éducatif national” [Niger: the transition government stands against the introduction of LGBT practices in the national education system], A Niamey, 16 October 2023; “Homosexualité dans l'éducation au Niger : La junte accuse les « milieux sataniques » et menace” [Homosexuality in education in Niger: The junta accuses “satanic circles” and threatens], *Sene Web*, 17 October 2023.

<sup>51</sup> “Le Niger condamne les tentatives de promotion LGBT et prend des mesures drastiques” [Niger condemns attempts to promote LGBT and takes drastic measures], A Niamey, 17 October 2023; “Niger : Le CNSP hausse le ton contre la promotion de l'homosexualité dans le système éducatif” [Niger: The CNSP raises its voice against the promotion of homosexuality in the education system], *Koaci*, 19 October 2023; “Niger: Tentatives d'introduction des droits LGBT dans l'éducation nationale, réaction du gouvernement” [Niger: Attempts to introduce LGBT rights into national education, government reaction], *Togo Times*, 21 October 2023.



immoral behaviours”, potentially exposing innocent children to inappropriate content for their age. A parliamentary session dedicated to this issue led to the adoption of a unanimous resolution urging the Federal Government to scrutinise and censor this “immoral” educational material. Furthermore, distributing this book and other materials was proposed to be declared a criminal offence. During the debates, Rep. Sulaiman Gumi characterised this book as “unlawful, unethical, highly immoral, and in direct contradiction to the principles of child upbringing”. In support of the motion, Rep. Bello el-Rufai stated that he even “had to withdraw his children from a popular school in Abuja” because of the words in this book. Rep. Isaka Ibrahim took the opportunity to blame the “moral decadence” in Nigeria on the seizing of schools from the missionary, arguing that now “moral decadence is on the high side and needs urgent intervention”. During the debate, it was also alleged that the term “eros” was another controversial term included in the book (but this was later deemed untrue by an investigation carried out on the book). The Committee on Basic Education was subsequently mandated to oversee and enforce compliance with this directive.<sup>52</sup>

Even though many critics recognised that the term actually meant “happy” when the book was first written, they still claimed that the book “intentionally” supported a “pro-LGBT” stance. Despite acknowledging the challenge of proving that the authors deliberately promoted “unnatural tendencies and sexual corruption”, the strict measures proposed by authorities were largely applauded.<sup>53</sup> The unfolding events hinted at a narrative that twisted the logic surrounding the book’s historical context, suggesting that the controversy was strategically staged for political gain.

In response to this frenzy, in the Northern state of Kano—where consensual same-sex sexual acts are punished with the death penalty—the government issued a statement notifying school operators that the sale and use of “Queen Primer” was banned effective immediately. According to the Director of the Kano State Films and Censorship Board, the board’s operations team proceeded to swiftly seize over 1,200 copies of the book from bookstores and open markets. In his press statement, he said: “Praise be to God, everyone in Kano knew that we all woke up to a menace about a book being used to teach our children in primary schools titled ‘Queen Primer’. We will not relent in our investigation to get to the root of the matter to make those responsible face the full wrath of the law”.<sup>54</sup>

In February 2024, the outcomes of the research that was commissioned on the “Queen Primer” and its use of the term “gay” were unveiled during a one-day roundtable meeting convened by the Ministry of Education in Abuja. The event saw active participation from numerous stakeholders, including government officials and civil society organisations focusing on health and education issues. Experts emphasised the pivotal role played by the book in combating illiteracy and its significance in facilitating foundational learning. Moreover, the CEO of the National Library of Nigeria highlighted the book as a crucial resource for beginners, pointing out that “Queen Primer” stands alone, as no other indigenous literary material had been written to support early literacy efforts. Indeed, in 2022, a substantial number of copies had been procured and distributed nationwide to literacy centres across local governments. It was clarified that the term “gay” within its context had been misconstrued, leading to a regrettable instance of misinformation being spread by members of the National Assembly. The roundtable advocated against an outright ban and expressed that the focus should shift towards a more nuanced approach. They urged educational institutions to critically assess other words in the book that might warrant review, proposing a revision of terms considered inappropriate rather than a wholesale prohibition.<sup>55</sup>



Since 2016, the dissemination of information through electronic means deemed “contrary to good morals” has been criminalised under Article 431-60 of the Penal Code (1965). In 2023, ILGA World was informed of at least one high-profile case where at least ten men were arrested and prosecuted under this relatively new provision.

In August 2023, a private party in Cité Mixta, a neighbourhood in the capital city Dakar, was abruptly interrupted by law enforcement, leading to the arrest of ten individuals aged 25 to 29. According to reports, the police responded to a report from the Surveillance Committee of the Residents’ Union of Cité Mixta, a citizens’ association that later expressed satisfaction with the prompt police intervention. The arrests were made on charges vaguely related to “suspected homosexual behaviour,” with electronic devices seized during the search. Authorities claimed that many of the men were members of WhatsApp groups “related to

<sup>52</sup> “UPDATED: Reps ask FG to ban popular children textbook”, *Premium Times*, 19 October 2023; “Reps Ask FG To Ban Popular Children’s Textbook ‘Queen Primer’”, *TVC News Nigeria*, 20 October 2023; “Nigerian lawmakers want textbook ‘Queen Primer’ banned for pro-LGBTQ+ contents”, *The Guardian (Nigeria)*, 20 October 2023; “BREAKING: House of Reps ask Federal Govt to ban popular children’s textbook”, *Politics Nigeria*, 20 October 2023; “House of Reps seeks prohibition of LGBT educational materials in schools”, *News Diary*, 20 October 2023.

<sup>53</sup> See, for example: “‘Let Us Be Gay’ – Is The Queen Primer Truly Homosexualizing Our Kids? -By Abdulkadir Salaudeen”, *Opinion Nigeria*, 6 October 2023.

<sup>54</sup> “Kano Censorship Board confiscates over 1000 copies of Queen Primer, other ‘Immoral’ books”, *Premium Times*, 9 October 2023. “‘Immoral Books’: Kano Govt Confiscates over 1000 Copies of Queen Primer, Others”, *Legit*, 11 October 2023.

<sup>55</sup> “Stakeholders Kick As Lawmakers Intensify Plans To Ban Children’s Textbook”, *Arise News*, 16 February 2024; “Stakeholders calls for review of kindergarten textbook ‘Queen Primer’”, *Blue Print Nigeria*, 17 February 2024; “Education Minister Hints At Review Of ‘Queen Primer’ Textbook Amid Calls For Ban”, *Independent*, 12 February 2024.

homosexuality”, which was considered incriminating evidence during their trial.<sup>56</sup>

## Sudan

Sudan was not exempt from the anti-rainbow hysteria that has swept across many countries in recent years, and local authorities have engaged in a campaign to seize all rainbow-themed products. Initially, in December 2022, the Consumer Protection Department and the Sudanese Standards and Metrology Authority took action in response to information indicating the presence of goods, including children’s toys, bags, and shoes adorned with rainbow colours. These items were believed to be “intentionally designed to influence the subconscious of Sudanese consumers, particularly young individuals”.

Special parliamentary orders were issued for inspections, leading to the discovery of a significant quantity of such toys in multiple stores across Khartoum, as reported by local media. Reports emphasised the official campaign’s educational aspect, with many sellers cooperating due to their lack of awareness regarding the symbolic significance of these colours and willingly providing information about their origin.<sup>57</sup>

## Tanzania

In late January 2023, the Tanzanian government initiated a series of steps to address concerns about the perceived “erosion of morals” in educational institutions after a reported surge in social media posts suggesting that primary school students were being taught “sodomy” and “about same-sex relationships through foreign-sourced books. In response to these allegations, the Permanent Secretary of the Ministry of Education convened a meeting with education officials to strategise on the situation. Speaking to journalists, the Secretary stated: “We want, through our education officers and quality controllers, to find out where the flaw is and set a strategy to strengthen quality control

by examining all the books students use in schools. This strategy goes hand in hand with the team led by the Commissioner for Education, who is already present in the regions and continues investigating these reported matters. We want these education officers at all levels to work with social welfare officers to determine this nuisance”.<sup>58</sup>

In February, the Tanzanian Ministry of Education banned the use of 16 titles from a popular children’s book series—“Diary of a Wimpy Kid”—in schools, citing concerns about the books allegedly “advocating LGBTQ rights”. The decision was based on claims that the series goes “against the country’s traditions, customs, and cultures”, that it is “morally repugnant”, and that it “endangers the quality of education for children”. According to reports, schools found using them would face disciplinary and legal consequences, including the potential revocation of their registration.<sup>59</sup> No detailed explanations were offered with regard to the specific content that led to the ban, especially when no plotline or character in the Wimpy Kid series is—or suggests being—LGBT.

Amidst these ongoing efforts to uphold “national values and culture”, the Tanzanian Government also reported that over 3,360 websites and social media, accounts had been shut down for “promoting homosexuality” as of April 2023. The Minister of Information, Communication and Information Technology told the National Assembly of Tanzania that these figures included more than 2,500 “gay groups” on social media. Members of Parliament have also reportedly urged the government to take immediate action against these people “promoting same-sex marriage in public” and through media channels. Furthermore, the Deputy Minister of Constitution and Legal Affairs said the government continued to take actions to tackle the issue of the promotion of homosexuality “including instituting long jail terms of more than 30 years”.<sup>60</sup>

Furthermore, in late April 2023, the Minister of Education and Vocational Training of Zanzibar issued a ban on the use of rainbow paint in schools. This ban was due to the perceived similarity between rainbow paint and that commonly “associated with LGBTQ activists”.<sup>61</sup>

<sup>56</sup> “Senegal, in 10 arrestati per “sospetti comportamenti omosessuali”” [Senegal, 10 arrested for “suspected homosexual behavior”], *Gay.it*, 26 August 2023. Note: local sources on this case are not included here because they reveal the identity of those who were arrested and prosecuted. If you need more information for COI Research purposes, please reach out to [research@iga.org](mailto:research@iga.org).

<sup>57</sup> “السودان.. ضبط منتجات تحمل شع (gays)”, *Al Rakoba*, 12 December 2022; “ضبط منتجات.. السودان.. حمل شع المثلين (- صحيفة الصيحة)”, *Assayha*, 13 December 2022.

<sup>58</sup> “Tanzania to investigate same-sex content claims in schools”, *The Citizen*, 24 January 2023.

<sup>59</sup> “Tanzania Bans Wimpy Kid Books in Response to LGBTQ Accusations”, *News Central (Africa)*, 14 February 2023; “Govt bans unethical books in schools”, *Daily News (Tanzania)*, 4 February 2023; “Ministry bans immoral contents school books”, *IPP Media*, 6 February 2023; “Tanzania Defends Diary Of A Wimpy Kid Books Ban”, *The Ghana Report*, 22 February 2023; “Tanzania bans children’s books for promoting LGBTQ rights”, *Nation (Africa)*, 15 February 2023; “Serikali yashukia uingizaji vitabu visivyvo na maadili shuleni” [The government is shocked at the introduction of immoral books in schools], *Mwananchi*, 11 February 2023.

<sup>60</sup> “Authorities freezes social media accounts for LGBT supporters”, *Daily News (Tanzania)*, 17 April 2023; “Serikali yafungia mitandao inayojihusisha na ushoga - HabariLeo” [The government closes networks involved in homosexuality - HabariLeo], *Habari Leo*, 17 April 2023; “Власти Танзании ужесточат меры наказания за пропаганду ЛГБТ” [Tanzanian government to tighten penalties for LGBT propaganda], *Federal News Agency (Russia)*, 18 April 2023.

<sup>61</sup> “Zanzibar yahagaritise ikoreshwa ry’ibara ry’umunywamazi mu mashure” [Zanzibar banned the use of watercolour in schools], *BBC News*, 30 April 2023.



## Uganda

On 29 May 2023, the [Anti-Homosexuality Act \(2023\)](#) was signed into law by the President of Uganda following an increase in hateful rhetoric against homosexuality in Uganda.

Section 10 of the Act punishes the “promotion of homosexuality” with imprisonment of 20 years when a person: (a) persuades someone to perform a same-sex sexual act or any other offence; (b) advertises or promotes homosexuality or an offence under the Act through various means, including the internet; (c) provides financial support for activities that encourage homosexuality; (d) knowingly provides a house, building, or establishment to another person to undertake activities that encourage homosexuality or any other offence under the Act; and (e) operates an organisation that promotes or encourages homosexuality or conduct that is prohibited under the Act. After the introduction of the Law, both the Parliament and the Ministry of Education announced their intentions to conduct investigations into the alleged “increase in homosexuality within schools”.<sup>62</sup>

Human rights activists, including those who have submitted a petition (see [Draft Petition No. 15, 2023](#)) to challenge the law’s constitutionality, have deemed the law to be “an anti-publication law” as well as the broad terms in which the law talks about homosexuality could be interpreted to mean anything the government does not agree with.<sup>63</sup> The Committee to Protect Journalists (CPJ) in Uganda found, through interviews with local journalists, that the law has affected the way they work, particularly in the way they report on LGBTQ+ issues, as some have encountered barriers in finding LGBTQ+ Ugandans to report on the law’s impact. In contrast, others have expressed concern over the potential punishment for covering such matters in their reporting.<sup>64</sup>



## Zambia

In March 2023, a series of events evinced the intimate link between the interpretation and utilisation of laws prohibiting consensual same-sex activities and their application to criminalise particular forms of expression

or self-identification as a member of the LGBT community.

On 10 March 2023, four women’s rights activists were arrested for their participation in a demonstration against gender-based violence in Lusaka. Deputy Police Public Relations Officer Danny Mwale stated that the police had granted a permit because it was going to be a protest against sexual and gender-based violence. However, it came to their attention that conveners had exhibited “a different agenda” related to “issues of homosexuality”. This was because a demonstrator was spotted carrying a small rainbow flag and another one wearing a rainbow mask, which authorities interpreted as an act of “promotion of homosexuality”.<sup>65</sup>

The arrests and the alleged march “in support of homosexuality” sparked intense reactions from various government officials. During the National Assembly session on 7 March 2023, the issue was raised as a “matter of urgent public importance”. MP Clement Andeleki stated that “it was in the public domain” that the march had supported LGBT rights and provocatively questioned, “Some people are asking whether this Government supports gay rights”.<sup>66</sup>

This prompted the Minister of Home Affairs and Internal Security, Jack Mwiimbu, to explain that the event had gone well until the slogan changed to “my body, my right”. In her words, this “was contrary to the notification given to the Zambia Police Service, as homosexuality is illegal in Zambia by virtue of Sections 155 and 157 of the Penal Code”. Therefore, “arising from the behaviour exhibited by the marchers on the material day, the Zambia Police Service instituted investigations”.<sup>67</sup> The Minister went on to stress that the President of Zambia had publicly made his position known “that he will not and does not support *gayism* [sic] in all its forms” and that his party—the United Party for National Development—“does not support *gayism*” either. She informed the House that the Zambia Police Service had arrested four suspects for giving false information to a public officer and that they would soon appear in court.<sup>68</sup> Two days later, another MP raised the issue again as “a matter of urgent public importance” to inquire as to why the arrested activists had not been charged “for homosexuality” as opposed to only being charged for having provided false information. He explained that “the [rainbow] flags that were lifted made it very clear that [the activists] were practising

<sup>62</sup> “Amnesty International: The signing of Anti-Homosexuality Bill is dark day for LGBTI community”, *Eagle Online*, 31 May 2023.

<sup>63</sup> The petition filed by local activists was based on procedural issues and multiple violations of the Constitution (including Articles 20, 21 (1), 21 (2), 23, and 24 of the right to equality, dignity, liberty and non-discrimination, among others). For more information, see ILGA World, *ILGA World Database: Criminalisation of consensual same-sex sexual acts - Uganda*, retrieved on 22 January 2024.

<sup>64</sup> “Uganda’s anti-homosexuality law poses free speech fears for journalists”, *Committee to Protect Journalists (CPJ)*, 20 July 2023.

<sup>65</sup> “Zambia: Four arrested for ‘championing homosexuality’ in GBV march”, *Mamba Online*, 7 March 2023. Notwithstanding official statements, visual evidence disseminated through social media platforms depicts a peaceful assembly directed towards the condemnation of gender-based violence. Visual materials portray participants brandishing placards bearing messages such as “No is no” and “There is no dress code for rape”, indicative of the demonstration’s principal objective of combatting violence perpetrated against women. Although the imagery includes an individual holding a rainbow flag and another wearing a rainbow mask, contextual analysis suggests that the primary focus of the event remained centred on the advocacy for women’s rights and the unequivocal denunciation of gender-based violence.

<sup>66</sup> National Assembly of Zambia, *Order Paper (2024) Tuesday, 7 March 2023* (retrieved 1 April 2024).

<sup>67</sup> *Ibid.*

<sup>68</sup> *Ibid.*

homosexuality”, and therefore, his constituency was expecting to see Sections 155 and 157 of the Penal Code enforced in this case.<sup>69</sup>

The matter continued to be escalated by other MPs in the following days, with politically-motivated, inflammatory speeches, as well as specific calls to tighten the existing criminalising provisions. Opposition MP Emmanuel Tembo stated that “so-called lesbians and gays” had started demonstrating because the ruling party had not been strong on this issue. MP Francis Kapyanga expressed that Zambia was being hit by “a moral tsunami: the issue of homosexuality” and stressed that never in the history of the country had there been a situation “where those propagating homosexuality would go publicly doing so”. On a technical note, he indicated that Zambia relied on “a piece of legislation that talks about the order of nature” and called for the enactment of a law that would “specifically target those who are involved in homosexuality”. In doing so, he also stated that “even those men who are dressing like women must be punished under that law”.<sup>70</sup>

In a statement issued by the Public Relations Unit of the Ministry of Information and Media, the Zambian Government Spokeswoman, Chushi Kasanda, stated: “The government wishes to remind the public that, as a Christian nation, it has a duty to uphold the Christian values of morality, decency and human dignity”.<sup>71</sup> A few months earlier, in September 2022, Ms Kasanda had explained that anyone found “promoting” any of the acts punished under the Penal Code—including “unnatural offences” or “acts of indecency”—would be liable to prosecution in the courts of law.<sup>72</sup>

On 21 September 2023, the Ministry of Health issued a memorandum directed to all Provincial Health Directors detailing the prohibition of the utilisation of the term “Sexual and Reproductive Health Rights”, alleging that the usage of this term “advocates for LGBTQ rights”. The memorandum cites the 2<sup>nd</sup> joint Africa-EU

Ministerial meeting convened in Kigali, Rwanda, in October 2021, in which several nations of the African Union allegedly rejected the term. The memo also highlights Zambia's position in not supporting LGTBQ rights within its jurisdiction and instructs officials to avoid using this term in public pronouncements and speeches and to “only refer to ‘Reproductive Health and Rights’”.<sup>73</sup>

## Zimbabwe

In April 2023, Education Ministry Spokesperson, Taungana Ngoro, said certain stakeholders were trying to set a “homosexual agenda” into the education curriculum through donations of books to local schools. He announced zero tolerance towards such attempts, emphasising the preservation of national norms and culture.<sup>74</sup>

In December 2023, two Zimbabwean women were apprehended by the Zimbabwe Republic Police following the circulation of a leaked viral video depicting them engaged in purported intimate acts, which garnered millions of views online. Subsequently, both women appeared before a Magistrate’s Court in Masvingo and were granted bail. They faced charges under the Censorship and Entertainment Control Act (1967) for contravening prohibitions on “undesirable publications”. The application of this provision in this particular case has been criticised as “selective”. Additionally, the two women have reported breaches of their privacy, alleging that police officers accessed and misused their mobile phones, leaked private content, and solicited money via messages subsequent to the women surrendering their devices and passwords to the officers.<sup>75</sup>

<sup>69</sup> National Assembly of Zambia, *Order Paper (2024) Thursday, 9 March 2023* (retrieved 1 April 2024).

<sup>70</sup> National Assembly of Zambia, *Order Paper (2024) Friday, 10 March 2023* (retrieved 1 April 2024).

<sup>71</sup> “Govt Condemns Group Advocating For Homosexuality”, *Zambia National Broadcasting Corporation*, 6 March 2023; “Zambia Police Arrest Feminist NGO Leaders, Accuse Them of Promoting Homosexuality”, *VOA News*, 8 March 2023. “Sambia: Wegen Regenbogenfahne verhaftet” [Zambia: Arrested for rainbow flag], *Manner*, 10 March 2023.

<sup>72</sup> “Chief Government Spokesperson Chushi Kasanda clarifies the government’s stance on homosexuality and LGBT”, *Lusaka Times*, 21 September 2022.

<sup>73</sup> “Zambia bans use of term ‘Sexual and Reproductive Health Rights’ amid crackdown to gay marriages”, *World News Platform*, 30 September 2023.

<sup>74</sup> “Homosexuality not tolerated in education syllabus: Govt - *Newsday Zimbabwe*”, *News Day Zambia (Zimbabwe)*, 18 April 2023.

<sup>75</sup> “Arrested Viral Masvingo Girls Nyasha and Flora Accuse the Police of Confiscating and Using Their Phones”, *I Harare*, 27 December 2023; “Cops ‘Now Leaking’ What They Found in Viral Video ‘Masvingo Girls’ Nyasha Chabika, Flora Tofa’s Phones”, *News Report Zim*, 28 December 2023.

## Asia

### Bahrain

In April 2023, local media reported on a proposed law presented by MP Mohammed Al-Ma'arafi to toughen penalties for "sexual deviance" and to explicitly criminalise consensual same-sex sexual acts, with a prison term of no less than six months and a fine. MP Al-Ma'arafi reportedly justified this proposal by referring to the values and traditions of the society and the principles of Islamic Sharia law. The proposed law aims to address "practical challenges" in prosecuting cases related to "sexual deviance" while also criminalising "the promotion and defence of such behaviour".<sup>76</sup>

In February 2024, Al-Ma'arafi's amendments were passed by the House of Representatives, meaning it will likely proceed to the Consultative Council for consideration next. The amendments, as tabled during the vote, would punish anyone "who, by any means, promotes, glorifies, justifies, or encourages acts that constitute an act of deviance with a person of the same sex" with imprisonment or a fine. The National Institute for Human Rights (NIHR) reportedly agreed to the fact that "there must be legislation to regulate and criminalise certain behaviours to preserve the family, public order, and public morals" and on the need for "legislative intervention to deter this phenomenon". However, the NIHR criticised the wording of the bill because it failed to adequately define "acts of deviance". For its part, the Bahraini Lawyers Society—the official professional body for lawyers—reportedly recommended that the Parliament add a provision defining "acts of deviance" as acts "that deviate from the perceived standards of sexual orientation, variations in normal sexual life, unusual sexual practices, or deviations from sexual norms, according to the natural variables of sexual interests, and any sexual acts other than natural".<sup>77</sup>

In parallel, on 18 November 2023, the Parliamentary Foreign Affairs, Defence, and National Security Committee recommended approval of a motion to develop a national strategy to "preserve values and traditions", particularly in response to so-called "ideological incursions" and "Western principles" that conflict with Islamic law, such as the acceptance of

homosexuality. The Committee highlighted that substantial support for these ideas is being deliberately integrated into society through sports, music, arts, and ads, among others. While the Ministry of Justice and Islamic Affairs stressed the need for a comprehensive study and collaboration with relevant entities to formulate a national strategy, the Supreme Council for Islamic Affairs underscored its longstanding awareness of the dangers of "organised international campaigns" threatening Islamic values and traditional ethical systems.<sup>78</sup>

### Bangladesh

In February 2023, it was reported that the National Curriculum and Textbook Board (NCTB) had withdrawn new school textbooks for allegedly "promoting homosexuality" and "transgender identities".<sup>79</sup> This came after thousands gathered in the capital, Dhaka, as part of a campaign by Islamist groups demanding that the NCTB remove the two textbooks for students aged 11 to 13. One of the textbooks featured the story of a transitioning child named Sharif who later takes the name Sharifa. Islamist groups criticised the transgender narrative as "dangerous". Parliamentary debates ensued, with several MPs calling for its removal, citing conflict with Islam. Opposition Chief Whip of the National Parliament in Bangladesh and Jatiya Party General Secretary, Mujibul Haque Chunnu also argued that the inclusion of the transgender character in the textbook was solely aimed at creating "social chaos by undermining traditional social values". The education minister also reportedly commented on the issue, saying that the rights of *hijras* are legally recognised in Bangladesh, that they are citizens of the country, and that he would be open to reviewing the content if there was sufficient "issue" with it.<sup>80</sup> Despite the minister's openness to review the content, the Islami Andolan Bangladesh political party held a protest rally condemning the government's alleged promotion of trans people through text books in January 2024. This was following widespread criticism after a private university (Brac University) fired a part-time teacher for tearing apart some of the pages of the textbook's chapter on "The Story of Sharifa".<sup>81</sup>

<sup>76</sup> "Homo-You-Don't: MPs seek jail sentences, hefty fines for people promoting homosexuality", *Gulf Daily News*, 12 April 2023.

<sup>77</sup> "خارجية النواب: «حبس وغرامة 2000 دينار لمرتكب أفعال الشذوذ الجنسي أو الترويج لها»" ["Foreign Representatives": Imprisonment and a fine of 2,000 dinars for anyone who commits acts of homosexuality or promotes them], *Al Watan (Bahrain)*, 4 February 2024; "النواب يوافق على تجريم أفعال الشذوذ الجنسي والترويج له" [Representatives agree to criminalize acts of homosexuality and its promotion], *Al Bilad*, 7 February 2024.

<sup>78</sup> "خارجية النواب توصي باستراتيجية للحفاظ على القيم والتقاليد" [The Ministry of Foreign Affairs recommends a strategy to preserve values and traditions], *Al Watan (Bahrain)*, 18 November 2023.

<sup>79</sup> "Bangladesh withdraws school books after anti-LGBTQ backlash", *New Indian Express*, 12 February 2023.

<sup>80</sup> "শরীফার গল্প নিয়ে বিতর্ক সংসদে নিলে চুন্না" [Chunnu took the debate on 'Sharifa's story' in Parliament], *bdnews24 (Bangladesh)*, 4 February 2024.

<sup>81</sup> "IAB takes to streets over transgender story in textbook", *Dhaka Tribute*, 26 January 2024.

This occurred amidst reports of increased harassment and intimidation by enforcement authorities against LGBT activists and worsening transgender acceptance, even within academia. For instance, in November 2023, a fundamentalist group campaigned against transgender activist Ho Chi Minh Islam speaking at North South University's "Women's Career Carnival", labelling the event as "promoting homosexuality", resulting in its cancellation.<sup>82</sup>

## China

In recent years, China has seen increased efforts to restrict freedom of speech, particularly in areas pertaining to human rights and democracy, including matters of sexual and gender diversity. This trend has manifested through heightened censorship not only in the media and academic settings but also in various other spheres.<sup>83</sup> In effect, regressive measures have coincided with actions leading to a significant reduction in civic space and the closure of numerous organisations advocating on these issues.<sup>84</sup>

Chinese social media platforms, including WeChat, Weibo and Douyin, continued to be tightly supervised by the government, with their parent companies Tencent, Sina and ByteDance mandated to enforce proactive online censorship, heavily restricting content related to sexual and gender diversity issues. A notable instance occurred in July 2021 when 18 LGBTQ WeChat public accounts operated by students and associations from Chinese universities were suddenly banned. These included "Purple" from Tsinghua University and "Zhihe Society" from Fudan University. The bans coincided with the 100<sup>th</sup> anniversary of China's Communist Party and are considered part of a wider governmental effort to suppress dissent and control civil society. The government reportedly frames LGBT rights as a "Western ideology" that poses a threat to Chinese cultural and political norms.<sup>85</sup>

In the realm of media, there has been a noticeable surge in censorship of LGBTQ expressions by Chinese

authorities in recent years. Since September 2021, the National Radio and Television Administration of China (NRTA) prohibited the representation of "effeminate men" (娘炮 – Niáng Pào) across all media, deeming it "abnormal aesthetics".<sup>86</sup> Discussions about male effeminacy have often adopted nationalistic tones, portraying these aesthetics as a threat to the nation's future and security and sometimes even presented as something promoted by "Western countries" or its "foreign agents" for that purpose. Official media outlets have condemned femininity in men, linking it to harm against the nation's masculine identity.<sup>87</sup>

In August 2023, attendees at a Beijing concert by Taiwanese singer Chang Hui-mei, also known as "A-Mei" and Taiwan Pride's first ambassador, were prevented from wearing rainbow-themed clothing and accessories, with security employees stopping fans whose attire changed colours in different lighting. A-Mei was also banned from performing her LGBTQ-themed song "Rainbow".<sup>88</sup> Continuing this trend, in September 2023, the LGBTQ-affirming song "Womxnly" by Taiwanese singer Jolin Tsai was removed from her Changsha concert setlist following the earlier cancellation of rainbow lighting during her performances.<sup>89</sup> This represents a stark contrast to 2015, when concertgoers were free to wave giant rainbow flags at A-Mei's concerts, highlighting a significant shift in the cultural and political landscape regarding LGBTQ expressions.

With regard to academic settings, official policies to closely police and restrict discourse on sexual and gender diversity persisted.<sup>90</sup> In 2023, the Ministry of Education dismissed an administrative review application filed by two students whom Tsinghua University had disciplined for distributing rainbow flags on campus on the basis that such flags constituted "propaganda".<sup>91</sup> In its *Decision on Rainbow Flags* (2023), the Ministry stated that "their right to education was not violated", and thus, their case did not fall within the scope of administrative reconsideration. In February 2023, the students filed a lawsuit against the Ministry of Education in the Beijing First Intermediate People's Court, seeking a review of the penalty in *Huang vs.*

<sup>82</sup> "Anti-gay Bangladesh group seeks ban on LGBT rights activist", *76 Crimes*, 11 July 2023; see also "Statement on the ongoing harassment of lawyer and human rights defender Shahanur Islam", *Lawyers For Lawyers*, retrieved on 01 April 2024; "বিশ্ববিদ্যালয়ে ট্রান্সজেন্ডার নারীর বক্তৃত্তা বাতিল নিয়ে আসলে কী ঘটেছে?" [What really happened to the cancellation of transgender women's lectures at universities?], *BBC News (Bangladesh)*, 26 November 2023; "যে হি মিনের ঘটনায় অবস্থান তুলে ধরল নর্থ সাউথ বিশ্ববিদ্যালয়" [North South University presented its position on the Ho Chi Minh incident], *Prothom Alo*, 27 November 2023; "The anatomy of intolerance: Why can't a transgender rights activist speak at NSU?", *TBS News*, 27 November 2023.

<sup>83</sup> ILGA World, *ILGA World Database: Legal barriers to freedom of expression - China* (retrieved 1 April 2024).

<sup>84</sup> For more information, please refer to the entry for China in this report's chapter on restrictions to freedom of association.

<sup>85</sup> "China divided as WeChat deletes LGBT accounts from platform", *BBC News*, 8 July 2021; "The Chinese government claims LGBTQ+ people are protected from discrimination. Our interviews with 26 activists tell another story", *The Conversation*, 18 October 2023.

<sup>86</sup> National Radio and Television Administration of China (NRTA), *Notice No. 267 on Carrying out Comprehensive Management in the Field of Culture and Entertainment* (2021).

<sup>87</sup> For more information see: "'Little Fresh Meat': The Politics of Sissiness and Sissyphobia in Contemporary China", *Men and Masculinities* 25, No. 1 (2022), 68–86.

<sup>88</sup> "In Latest LGBTQ Crackdown, China Bans Rainbow Attire at Pop Concert", *Time*, 7 August 2023.

<sup>89</sup> "LGBTQ+-themed song is removed from Jolin Tsai's Changsha gig", *Radio Free Asia*, 6 September 2023.

<sup>90</sup> "Rainbow Hunters' Target LGBTQ Chinese Students", *Foreign Policy*, 29 July 2023.

<sup>91</sup> "专栏 | 报导者时间：站在废墟反抗荒诞：校园里放彩虹旗被处分，两名北京清华学生控告中国教育部" [Standing in ruins to resist the absurdness: Punishment for placing rainbow flags on the campus, two Beijing Tsinghua students sued the Chinese Ministry of Education], *Radio Free Asia*, 30 March 2023

*Ministry of Education* (2023).<sup>92</sup> This legal action represents one of the few instances in China where lawsuits have been filed concerning freedom of expression on sexual and gender diversity.

Furthermore, research published in 2023 showed how official constraints compel academics to self-censor, impacting their teaching, research, and support for students of diverse sexual orientations and gender identities amidst escalating scrutiny and discrimination. Additionally, the prevalence of surveillance cameras in classrooms and the existence of “student informants” contribute to a sense of obligation to self-censor among teachers. Chinese universities, adhering to official ideologies, do not offer spaces for discussions on sexual and gender diversity and actively reinforce heteronormativity on college campuses.<sup>93</sup>

## Indonesia

Freedom of expression in Indonesia is generally restricted through various laws, government circulars, city regulations, and Islamic fatwas.<sup>94</sup> Other regulations proposed by public officials were also seen throughout 2023.

In January, it was reported that a draft regulation in the city of Makassar in South Sulawesi was being drafted to restrict LGBT groups from openly campaigning in the city. The mayor of the city, when speaking to local media, said that all forms of “campaigns or activities that are deviant” will no longer be allowed in the city.<sup>95</sup>

In a vehement statement delivered after the cancellation of an event organised by the ASEAN SOGIE Caucus,<sup>96</sup> the Vice-Chairman of Indonesia’s People’s Consultative Assembly denounced “LGBT and

all its deviations”, citing the principles of *Pancasila*,<sup>97</sup> the 1945 Constitution, and the newly adopted Criminal Code, which criminalises “lewd acts”. Urging decisive action, he called for immediate consideration of the “Anti-Propaganda of Sexual Deviance Bill” proposed in 2020 to uphold national principles and laws”.<sup>98</sup>

In July 2023, just days after Malaysia’s government blacklisted the band “1975”, citing the lead singer’s behaviour during a music festival as “violating the morals of Malaysians” due to a kiss with his fellow male band member on stage, the scheduled show in Indonesia was also cancelled in response to the incident.<sup>99</sup> Furthermore, in November 2023, the Indonesian Ulema Council reportedly urged organisers of Coldplay’s scheduled concert in November to guarantee that there would be no symbols, remarks or acts that “promote LGBT behaviour” during the band’s concert.<sup>100</sup> Due to the band’s history of publicly expressing support for the LGBTI community, media outlets reported that there were several calls by protestors to have their show cancelled.<sup>101</sup> In response to these requests and concerns, the band members reportedly changed their usual rainbow flag to a white flag that says “Love” during their concert.<sup>102</sup>

Moreover, in December 2023, a circular was reportedly issued by the Gadjah Mada University (UGM) to prohibit “LGBT behaviour” or “sexual deviations” in educational and community environments, which was signed by the dean of the Engineering Faculty. The circular prohibits pro-LGBT views, positions and activities and imposes penalties for any teachers, students or staff found to support the “LGBT movement”.<sup>103</sup> Detractor groups have supported this move, encouraging the government to expand such regulations to other educational institutions to “save the younger generation from the dangers of the LGBT movement”.<sup>104</sup>

<sup>92</sup> “2 College Students in China Were Disciplined for Giving Out Pride Flags. Can the Law Help Them?”, *The Diplomat*, 28 April 2023.

<sup>93</sup> “Why China’s gay academics don’t come out – Q&A with Cui Le”, *The China Project*, 1 February 2023. For more information, please refer to: Taylor Le Cui 崔乐, “Heteronormative classrooms under surveillance: Gay academics’ concerns about addressing queer issues in China”, *Journal of LGBT Youth* 20 (1), 129-142; “Chinese academia wouldn’t be tolerant of my research’: gay academics’ concerns about conducting queer research in China”, *Culture, Health & Sexuality* 25 (4), 459-474.

<sup>94</sup> For more information, see ILGA World, *ILGA World Database: Legal barriers to freedom of expression - Indonesia* (retrieved 1 May 2024).

<sup>95</sup> “Makassar Mulai Godok Raperda Anti LGBT” [Makassar Starts Drafting Anti-LGBT Regional Regulation], *CNN Indonesia*, 8 January 2023; “The Mayor Of Makassar Supports The Administering Of The LGBT Regional Regulation”, *Voi (Indonesia)*, 30 December 2023.

<sup>96</sup> For more information on this incident, please refer to the section on restrictions to freedom of assembly in this report.

<sup>97</sup> *Pancasila* is the official philosophical foundation of the Indonesian state. The term derives from two Sanskrit words: *panca* (“five”) and *sila* (“principles” or “values”). *Pancasila* is composed of five core values: (1) Belief in one God; (2) Just and civilised humanity; (3) Unity of Indonesia; (4) Democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives; (5) Social justice for all the people of Indonesia. *Pancasila* holds immense importance in Indonesia. It provides a framework for national identity, guiding principles for governance, and a common ground for Indonesians to unite despite their diverse backgrounds. It’s enshrined in the Indonesian constitution and plays a crucial role in shaping the nation’s policies and values.

<sup>98</sup> “Dukung MUI, HNW: LGBT Tak Sesuai Pancasila & UUDNRI 1945, Agar Pemerintah Tegas Melarang Pertemuan dan Propaganda LGBT se-ASEAN di Jakarta” [Support MUI, HNW: LGBT Not In Accordance with Pancasila & the 1945 UUDNRI, So that the Government Firmly Bans ASEAN-wide LGBT Gatherings and Propaganda in Jakarta], *People’s Consultative Assembly*, 16 July 2023.

<sup>99</sup> “The 1975 cancels Indonesia, Taiwan shows after Malaysia LGBT controversy”, *Reuters*, 23 July 2023.

<sup>100</sup> “Govt to discuss Coldplay concert with ulema: Minister”, *Antara*, 22 May 2023.

<sup>101</sup> “Coldplay show to go on despite anti-LGBTQ threats: Minister - Society”, *Jakarta Post*, 15 November 2023; see also “Ini Alasan Granati LGBT Geruduk Kantor Menko Polhukam Soal Penolakan Konser Coldplay di Jakarta” [This is the reason LGBT grenadiers raided the office of the Coordinating Minister for Political, Legal and Security Affairs regarding the rejection of the Coldplay concert in Jakarta], *Voi (Indonesia)*, 10 November 2023.

<sup>102</sup> “Coldplay Ubah Bendera Pelangi dengan Warna Putih Bertuliskan Cinta” [Coldplay Change the Rainbow Flag to White with Love Written on it], *Singgalang*, 16 November 2023.

<sup>103</sup> “印尼名校ugm大學發函禁lgbt 人權組織批歧視” [Indonesia’s prestigious UGM University issues letter banning LGBT], *United Daily News*, 16 December 2023.

<sup>104</sup> “Salimah Dukung Larangan LGBT di Lingkungan Kampus” [Salimah Supports LGBT Ban on Campus Environment], *Republika*, 30 December 2023.



## Iran

Following Jina Mahsa Amini's death in 2022 and the subsequent protests in Iran, the Iranian Lesbian & Transgender Network (6Rang) reported numerous human rights violations perpetrated by State agents. These include violations stemming from online expressions or information sharing. Moreover, during this period, a surge in State-led hate speech was observed in reaction to increased visibility, with continued messaging portraying LGBTQ individuals as "immoral" and a threat to Islamic values.<sup>105</sup>

Numerous arrests, followed by physical and psychological abuse, were documented. Several LGBTQ individuals were arrested for displaying "abnormal behaviours" and "advocating for homosexuality" because they criticised the government, supported users on social media who took photos with rainbow flags, or posted pictures challenging gender norms and binaries.<sup>106</sup>



## Iraq

In December 2022, at the national level, the [Bill Prohibiting Propaganda and the Spreading of Homosexuality \(2022\)](#) was introduced by 25 Members of Parliament. The proposed legislation aims to penalise the "promotion of homosexuality" across various domains, including state media, institutions, schools, universities, and social media platforms, as well as in books, cinemas, theatres, publications, and public spaces. Moreover, the bill specifically prohibits the importation of any materials, products, or goods that bear flags or symbols related to homosexuality. Political, artistic, or sporting groups or delegations, community organisations, and media institutions will not be allowed to use symbols associated with homosexuality. Violators would face significant fines, while government bodies and companies would incur aggravated penalties. In the case of international institutions violating this law, their activities within the territory of Iraq would be permanently terminated.<sup>107</sup>

In March, Minister of Communications Hiam al-Yasiri stated that websites "promoting homosexuality" in Iraq would be blocked, similar to how pornographic sites are

restricted. She emphasised that the Ministry was actively tracking these websites, even as their addresses changed.<sup>108</sup>

Furthermore, in July 2023, MP Raad Hamdan Al-Maliki submitted the [Bill to amend the Law against Prostitution \(2023\)](#) to the chairman of the Legal Committee.<sup>109</sup> This bill aims to rename the Law against Prostitution (Law No. 8) (1988) to the "Law against Prostitution and Sexual Deviance" and effectively criminalise so-called "acts of sexual deviance". Iraqi LGBT activists have warned that passing this law would "put the lives of community members in severe danger amid increasing efforts by several Iraqi politicians urging violence against them".<sup>110</sup> The "promotion of sexual deviance" is also prohibited under this bill, as is acting as an intermediary between two individuals to promote or encourage "sexual deviance" and "facilitating homosexual activities". Those found guilty of "promotion", or "aiding promotion", are punishable with up to seven years in prison and a fine, and any promotional materials will be confiscated.<sup>111</sup>

Additionally, on 13 July 2023, Iraq's Minister of Higher Education and Scientific Research, Naeem Al-Aboudi, issued an [Official Guide to Universities \(2023\)](#), directing universities and institutes of higher education to organise educational workshops and seminars aimed at "confronting homosexuality". He advised exercising "caution" when employing the term "gender" in official statements and speeches.<sup>112</sup> This was subsequently formalised in an executive order on 8 August 2023, when the Board of Commissioners in Iraq issued the [Decision of the Board of Commissioners at its 22<sup>nd</sup> session \(2023\)](#). This order prohibited the use of the terms "homosexuality" and "gender" across all media outlets, mandating instead the use of the term "sexual deviance".<sup>113</sup> A similar directive had reportedly already been issued at the sub-national level on 30 July 2023 when the Administrative Deputy for the Basra Governorate issued an order on [The Prohibition of the Term 'Gender' \(2023\)](#), which included the prohibition of seminars, conferences, and any activities that "promote" or employ the term "gender".

In March 2024, the Federal Supreme Court issued [Decision No. 325 \(2024\)](#), mandating that the Ministry of Communications and Media Authority in Iraq block access to websites and various digital platforms, including social media and electronic communication applications hosting content deemed sexually immoral

<sup>105</sup> 6Rang, *War on Bodies and Minds Gender Persecution of LGBTQ+ Protestors in the Context of the 2022-23 Iran Uprising* (2023), 20-22.

<sup>106</sup> *Ibid.*

<sup>107</sup> "العراق.. 25 deputies submit a request to legislate a law criminalising homosexuality (documents)", *Russia Today (Arabic)*, 3 December 2022.

<sup>108</sup> "وزيرة الاتصالات: مواقع "الأحاد" و"المثلية" تحتاج إلى حجب على غرار "الإباحية" [Communications Minister: "Atheism" and "Homosexuality" Websites Need to Be Blocked Like "Pornography"]", *Nabd (Kuwait)*, 13 March 2023.

<sup>109</sup> "Iraqi parliament proposes amendments for anti-prostitution law to criminalise homosexuality", *The New Arab*, 18 August 2023.

<sup>110</sup> *Ibid.*

<sup>111</sup> For more information on the specific provisions of the bill, refer to the chapter in this report on the criminalisation of consensual same-sex sexual acts.

<sup>112</sup> "بالوثيقة. وزير التعليم يصدر توجيهاً للجامعات والمعاهد بشأن مواجهة المثلية الجنسية" [With the document. The Minister of Education issues directives to universities and institutes regarding confronting homosexuality], *Akhbar (Iraq)*, 15 July 2023.

<sup>113</sup> "منع مصطلحات 'المثلية والجنس' في العراق.. انتقادات لحملات 'التجهيل' و'بث' الرعب | 'الحرية'" [Prohibition of "homosexuality and gender" terminology in Iraq... Criticism of "ignorance" and "horror" campaigns | free], *Hatha Al Youm*, 09 August 2023.



or unethical. This decision extends to materials offensive to Iraqi societal morals and values, expressly forbidding the promotion and dissemination of content related to "immorality" and "homosexuality".<sup>114</sup>

## Jordan

Human Rights Watch has documented a troubling decline in civic freedoms in Jordan in recent years. Authorities have been employing vague laws to target peaceful activists and suppress dissent. Journalists, political activists, and unions face detention and restrictions under a systematic campaign to silence critical voices.<sup>115</sup>

On 12 August 2023, the King of Jordan approved the [Cybercrime Law](#) (2023) after extensive discussions in Parliament.<sup>116</sup> Article 14 of the law punishes the use of information networks, technology, systems, or websites to "promote debauchery" or "the breach of public morals" with a minimum of six months' imprisonment and a fine. The law also punishes any individual who engages in activities involving the publication, creation, purchase, sale, or promotion of "pornographic content" through information networks or websites. It also seems to restrict the use of tools like VPNs, proxies, and Tors, which are tools often used by LGBT individuals to protect their online anonymity.<sup>117</sup> Local activists have said that this law will "destroy all forms of LGBT expression online" and intensify "interference in people's private lives".<sup>118</sup>

In addition to the approval of this restrictive law, in December 2023, the head of the Telecommunications Regulatory Authority confirmed in a [response to members of Parliament](#) that Grindr, an LGBT dating app, had been blocked across the country for "promoting homosexuality". He also indicated that all government agencies were broadly responsible for ensuring "immoral" content is blocked.<sup>119</sup>

## Kazakhstan

In April 2023, an initiative to prohibit "LGBT propaganda" was presented in Parliament, with an MP calling for "tackling the upbringing" of young people urgently and the taking of "preventive measures before the situation worsens". In that same month, the Religious Administration of Muslims of Kazakhstan published a fatwa wherein the muftiate urged the public to "refrain from obscenity", asserting that "under the guise of defending women's rights, obscene and degenerate same-sex relations are being promoted".<sup>120</sup>

In January 2024, at the request of the Committee for the Protection of Children's Rights of Kazakhstan, the Ministry of Culture and Information blocked *Self Tanu*, the first and sole LGBTQ education website tailored for teenagers, without prior warning or notification. The basis for this action was alleged violations of laws governing mass media, children's rights, and safeguards against disseminating information detrimental to their health and development.<sup>121</sup> However, local activists asserted that authorities deemed the educational content featured on the website as "sexually explicit and erotic", citing texts discussing the nature of sex and the conformity of queer individuals to social stereotypes. Moreover, they explained that the materials were crafted with sensitivity and underwent scrutiny by psychologists. Legal recourse is being pursued as legal representatives contest the site's blocking in court.<sup>122</sup>

In April 2024, Kazakh media reported on two proposed initiatives aimed at banning so-called "propaganda of non-traditional sexual relations", following the language adopted in similar regressive legislation in Russia and other jurisdictions. The first initiative involved an amendment to Article 22 of the Bill on Mass Media, which was under discussion in the Kazakh Parliament

<sup>114</sup> "Iraq to ban TikTok over religious concerns and homosexuality?", *Al Bawaba*, 27 March 2024.

<sup>115</sup> "Jordan: Government Crushes Civic Space", *Human Rights Watch*, 18 September 2023.

<sup>116</sup> To see the English-translated version of the Cybercrime Law (2023), see here. For more information, see ILGA World, *ILGA World Database: Legal barriers to freedom of expression - Jordan*, retrieved on 18 January 2024.

<sup>117</sup> "Jordanien inför ny cyberbrottslag som hotar hbtqi-personer" [Jordan introduces new cybercrime law that threatens LGBTQI people], *QX.se*, 19 August 2023.

<sup>118</sup> "Jordan's New Cybercrime Law is a Disaster for LGBT people", *Human Rights Watch*, 14 August 2023.

<sup>119</sup> "بعد سؤال للنايب مشوقة..حجب تطبيق يروج للشذوذ" [After an interesting question from the representative: blocking an application that promotes homosexuality], *Al Bosala*, 27 December 2023.

<sup>120</sup> "Қазақстанда ЛГБТ-ға тыйым салу мәселесі қайта көтерілді. Бұл Ресейге еліктеу ме, әлде қоғам назарын аудару ма?" [In Kazakhstan, the issue of banning LGBT has been raised again. Is it an imitation of Russia or to draw public attention?], *Azattyq*, 25 April 2023.

<sup>121</sup> "Министерство Культуры и Информации РК Заблокировало Сайт ЛГБТ в Казахстане" [Ministry of Culture and Information of the Republic of Kazakhstan Blocked LGBT Website in Kazakhstan], *KPKZ (Kazakhstan)*, 12 February 2024; "Власти Казахстана заблокировали сайт для ЛГБТ-подростков" [Kazakh authorities blocked a website for LGBT teenagers], *Ulys Media*, 12 February 2024.

<sup>122</sup> "Под влиянием российской пропаганды. Закрытие сайта о квір-подростках и гомофобия в Казахстане" [Under the influence of Russian propaganda. Closure of the website about queer teenagers and homophobia in Kazakhstan], *Radio Free Europa/Radio Liberty*, 20 February 2024.

but did not initially reference “non-traditional sexual relations”. If approved, this amendment would allow authorities to suspend the release or distribution of mass media content if it was deemed to promote “non-traditional sexual orientations”. Concurrently, as part of the same Bill on Mass Media discussions, a second initiative was introduced by two Members of Parliament (MPs). This initiative proposed modifying Article 174 of the Penal Code, which prohibits incitement to hatred, to include punishment for “promoting non-traditional sexual relationships”. The proposed amendment would have made such promotion punishable by up to seven years in prison. However, on 17 April, the latter initiative was dropped.

## Kuwait

In August 2023, the movie “Barbie” was banned over claims that it promoted “ideas and beliefs that are alien to Kuwaiti society and public order”. Public officials of Kuwait’s Ministry of Information have said that the authorities are allowed to ban anything that represents a “violation of public morals”, which the movie was deemed to do.<sup>123</sup>

## Kyrgyzstan

In March 2023, [Bill No. 6-4094 \(2023\)](#) was introduced in the Supreme Council of the Kyrgyz Republic to amend several laws, including the [Measures to prevent Harm to Children’s Health \[...\] and Moral Development \(2015\)](#).<sup>124</sup> The bill’s [Explanatory Memorandum](#) indicates that the 2015 law had to be updated in accordance with the principles of [Executive Decree No. 1 \(2021\)](#), namely the education of citizens in “high moral standards, traditions, traditional family, and social values”.<sup>125</sup>

The bill broadens the scope of the term “information harmful to the health and development of children” contained in Article 2-1(1) of the 2015 law to now

encompass information “rejecting family values” and “promoting non-traditional sexual relations”. This type of information cannot be disseminated in educational, cultural, or healthcare institutions or within 200 meters of their premises; otherwise one could be subject to fines. Moreover, the bill introduces mandatory measures, stipulating that any video content deemed detrimental to children must be appropriately labelled and that printed materials distributed in areas accessible to people under 18 must be securely sealed and inaccessible to minors for purchase. Furthermore, Article 3 of the bill amends the Mass Media Act (1992) to insert a new subsection under Article 23 and include information “harmful to minors” into the list of what cannot be publicly disseminated.

In June 2023, the Supreme Council passed the bill,<sup>126</sup> which was later signed into law by the President in August 2023.<sup>127</sup> The amendments faced criticism on both procedural and substantive grounds. For instance, the Kyrgyz Media Policy Institute conducted an analysis of the amendments and concluded that the measure represents yet another administrative tool for instituting censorship and arbitrary constraints on citizens’ access to information. They argued that the stated objective of the initiators, aimed at creating a “secure information environment for children”, is merely populist rhetoric and an attempt to feign proactive engagement.<sup>128</sup>

Beyond the passage of the above legislation, in September 2023, the Supreme Council also passed a law amending the Law on the Constitutional Court. This amendment stipulates that the Court’s decisions may be subject to review by the Council upon the President’s recommendation if the decision “contradicts the moral and ethical values and public consciousness of the people of the Kyrgyz Republic”.<sup>129</sup> Shortly thereafter, it was reported that a petition was filed with the Speaker of the Supreme Council, Nurlanbek Shakiyev, calling for a precise elucidation of terms such as “moral and ethical values”, “public consciousness”, “traditional social values”, among others, at the legislative level.<sup>130</sup>

<sup>123</sup> “Film ‘Barbie’ zabranjen u Kuvajtu ” [Movie ‘Barbie’ banned in Kuwait], *Hrvatska radiotelevizija*, 10 August 2023.

<sup>124</sup> “года выносятся проект закона «О мерах по предупреждению причинения вреда здоровью детей, их физическому, интеллектуальному, психическому, духовному и нравственному развитию в Кыргызской Республике»,” [Draft law “On measures to prevent harm to the health of children, their physical, intellectual, mental, spiritual and moral development in the Kyrgyz Republic” is submitted], *Supreme Council of Kyrgyzstan*, 30 March 2023.

<sup>125</sup> In 2021, president Sadyr Zhaparov signed [Executive Decree No. 1 \(2021\)](#) entitled “On the spiritual and moral development and physical education of the individual”, which requires the government to revise all regulatory, legal, conceptual, and programme documents. It also establishes “the priority of spiritual and moral motives of life behaviour over material interests” and “the priority of public and state interests over individual interests”. The media and state entities of culture, education, science and sports are urged to promote “spiritual, moral and family values”. Local organisations have stated that the vague terms “traditional values” and “ideals of the family” used in the Decree are a weapon in the hands of the state in the fight against the LGBT community. See: ILGA World, [ILGA World Database: Legal barriers to freedom of expression - Kyrgyzstan](#) (retrieved: 31 March 2024).

<sup>126</sup> “Kyrgyzstan: Lawmakers OK bill to protect children from ‘harmful information’”, *Eurasianet*, 23 June 2023.

<sup>127</sup> “В Кыргызстане принят закон о запрете «вредной» для детей информации. Похожий закон «о защите детей» ранее приняли в Казахстане” [Kyrgyzstan has adopted a law banning information that is “harmful” to children. A similar law “on the protection of children” was previously adopted in Kazakhstan], *Radio Free Europe/Radio Liberty*, 15 August 2023.

<sup>128</sup> “Медиа Полиси принятие законопроекта «о защите детей от вредной информации» назвал попыткой введения цензуры для взрослых” [Media Policy called the adoption of the draft law “on the protection of children from harmful information” an attempt to introduce censorship for adults], *Radio Free Europe/Radio Liberty*, 23 June 2023.

<sup>129</sup> “Парламент без обсуждения принял поправки в закон о Конституционном суде” [Parliament adopts amendments to law on Constitutional Court without debate], *Kaktus Media*, 28 September 2023.

<sup>130</sup> “От спикера ЖК просят дать четкую трактовку понятию «моральные и нравственные ценности»” [The speaker of the Parliament is asked to give a clear interpretation of the concept of “moral and ethical values”], *Media Policy Institute*, 9 October 2023.



## Lebanon

In April 2023, reports indicated that the movie “Scream 6” had been prohibited from cinema screenings due to its inclusion of LGBTQ+ characters.<sup>131</sup> In August, the movie “Barbie” was also banned by the Ministry of Culture over claims that the film “promotes homosexuality and transsexuality [...] supports rejecting a father’s guardianship, undermines and ridicules the role of the mother, and questions the necessity of marriage and having a family”. However, the ban was lifted in September 2023.<sup>132</sup>

On 16 August 2023, in response to the introduction of a bill that aimed to decriminalise consensual same-sex sexual acts, the Minister of Culture reportedly submitted a draft law aimed at strengthening measures against “the promotion of homosexuality”. This proposed legislation criminalises any action explicitly or implicitly endorsing “abnormal sexual relationships”, with potential penalties of up to three years in prison and a fine of five million Lebanese pounds (approximately USD 332). Additionally, the law targets actions promoting the possibility of “gender reassignment” or disseminating information to minors encouraging “changes in sex” or about sexual orientation, with similar prison sentences.<sup>133</sup>

Subsequently, on 17 August 2023, MP Ashraf Rifi submitted an expedited law proposal to criminalise the “promotion of homosexuality and sexual deviance”. This bill seeks to amend Article 534, explicitly criminalising “indecent or unnatural sexual acts” between individuals of the same gender, whether consensual or coerced. It prescribes penalties ranging from one to three years’ imprisonment and a fine of at least five times the minimum wage for such acts. Furthermore, the bill extends these penalties to those who promote, facilitate, conceal, or incite others to commit the mentioned acts through any means.<sup>134</sup> Following the submission of this bill in October 2023, Minister of Culture Mohamed Wissam al-Mortada stated that “the promotion of homosexuality” will very soon be punished with “the most severe penalties”.



## Malaysia

Currently, Malaysia has various non-explicit legal barriers regulating SOGIESC content in the media, as well as LGBTI content in general. In the past few years, these legal provisions have actively been used to censor, confiscate, and ban various forms of distributed media.<sup>135</sup>

Throughout 2023, there was an increase in the use of such acts to confiscate LGBTQ-related books in Malaysia. In February 2023, the Home Ministry banned three books: “The Tale of Steven”, “Jacob’s Room to Choose”, and “Aku” through Government Gazette P.U.(A) 24, 25 and 26 (2023) respectively, as they were deemed to be “promoting an LGBT lifestyle which is seen as a threat to the noble values taught by religion”.<sup>136</sup> The Home Ministry defended its actions, referencing Section 7(1) of the [Printing Presses and Publication Act \(1984\)](#), which grants the Minister sole discretion to ban any publication deemed “in any manner prejudicial to or likely to be prejudicial to public order, morality [or] which is likely to alarm public opinion”.<sup>137</sup>

Similarly, in May 2023, the Home Ministry seized a reported total of 164 watches from local Swatch stores for bearing symbols relating to the LGBTQ community. The watches were part of Swatch’s Pride Collection. Home Ministry officials said the seizures were initiated due to violations of Section 7(1) of the [Printing Presses and Publications Act \(1984\)](#).<sup>138</sup> Later, in August 2023, the Home Ministry gazetted P.U. (A) 236 (2023)—a prohibition order—entailing that “production”, “distribution”, and “possession” of the LGBTQ themed Swatch watches could mean imprisonment for up to three years, under the [Printing Presses and Publication Act \(1984\)](#).<sup>139</sup>

Other laws were also used to crack down on the physical freedom of expression of protesters and activists in Malaysia. In March 2023, several organisers and protesters of the “Women’s March” held in the country’s capital of Kuala Lumpur were called in for police questioning for participating in “an illegal

<sup>131</sup> “Scream 6 'banned in Lebanon' over inclusion of LGBTQ+ characters”, *Gay Times*, 07 April 2023.

<sup>132</sup> “Le film ‘Barbie’ pourrait être banni au Liban” [The movie ‘Barbie’ could be banned in Lebanon], *Linfa*, 11 August 2023.

<sup>133</sup> “المرتضى يوقع اقتراحاً بـ«مشروع قانون» للتشدّد في مكافحة الترويج لـ«الشذوذ الجنسي»” [Al-Murtada signs a proposal for a “draft law” to be strict in combating the promotion of “homosexuality”], *Al Akhbar (Lebanon)*, 18 August 2023.

<sup>134</sup> *Ibid.*

<sup>135</sup> In 2010, under the powers conferred by the [Film Censorship Act \(2002\)](#), the Film Censorship Board (LPF) adopted [Film Censorship Guidelines \(2010\)](#) that lifted the existent ban on LGBT-related content. However, the regulation called to give special attention to “homosexual and unnatural sex scenes,” scenes of “homosexuals embracing in a provocative manner” and “scenes that depict transgender behaviour and lifestyle”. Advertisements are not allowed to include “scenes that are of an anti-social nature or indecent including any kissing scenes between men and women or between the same sex”. For more information, see ILGA World, [ILGA World Database: Legal barriers to freedom of expression - Malaysia](#), retrieved on 21 September 2023.

<sup>136</sup> “Government bans 3 books over immorality, LGBT content”, *Focus Malaysia*, 15 February 2023.

<sup>137</sup> “Malaysia Larang Keras Pendedaran 3 Buku Berisikan Konten LGBT Ini” [Malaysia Strictly Bans Distribution of These 3 Books Containing LGBT Content], *Viva*, 21 February 2023.

<sup>138</sup> “Home Ministry confiscates ‘Pride Collection’ from Swatch stores in Malaysia over LGBTQ rainbow”, *News Beezer*, 22 May 2023.

<sup>139</sup> “Govt bans Swatch LGBT watches, owning one can result in 3 years’ jail”, *Malaysia Kini*, 11 August 2023.

assembly”. The Royal Malaysia Police said in a statement that the placards, such as “trans women are women”, among others, that protesters held violated Section 9(5) of the Peaceful Assembly Act (2012) and Section 14 of the Minor Offences Act (1995). No further action was reportedly taken against the individuals involved.<sup>140</sup>

Additionally, a three-year legal battle surrounding the banning of a book titled “Gay is Okay! A Christian Perspective” saw some progress when the High Court ruled in 2022 in *WA-25-53-02/2021* (2022) that the ban was to be lifted on the grounds that the Home Ministry failed to show evidence that the book was prejudicial to public order in the years the book was available for sale since 2013. The government appealed against the decision in May 2023.<sup>141</sup> The Court of Appeals later ruled in September 2023 in a split 2-1 decision in favour of the Home Ministry’s bid to reinstate the ban on the book, citing the lower court’s error in relying on the Universal Declaration of Human Rights in their ruling as Malaysia “has not enacted any local law to enforce those principles”.<sup>142</sup> The book’s publisher and author attempted to appeal against the ban’s reinstatement, but the Federal Court dismissed their appeal application in February 2024. As such, the book ban remains in force.<sup>143</sup>

In July 2023, Malaysia’s Minister of Communications ordered the immediate cancellation of a local music festival, “The Good Vibes Festival”, following an incident involving “1975’s” lead singer denouncing Malaysia’s criminalisation of consensual same-sex sexual acts and subsequently kissing a male band member on stage during their performance. This sparked national and international debate on the matter, with many criticising the band’s actions, particularly because Malaysia’s government announced additional measures to restrict freedom of expression in response to this incident. Newly enacted Communications Ministry guidelines now require concert organisers to have a “kill switch” to cut short performances that violate State law and policy and mandate that foreign artists must “adhere to the local

culture”. Following this, the country’s updated Agency Guidelines for Filming Foreign Films and Performances of Overseas Artists (PUSPAL), in April 2024, were in its final stages of review to “manage LGBT issues” regarding Western artists performing in Malaysia.<sup>144</sup> The British band has since been blacklisted from performing in the country.<sup>145</sup> Malaysian activists, such as Dhia Rezki Rohaizad and S. Thilaga also criticised the band’s actions, citing the intense backlash that made its rounds on social media against the LGBT community in general, causing heightened panic and polarisation amidst already high anti-LGBT sentiment during elections in the country.<sup>146</sup>

Restrictions were also seen in the online sphere. In March 2022, media reported that a transgender cosmetic entrepreneur was charged with two counts of non-physical sexual assault and two counts of sexual communication with children under sections 15(a)(i) and 11(1)(a) of the *Sexual Offences Against Children Act* (2017) respectively. This was because she hosted an Instagram live session in 2021 where she was reported to have been acting “lewdly” with another user while several minors were watching through the Instagram application. The trial was set to take place in July 2023.<sup>147</sup> However, in July, the defence submitted a preliminary objection to two of the four charges against her, resulting in the Ampang Sessions Court pushing the trial dates to September 2023. In August 2023, however, she was released without bail on all four charges, though she was not acquitted.<sup>148</sup>

In March 2024, the Malaysian Home Minister announced that the Film Censorship Board (LPF) would not approve the screening of any content containing LGBTQ themes in the country during a session at the Dewan Rakyat (the lower house of the bicameral Malaysian Parliament). “Any film promoting this lifestyle will not be approved for screening in Malaysia”, he stated. The rationale for the measure presented by the Minister hinged on the fact that “the Malaysian government has never ratified any international conventions on LGBTQ and has never recognised any LGBTQ lifestyle”.<sup>149</sup>

<sup>140</sup> “Police open investigation paper on Women’s March over alleged illegal assembly”, *Malay Mail*, 12 March 2023.

<sup>141</sup> “Sept 25 ruling on govt appeal to restore ban on ‘Gay is OK!’”, *Malaysia Kini*, 26 May 2023.

<sup>142</sup> “Govt wins appeal to reinstate ban on ‘Gay is OK!’ book”, *Free Malaysia Today*, 25 September 2023.

<sup>143</sup> “‘Gay is OK!’ book remains banned in Malaysia after failed Federal Court bid by publisher, author”, *Malay Mail*, 28 February 2024; “‘Gay is OK!’ book remains banned in Malaysia after failed Federal Court bid by publisher, author”, *Yahoo News Malaysia*, 28 February 2024.

<sup>144</sup> “Artis luar negara: Garis panduan Puspal dalam peringkat akhir pindaan - Nie Ching” [Overseas artists: Puspal guidelines in final stages of amendment - Nie Ching], *Astro Awani*, 03 April 2024.

<sup>145</sup> “The 1975 diharam buat persembahan di Malaysia” [The 1975 was banned from performing in Malaysia], *Free Malaysia Today*, 22 July 2023; “Malaysia issues ‘kill switch’ order to cut controversial concerts”, *The Guardian*, 1 November 2023.

<sup>146</sup> “Matty Healy: Malaysia LGBT community angry at 1975 ‘white saviour stunt’”, *BBC*, 25 July 2023; “Far from helping, local LGBT activists say The 1975’s Matty Healy only made things worse”, *Malay Mail*, 25 July 2023; “Malaysia’s gay community fears backlash after Matty Healy’s outburst”, *The Guardian*, 24 July 2023.

<sup>147</sup> “Cosmetics entrepreneur Safiey Ilias enters preliminary objection against two sexual offences charges”, *Malay Mail*, 24 July 2023.

<sup>148</sup> “Safiey Ilias granted discharge not amounting to acquittal of four sexual charges”, *The Star*, 16 August 2023.

<sup>149</sup> “LPF tidak akan lulus filem papar kandungan LGBTQ” [LPF will not pass films showing LGBTQ content], *Sinar Harian*, 21 March 2024; “Filem ada unsur LGBTQ, Islamofobia tak akan diluluskan” [Films with LGBTQ elements, Islamophobia will not be approved], *Berita Harian (Malaysia)*, 21 March 2024; “内长: 电影若宣扬lgbtq将不准放映” [Interior Minister: Movies that promote LGBTQ will not be allowed to be screened], *Oriental Daily News*, 22 March 2024.

## Oman

In August 2023, Omani media reported several products (mainly stationery and school supplies) had been seized for displaying “homosexual colours” (i.e. rainbow-like colours). In addition, legal action was taken against the shops selling them. Media reported that the Consumer Protection Authority seized approximately 500 products displaying such colours.<sup>150</sup> These seizures echo similar measures taken by Omani authorities in 2022.<sup>151</sup>

## Pakistan

On 4 May 2023, the Private Educational Institutions Regulatory Authority (PEIRA) banned the printing, publishing, distribution, and teaching of the “Sociology Course Book”, which allegedly contained materials on same-sex marriage, deemed to be against the “social and cultural traditions of Pakistan”. The PEIRA, in an official notification issued by the Education Ministry, cited the exercise of its powers under section 4(a), read with 4(g) of the ICT-PEIRA Act (2013) to ban the books and have legal action taken against the violators of those sections. The notification was sent to the principals and chief executive officers of all private educational institutions of the federal government.<sup>152</sup>

## Saudi Arabia

In June 2023, Saudi Arabia imposed an official ban on the new “Spiderman” movie due to its inclusion of LGBT themes.<sup>153</sup> Furthermore, in August 2023, after the screening of “Barbie” was delayed due to concerns about alleged “LGBTQ content”, the film was released but restricted to those over 18 years of age.<sup>154</sup>

## South Korea

In the final days of 2022, after months of deliberation, South Korea’s Ministry of Education released a [Revised](#)

[Education Curriculum](#) (2022) for all elementary and secondary school students. The adopted text removed words such as “gender equality” and “sexual minorities”. Despite criticisms from experts and civil society, the Ministry did not re-revise the curriculum, reportedly citing concerns that teaching adolescents about LGBTI people could lead to ‘gender identity confusion’.<sup>155</sup>

## United Arab Emirates

In 2023, ILGA World noted several reports that films were banned in the UAE due to alleged portrayals of LGBTQ content.<sup>156</sup> In January 2023, the media reported that “Dr. Strange in the Multiverse of Madness” was banned for this reason.<sup>157</sup> Additionally, in August 2023, the Emirates Media Council, after initially delaying the release of “Barbie”, granted permission for its screening but restricted it to audiences aged 15 and above. The decision was attributed to “possible content issues”, with media reports indicating that concerns could be linked to the film’s alleged inclusion of “LGBTQ content”.<sup>158</sup>

## Uzbekistan

In December 2022, the [Draft Information Code](#) (2022) was announced for public discussion. Article 45 of this draft prohibits the “promotion of unnatural relationships between same-sex couples”. However, no major updates on the progress of this law were noted in 2023.

## Yemen

Since 2022, Circular No. 64 (2022) prohibits the entry of any products that “promote homosexuality” or bear drawings, pictures, slogans, phrases, sentences, or symbols that contradict the teachings of Islamic Sharia, religion or public morals and ethics.

Throughout 2023, local media outlets reported on the ongoing efforts of authorities in confiscating merchandise adorned with rainbow colours. Numerous

<sup>150</sup> “ ضبط 500 منتج يحتوي على ألوان مثليين بجنوب الشرقية ” [Seizing 500 products that contain homosexual colors in South Al Sharqiyah], Al Roya, 9 August 2023.

<sup>151</sup> For more information, see ILGA World, [ILGA World Database: Legal barriers to freedom of expression - Oman](#), retrieved on 7 November 2023.

<sup>152</sup> “Two ‘anti-Pakistan’ course books banned”, *The Express Tribune*, 4 May 2023.

<sup>153</sup> “ حمل رسائل خفية لدعم المثلية الجنسية عند الأطفال .. Spiderman السعودية تمنع عرض فيلم ” [Saudi Arabia bans the screening of the Spiderman movie .. It carries hidden messages in support of children’s homosexuality], *Al Bawaba*, 12 June 2023.

<sup>154</sup> “Saudi Arabia, other ME countries, delay Barbie opening over LGBT themes”, *World Israel News*, 7 August 2023.

<sup>155</sup> “Korean teachers worry new policies will undo inclusive education on sex, gender”, *The Hankyoreh*, 29 December 2022; “South Korea revises school curriculum to exclude terms ‘gender equality’ and ‘sexual minorities’”, *Semafor*, 10 November 2022.

<sup>156</sup> The United Arab Emirates has used Article 3(5)(4) of Law on Combating Cybercrimes ([Law No. 5](#)) since 2012, which criminalises the “condoning, provoking, or promoting of sin through the computer network or any information technology means or a website” to restrict the freedom of expression in the media. The Telecommunications Regulatory Authority also blocks websites that “promote destructive principles, such as homosexuality” as part of its [Internet Access Management Regulatory Policy](#). For more information, see ILGA World, [ILGA World Database: Legal barriers to freedom of expression - United Arab Emirates](#), retrieved on 18 January 2024.

<sup>157</sup> “Doctor Strange 2 Banned In Egypt, UAE, And Iraq Over LGBTQ+”, *MENAFN.COM*, 18 January 2023.

<sup>158</sup> “Saudi Arabia, other ME countries, delay Barbie opening over LGBT themes”, *World Israel News*, 7 August 2023.

stories on the matter were published in June,<sup>159</sup> July<sup>160</sup> and September 2023,<sup>161</sup> indicating that the Yemeni Organisation for Standardisation, Metrology, and Quality Control had purportedly undertaken the seizure and subsequent destruction of a substantial quantity of rainbow-coloured goods. These goods included thousands of children's toys, bags, school supplies, and

games deemed to be in contravention of the precepts of Islamic law and local regulations. Furthermore, in July 2023, the Industry and Commerce Prosecution in Amanat Al-Asimah reportedly initiated an investigation into 25 importers accused of dealing with garments featuring what was described as “gay symbology”.<sup>162</sup>

## Europe

### Belarus

2023 saw an increase in legislative developments that would further restrict the freedom of expression of LGBTI people in Belarus since the passing of [Law No. 362-Z](#) (2016). The law came into effect in Belarus in July 2017 and has since prohibited the dissemination of information that “discredits the institution of family and marriage”.

In April 2023, the House of Representatives passed the first reading of a bill to amend the Law on Mass Media (2009). The purpose of this amendment is to legislatively ban “LGBT propaganda that promotes non-traditional values”. The bill also expands the grounds for revoking a certificate of state registration for media outlets and imposes limitations on accessing Internet resources, network publications, or news aggregators.<sup>163</sup> A week prior to introducing the bill, the Ministry of Information issued [500 warnings](#) to publishers and distributors of printed materials,

cautioning against distributing LGBT literature online or offline, and threatening specific administrative actions. This move was reportedly prompted by news of Russian publishers planning to circumvent fines from the newly enacted “propaganda law” in that country by moving their operations to neighbouring countries such as Belarus.<sup>164</sup>

In June 2023, the General Prosecutor's Office announced an “Action Plan for the Protection of Children from Sexual Violence and Exploitation”, which, among other measures, would involve imposing administrative punishments for the propaganda of “non-traditional sexual relations” and “change of sex”. Additionally, the Penal Code would also be amended. President Alexander Lukashenko publicly expressed his support for this Action Plan.<sup>165</sup>

In September and October 2023, Belarusian media reported again that a bill was being prepared to ban “propaganda on LGBT, paedophilia and change of sex”.<sup>166</sup>

- <sup>159</sup> “المواصفات والمقاييس ترفض حقائب أطفال تحمل شعار المثليين ومنتجات أخرى مخالفة” [Specifications and standards reject children's bags bearing the gay logo and other products that violate it], *Yemen Vibe News*, 6 June 2023; “ميناء عدن يمنع دخول بضائع تحمل شعار المثلية الجنسية” [The port of Aden prevents the entry of goods bearing the slogan of homosexuality], *Press Bee*, 6 June 2023; “شاهد: شعارات المثليين والإسرائيليين تحترق في اليمن (صورة)” [Witness: Slogans of homosexuals and Israelis are burning in Yemen (photo)], *Press Bee*, 8 June 2023; “ضبط حقائب عليها شعارات المثليين بهذه المحافظة” [Seizing bags with gay slogans in this governorate], *Press Bee*, 14 June 2023; “التصاعد عمليات تهريب شحنات تجارية عليها شعارات المثلية (إلى صنعاء)” [Escalation of smuggling of commercial shipments bearing “homosexuality” slogans to Sana'a], *Al-Khabar (Yemen)*, 14 June 2023.
- <sup>160</sup> “رفض وإتلاف منتجات أطفال تروج للمثلية في منفذ شحن” [Refuse and destroy homosexual baby products at a shipping outlet], *Al Ayyam (Yemen)*, 24 July 2023; “رفض وإتلاف منتجات أطفال تروج للمثلية الجنسية في شحن وأخرى مخالفة بعدن في عدن” [Rejection and destruction of children's products that promote homosexuality in Shahn and others in Aden], *Yemeress*, 25 July 2023.
- <sup>161</sup> “المواصفات ترفض أدوات مدرسية تروج للمثلية الجنسية والعاب مخلة بالأداب في عدن” [The specifications authorities reject school tools that promote homosexuality and immoral games in Aden], *Press Bee*, 27 September 2023.
- <sup>162</sup> “التحقيق مع 25 متهمًا باستيراد ملابس عليها شعارات المثليين” [Investigation with 25 accused of importing clothes with gay slogans], *26 September News*, 30 July 2023; “Sanaa | Investigation begins with 25 persons accused of promoting “infectiousness””, *Al-Khabar (Yemen)*, 30 July 2023. Nota Bene: Due to the continuing civil unrest in Yemen, the available information may lack precise details regarding the specific affiliation of individuals involved in actions aimed at restricting the spread of information or materials deemed to “promote homosexuality”. Based on the limited data accessible to ILGA World, it appears that, concerning matters related to sexual and gender diversity, the positions and conduct of most parties involved in the conflict are similar.
- <sup>163</sup> “Депутаты предложили добавить запрет пропаганды ЛГБТ в закон о СМИ” [Deputies proposed adding a ban on LGBT propaganda to the media law], *Media Zona (Belarus)*, 19 April 2023; “Pertsov: Belarus efficiently fights propaganda of non-traditional values”, *Beltele Radio Company*, 19 April 2023.
- <sup>164</sup> “Pertsov: Belarus efficiently fights propaganda of non-traditional values”, *Beltele Radio Company*, 19 April 2023; “Мининформ РБ защищает российский рынок от ЛГБТК-продукции из Беларуси” [The Ministry of Information of the Republic of Belarus protects the Russian market from LGBTQ products from Belarus], *Euro Radio FM*, 18 April 2023.
- <sup>165</sup> “Уводзіцца адміністрацыйная адказнасць за «прапаганду нетрадыцыйных сэксуальных адносін» [Administrative responsibility for “propaganda of non-traditional sexual relations” is introduced], *Nasa Niva*, 19 June 2023; “Жёсткія меры против “радужной” пропаганды: Лукашенко поддержал идею генпрокуратуры” [Tough measures against “rainbow” propaganda: Lukashenko supported the idea of the Prosecutor General's Office], *Tsargrad TV*, 20 June 2023; “У Беларусі плануець увесці адміністрацыйную адказнасць за прапаганду ЛГБТ і чайдфры” [Belarus is planning to introduce administrative responsibility for LGBT and childfree propaganda], *Belsat*, 20 June 2023.
- <sup>166</sup> “В Беларусі плануіраюць ввесці адміністрацыйную адказнасць за прапаганду ЛГБТ і чайдфры” [Belarus plans to introduce administrative liability for LGBT and childfree propaganda], *Телеканал ОНТ*, 14 September 2023; “Подготовлен проект изменений в КоАП с запретом «пропаганды ЛГБТ, педофилии и смены пола» [A draft amendment to the Code of Administrative Offenses has been prepared to ban “LGBT propaganda, paedophilia and gender reassignment”], *Reform.by*, 18 October 2023.

Moreover, the Prosecutor General's Office revealed plans to introduce "Basics of Family Life" into school curricula, aiming to prepare youth "to start a family". A representative of the office stated that this initiative would help "neutralise the efforts of some Western countries to perniciously promote non-traditional sexual relations, gender reassignment, paedophilia and childlessness".<sup>167</sup> In February 2024, the General Prosecutor announced that the drafting process of the bill had been concluded.<sup>168</sup>

In October 2023, a complaint was submitted to the Ministry of Education about a 2022 textbook titled "Teaching Speech Communication in English", alleging LGBT propaganda, reportedly "due to an illustration featuring a man in a woman's dress". Following an investigation, the Ministry withdrew all copies of the textbook from the library, banned its use, and mandated that corrections be made before republishing.<sup>169</sup>

In April 2024 the Ministry of Culture adopted [Decision No. 24 \(2024\)](#), which amends the "Instruction on the procedure for the release, duplication, display, rental, sale and advertising of erotic products, products containing elements of eroticism, violence and cruelty, sexual education and sex education products, as well as products for sexual purposes" ([Decision No. 18](#)) (2007) to classify "homosexuality", "lesbian love", "bisexuality", "the desire to live and be perceived by others as a person of the opposite sex" and "polyamory" as "non-traditional sexual relations and/or behaviour", a legal category that also includes "necrophilia", "zoophilia", "exhibitionism" or "paedophilia". Moreover, it also includes "non-traditional sexual relations and/or behaviour" as part of the more general concept of "pornography". It should be noted that Article 343 of the Belarusian Criminal Code (1999) punishes the distribution, production and promotion of "pornography" with up to two years' imprisonment (four years if done by an organised group).<sup>170</sup>

## Bosnia and Herzegovina

Although there are no known legal barriers restricting the freedom of expression surrounding LGBTI issues in Bosnia and Herzegovina, in March 2023 the President of Republika Srpska, Milorad Dodik, announced the imminent introduction of a law prohibiting the presence of LGBTI individuals in educational institutions. In an interview with Prnjavor's K3 television, the president stated: "Republika Srpska will in the next few months pass a law banning members of LGBT organisations from accessing educational institutions. So, kindergartens, schools, colleges, they won't be able to work, they won't be able to approach, they won't be able to do propaganda. Why do you think we don't have the right to do that?" He also added that it was his "institutional responsibility" to preserve "traditional and family values".<sup>171</sup>

This announcement followed an incident in which a group of more than thirty masked individuals attacked several activists and organisers affiliated with the Pride event in Banja Luka, the administrative capital of Republika Srpska in Bosnia and Herzegovina. The assault occurred shortly after the police cancelled an LGBTI film screening and forcibly removed the attendees from the premises.<sup>172</sup>

## Bulgaria

Bulgaria currently does not impose legal constraints regarding the freedom of expression relating to LGBTI issues. Despite this, several regressive legislative developments have taken place throughout 2023. In April 2023, the Bulgarian Socialist Party (BSP) completed the official registration of a referendum in the National Assembly, to prohibit the teaching and

<sup>167</sup> "В Беларуси готовят законопроект о запрете "ЛГБТ-пропаганды"" [Belarus is preparing a bill to ban "LGBT propaganda"], *Parni Plus*, 14 September 2023; "Подготовлен проект изменений в КоАП с запретом «пропаганды ЛГБТ, педофилии и смены пола»" [A draft amendment to the Code of Administrative Offenses has been prepared to ban "LGBT propaganda, pedophilia and gender reassignment"], *Reform.by*, 18 October 2023.

<sup>168</sup> "В Беларуси хотят запретить пропаганду "ненормальных отношений" – законопроект готов" [Belarus wants to ban propaganda of "abnormal relationships" – the bill is ready], *Mediabrest*, 20 February 2024; "В Беларуси будут наказывать за пропаганду "нетрадиционных семейных отношений"" [In Belarus they will punish for promoting "non-traditional family relationships"], *Euro Radio FM*, 20 February 2024; "Законопроект об административной ответственности за «пропаганду ненормальных отношений» подготовили в прокуратуре" [A bill on administrative liability for "propaganda of abnormal relationships" was prepared by the prosecutor's office], *Media Zona (Belarus)*, 20 February 2024; "Законопроект об административной ответственности за пропаганду - REFORM.by" [Bill on administrative liability for propaganda], *Reform.by*, 20 February 2024.

<sup>169</sup> "В БГУИР запретили учебник английского после доноса" [BSUIR banned English textbook after denunciation], *Reform.by*, 07 October 2023.

<sup>170</sup> "Минкульт отнес демонстрацию «нетрадиционных отношений» к порнографии" [The Ministry of Culture classified demonstrations of "non-traditional relationships" as pornography], *Media Zona (Belarus)*, 11 April 2024; "Białoruś zrównała homoseksualizm z pedofilią i nekrofilia" [Belarus has equated homosexuality with pedophilia and necrophilia], *Belsat*, 12 April 2024; "Belarus Calls LGBT Lives 'Pornography'", *Human Rights Watch*, 13 April 2024.

<sup>171</sup> "Dodik: LGBT aktivistima će biti zakonom zabranjen prilazak obrazovnim institucijama" [Dodik: LGBT activists will be prohibited by law from approaching educational institutions], *Vesti (Serbia)*, 27 March 2023; "With Anti-LGBT Law, Bosnia's Dodik Borrows from Orban's Playbook", *Balkan Insight*, 6 April 2023; "Додик: Против сдржаја које припадници ЛГБТ популације пропaгирају" [Dodik: Against content propagated by members of the LGBT population], *RTRS*, 31 March 2023.

<sup>172</sup> "Policija zabranila okupljanje 'Bh. povorci ponosa' u Banjaluci" [The police banned the gathering of 'Bh. pride parades' in Banja Luka], *Radio Slobodna Evropa*, 18 March 2023.

promotion of “gender ideology” in schools, as per the definition provided by the BSP representative. Following the registration, a three-month period was allotted for collecting a minimum of 200,000 signatures to present the matter before the Parliament.<sup>173</sup> Additionally, in November 2023, the Bulgarian Parliament debated proposed amendments to the Child Protection Act, which aimed to restrict the promotion and discussion of “gender reassignment” and “gender identity” issues in schools and kindergartens. These amendments, initiated by the populist ITN Party with the support of the BSP and other parties, also included provisions for imposing financial penalties on individuals and legal entities found in violation of these regulations. Despite the support from certain political factions, the amendments failed to pass.<sup>174</sup>

In January 2024, the national news agency of Bulgaria informed that a bill was introduced to amend the [Law on Preschool and School Education](#) (2016, as amended), which would ban “non-traditional” sexual orientation and gender identity “propaganda” in the education system. The so-called “propaganda” would include the promotion or incitement in any way, directly or indirectly, of ideas and views related to “non-traditional” sexual orientation and gender identity.<sup>175</sup>



In November 2022, a far-right extremist group known as Alt-Info introduced a [Bill to Amend the Law on Assemblies and Manifestations \[...\] \(2022\)](#) into the Georgian Parliament, supported by the signatures of 25,000 citizens. The proposed legislation aimed to ban all public gatherings that “promote or popularise propaganda of sexual orientation” or involve “statements or calls that are against any religious movement”, among other concerning elements.<sup>176</sup> In May 2023, an extension was granted to the Legal Affairs Committee to facilitate a thorough review of this draft law. Subsequently, Georgian media reported that the Party of European Socialists intended to introduce another draft law aimed at restricting “LGBT propaganda”.<sup>177</sup>

In early March 2024, the Georgian Dream announced their intention of advancing a draft law to ban “LGBT

propaganda”. In particular, this proposal would seek to counter “pseudo-liberal ideology” that promotes “non-traditional orientation” and the “introduction of gender-neutral terminology”. According to media reports, these plans were expressly endorsed by the Prime Minister of Georgia.<sup>178</sup>

On March 25, the leader of the Georgian Dream parliamentary majority, Mamuka Mdinardze, announced two draft constitutional laws to amend Article 30 of the Constitution to enshrine the “protection of family values and minors”. Mdinardze also explained that in the very near future, the party would initiate more concrete amendments to legislation. These amendments are expected to encompass several dozen laws. In effect, upon explaining the tenets of the constitutional reform, he outlined a long list of measures that represent profound and severe regressions in legal protections related to sexual orientation and gender identity. These included banning the dissemination of information, gatherings, and education promoting same-sex relationships, non-heterosexual adoption, gender reassignment, or gender-neutral terminology in public or private institutions, among other regressive proposals, such as recognising only unions between “genetically male and female individuals”; restricting adoption or fostering to married couples or heterosexual individuals; prohibiting gender-affirming medical interventions and outlawing legal gender recognition.<sup>179</sup>



In 2023, EU proceedings initiated against Hungary due to the enactment of the Hungarian [Law on tougher action against paedophile offenders and amending certain laws to protect children](#) (2021) continued, with several EU Member States joining the European Commission’s infringement procedure against Hungary. By April, a total of 15 States reportedly joined the legal case.<sup>180</sup>

Hungarian authorities enforced this law on at least two occasions in May 2023, targeting at least two stores selling books and comics, such as “Heartstopper”, without adhering to the legal requirement of wrapping them up to conceal their contents. Hungarian media

<sup>173</sup> “БСП ще пита българите подкрепят ли “обучение и възпитание” за промяна на пола” [BSP will ask Bulgarians if they support “training and education” for gender reassignment], *Клуб Z*, 11 March 2023.

<sup>174</sup> “Парламентът пуска джендър идеологията в училище” [Parliament introduces gender ideology into schools], *Trud (Bulgaria)*, 01 December 2023.

<sup>175</sup> “Даниел Проданов от „Възраждане“ предлага забрана за ЛГБТ пропаганда в училищата” [Daniel Prodanov from Vazrazhdane proposes a ban on LGBT propaganda in schools], *БТА*, 31 January 2024.

<sup>176</sup> “Organizers of July 5th are demanding restrictions on LGBTQI people’s demonstrations – draft law”, *Queer.ge (Georgia)*, 01 February 2023.

<sup>177</sup> “«Европейские социалисты» готовят законопроект по ограничению пропаганды ЛГБТ” [“European Socialists” will prepare a bill to limit LGBT propaganda], *Apsny*, 04 May 2023.

<sup>178</sup> “Спикер парламента: новия закон направен на защита общества от порочной пропаганды” [Speaker of Parliament: the new law is aimed at protecting society from vicious propaganda], *Apsny*, 7 March 2024; “Georgia: Halt legislative assault on LGBTI rights”, *Amnesty International*, 26 March 2024.

<sup>179</sup> “GD Pushes for Anti-LGBT Constitutional Law”, *Civil Georgia*, 25 March 2024; “Georgia wants to ban changing gender in sweeping new anti-LGBTQ+ law”, *Politico*, 25 March 2024.

<sup>180</sup> For more information, refer to ILGA World, [ILGA World Database: Legal barriers to freedom of expression - Hungary](#) (retrieved: 1 April 2024).



reported that these incidents marked the initial instances of the law being put into practice.<sup>181</sup> Although the bookstores were sanctioned, in February 2024 it was reported that a court in Budapest had lifted the fine.<sup>182</sup>

Later, in September 2023, one of the bookstores (Lira) was fined again by the Bács-Kiskun county for selling "Good Night Stories for Rebel Girls". Among the many stories on female empowerment included in the book, the authors tell the real story of a trans child who won a legal battle for the legal recognition of her identity. According to Hungarian media, a copy of the book was found during an inspection in one of the Lira stores that were "less than 200m away from a school and a church", which was considered a violation of the Law on tougher action against paedophile offenders and of Decree No. 473 (2021). However, it was reported in February 2024 that a court in Győr had lifted the fine.<sup>183</sup>

In April 2023, the Hungarian Parliament approved [Bill No. T/3089/11](#) (2023). Initially aimed at transposing an EU Directive on rules protecting individuals who report specific breaches of EU Law, the bill took a contentious turn with the addition of Article 50. This Article provided protection for individuals reporting breaches of "fundamental values and rights enshrined in the Fundamental Law" and safeguarded the "Hungarian way of life". Notably, it included defending the constitutionally recognised role of marriage and family, defined exclusively as between a man and a woman, and upholding children's right to an identity congruent with their sex at birth. The partial veto of the President led to the enactment of this law without this provision.<sup>184</sup>

## Lithuania

In January 2023, the European Court of Human Rights declared in *Macate v. Lithuania* ([Application No. 61435/19](#)) (2023) that Lithuania had breached the human right to freedom of expression, almost a decade and a half after the enactment of [Law No. XI-594](#) (2009).<sup>185</sup> This law had amended the Law on the Protection of Minors against the Detrimental Effect of Public Information ([Law No. IX-1067](#)) (2002) to define the "propagation of same-sex relations" as information that "adversely affects minors". In particular, the Court found that by restricting children's access to information about same-sex relationships, Lithuania's authorities had demonstrated their preference for different-sex couples over same-sex couples, thus contributing to stigmatisation. Therefore, the Court concluded that there was no legitimate aim in censoring such content.

As a reaction to this judgment, in July 2023 the Ministry of Justice of the Lithuanian Government announced a bill to reform the Law on the Protection of Minors [...] (2002) to remove the references to "propagation of same-sex relations", which was introduced in October as [Bill No. XIVP-3270](#) (2023).<sup>186</sup> However, the Seimas (the Lithuanian Parliament) rejected the bill in November.<sup>187</sup> According to Lithuanian media, the failure of the bill moved the government to announce in December 2023 that it would challenge the law before the Constitutional Court.<sup>188</sup> Later, in February 2024, it was reported that the Constitutional Court had started reviewing the case.<sup>189</sup>

<sup>181</sup> "A homofób törvény miatt az ifjúsági polcra a szórakoztató könyvek közé kerül egy magyar regénysorozat a Libriben" [Due to the homophobic law, a series of Hungarian novels is moved from the youth shelf to entertainment books in Libri], [24.hu](#), 01 June 2023; "A Libri felülvizsgálja a kínálatát, mert már bírságolnak a megegyelő törvény miatt" [Libri is reviewing its offer because it is already fined due to the anti-gay law], [HVG](#), 04 July 2023; "Hungary fines bookstore chain over LGBT+ novel Heartstopper", [Irish Examiner](#), 14 July 2023.

<sup>182</sup> "Hungarian bookstore evades R630 000 fine due to missing comma in LGBTQ law", [Knowledge News Compilation](#), 12 February 2024.

<sup>183</sup> "Ötmillióra büntették a Lírát, mert homoszexualitást megjelenítő könyvet forgalmazott egy iskola 200 méteres körzetében" [Lira was fined five million for distributing a book depicting homosexuality within 200 meters of a school], [444](#), 14 February 2024; "Pert nyert a Lira: a bíróság szerint nem öncéluán ábrázolja a nemváltást az Esti mesék lázadó lányoknak" [Lira won a lawsuit: according to the court, it does not portray gender change for the rebellious girls of Evening Tales], [24.hu](#), 06 March 2024.

<sup>184</sup> "Hungria retira la enmienda que alentaba a delatar la homosexualidad" [Hungary withdraws amendment that encouraged disclosure of homosexuality], [Swissinfo](#), 24 May 2023.

<sup>185</sup> "Diskriminacija patyrusi rašytoja nesulaukė teismo sprendimo, bet jos pasakos tapo žmogaus teisių pamoka" [The writer, who experienced discrimination, did not receive a court decision, but her stories became a lesson in human rights], [15 Min](#), 25 January 2023.

<sup>186</sup> "Siūlomi nepilnamečių apsaugos įstatymo pokyčiai: informacija apie tos pačios lyties porų santykius nebebūtų laikoma žalinga" [Proposed changes to the law on the protection of minors: information about relationships between same-sex couples would no longer be considered harmful], [LRT](#), 3 September 2023.

<sup>187</sup> "Сейм Литвы отклонил идею разрешить пропагандировать ЛГБТ-отношения детям" [The Lithuanian Seimas rejected the idea of allowing children to promote LGBT relationships], [Sputnik News \(Lithuania\)](#), 07 November 2023; "Lithuanian parliament rejects changes to controversial anti-LGBTQ information law", [LRT](#), 07 November 2023.

<sup>188</sup> "Ministerija inicijuoja kreipimąsi į Konstitucinį Teismą dėl draudimo skatinti LGBTIQ šeimos sampratą" [The Ministry initiates an appeal to the Constitutional Court regarding the ban on promoting the concept of the LGBTIQ family], [LRT](#), 28 December 2023.

<sup>189</sup> "Konstitucinis Teismas priėmė nagrinėti Vyriausybės prašymą dėl draudimo skatinti LGBTIQ šeimos sampratą" [The Constitutional Court accepted to examine the Government's request regarding the ban on promoting the concept of the LGBTIQ family], [LRT](#), 23 February 2024.

In parallel, attempts to further restrict freedom of expression regarding sexual and gender diversity continued in 2023 after several unsuccessful attempts over the previous decade.<sup>190</sup> In September 2023, an MP introduced **Bill No. XIVP-3103(2) (2023)**, which would have banned sexuality education in schools. However, the bill was rejected in October 2023 by the Sejmas.<sup>191</sup>

## Moldova

In February 2023, the National Parliament voted against a bill which aimed to ban “LGBT propaganda in schools”.<sup>192</sup> The bill was introduced in November 2022 by the Parliamentary Bloc of Communists and Socialists (BCS) as part of the backlash against the launch of “LGBT Children in Your School”, an online platform aimed at helping teachers support children who face bullying based on stereotypes towards LGBT people.<sup>193</sup> Also, in November 2022, the Education Department in the Autonomous district of Gagauzia announced that all trainings and campaigns related to “LGBT Children in your schools” would not be permitted to go ahead in any school in the district.<sup>194</sup>

In January 2024, the government of the Russian-occupied breakaway region of Transnistria declared 2024 the “Year of Family Values.” To commemorate this, the Government announced a plan “to combat the manipulation of public opinion” and relevant amendments to the Code of Administrative Offences and other laws. Under these laws, persons promoting “non-traditional sexual relations”, “change of sex”, “paedophilia, etc.” will be strictly accountable before the law. The government clarified that this means there is no right to publicly approve such relations or disseminate information posing hidden threats to

society. The government referenced similar mechanisms in other countries prioritising “the value of the family and the inviolability of children” and announced that the bills would be sent to the Supreme Council for consideration and adoption.<sup>195</sup>

## Poland

In February 2023, the infringement procedure launched by the European Commission against Poland in 2021 over the so-called “LGBT-free zones” was dropped.<sup>196</sup> As explained by ILGA-Europe, throughout 2023, local municipalities continued retracting many of these anti-LGBT resolutions or “Family Rights Charters”, although some of them still persist. In October, the Supreme Court invalidated five more anti-LGBT resolutions across various regions in Poland.<sup>197</sup>

In August 2023, the Sejm (the lower house of the Polish Parliament) voted in favour of the authorities' control over the contents taught in public education in order to exclude those related to sexual and gender diversity. However, this bill was rejected by the Senate in September 2023.<sup>198</sup>

## Romania

In February 2023, **Bill No. B68 (2023)** was introduced to the Senate by two ultraconservative parliamentarians, backed by 100,000 citizen signatures. This bill seeks to amend the Law on the Prevention and Combating of Pornography (**Law No. 196**) (2003), targeting any expression “promoting homosexuality” among minors or that “restricts the minor's right to a

<sup>190</sup> Attempts to include specific provisions against the “public promotion of homosexual relations” or dissemination of information violating “constitutional family values” in the Code of Administrative Offences were unsuccessfully made in 2010, 2014, and 2015. In 2022, an MP introduced Bill No. XIVP-2194 (2022) to fine any “public disparagement of the family through speech, displayed objects, posters, slogans, audiovisual means and other actions”, mentioning the “values enshrined in the Constitution”.

<sup>191</sup> “Lietuvos Respublikos Nepilnamečių Apsaugos Nuo Neigiamo Viešosios Informacijos Poveikio Įstatymo Nr. Ix-1067 Papildymo 71 Straipsniu Įstatymo Projekto Aiškinamasis Raštas” [Law of the Republic of Lithuania on the Protection of Minors from the Negative Effects of Public Information No. Ix-1067 Explanatory Text of the Draft Law on Supplementing Article 71], *Lietuvos Aidas*, 21 September 2023.

<sup>192</sup> “Парламентское большинство отказалось от запрета ЛГБТ-пропаганды в школах Молдовы” [Parliamentary majority refuses to ban LGBT propaganda in Moldovan schools], *Komsomolskaia Pravda*, 4 February 2023.

<sup>193</sup> “БКС инициирует законопроект о запрете ЛГБТ-пропаганды в школах Молдовы” [BCS initiates a bill to ban LGBT propaganda in Moldovan schools], *Point*, 13 November 2022.

<sup>194</sup> “Влах о запрете в школах ЛГБТ-кампании: Подписываюсь под каждым словом” [Vlah on banning LGBT campaign in schools: I subscribe to every word], *Point*, 18 November 2022. In May 2022, Members of the People's Assembly of the autonomous territorial unit of Gagauzia adopted a new resolution targeting sexual minorities. This Resolution (2022) bans the “propaganda of homosexuality” in the territorial administrative unit as well as pride marches and demonstrations. For more information, see ILGA World, *ILGA World Database: Legal barriers to freedom of expression - Moldova*, retrieved on 18 January 2024.

<sup>195</sup> “Сохранение традиционных семейных ценностей – приоритет государства” [Preservation of traditional family values is a priority of the state], *Website of the Government of the Pridnestrovskia Moldavskaia Respublika*, 23 January 2024. See as well: “По примеру РФ. В непризнанном Приднестровье хотят запретить «пропаганду» ЛГБТ” [Following the example of the Russian Federation. In unrecognised Transnistria they want to ban LGBT “propaganda”], *Novoe Vremya*, 4 February 2024; “Под копырку Кремля: Тирасполь вводит санкции за «пропаганду нетрадиционных отношений»” [Copied by the Kremlin: Tiraspol introduces sanctions for “propaganda of non-traditional relations”], *Nokta Moldova*, 25 January 2024.

<sup>196</sup> “Komisja Europejska zamyka sprawę „stref wolnych od LGBT” w Polsce” [The European Commission closes the case of “LGBT-free zones” in Poland], *Rzeczpospolita*, 16 February 2023. Note: Since 2019, almost 100 municipal authorities in Poland have adopted resolutions symbolically declaring their territories to be zones “free” from LGBT and “gender ideology”. As of May 2022, many of these declarations have been revoked due to international pressure or have been annulled by judicial decisions, such as the ones from Lipinki, Lublin, Cheesniki, Istebna, Osiek, Kłwów or the district of Tarnów. For more information, see ILGA World, *ILGA World Database: Legal barriers to freedom of expression - Poland* (retrieved on 18 January 2024).

<sup>197</sup> ILGA Europe, *Annual Review 2024 of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia* (2024), 119.

<sup>198</sup> “Projekt “Chrońmy dzieci”. Sejm uchwalił nowelizację prawa oświatowego” [Project “Let’s protect children”. The Sejm passed an amendment to the education law], *Polskie Radio 24*, 17 August 2023.

gender identity corresponding to their biological sex". It also adds Article 4(3) to prohibit the distribution of content presenting sexuality "as an end in itself" or promoting "deviation from the gender identity corresponding to the biological sex", "sex change", or "homosexuality" to children under 18. Additionally, Article 6 mandates that educational institutions exclude such content from their programs.<sup>199</sup>

"MosaiQ Association", a local LGBT organisation, vehemently opposed the bill, highlighting its detrimental impact on freedom of speech and the press, and denounced the bill's equation of LGBTQ identities with paedophilia, necrophilia, and violence. They stressed that, under the pretext of protecting children, the bill pathologises LGBTQ identities, mirroring certain aspects of another bill proposed in 2022, which aimed to prohibit the dissemination of information on LGBT issues. They also highlighted how the bill resonates with "Putinist-Orbanist" ideologies, following in the path of Russia's "propaganda law".<sup>200</sup>

## Russia

In a marked trend towards a further tightening of the already oppressive legal framework on sexual and gender diversity in Russia, on 30 November 2023, the Supreme Court handed down a decision where it categorised the "international LGBT movement" [sic] as "extremist", following a lawsuit initiated by Russia's Ministry of Justice.<sup>201</sup>

According to the ruling,<sup>202</sup> this decision was based on Article 1(1) of the Federal Law on Counteracting Extremist Activity (Federal Law No. 114/FZ) (2002), which, among other things, considers the "incitement of social [...] or religious animosity" as grounds to label an

organisation as "extremist". Given that the "international LGBT social movement" is not an existent "organisation", it is unclear who can be found as a participant or an organiser thereof. However, an analysis published in *Meduza* points out that, according to recent case law related to other movements deemed to be "extremist", anybody who speaks in favour of sexual and gender diversity could potentially be considered an extremist. Furthermore, lawyers interviewed by *Meduza* said that legislation against "extremist" activities and organisations can be used against LGBTQ people even if they don't participate in any form of activism.<sup>203</sup>

The legal consequences of being found to be part of an "extremist organisation" are varied and harsh,<sup>204</sup> and include many sanctions aimed at curtailing the freedom to express so-called "extremist" ideas. According to the Penal Code (1996), the "propaganda" or "public display" of the "symbols and paraphernalia" of an "extremist organisation" can be punished with up to four years' imprisonment.<sup>205</sup> Furthermore, producing, selling, or buying those symbols and paraphernalia can also be punished with up to four years' imprisonment.<sup>206</sup> All of these actions might also be subject to fines or several years of forced labour.

The impact of this legislation on the right to freedom of expression in Russia should not be understated, even if the "international LGBT movement" targeted by the Supreme Court's ruling is not a real organisation. In its reasoning, the Supreme Court considers the "promotion" and "propaganda" of an "illegal ideology aimed both at destroying the moral foundations of society and at inciting hatred towards the government" to be the unifying basis of the movement and the main reason to declare it an "extremist organisation".<sup>207</sup> With this aim, argues the court, its participants would use the same symbols (the rainbow flag and its variations) and

<sup>199</sup> "Expunere de motive pentru modificarea și completarea iegiei nr.196 din 13 mai 2003, repubiăată în Monitorul Oficial Nr. 198 din 20 martie 2014, privind prevenirea și combaterea pornografiei" [Statement of reasons for the modification and compilation of the law no. 196 of May 13, 2003, published in the Official Gazette No. 198 of March 20, 2014, regarding the prevention and combating of pornography]. Submitted and signed by Aelenei Evdochia and Aelenei Dănut (2023). See also: "Doi foști parlamentari AUR, proiect de lege copiat din Rusia și Ungaria privind minoritățile sexuale. Ce justificări invocă cei doi" [Two former AUR MPs, bill copied from Russia and Hungary on sexual minorities. What justifications do the two invoke?], *P5news*, 04 March 2023.

<sup>200</sup> "Comunicat de Presă: Ideologiile Putiniste își fac loc în Parlamentul României: Un alt atac legislativ împotriva comunității LGBT" [Press Release: Putinist Ideologies Make Their Place in the Romania Parliament: Another Legislative Attack Against the LGBT Community], *MosaiQ*, February 2023.

<sup>201</sup> "Верховный суд России объявил «экстремистским» и запретил «движение ЛГБТ»" [The Supreme Court of Russia declared "extremist" and banned the "LGBT movement"], *Meduza*, 3 December 2023; "Верховный суд России принял нарушающее основополагающие права человека в том числе права ЛГБТ-людей решение" [The Supreme Court of Russia made a decision that violates fundamental human rights, including the rights of LGBT people], *ECOM - Eurasian Coalition on Health, Rights, Gender and Sexual Diversity*, 2 December 2023; "A Supreme Court Case Strikes Fear In Russia's LGBT Community", *Radio Free Europe*, 28 November 2023.

<sup>202</sup> Although it was initially reported that the judgment would not be made public, ILGA World's research team had access to the copy published by Russian media outlet Svobodnye Novosti. See: "Разрушение традиционных ценностей и феминитивы. «Свободные новости» публикуют полный текст решения Верховного суда РФ о признании экстремистским «движения ЛГБТ»" [Destruction of traditional values and feminism. Svobodnye Novosti publishes the full text of the decision of the Supreme Court of the Russian Federation recognizing the "LGBTQ movement" as extremist], *Svobodnye Novosti*, 18 January 2024.

<sup>203</sup> "Верховный суд объявил экстремистским «международное общественное движение ЛГБТ» — хоть его и не существует Людей в России теперь будут преследовать за ориентацию?" [The Supreme Court declared the "international LGBT social movement" extremist - even though it does not exist. Will people in Russia now be persecuted for their orientation?], *Meduza*, 17 December 2023.

<sup>204</sup> "Qué implica que Rusia declare extremista al movimiento LGTBI+?" [What does it mean for Russia to declare the LGTBI+ movement extremist?], *Queerídico: Blog jurídico queer*, 23 December 2023. See also the chapter on Restrictions to Freedom of Association for more information.

<sup>205</sup> Article 282.4.1 Penal Code. Moreover, it is also possible to be charged according to Article 20.3 of the Code of Administrative Offences when the act of propaganda does not meet the severity threshold of criminal liability.

<sup>206</sup> Article 282.4.2 Penal Code. It should be noted, however, that this penalty is reserved for cases where someone has already been sanctioned under article 20.3 of the Code of Administrative Offences.

<sup>207</sup> Supreme Court of the Russian Federation, *Judgment Case No. АСР123-990с*, 30 November 2023, p. 17.

would share customs, interests and a common language (like using *feminitives*, the feminised form of certain nouns in Russian).<sup>208</sup>

This vague description of what constitutes “propaganda” of the “international LGBT movement” has led to general confusion on what is specifically forbidden. In January 2024, Russian media reported the concerns among media outlets and journalists about the inclusion of *feminitives* among the “extremist symbols”, as it could lead to legal consequences even for those who do not support the “international LGBT movement”.<sup>209</sup> In at least one occasion, a group of students were prohibited from using *feminitives* in their publications by their university, citing the Supreme Court’s ruling.<sup>210</sup> Moreover, Vitaly Milonov (a prominent MP who has sponsored anti-LGBT legislation) commented on this topic by publicly calling for a legal ban on *feminitives* and for feminists to be declared extremists as well.<sup>211</sup>

Furthermore, in February 2024, a woman from Nizhny Novgorod was reportedly detained after a video of her wearing frog-shaped earrings with the colours of the rainbow surfaced online. She was then charged and sentenced to five days in detention under article 20.3.1 of the Code of Administrative Offences for wearing an “extremist symbol”, even if the court was not able to identify whether the earrings depicted the Pride flag or just an ordinary rainbow.<sup>212</sup> This arrest prompted some political representatives, such as a member of the Presidential Council for the Development of Civil Society and Human Rights, and the Vice-Speaker of the

State Duma, to ask the Supreme Court for clarifications on what constitutes “extremist propaganda”.<sup>213</sup>

The confusion surrounding *feminitives* or the colours of the rainbow exemplifies how the Supreme Court’s ruling has contributed to a higher degree of legal uncertainty that can easily expand the scope of what is punished as “extremist propaganda” in practice. However, there have been other cases of enforcement of anti-extremism legislation specifically targeting LGBT people and advocacy. In February 2024, a man from Volgograd and a feminist photographer from Saratov (both in south-western Russia) were found guilty of “publicly displaying the symbols of an extremist organisation” for posting pictures of rainbow flags online. Both were fined under the Code of Administrative Offences.<sup>214</sup> At the end of the same month, a woman from Perm was fined for the same reason after hanging a rainbow flag from her window.<sup>215</sup>

Nevertheless, anti-extremism laws are not the sole method employed by Russian authorities to restrict the freedom of expression of SOGIESC-related topics. The already existing rules banning “propaganda of non-traditional sexual relations” were extensively enforced throughout 2023 and the first months of 2024 against online “influencers” and bloggers, among others.<sup>216</sup> Such actions include police raids and investigations against a “My Little Pony” convention, the “Duolingo” language learning app, and private parties, all of which have only added to the increasing hysteria over so-called “LGBT propaganda”.<sup>217</sup> As for websites, in September 2023, it was reported that Roskomnadzor, the state media watchdog, had added over 200 websites related to

<sup>208</sup> *Id.*, pp. 5-6

<sup>209</sup> “Верховный суд России счел феминитивы признаком причастности к ЛГБТ-движению” [The Supreme Court of Russia considered feminists a sign of involvement in the LGBT movement], *Lenta*, 20 January 2024; “Решение Верховного суда о запрете движения ЛГБТ встревожило любителей феминитивов” [Supreme Court decision to ban LGBT movement alarms feminist lovers], *Kommersant*, 22 January 2024; “Участники «международного движения ЛГБТ» радикальны и склонны к репрессиям. Их объединяет «наличие определенных нравов и обычаев» Это главные тезисы из решения суда о запрете «движения ЛГБТ» в России.” [Participants in the “international LGBT movement” are radical and prone to repression. They are united by “the presence of certain morals and customs.” These are the main points from the court decision to ban the “LGBT movement” in Russia], *Meduza*, 21 January 2024.

<sup>210</sup> “Руководителям студенческих организаций ВШЭ в Петербурге запретили использовать феминитивы” [Leaders of HSE student organizations in St. Petersburg were prohibited from using feminine phrases], *Meduza*, 24 January 2024; “В петербургской «Вышке» запретили феминитивы: их якобы используют в «международном движении ЛГБТ»” [Feminitives have been banned at the St. Petersburg “Higher School”: they are allegedly used in the “international LGBT movement”], *Kasparov.ru*, 24 January 2024.

<sup>211</sup> “«Срам, который левачки немывые бабищи используют». Виталий Милонов призвал признать феминитивы экстремизмом” [“The shame that leftist unwashed broads use”. Vitaly Milonov called for feminists to be recognised as extremists], *MSK1.RU*, 19 January 2024.

<sup>212</sup> “Суд назначил жительнице Нижнего Новгорода пять суток ареста за радужные серьги” [The court sentenced a resident of Nizhny Novgorod to five days of arrest for rainbow earrings], *Kommersant*, 1 February 2024; “В России завели первое дело из-за радуги” [The first case was opened in Russia because of a rainbow], *URA.Ru*, 1 February 2024; “В России впервые арестовали человека за демонстрацию «ЛГБТ-символики»” [In Russia, for the first time, a person was arrested for demonstrating “LGBT symbols”], *Kasparov.ru*, 2 February 2024; “Russian woman jailed under anti-extremism law for wearing rainbow earrings”, *Meduza*, 3 February 2024.

<sup>213</sup> “Меркачева попросила Верховный суд разъяснить критерии пропаганды ЛГБТ”, [Merkacheva asked the Supreme Court to clarify the criteria for LGBT propaganda], *Kommersant*, 2 February 2024.

<sup>214</sup> “Rainbow images lead to ‘LGBT extremism’ convictions in Russia”, *76 Crimes*, 4 February 2024; “Дело о «демонстрации символики экстремистской организации» за радужный флаг. Саратов” [The case of “displaying the symbols of an extremist organization” for the rainbow flag. Saratov], *Mediazona*, 5 February 2024.

<sup>215</sup> “Пермячку оштрафовали за радужный флаг в окне квартиры” [A Permian woman was fined for having a rainbow flag in her apartment window], *URA.Ru*, 28 February 2024.

<sup>216</sup> “На двух краснодарок составили протоколы о «пропаганде ЛГБТ» из-за видео с поцелуем” [Protocols were drawn up against two Krasnodar residents for “LGBT propaganda” due to a video of a kiss], *Mediazona*, 6 February 2024; “На Урале по статье о «пропаганде ЛГБТ» оштрафовали блогера, который вместе со знакомым изобразил секс на кровати в торговом центре” [In the Urals, a blogger who, together with an acquaintance, depicted sex on a bed in a shopping center was fined under an article about “LGBT propaganda.”], *Mediazona*, 14 February 2024.

<sup>217</sup> “В Москве ФСБ сорвала фестиваль фанатов «My Little Pony» из-за пропаганды ЛГБТ” [In Moscow, the FSB disrupted the My Little Pony fan festival due to LGBT propaganda], *Afisha Daily*, 19 February 2024; “Приложение для изучения языков Duolingo проверяет на пропаганду ЛГБТ” [Language learning app Duolingo will be tested for LGBT propaganda], *Regnum*, 10 February 2024; “ЛГБТ-пропаганду в Duolingo [LGBT propaganda on Duolingo], *Fontanka*, 10 February 2024; “Блогера с «голой вечеринки» оштрафовали на 200 тысяч рублей” [Blogger from the “naked party” was fined 200 thousand rubles], *Radio Svoboda*, 9 March 2024.

LGBT content to its list of prohibited information in less than a month.<sup>218</sup> Finally, of particular concern is the ever-increasing frequency of violent police raids against LGBT clubs since the Supreme Court's ruling.<sup>219</sup>

Moreover, 2023 brought new developments in the case of activist Yulia Tsvetkova. In 2022, Tsvetkova was acquitted by the Central District Court of Komsomolsk-on-Amur in the Siberian region after facing several years in prison for allegedly "spreading pornography" and "propaganda of non-traditional sexual relations" among minors.<sup>220</sup> The charges referred to a series of drawings on the bodily diversity of women and on homoparental families. Tsvetkova has been fined on other occasions for similar reasons, in addition to being declared a "foreign agent".<sup>221</sup> However, Russian media reported in March 2023 that the Ninth Cassation Court of General Jurisdiction of Vladivostok had overturned Tsvetkova's acquittal.<sup>222</sup>

There have also been further attempts to aggravate the existing penalties for spreading "propaganda on non-traditional sexual relationships". In February 2024, it was reported that MP Nina Ostanina, the Chairwoman of the State Duma Committee on Family Protection, Parenthood, Maternity and Childhood Issues, had introduced a bill to amend the Penal Code and add articles 151.3, 151.4 and 151.5. These provisions would penalise with imprisonment the "promotion of non-traditional sexual relationships or paedophilia", as well as its dissemination among children, in cases where the accused had already been fined according to the Code of Administrative Offenses and had repeated their actions, nonetheless. However, the Governmental Committee on Legislative Activities rejected these changes, arguing that current criminal legislation already can be applied to such cases of propaganda, particularly after the Supreme Court's decision to label the "international LGBT movement" as "extremist".

Furthermore, there has been several developments concerning the legislation on so-called "foreign agents".<sup>223</sup> In late February 2024, the Duma passed a law banning advertising for organisations deemed "foreign agents". Businesses, media outlets, and other

relevant entities are prohibited from promoting or advertising "foreign agents" on their own platforms, and are prohibited from advertising themselves on the platforms of "foreign agents" as well. Violations incur fines of up to 50,000 rubles (USD 530) for individuals and up to 500,000 rubles (USD 5300) for legal entities. State Duma Chairman Vyacheslav Volodin emphasised the incompatibility of "denigrating the nation" for foreign financial gain while profiting from domestic advertising. According to the outlet, large advertising agencies plan to insert clauses in contracts allowing unilateral termination if a platform is labelled a "foreign agent".<sup>224</sup>

Later, in March 2024, Russian media outlets reported that a group of MPs led by Elena Yampolskaya (a prominent supporter of legislation against so-called LGBT propaganda) had introduced a bill to authorise the confiscation of books written by "foreign agents" or "extremists", which could potentially include those written by LGBTI+ people.

## Türkiye

The Constitutional Court ruled that an existing ban on the *Hornet* gay dating app violated freedom of expression and the right to an effective remedy. The verdict, issued on 22 November 2023, addressed multiple consolidated applications. Ankara's 8<sup>th</sup> Criminal Court of Peace imposed the ban on *Hornet* in accordance with Law No. 2020/5617 on August 6, 2020. Despite initially retaining access, *Hornet* was removed from the App Store in August 2021 following a court order. With over three million Turkish users, *Hornet* challenged the ban, leading at first to an appeal dismissal. The company then pursued individual recourse via lawyer Kerem Dikmen to the Constitutional Court.<sup>225</sup>

<sup>218</sup> "Россия: Роскомнадзор запретил более 200 сайтов по закону об «ЛГБТ-пропаганде»" [Russia: Roskomnadzor banned more than 200 sites under the law on "LGBT propaganda"], *Meta*, 30 September 2023.

<sup>219</sup> See the chapter on Restrictions to Freedom of Association for more information.

<sup>220</sup> "Siberian Court Acquits LGBT Artist Charged In 'Pornography' Case", *Radio Free Europe*, 31 July 2022.

<sup>221</sup> For more information on the implications of being declared a "foreign agent" see: ILGA World, *ILGA World Database: Legal barriers to freedom of association - Russia* (retrieved: 08 April 2024).

<sup>222</sup> "Суд в России отменил оправдательный приговор для художницы и ЛГБТ-активистки Юлии Цветковой" [Russian court overturns acquittal for artist and LGBT activist Yulia Tsvetkova], *Current Time*, 29 March 2023.

<sup>223</sup> For more information on the notion of "foreign agent" under Russian law, please refer to the chapter on barriers to freedom of association in this report.

<sup>224</sup> "Госдума одобрила законопроект о запрете рекламы для "иноагентов"" [The State Duma approved a bill banning advertising for "foreign agents"], *Radio Svoboda*, 29 February 2024.

<sup>225</sup> "The Constitutional Court rendered a verdict of "violation of freedom of expression" on all access bans including *Hornet*", *Kaos GL*, 7 February 2024.

## Latin America & the Caribbean

### Brazil

Throughout 2023, Brazil saw the introduction of a few new regressive bills at both the state and municipal levels. Over recent years, numerous subnational jurisdictions have proposed and enacted multiple laws and regulations, particularly concerning education and the instruction of “gender ideology” or “gender dogmatism” across several municipalities spanning various states. Despite the Supreme Court’s nullification in 2020 of several local laws of this kind, similar initiatives have persistently emerged, with varying degrees of success.

Bills aimed at prohibiting children from attending LGBTQ Pride parades were introduced in various jurisdictions, including the state of Goiás<sup>226</sup> and cities such as João Pessoa (Paraíba),<sup>227</sup> Betim (Minas Gerais),<sup>228</sup> and Ribeirão Preto (São Paulo).<sup>229</sup> Notably, such legislation was successfully passed in the state of Amazonas, where event organisers, sponsors, parents, or guardians would face fines of 10,000 Brazilian Reals (approximately USD 2,050) for each hour a minor participated in such events.<sup>230</sup> In January 2024, this bill was challenged before the Federal Supreme Court.<sup>231</sup>

Furthermore, in Brazil’s Federal District, a bill was introduced to prohibit advertising on issues related to sexual and gender diversity concerning children and adolescents in the media,<sup>232</sup> and in the city of Uberlândia (Minas Gerais), a bill to prohibit the “ideological indoctrination of gender” was passed but

subsequently suspended in July 2023 by the Court of Justice of Minas Gerais.<sup>233</sup>

### Paraguay

In June 2023, a group of Paraguayan senators introduced [Bill No. S-2300017](#) (2023) with its primary objective explicitly stated in Article 1: “to prohibit the promotion, encouragement, or teaching of gender ideology within the framework of Paraguayan education”. This prohibition, as framed under Article 1, is stated as “absolute”, encompassing all levels of education, whether in public or private institutions, and applies to both in-person and online teaching methods. Additionally, as outlined in Article 2, the bill’s scope extends to all forms of cooperation, including financial, technical, or of any other nature, whether originating at the national or international level, that might contribute to the propagation of “gender ideology” within the educational system. The bill proposes the imposition of criminal or administrative sanctions for violations of these prohibitions, as outlined in Article 3.<sup>234</sup>

### Puerto Rico (USA)

On 15 August 2023, [House Bill No. 1821](#) (2023) was filed in the Puerto Rican House of Representatives, seeking to amend the Penal Code to make “obscene exhibitions in front of minors” punishable by a fine and

<sup>226</sup> “Deputados querem proibir a participação de crianças em paradas LGBTQ+ - VEJA” [Deputies want to ban the participation of children in LGBTQ+ parades], *Veja*, 16 June 2023. Note: Since 2022, a law prohibits education in any content on “gender ideology” or “ideological sexual orientation and its derivatives” in this state. For more information see: ILGA World, *ILGA World Database: Legal barriers to freedom of expression - Brazil* (retrieved: 08 April 2024).

<sup>227</sup> The bill was reportedly vetoed by the General Prosecutor of João Pessoa. See: “MPF defende veto ao PL que proíbe a participação de crianças em paradas LGBTQ em João Pessoa” [MPF defends veto of the PL that prohibits the participation of children in LGBTQ parades in João Pessoa], *Carta Capital*, 2 December 2023.

<sup>228</sup> Note: The bill was vetoed in late July 2023 by the Mayor of the City of Betim two days before the celebration of Betim’s Pride. However, the veto was overturned by the Municipal Council in September 2023. Following this, in November 2023 it was reported that the Public Defender’s Office of Minas Gerais filed a public civil action against the law on the grounds of unconstitutionality. See: “MP recomenda que Prefeitura de Betim vete projeto de lei que impede crianças e adolescentes em festas LGBTQIA+” [MP recommends that Betim City Hall veto a bill that prevents children and adolescents from LGBTQIA+ parties], *G1*, 21 July 2023; “Prefeito de Betim veta projeto de lei que proíbe participação de crianças em eventos LGBTQIA+” [Mayor of Betim vetoes bill prohibiting participation of children in LGBTQIA+ events], *G1*, 28 July 2023; “Câmara de Betim derruba veto a PL que proíbe crianças em eventos LGBTQIA+” [Betim Chamber overturns veto on PL that bans children from LGBTQIA+ events], *Estado de Minas*, 13 September 2023; “Defensoria Pública ajuiza ação contra lei que proíbe participação de crianças em parada LGBTQIA+ em Betim” [Public Defender files lawsuit against law that prohibits children from participating in LGBTQIA+ parade in Betim], *G1*, 11 November 2023.

<sup>229</sup> “Vereador de Ribeirão quer proibir crianças e adolescentes em paradas LGBTQIA+” [Ribeirão councillor wants to ban children and teenagers from LGBTQIA+ parades], *Acicade ON*, 14 June 2023.

<sup>230</sup> “Projeto de lei que proíbe menores de idade em paradas LGBTQIA+ é aprovado no Amazonas” [Bill that prohibits minors in LGBTQIA+ parades is approved in Amazonas], *Terra (Brazil)*, 31 August 2023.

<sup>231</sup> “STF recebe ações contra lei do AM que proíbe crianças e adolescentes na Parada do Orgulho LGBTQ” [STF receives actions against AM law that prohibits children and adolescents from the LGBTQ Pride Parade], *Carta Capital*, 9 January 2024.

<sup>232</sup> Additionally, it seeks to ban the use of gender-neutral or non-binary language in any communication directed to children. See: “Aprovado em Comissão na CLDF, projeto quer censurar materiais sobre orientação sexual” [Approved by the CLDF Commission, the project aims to censor material about sexual orientation], *Metrópoles*, 22 June 2023.

<sup>233</sup> “Justiça suspende lei que proíbe ideologia de gênero de Uberlândia” [Justice suspends law on gender ideology in Uberlândia], *G1*, 19 July 2023.

<sup>234</sup> “Senadores de HC presentan proyecto para prohibir “la ideología de género” en escuelas” [HC senators present a bill to ban “gender ideology” in schools], *El Nacional*, 7 July 2023.

up to three years in prison. Local activists have denounced the bill, asserting that it intends to criminalise “drag shows”. This is due to the prohibition outlined in the bill, which restricts the “impersonation of the male or female sex in male or female attire, not limited to the use of wigs, masks, or grotesque makeup in an establishment, open or closed facility, public or private, restaurant, theatre, public street, or any

property where artistic activities or entertainment for children or families are performed”. The bill also aims to penalise with a fine and up to three years in prison any “institution, school principal, teacher, or person who exhibits, facilitates, performs, participates in, promotes, and/or organises obscene exhibitions in front of minors” within schools.<sup>235</sup>

## North America

### United States of America

According to the “Trans Legislation Tracker Project”, the year 2023 bore witness to a continuous wave of anti-trans legislation in the United States, marking the fourth consecutive year of record-breaking numbers. A staggering total of 600 bills intensified the assault on transgender individuals nationwide. Throughout the year, a deluge of bills flooded the legislative landscape, with only a fraction finding success.<sup>236</sup> However, despite their limited passage, combating these regressive measures demanded—and continues to demand—substantial energies and resources across virtually every state, with varying levels of success.

Many of these bills have targeted educational settings, regressively regulating the way issues related to sexual and gender diversity can be taught in schools. Only a few years ago, the seemingly archaic “no-promo-homo laws” appeared to be outdated remnants of the numerous regressive bills enacted, especially during the 1980s, seemingly on the path to obsolescence. However, in recent years, a resurgence of bills targeting sexual and gender diversity in school curricula, along with allowance for book censorship, has emerged. Additionally, many of these bills have targeted forms of gender expression, particularly through the prohibition of drag performances in different settings.

At the federal level, in January 2023, [HR 146 \(2023\)](#)—known as the “Old Glory Only Act”—was introduced in the United States Congress by members of the Republican party to prohibit the flying of any flag other than the U.S. flag, including Pride flags, over American diplomatic and consular posts.<sup>237</sup>

On the occasion of Trans Day of Visibility in March 2023, and against a concerning trend of regressive legislation being proposed at the state level, the Democratic Party introduced [House Resolution No. 269 \(2023\)](#) and [Senate Resolution No. 144 \(2023\)](#) in the US Congress with the aim of affirming the obligation of the

US Federal Government to formulate and enforce a Transgender Bill of Rights. These resolutions represent a call to safeguard and enshrine the rights of transgender and nonbinary individuals within the legal framework in order to ensure their access to essential resources such as medical care, housing, security, and financial stability. However, these initiatives primarily serve a symbolic purpose, as they do not entail any immediate alterations to federal laws or regulations. The directives outlined in them are not binding on lawmakers. Resolutions, being non-binding instruments, neither necessitate the endorsement of the opposing legislative chamber nor the approval of the president, and they lack the force of law.

#### Facing the Tide: Monitoring the Assault on Sexual and Gender Diversity Through Regressive Bills in the United States of America

Due to resource constraints, ILGA World’s Research Programme has regrettably ceased its monitoring of the extensive and rapidly evolving legal developments at the subnational level in the United States of America, effective from January 2024. For current and detailed information on developments in individual US states, please consult:

- [Movement Advancement Project: Snapshot LGBTQ Equality by State.](#)
- [ACLU: Mapping Attacks on LGBTQ Rights in U.S. State Legislatures in 2024.](#)
- [Equality Federation: State Legislation Tracker.](#)
- [The Trevor Project: LGBTQ+ Legislation Heatmap by State.](#)
- [Track Trans Legislation: 2023 Anti-Trans Legislation.](#)
- [Trans Legislation Tracker Project: 2024 anti-trans bills tracker.](#)
- [For specific information on progressive legislative efforts, please refer to GLSEN: State Legislative Tracker 2024: Pro-LGBTQI+ Legislation Affecting Schools.](#)

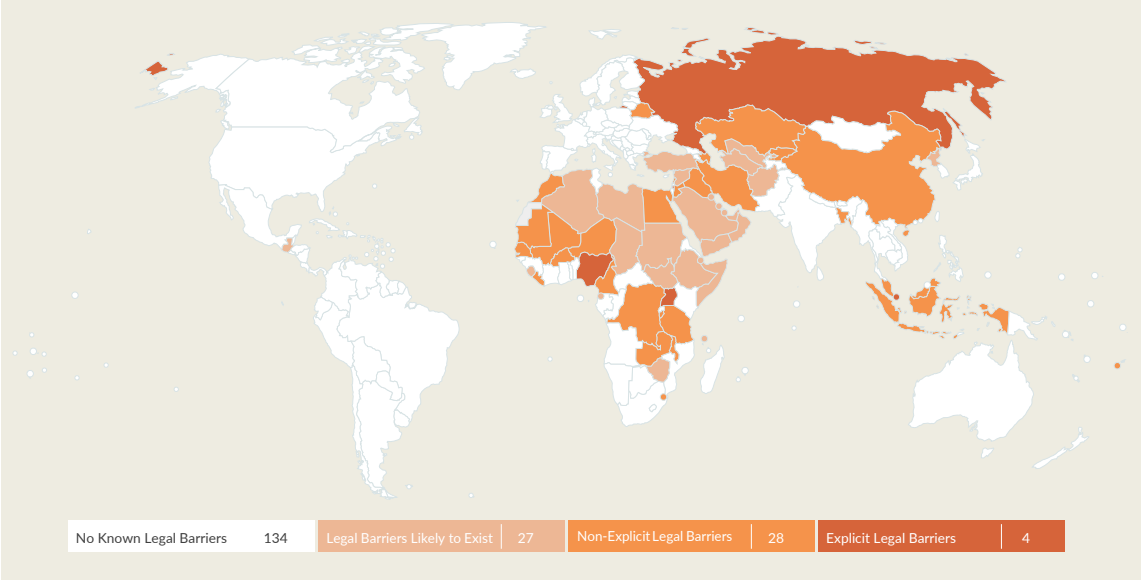
<sup>235</sup> “Proyecto Dignidad presenta medida que tipifica como delito la exposición de niños a “drag shows”” [Dignity Project presents a measure that criminalizes the exposure of children to “drag shows”], *El Nuevo Día*, 17 August 2023.

<sup>236</sup> “2023 anti-trans legislation”, *Trans Legislation Tracker* (retrieved 1 April 2024).

<sup>237</sup> “GOP doubles down on racism, homophobia with ‘Old Glory Only Act’”, *Washington Blade*, 17 January 2023.

# Restrictions to Freedom of Association

*Global Summary – In tandem with restrictions to freedom of expression, legal measures were adopted to further restrict civic space, especially in Africa, Asia, and Russia.*



## Top Legal Developments (January 2023 – April 2024)

- ▶ Persistent legal measures constricting civic space for organisations working on sexual and gender diversity issues:
  - Three (3) UN Member States (**Kyrgyzstan, Russia and Uganda**) have adopted laws that significantly tightened existing restrictions for the registration and operation of civil society organisations.
  - At least six (6) UN Member States considered regressive bills and proposals to increase restrictions (**Burkina Faso, Georgia, Ghana, Kenya, Tunisia, and Zimbabwe**).
- At least three (3) UN Member States saw regressive judicial decisions (**Uganda, Iraq, Russia**) issued.
- ▶ Resistance to progressive judicial decisions:
  - In two (2) UN Member States (**eSwatini and Kenya**), progressive judicial decisions have encountered significant resistance or reluctance to comply.

## Global Tallies

AT LEAST  
**59**  
UN Member States  
with legal barriers (total)

AT LEAST  
**32**  
UN Member States  
with confirmed legal barriers

AT LEAST  
**27**  
UN Member States  
with legal barriers likely to exist



## Legal developments | January 2023 – April 2024

### Africa

#### Burkina Faso

In September 2023, it was reported that the so-called “living forces” (representatives of civil society, professional bodies, religious authorities and other stakeholders of the Burkinabe society) proposed a package of measures during the ongoing discussion in the Transitional Legislative Assembly (Burkina Faso’s parliamentary body after the coups d’état). Among other suggestions, the proposal included banning “the creation of associations to defend the rights of the LGBT+”. Subsequently, the Assembly approved a report recommending that the government take these proposals into account and implement them.<sup>1</sup>

#### eSwatini

June 2023 marked a significant milestone for Eswatini Sexual and Gender Minorities (ESGM), a local LGBTI group, in their pursuit of official registration when the Supreme Court finally recognised their right to be formally registered. The litigation began in September 2019 when ESGM faced initial denial of registration, following approximately four months fraught with legal ambiguity. In rejecting their request, the Eswatini Registrar of Companies invoked Article 27 of the Constitution, which delineates marriage as exclusively between men and women, juxtaposing it with ESGM’s advocacy for same-sex relations. Furthermore, the Registrar contended that ESGM’s objectives contradicted Eswatini’s “collective interests” and had the potential to cause “public annoyance” or be construed as “blasphemous or indecent”.<sup>2</sup> In response, ESGM petitioned the High Court to review the Registrar’s decision, resulting in *Case No. 1897-2019*

(2022), where the High Court, aligning with prevailing laws criminalising same-sex acts, confirmed ESGM’s registration as unlawful.<sup>3</sup>

ESGM pursued an appeal to the Supreme Court, with a hearing initially slated for 26 April 2023 and later postponed to 5 May 2023.<sup>4</sup> On 16 June 2023, the Supreme Court delivered a unanimous decision in *Melusi Simelane et al. v. Ministry of Commerce et al.* (2023), invalidating the High Court’s decision and affirming ESGM’s right to registration. Subsequently, the Court referred the matter to the government, granting a 60-day window to reconsider ESGM’s application.<sup>5</sup>

Nevertheless, after the decision was communicated, the government persisted in its refusal to register the organisation in open defiance of the Supreme Court decision. In October 2023, the acting Minister of Commerce argued that the Constitution does not explicitly protect sexual orientation and gender identity and added that the name and objectives of ESGM “seek to offend against the customary principles as preserved in our Swazi Law and custom that a man and a woman shall start and maintain a love relationship”. Consequently, he instructed the Registrar of Companies not to proceed with registration.<sup>6</sup>

#### Ghana

In early March 2024, Ghana’s parliament approved the contentious *Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill* (2021) nearly three years after the bill’s initial introduction in 2021.<sup>7</sup>

The bill, among other concerning aspects, severely restricts the freedom of association of LGBTI-related groups. Specifically, Clause 15 seeks to disband all

<sup>1</sup> “Les Forces vives du Burkina Faso recommandent la pénalisation de l’homosexualité” [The Forces Vives of Burkina Faso recommend the criminalization of homosexuality], *Agence Ivoirienne de presse*, 26 September 2023; “Burkina/Réformes politiques : Les forces vives favorables à l’interdiction de l’homosexualité et à la limitation du nombre de partis politiques”, [Burkina Faso/Political reforms: Vocal forces in favour of banning homosexuality and limiting the number of political parties], *LeFaso.net*, 24 September 2023; “Burkina: les Forces vives recommandent la pénalisation de l’homosexualité” [Burkina Faso: the Living Forces recommend penalising homosexuality], *Agence D’Information du Burkina*, 23 September 2023; ILGA World: Kellyn Botha, *Our identities under arrest: A global overview on the enforcement of laws criminalising consensual same-sex sexual acts between adults and diverse gender expressions*, 2nd Edition (Geneva: ILGA, November 2023), 38-39.

<sup>2</sup> “Eswatini government officially rejects LGBTI group”, *Times of Swaziland*, 13 September 2019.

<sup>3</sup> “News release: Eswatini high court denies registration of LGBTIQ+ organisation”, *Southern Africa Litigation Centre*, 30 April 2022; “Another ‘No’ for Eswatini’s LGBTI community”, *African Legal Information Institute*, 7 May 2022; “eSwatini court refuses to recognise LGBTIQ group”, *News 24 (Kenya)*, 30 April 2022; “Blow as Eswatini High Court rejects bid to register LGBTIQ group”, *Mamba Online*, 30 April 2022.

<sup>4</sup> “Eswatini Sexual Gender Minorities runs to the Supreme Court, challenges judgement preventing registration of association”, *Africa Press*, 28 April 2023.

<sup>5</sup> “Supreme Court of Eswatini rules in favour of Gays and Lesbians, LGBTIQ members to register their organisation” [Supreme Court of eSwatini rules in favour of Gays and Lesbians, LGBTIQ members to register their organisation], *Africa Press*, 17 June 2023; “Eswatini Supreme Court rules in favour of LGBTIQ+ rights group”, *76 Crimes*, 28 June 2023.

<sup>6</sup> “Eswatini rebuffs its Supreme Court, clings to anti-LGBT stance”, *76 Crimes*, 12 October 2023; “Eswatini govt defies Supreme Court LGBTIQ+ ruling”, *Mamba Online*, 17 October 2023.

<sup>7</sup> “Ghana’s anti-LGBTQ bill draws international condemnation after it is passed by parliament”, *NBC News*, 1 March 2024.

existing groups, societies, associations, clubs or organisations whose purposes are to “promote, facilitate, support or sustain” any act prohibited under the bill. Clause 16 takes this restriction further by punishing the formation of such organisations and “all acts related to the promotion of, or participation in” such associations with up to 10 years in prison. Additionally, Clause 14 prohibits funding or sponsoring “prohibited activities”, and it also imposes a punishment of up to 10 years upon conviction.

The UN High Commissioner for Human Rights and other UN experts are urging Ghana’s President to reject the discriminatory bill, saying that the bill would “[tear] at the very fabric of human rights and democracy in the country”.<sup>8</sup> The Finance Ministry also reportedly indicated that Ghana could lose up to 3.8 billion USD from the International Monetary Fund (IMF) over the next five to six years due to internal IMF policies that prohibit discrimination based on personal characteristics if the bill becomes law.<sup>9</sup>

Following internal pressure to sign the bill into law as well as external pressure to reject the bill, it was reported in late March 2024 that the President’s office submitted an official letter to Parliament to refrain from sending the bill for presidential assent. Reportedly, this delay has been requested until legal challenges to the bill have been resolved. This includes a judicial challenge initiated in May 2023, where a private citizen filed a legal action against the Speaker of Parliament and the Attorney General, challenging the validity of the bill’s legislative procedure and another challenge in the Supreme Court to the law’s passage on the grounds of insufficient parliamentary quorum.<sup>10</sup>



## Kenya

On 24 February 2023, the Supreme Court handed down a landmark decision in *NGO Co-Ordination Board v. Eric Gitari et al.* (2023) affirming the right of the National Gay and Lesbian Human Rights Commission

(NGLHRC) to be formally registered and operate as an NGO in Kenya.<sup>11</sup>

The case was initiated in 2015 when the Non-Governmental Organizations Coordination Board declined to register the NGLHRC, citing, among other reasons, “objectionable” terms like “gay” and “lesbian” in its proposed names. The Executive Director referenced the Penal Code’s prohibition of consensual same-sex sexual acts to justify this decision. Despite attempts to challenge it, the refusal persisted. Consequently, the NGLHRC filed a petition with the High Court, alleging violations of constitutional provisions. The High Court ruled in favour of the NGLHRC, stating that the Board’s actions breached Article 36 of the Constitution by denying fair treatment to gay and lesbian individuals seeking association registration. The Board appealed this decision to the Court of Appeal, but on 22 March 2019, the appeal was dismissed, reaffirming the High Court’s ruling. Subsequently, on 6 May 2019, the Board appealed again, this time to the Supreme Court, aiming to overturn both prior judgments.

However, the Supreme Court agreed with the holding of the High Court decision. It stressed that an interpretation of the principle of non-discrimination “which excludes people based on their sexual orientation would conflict with the principles of human dignity, inclusiveness, equality, human rights and non-discrimination”.<sup>12</sup> Therefore, the Court concluded that the Board’s refusal to reserve the name of the NGLHRC on the ground that Sections 162, 163 and 165 of the Penal Code criminalise “gay and lesbian liaisons” was discriminatory in view of Section 27(4) of the Constitution, thereby establishing that such denial was an act of discrimination based on sexual orientation.<sup>13</sup>

The decision sparked swift and fervent reactions from an extensive spectrum of influential figures, such as the President of Kenya,<sup>14</sup> the Deputy President of Kenya,<sup>15</sup> the National Assembly Speaker,<sup>16</sup> the Attorney General,<sup>17</sup> the First Lady,<sup>18</sup> the leader of the

<sup>8</sup> See: UN experts urge Ghana’s President to reject discriminatory bill | OHCHR, OHCHR, retrieved on 25 March 2024.

<sup>9</sup> “Ghana Anti-LGBTQ+ Bill Could Put IMF Funding At Risk, Finance Ministry Says”, VOA Africa, 04 March 2024.

<sup>10</sup> “Farmer files suit to stop passage of anti-LGBTQ+ Bill”, Modern Ghana, 9 May 2023; “Ghana president caught in squabble over anti-LGBTQ bill”, Africa News, 21 March 2024; “Ghana president won’t act on anti-LGBTQ bill before legal challenge resolved”, Reuters, 19 March 2024.

<sup>11</sup> “Win for LGBTQ as apex court clears way for listing”, The Star (Kenya), 24 February 2023; “Supreme Court: Gays and lesbians have a right of association”, Standard Digital (Kenya), 25 February 2023; “Supreme Court Rules LGBTQ Members Have Right to Form NGO Organisation in Kenya”, Tuko (Kenya), 25 February 2023; “Court victory for LGBTQ+ community in Kenya”, The South African, 27 February 2023; “Kenya’s Landmark Supreme Court Decision on Non-Discrimination for Sexual Minorities”, Oxford Human Rights Hub, 28 March 2023.

<sup>12</sup> Supreme Court of Kenya, *Non-Governmental Organizations Co-Ordination Board v. Eric Gitari et al.* (2023), para. 79.

<sup>13</sup> *Ibid.*

<sup>14</sup> “Our traditions do not condone homosexuality, declares President Ruto”, Kenya Broadcasting Corporation, 4 March 2023; “Not in Kenya! Ruto takes stand on LGBTQ debate”, The Star (Kenya), 3 March 2023; “Mahusiano ya jinsia moja | Rais Ruto asema haikubaliki kimaadili na kidini” [Same-sex relationships | President Ruto says it is morally and religiously unacceptable], Tuko, 3 March 2023.

<sup>15</sup> “Gachagua says Supreme Court decision on gay rights demonic, repugnant”, Tuko, 3 March 2023.

<sup>16</sup> “Wetangula says Supreme Court ruling on LGBTQ will lead to unintended consequences”, Capital FM, 28 February 2023; “Judiciary has duty to defend morals - Wetang’ula protests Supreme Court ruling on LGBTQ”, Tuko, 28 February 2023; “Spika Wetang’ula atoa wito kwa umma na mahakama kulinda maadili ya taifa dhidi ya LGBTQ” [Speaker Wetang’ula calls on the public and the courts to protect the nation’s values against LGBTQ], Radio Jambo, 1 March 2023.

<sup>17</sup> “Muturi apinga korti kuruhusu usajili wa mashoga” [Muturi opposes the court to allow the registration of gays], Taifa Leo, 02 March 2023.

<sup>18</sup> “First Lady to lead prayers against LGBTQ ‘onslaught’ on family”, The Star (Kenya), 7 March 2023; “Mkewe Rais Ruto atangaza maombi dhidi ya mapenzi ya jinsia moja” [President Ruto’s wife announces a prayer against homosexuality], Radio Jambo, 7 March 2023.

opposition,<sup>19</sup> numerous politicians,<sup>20</sup> religious leaders and institutions,<sup>21</sup> and other social leaders and groups.<sup>22</sup> President William Ruto announced that the Attorney General was “going back to court” to seek a review of the Supreme Court decision. Further, he stated that he was a “God-fearing man” and “even if we respect the Court, our culture, values, Christianity and Islam cannot allow women to marry each other, or men to marry fellow men”. He also added that “the agenda that was being ‘forced’ onto the country was not going to be accepted under the Constitution”.<sup>23</sup>

Amidst the unyielding pushback, a consortium of civil society organisations issued a statement declaring: “Even as we celebrate the remarkable decision and milestone in advancing human rights, we are alarmed by the reactions, misinformation and disinformation being spread online, statements by public officials, religious organisations and popular artists, celebrities, bloggers, vloggers, among others, regarding the ruling from the Supreme Court of Kenya. The impact created by these reactions continues to affect the LGBTQ+ communities disproportionately”.<sup>24</sup>

Shortly after the decision was published, MP Peter Kaluma announced the draft [Family Protection Bill \(2023\)](#), which, among other things, aims to criminalise any involvement with any group or organisation that promotes any of the acts prohibited under the bill<sup>25</sup>—whether overtly or covertly—and forbids forming,

promoting, or participating in such entities. While the bill remains a draft, these offences would be punishable with a minimum of three years imprisonment and would directly impact the right to associate and advocate for equality and diversity.<sup>26</sup> In March 2023, the same MP filed a request with the Supreme Court in an attempt to overturn the NGLHRC decision.<sup>27</sup>

A subsequent ruling was laid down by the Supreme Court in September 2023 in [Petition No. E011 \(2023\)](#), where, once again, the right of the NGLHRC to register and operate as an NGO was upheld.<sup>28</sup> Nevertheless, MP Kaluma vowed to appeal the decision once again.<sup>29</sup> Amidst the debates surrounding the court decision, activists such as Cristine Nkonge of the Katiba Institute explained the ruling through a radio talk show to attempt to dispel the misinformation and disinformation that was building.<sup>30</sup>

The Embassy of Russia in Kenya joined the backlash by openly disparaging LGBTQ initiatives as “unnatural”. A tweet by the Embassy—seen as a direct challenge to US activities in Kenya—emphasised the Russian stance on “natural gender relations” and referred to Russia’s stringent laws prohibiting the dissemination of LGBTQ materials to both minors and adults across various media platforms.<sup>31</sup>

Kevin Mwachiro, an openly gay activist from Kenya, expressed that the ruling had been misinterpreted “as

<sup>19</sup> “William Ruto, Rigathi Gachagua & Raila Odinga are all against LGBTQ+ associations”, *Pulse (Kenya)*, 3 March 2023.

<sup>20</sup> “Prove your Christianity on LGBTQ issue, MP Mboko tells Ruto”, *The Star (Kenya)*, 2 March 2023; “Do away with LGBTQ discussions, publications - MP”, *The Star (Kenya)*, 2 March 2023; “MPs threaten to push for removal of top judges over LGBTQ ruling”, *Standard Digital*, 2 March 2023; “Endorsing homosexuality could attract God’s wrath”, *The Star (Kenya)*, 03 March 2023; “Catholic MPs Vow to Disband NGO Board If It Registers Gay Rights Lobby”, *All Africa*, 3 March 2023; “Calls for three supreme court judges who upheld registration of LGBTQ organization to resign” [Calls for three supreme court judges who upheld registration of LGBTQ organization to resign], *Tuko*, 7 March 2023; “Say no to LGBTQ, Bungoma deputy governor tells locals”, *The Star (Kenya)*, 8 March 2023; “No Room for Gays in Kenya, MP Tim Wanyonyi Says”, *Ghetto Radio*, 10 March 2023.

<sup>21</sup> “Viongozi wa kidini washtumu mahakama ya juu kuhusu usajili wa mashirika ya ushoga na usagaji” [Religious leaders accuse the high court about the registration of organizations of homosexuality and homosexuality], *Tuko*, 2 March 2023; “Kanisa Katoliki haikubaliani na uamuzi wa mahakama kuhusu ushoga” [The Catholic Church does not agree with the court’s decision on homosexuality], *Tuko*, 01 March 2023; “PEFA Church Denounces Same-Sex Relationships”, *Kenya News Agency*, 2 March 2023; “Christian’s in Uasin-Gishu term LGBTQ satanic”, *Tuko*, 28 February 2023; “Churches seek parliament intervention on same sex unions”, *Standard Digital*, 4 March 2023; “Religious leaders in Taita Taveta County react to the LGBTQ ruling”, *Standard Digital*, 8 March 2023.

<sup>22</sup> “The Kikuyu Council of Elders intensifies the campaign against LGBTQ”, *Kenya Moja*, 18 March 2023; “Viongozi na wakazi wa Thika walaani ushoga” [Leaders and residents of Thika condemn homosexuality], *Taifa Leo*, 6 March 2023; “Francis Atwoli Condemns Attempts to Promote LGBTQ Rights in Kenya: ‘Hatutakubalii!’”, *Tuko*, 2 March 2023; “Kenya LGBTQ Community In Fear After Backlash on Gay Rights Ruling”, *All Africa*, 3 March 2023; “Queerphobia in Kenya: A supreme court ruling on gay rights triggers a new wave of anger against the LGBTQ+ community”, *The Conversation*, 3 May 2023; “En Afrique de l’Est, l’homophobie se déchaîne jusqu’au sommet de l’État” [In East Africa, homophobia is unleashed at the top of the state], *Courrier International*, 9 March 2023; “Schwule in Kenia - Angriffe auf Homosexuelle nehmen drastisch zu!” [Gays in Kenya - Attacks on homosexuals are increasing dramatically!], *Schwulissimo*, 27 April 2023.

<sup>23</sup> “AG to file for review of court ruling on LGBTQ - Ruto”, *Tuko*, 20 March 2023;

<sup>24</sup> “Press Statement on the Supreme Court Judgement on the Freedom of Association of LGBTQ+”, *galck+ (website)*, 9 March 2023. The list of organisations that signed the statement includes: The Kenyan Section of the International Commission of Jurists (ICJ Kenya), the Katiba Institute, the Kenya Human Rights Commission (KHRC), the National Gay and Lesbian Human Rights Commission (NGLHRC), The Institute of Social Accountability (TISA), Amnesty International Kenya, The Eagles for Life Kenya (TEFL-K), galck+ (formerly the Gay and Lesbian Coalition of Kenya), Initiative For Equality And Non-Discrimination (INEND), Bold Network Africa, American Jewish World Service, Jinsiangu, and Coalition for Grassroots Human Rights Defenders-Kenya (CGHRD-K).

<sup>25</sup> These acts include but are not limited to, consensual same-sex sexual acts, public display of affection between or among persons of the same sex; “cross-dressing”, holding an assembly while identifying as LGBT, and accessing facilities designated for strict use by persons of the opposite sex, among others.

<sup>26</sup> “You don’t have rights to be homosexual in Kenya”, *The Star (Kenya)*, 28 February 2023; “Details of Kaluma’s bill on criminalizing LGBTQ”, *Tuko*, 9 April 2023.

<sup>27</sup> “Mbunge Kaluma apinga LGBTQ akiomba uamuzi wa mahakama ubatilishwe” [MP Kaluma opposes LGBTQ asking for the court’s decision to be annulled], *Taifa Leo*, 12 March 2023.

<sup>28</sup> “Supreme Court declines to review order allowing LGBTQ associations”, *Standard Digital*, 13 September 2023; “Supreme Court Reaffirms LGBTQ Right to Associate”, *Mwakilishi*, 13 September 2023; “Supreme Court Makes Ruling on LGBTQ+ Right to Associate”, *Nairobi Wire*, 13 September 2023.

<sup>29</sup> “Kaluma to challenge ruling on LGBTQ at Supreme Court”, *The Star (Kenya)*, 14 September 2023.

<sup>30</sup> See “Christine Nkonge- It’s Not Illegal To Identify As LGBTQ in Kenya”, *Youtube - SpiceFM*, 28 February 2023.

<sup>31</sup> “Russia rallies behind Kenya’s stance on gay rights”, *Kenya Broadcasting Corporation*, 4 March 2023; “LGBTQ in Kenya: Russia Differs with US over Gay Unions, Supports Rigathi’s Tough Stance”, *Tuko*, 5 March 2023.

meaning that homosexuality would be legalised” and that political and religious leaders had “used misinformation to twist the reality”, putting LGBTQ people’s lives at risk.<sup>32</sup>

In October 2023, the Parliament of Kenya launched an investigation into alleged claims of “promotion of homosexuality” in the Kakuma Refugee Camp, one of the largest refugee camps in Africa. The Senate’s Labour and Social Welfare Committee led the examination, prompted by reports of alleged “extensive support for LGBTQ advocacy within the camp”. Nominated Senator Beatrice Ogola initiated the inquiry, and lawmakers demanded thorough scrutiny to identify “those promoting the LGBT agenda” in Kakuma. The committee, chaired by West Pokot Senator, Julius Murgor, was also charged with evaluating “measures to address the LGBTQ agenda” in the camp and its surroundings.<sup>33</sup>

## Niger

It was reported in January 2023 that the President of Niger, Mohamed Bazoum, spoke on the “La Voie du Sahel” radio station about the need to reform the country’s Criminal Code, and stated that he had begun work on forming a multi-disciplinary panel for this purpose. Bazoum noted explicitly that “in the future Penal Code, there will be a whole section dedicated to homosexuality”. He indicated that the new code would criminalise same-sex sexual acts between adults but also that persons or organisations convening, hosting, or funding “gay clubs” or advocating for LGBT+ rights would face penalties. In addition, any participants in same-sex marriages would be subject to a punishment of “10 years of criminal imprisonment to life imprisonment or the death penalty”.<sup>34</sup>

Later the same year, during a meeting of the Council of Ministers in October 2023, the transitional military government in Niger announced stringent measures to combat “the promotion of LGBT rights” within the country, particularly within the educational sector, including identifying and prosecuting individuals involved in such activities, which are considered to be “against Niger’s laws and moral values”. These actions were unveiled after the Minister of National Education,

Literacy, Vocational Training, and the Promotion of National Languages highlighted the government’s awareness of alleged “subversive attempts” to introduce LGBT-related practices and discussions.<sup>35</sup>

## Tanzania

A vast body of laws and regulations has been in force since 1954, and they have set the regime for the operations of NGOs in Tanzania. Many of these pose legal barriers to the registration and operation of organisations working on sexual and gender diversity issues. There have also been various recorded instances in the past where these regulations have been used to stifle the freedom of association of LGBTI people in Tanzania.<sup>36</sup>

This trend continued in 2023. Notably, in June, media outlets reported about the Nachingwea District Chief’s prohibition of numerous non-governmental institutions and organisations within the southern Tanzanian region. The ban was purportedly imposed due to their alleged involvement in activities associated with “same-sex relationships” and “homosexuality”. These entities were consequently instructed to promptly disclose their engagements to the authorities.<sup>37</sup>

## Tunisia

In October 2023, the Proposed Organic Law on the Organisation of Associations (*Bill No. 27*) (2023) was introduced to the Assembly of People’s Representatives. The bill, which aims to regulate the creation and financing of associations in Tunisia, faced significant criticism from human rights organisations. This proposal came against a backdrop of deteriorating safety conditions for local human rights defenders and LGBT activists, as expressed by the statement issued by the Tunisian League for the Defense of Human Rights. The League expressed deep concern over the systematic targeting and online harassment they faced.<sup>38</sup>

The proposed law imposes stringent controls on both Tunisian and foreign NGOs, subjecting them to close

<sup>32</sup> “Anti-LGBTQ disinformation surges online in East Africa”, *France 24*, 31 May 2023.

<sup>33</sup> “Senate probes claims of entities promoting gayism in Kakuma camp”, *The Star (Kenya)*, 9 October 2023.

<sup>34</sup> “Niger lawmakers want gay relationships criminalised”, *The Star (Kenya)*, 10 December 2022; “Niger’s leader announces plans to criminalise homosexuality”, *Out In Perth*, 30 January 2023; “Niger leader plans to outlaw gay sex, execute married same-sex couples”, *76 Crimes*, 24 January 2023; “Le Niger s’apprête à criminaliser l’homosexualité, prévoyant jusque la peine capitale pour le « mariage gay »” [Niger is preparing to criminalize homosexuality, even providing for the death penalty for “gay marriage”], *STOP homophobie*, 24 January 2023.

<sup>35</sup> “Le Niger condamne les tentatives de promotion LGBT et prend des mesures drastiques” [Niger condemns attempts to promote LGBT and takes drastic measures], *A Niamey*, 17 October 2023.

<sup>36</sup> Various provisions within Chapter 337 of the *Societies Act* (2002) allow the Tanzanian Registrar to reject, deregister, or outlaw any organisation with “any purpose prejudicial to, or incompatible with, the maintenance of peace, order and good government”. Additionally, Section 14(1) of the *Non-Governmental Organizations Act* (2002) states that the NGO Coordination Board may refuse the registration of NGOs whose activities are “not for public interest or are contrary to any written law”. For more information, see ILGA World, *ILGA World Database: Legal barriers to freedom of association - Tanzania*, retrieved on 3 January 2024.

<sup>37</sup> “Ngo’s Zinzajishughulisha na Ushoga na Mapenzi ya Jinsia Moja Marufuku Nachingwea” [NGO’s Dealing with Homosexuality and Same-Sexual Love Banned in Nachingwea], *Zanzi News*, 9 June 2023.

<sup>38</sup> “حملة ممنهجة ضد المدافعين عن حقوق الإنسان” [A systematic campaign against human rights defenders], *Tunisie Telegraph*, 13 August 2023.

government supervision and requiring prior authorisation for their creation and external funding. The government would also keep discretionary powers to approve or reject funding, potentially impeding NGO operations. International organisations have criticised the bill for its potential to restrict rights and undermine Tunisia's civil society. The law reflects a broader crackdown on civil society, with statements from the President and Prime Minister suggesting concerns about "foreign funding". Critics argue that the law deviates significantly from existing legal frameworks, raising fears of a regression in Tunisia's democratic progress, echoing authoritarian tactics of past regimes.<sup>39</sup>

## Uganda

Since 2016, the [Non-Governmental Organisations Act \(2016\)](#) has been invoked to target organisations perceived to be operating "in contravention of the laws of Uganda", in accordance with Article 30 of the Act. This legal framework has also been wielded against local LGBTI organisations.<sup>40</sup>

In January 2023, the NGO Bureau of Uganda published a report outlining the agency's investigations and interventions concerning several organisations advocating for the rights of LGBTI individuals.<sup>41</sup>

Notably, the Bureau conducted an investigation against Sexual Minorities Uganda (SMUG) and determined that the organisation was operating illegally, as it was not registered with the Uganda Registration Services Bureau (URSB) or the NGO Bureau. Despite attempting to reserve its name with URSB in 2012 for incorporation, the name had been rejected. Therefore, on 3 August 2022, the NGO Bureau ordered the suspension of SMUG's operations with immediate effect, citing its lack of legal incorporation, registration, and authorisation to operate. Furthermore, the report revealed the denial of registration to several other organisations, including The Robust Initiative for Promoting Human Rights, Tranz Network Uganda, and Ubuntu Law and Justice Centre. The report identified approximately twenty additional organisations slated for heightened scrutiny. Finally, it recommended that authorities take stricter measures against NGOs that "promote LGTBIQ activities", including stepping up the criminalisation of activism. Moreover, the agency recommended increasing its own funding and dismissed the Ugandan government's plans to reduce its size.<sup>42</sup>

On 29 May 2023, the [Anti-Homosexuality Act \(2023\)](#) was signed into law by the President following an increase in hateful rhetoric against sexual diversity in Uganda.<sup>43</sup> Under Section 11 of the Act, organisations found guilty of "promoting homosexuality" face a significant penalty of fifty thousand currency points (approximately USD 266,000), and may have their legal entity license suspended for a period ranging from ten years to permanent, when they are found to have: (a) advertised or promoted homosexuality or an offence under the Act through any means, including the internet; (b) provided financial support for activities that encourage homosexuality; and (c) knowingly provided a house, building, or establishment to a person to undertake activities that encourage homosexuality or any other offence under the Act.

In March 2024 the Ugandan Court of Appeal reaffirmed the denial of legal registration for SMUG, despite its longstanding efforts to advocate for the human rights of individuals with diverse sexual orientations, gender identities, and expressions.

## Zimbabwe

In February 2023, Zimbabwe's Parliament passed the [Bill to Amend the Private Voluntary Organisation Act \(2023\)](#). Following its passage, various international organisations and UN Experts expressed concerns about the potential for serious violations of freedom of association in Zimbabwe. The bill introduces provisions allowing for periodic assessments of Private Voluntary Organisations (PVOs) to determine if they are susceptible to "misuse by terrorist organisations". These assessments aim to identify instances where organisations may be utilised as fronts for terrorist entities or exploited for terrorist financing. Additionally, the bill grants the Minister the authority to replace the executive committee of an organisation if it is deemed necessary in the public interest. Moreover, the bill includes provisions that enable the suspension or cancellation of any organisations that either support or oppose a political party or candidate in a presidential, parliamentary, or local government election. Notably, the bill lacks a clear definition or criteria for interpreting what constitutes "support" or "opposition". Consequently, there are concerns that organisations denouncing human rights abuses could be subjected to cancellation under the premise of "opposing" local authorities.<sup>44</sup>

Furthermore, in February 2024, local reports revealed the government of Zimbabwe's public condemnation of

<sup>39</sup> "Loi sur les associations : un projet qui met la société civile en peril", *Inkyfada*, 13 Decembre 2023; "En Tunisie, un projet de loi sur les associations inquiète la société civile" [In Tunisia, a bill on associations worries civil society], *Le Monde*, 5 March 2024;

<sup>40</sup> For more information, see ILGA World, *ILGA World Database: Legal barriers to freedom of association - Uganda*, retrieved on 3 January 2024.

<sup>41</sup> Ministry of Internal Affairs: National Bureau for NGOs, *Status report on NGOs suspected to be involved in the promotion of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) activities in the country (2023)*.

<sup>42</sup> *Ibid.*

<sup>43</sup> "Uganda's President Signs Repressive Anti-LGBT Law", *Human Rights Watch*, 31 May 2023.

<sup>44</sup> "UN experts raises concerns over Zimbabwe's 'draconian' Bill", *The East African*, 15 February 2023.

the activities of Gays and Lesbians of Zimbabwe (GALZ), particularly their initiative to offer education scholarships to members of the LGBT community. GALZ inaugurated this scholarship program in 2018 with the objective of providing equal educational opportunities to LGBTQ individuals who face marginalisation. After almost six years since the inception of the initiative, the government characterised it as a “diabolical attempt to lure young people into sexual misconduct”. In a strongly worded statement, Vice President Constantino Chiwenga asserted that the scholarship posed a direct challenge to the government's authority. He emphasised that Zimbabwe's educational institutions would not enrol applicants associated with what he termed as “alien,

anti-life, un-African, and un-Christian values”, which he believed were being promoted by “decadent societies” with no shared moral or cultural affinities. Chiwenga emphasised legislation currently in force, stating that any scholarship offers based on such “aberrations” were not only unlawful and criminal but also a “grave affront to national values” and ethos as a Christian nation. He warned against the temptation for young people to trade their morals for such “abominable and devilish offers”, asserting that the government would enforce national laws without hesitation. Furthermore, Chiwenga denounced what he described as “insidious attempts by foreign interests” to recruit Zimbabwe's less privileged students into LGBTQ+ activities through educational scholarships.<sup>45</sup>

## Asia

### China

In recent years, a concerning trend has been observed where several LGBTQ civil society organisations have been forced to halt their activities due to government pressure, particularly in areas related to human rights and democracy.

In 2023, significant regression occurred, as the LGBTQ community in China faced a severe setback with the closure of several key organisations. Firstly, the Beijing LGBT Centre, one of the largest and most active LGBTQ organisations in China, ceased its operations, attributing its closure to “forces beyond their control”.<sup>46</sup> This closure echoed the earlier discontinuation of activities by other groups, such as the Shanghai PRIDE Committee. After 12 years of organising the nation's major Pride events, the Committee paused its operations in 2020, unable to hold any events in the last two years due to police scrutiny and random house checks of its core members. Additionally, the closure of LGBT Rights Advocacy China in 2021, an organisation renowned for its advocacy through law-based

campaigns, had already left a significant void in the local advocacy capacity of LGBTQ organisations just two years prior. These recent developments further compound the challenges and limitations confronting the LGBTQ community in China.<sup>47</sup>

Local sources and media outlets have reported instances of organisers being arrested, volunteers and activists being questioned by the police, and planned events being abruptly cancelled. Activists reported that during interrogations, emphasis was placed on issues more related to “national security” than to “morality”. The crackdown partly stems from hostility towards sexual and gender diversity and “reactionary” gender politics, but mainly reflects the Chinese Communist Party's overall opposition to any signs of organising outside of State control and surveillance. Even though LGBT people may enjoy some forms of tolerance, or at least indifference from authorities, this is only so if they keep a low profile and refrain from engaging in any kind of organising.<sup>48</sup>

This applies equally to student groups on university campuses, which have also encountered growing challenges in carrying out their activities and

<sup>45</sup> “VP Chiwenga breathes fire, blasts gays and lesbians scholarship program”, *My Zimbabwe News*, 18 February 2024; “Govt condemns foreign scholarships linked to LGBTQ recruitment”, *Harare Post*, 18 February 2024; “Vice President Chiwenga denounces LGBT Scholarship offer for Zimbabwean students”, *Mbare Times*, 17 February 2024; “Zimbabwe's vice president says the government will block a scholarship for LGBTQ+ people”, *Africa News*, 17 February 2024; “Chiwenga Labels Gays and Lesbians Scholarship a National Threat”, *I Harare*, 16 February 2024; “Chiwenga rejects scholarships for gay students”, *News Dze Zimbabwe*, 17 February 2024.

<sup>46</sup> Among other key services the organisation offered psychological counselling to clients, training to counsellors, and facilitating access to supportive and inclusive mental health services in a context where such resources may be scarce or lacking. For more information see: “中國同志機構北同「因不可抗力」關閉，性少數群體倍感「唇亡齒寒」” [China's gay organization Beitong closed “due to force majeure”, sexual minorities feel “cold lips”], *The News Lens (Taiwan)*, 29 May 2023.

<sup>47</sup> See, among others: “內地最大lgbtq組織北京同志中心因「不可抗力因素」停止營運” [The largest LGBTQ organization in mainland China, the Beijing LGBT Center, ceased operations due to “force majeure factors”], *HK 01*, 17 May 2023; “北京同志中心宣布停運中國lgbtq運動何去何?” [The Beijing Gay Center announced the suspension of operations. Where does the Chinese LGBTQ movement go?], *DW*, 16 May 2023, “Leading Chinese advocacy group Beijing LGBT Center closes down, citing ‘unpreventable circumstances’”, *Hong Kong Free Press*, 17 May 2023; “China's LGBTQ+ movement is under attack. But international support can be a double-edged sword”, *ABC News*, 29 November 2021; “LGBTQ+ rights group shuts down in China”, *Gscene*, 9 November 2021; “為了活下去，中國LGBTQ組織改名、商業化、接軌主流價值觀” [In order to survive, China's LGBTQ organization changed its name, commercialised, and joined the conventional values], *Yahoo News (Hong Kong)*, 9 November 2021; “The End of the Rainbow”, *Shanghai Pride Website*, 13 August 2020; “More Info on ShanghaiPride Shutdown: Team Members Asked to ‘Have Tea’”, *The China Project*, 17 August 2020.

<sup>48</sup> For more information, see ILGA World, *ILGA World Database: Legal barriers to freedom of association - China*, retrieved on 18 January 2024.

disseminating information on sexual and gender diversity, especially since 2015, when the Chinese government has taken an increasingly restrictive stance toward the LGBTQ+ community, implementing stringent political measures and cracking down on civil society organisations.<sup>49</sup>

## Indonesia

The regular operation and conduct of activities by civil society organisations working on sexual and gender diversity in Indonesia faced significant challenges in 2023.

In July 2023, the regional, Philippines-based organisation ASEAN SOGIE Caucus's planned ASEAN Queer Advocacy Week in Jakarta was cancelled following multiple instances of opposition, harassment and death threats against organisers and participants from government officials and Muslim conservative groups.<sup>50</sup>

During the 30th Plenary Meeting of the House of Representatives, MP Al Muzzammil Yusuf called on the Ministry of Foreign Affairs to ensure that the event did not take place and publicly condemned the organisers and the LGBTI community in general for "damaging the nation's generation with things that are not in accordance with the ideology of *Pancasila*<sup>51</sup> and the laws of the Indonesian nation".<sup>52</sup>

The Vice-Chairman of the People's Consultative Assembly of Indonesia also elaborated in a statement on how the principles of *Pancasila*, the 1945 Constitution, and the recently enacted Criminal Code collectively denounce "LGBT and all its deviations". He emphasised the recent criminalisation of "lewd acts" [*perbuatan cabul*] under Article 414 of the new Code. Furthermore, he stressed that all recognised religions in Indonesia reject "LGBT deviations". Urging the government to take decisive action, he highlighted the need for immediate deliberation on the "Anti-Propaganda of Sexual Deviance Bill". This, he argued, is crucial for the effective implementation of *Pancasila*, the 1945 Constitution, and the Criminal Code. Given

that the ASEAN SOGIE Caucus is registered in the Philippines, he even suggested that Indonesia should question the registration of the organisation via ASEAN. Finally, he noted the widespread repudiation of the cancelled event by prominent Indonesian bodies, including the Indonesian Ulema Council (MUI), the Indonesian Women's Islamic Consultative Body (BMIWI), and the Civilized Indonesia Movement.<sup>53</sup>

## Iraq

In May 2023, a court in the city of Sulaimaniyah issued *Order No. 1354/B/2021* (2023), resulting in the closure of the Rasan organisation, which had been the primary advocate for the rights of the local LGBTI community in Iraqi Kurdistan, indicating a pattern of crackdowns against LGBT activists by authorities. The shutdown followed a lawsuit filed by a Kurdish parliamentarian, with the court asserting that the organisation was involved in "homosexuality-related activities" despite its simultaneous efforts to combat domestic violence against women. Rasan's Executive Director stated that the judge's reasoning appeared to revolve around perceived "discrepancies" related to the organisation's rainbow logo, which was interpreted as a symbol of their involvement in "homosexuality-related activities". Rasan has filed an appeal but cannot sustain operations during the appeal process.<sup>54</sup> Human Rights Watch strongly condemned the closure of Rasan, labelling it an attack not only against freedom of association and civil society as a whole but also a direct threat to the lives of vulnerable individuals assisted by the organisation.<sup>55</sup>

## Jordan

Human Rights Watch has documented a troubling decline in civic freedoms in Jordan in recent years. Authorities have been employing vague laws to target peaceful activists and suppress dissent. Journalists, political activists, and unions face detention and restrictions under a systematic campaign to silence critical voices.<sup>56</sup>

<sup>49</sup> "Rainbow Hunters' Target LGBTQ Chinese Students", *Foreign Policy*, 29 July 2023. For more information, refer to the chapter on freedom of expression.

<sup>50</sup> "Asian LGBT activists cancel Indonesia conference after threats", *76 Crimes*, 22 July 2023.

<sup>51</sup> Nota bene: *Pancasila* is the official philosophical foundation of the Indonesian state. The term derives from two Sanskrit words: *panca* ("five") and *sila* ("principles" or "values"). *Pancasila* is composed of five core values: (1) Belief in one God; (2) Just and civilized humanity; (3) Unity of Indonesia; (4) Democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives; (5) Social justice for all the people of Indonesia. *Pancasila* holds immense importance in Indonesia. It provides a framework for national identity, guiding principles for governance, and a common ground for Indonesians to unite despite their diverse backgrounds. It's enshrined in the Indonesian constitution and plays a crucial role in shaping the nation's policies and societal values.

<sup>52</sup> "Legislator PKS Minta Kemenlu Pastikan Tak Ada Pertemuan Akitivis LGBT AAW" [PKS Legislators Ask Ministry of Foreign Affairs to Ensure No Meetings of AAW LGBT Activists], *Padangkita*, 13 July 2023.

<sup>53</sup> "Dukung MUI, HNW: LGBT Tak Sesuai Pancasila & UUDNRI 1945, Agar Pemerintah Tegas Melarang Pertemuan dan Propaganda LGBT se-ASEAN di Jakarta" [Support MUI, HNW: LGBT Not In Accordance with Pancasila & the 1945 UUDNRI, So that the Government Firmly Bans ASEAN-wide LGBT Gatherings and Propaganda in Jakarta], *People's Consultative Assembly*, 16 July 2023.

<sup>54</sup> "HRW condena la orden de cierre de la única organización LGTBI+ en el Kurdistan iraquí" [HRW condemns the order to close the only LGTBI+ organization in Iraqi Kurdistan], *Swissinfo*, 6 July 2023. See as well: "Hbtq-personer i Irak kämpar för sina rättigheter - trots extrema risker" [LGBTQ people in Iraq are fighting for their rights - despite extreme risks], *Tidningen Syre*, 5 December 2022.

<sup>55</sup> "Kurdistan Region of Iraq: LGBT Rights Group Shuttered", *Human Rights Watch*, 6 July 2023.

<sup>56</sup> "Jordan: Government Crushes Civic Space", *Human Rights Watch*, 18 September 2023.

The few remaining spaces for defenders to carry out work in defence of LGBT people were targeted throughout 2023. In January, the intelligence agency closed the bank account and ordered the shutdown of an organisation providing safe spaces for LGBT people (registered as a company due to the government's refusal to register the group as an NGO). The organisation's director fled Jordan under threat, revealing official coercion and closure directives. The few activists who were still active in Jordan faced intense pressure as security agencies targeted their organisations in a coordinated effort.

Furthermore, the passage of the [Cybercrime Law](#) (2023) in August 2023 criminalised the use of information networks to “promote debauchery” or “the violation of public morals” through Article 14. Such legal provisions can easily be used to target and persecute any activity carried out by activists and LGBT human rights defenders. In the wake of this law's passage, it was reported by Human Rights Watch that an online and physical “crackdown” on LGBT persons and activists had begun, which included interrogations, threats of violence and arrest, and forced “outing” by members of Jordan's General Intelligence Department (GID) and the Preventive Security Department of the Public Security Directorate against anyone deemed to be part of or working with the LGBTQI+ community.<sup>57</sup>

## Kyrgyzstan

On 19 May 2023, 33 Members of Parliament submitted for public discussion [Bill No. 6-7100](#) (2023),<sup>58</sup> informally referred to as the “Bill on Foreign Representatives”. Its provisions are largely identical to those of another bill that was introduced in November 2022 but subsequently withdrawn.<sup>59</sup>

In summary, this bill seeks to grant the government amplified oversight powers, permitting representatives of the Ministry of Justice to engage in the internal

activities of non-governmental organisations to ensure alignment with their stated objectives. Crucially, the bill introduces the designation of “foreign non-governmental organisations”, augments reporting requirements for all such entities, and empowers the Ministry of Justice to restrict funding from foreign sources.

Moreover, it imposes criminal liability, with penalties of up to 10 years' imprisonment, for involvement in organisations deemed to incite citizens to “unlawful acts”. The introduction of the element of criminal liability was largely denounced by MPs who opposed this bill.<sup>60</sup> This element of the bill was particularly concerning, given other recent legal developments in Kyrgyzstan that have incorporated dangerously vague and ambiguous language regarding “traditional values” and “moral and ethical values”.<sup>61</sup>

Local sources have highlighted strong parallels between this and earlier bills, both domestically and internationally, particularly drawing comparisons with the [Law on Foreign Agents](#) (2012) in the Russian Federation. Similarities appear to be evident even in the precise wording of certain provisions.<sup>62</sup>

Moreover, several UN Special Procedures “strongly advised” the Kyrgyz government “to refrain from approving the draft law in its current form” and to consult broadly with all sectors of civil society to develop a new comprehensive law, highlighting that many of the provisions in the bill—and the introduction of the legal category of “foreign organisation”—could lead to violations of the rights to freedom of association and expression.<sup>63</sup> These observations complement the urgent interim opinion issued by the OSCE Office for Democratic Institutions and Human Rights in December 2022 on the original version of the bill referenced above.<sup>64</sup> However, in October 2023, the plenary of the Kyrgyz Supreme Council endorsed the bill in its first reading, “practically without discussion”, as reported by the media. Prior to its submission to the plenary, the bill received approval from two crucial parliamentary

<sup>57</sup> “Jordan: Security Forces Target LGBT Activists”, *Human Rights Watch*, 4 December 2023. For more information please refer to the chapters on criminalisation of consensual same-sex sexual acts and freedom of expression in this report.

<sup>58</sup> Full title: Russian: «О внесении изменений в некоторые законодательные акты Кыргызской Республики (Закон Кыргызской Республики «О некоммерческих организациях», Уголовный кодекс Кыргызской Республики). English: “On Amendments to Certain Legislative Acts of the Kyrgyz Republic” (Law of the Kyrgyz Republic “On Non-Commercial Organizations” and the Criminal Code of the Kyrgyz Republic).

<sup>59</sup> For more information, see: ILGA World, [ILGA World Database: Legal barriers to freedom of association - Kyrgyzstan](#) (retrieved: 1 April 2024).

<sup>60</sup> “Парламент Кыргызстана принял законопроект «об иностранных представителях». Пока в первом чтении” [The Kyrgyz parliament has adopted a draft law “on foreign representatives”. So far, in the first reading], *Radio Free Europe/Radio Liberty*, 25 October 2023.

<sup>61</sup> For further information on other legal developments in Kyrgyzstan, please refer to the chapter on restrictions to freedom of expression in this report. Nota Bene: The element of criminal liability was reported to have been dropped by proponents of the bill during ongoing negotiations in February 2024.

<sup>62</sup> “Снова плагиат: Нарматова списала «иностранных агентов» с российского закона” [Plagiarism again: Narmatova writes off “foreign agents” from Russian law], *Factcheck.kg*, November 2023. For further information on previous efforts to enact a similar law in 2013, refer to: “Dispatches: Kyrgyzstan Does the Right Thing”, *Human Rights Watch*, 12 May 2016.

<sup>63</sup> The communication was signed by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on the situation of human rights defenders “UN Special Rapporteurs have urged the Government of the Kyrgyz Republic to reconsider and withdraw the draft law “On Foreign Representatives”, *United Nations in the Kyrgyz Republic (Web Site)*, 6 October 2023.

<sup>64</sup> OSCE Office for Democratic Institutions and Human Rights, *Urgent Interim Opinion on the Draft Law “On Non-Profit Non-Governmental Organizations” and Draft Amendments on “Foreign Representatives”*, Opinion-Nr.: Ngo-Kgz/451-452/2022 [Nr] (2022).



committees.<sup>65</sup> In February 2024, the second reading of the bill was reportedly approved.<sup>66</sup> In that same month, President Sadyr Japarov defended the bill against criticism from US Secretary of State Antony Blinken,

accusing foreign-funded NGOs of “spreading misinformation”.<sup>67</sup> Finally, on 14 March 2024, the bill was approved in its third reading and submitted to the President for final assent on 25 March 2024.<sup>68</sup>

## Europe



### Georgia

In early March 2023, clashes erupted as Georgia's Parliament voted 76-13 in the first reading of the Transparency of Foreign Influence (2023), informally referred to as the “Foreign Agent Bill”, accelerated from its original schedule. The bill mandated organisations receiving over 20% of funding from abroad to register as “foreign agents” or face fines. Critics denounced this bill as being “requested by Moscow”, as it echoed Russian laws stifling journalism and democracy. Conversely, the bill's authors claimed it was modelled on the U.S. Foreign Agents Registration Act (1938), enacted 80 years ago to expose Nazi propaganda, requiring people to disclose when they lobby in the U.S. on behalf of foreign governments or political entities. Tensions escalated as President Zurabishvili vowed to veto the bill if approved, supporting protesters. Shortly after, lawmakers rejected the bill 35-1 in a brief session, with no debate. The vote came less than a day after Georgia's ruling party, Georgian Dream, said it would withdraw the legislation.<sup>69</sup>

In April 2024, the party announced its intention to reintroduce a law in parliament with the term “foreign agent” replaced by “organization pursuing the interests of a foreign power”. Reports indicated that with Georgia's EU candidacy achieved in December 2023, leaders anticipate reduced protest fervour.<sup>70</sup>



### Russia

In a marked trend towards further tightening the already oppressive legal framework on sexual and gender diversity in Russia, on 30 November 2023, the Supreme Court handed down a decision where it categorised the “international LGBT movement” [sic] as “extremist”, following a lawsuit initiated by Russia's Ministry of Justice.<sup>71</sup> This decision is poised to inflict significant damage upon the few remaining Russian LGBT civil society organisations, potentially resulting in the pulverisation of the NGO space dedicated to sexual and gender diversity.

According to the ruling,<sup>72</sup> this decision was based on Article 1(1) of the Federal Law on Counteracting Extremist Activity (*Federal Law No. 114/FZ*) (2002), which, among other things, considers the “incitement of social [...] or religious animosity” as grounds to label an organisation as “extremist”. Given that the “international LGBT social movement” is not an existent “organisation”, it is unclear *who* can be found as a participant or an organiser thereof. However, an analysis published in *Meduza* points out that, according to recent case law related to other movements deemed as “extremists”, anybody who speaks in favour of sexual, gender and [ could potentially be considered an extremist. Furthermore, lawyers interviewed by *Meduza* that legislation against “extremist” activities and

<sup>65</sup> “Парламент Кыргызстана принял законопроект «об иностранных представителях». Пока в первом чтении” [The Kyrgyz parliament has adopted a draft law “on foreign representatives”. So far, in the first reading], *Radio Free Europe/Radio Liberty*, 25 October 2023.

<sup>66</sup> “Жогорку Кеңеш «Коммерциялык эмес уюмдар жөнүндө» Кыргыз Республикасынын мыйзамына өзгөртүүлөрдү киргизүү жөнүндө» мыйзам долбоорун экинчи окууда кабыл алды” [The Jogorku Kenesh adopted the second reading of the draft law “On Amendments to the Law of the Kyrgyz Republic on Non-Commercial Organizations”], *Yogorku Kenesh of the Kyrgyz Republic (Official Website)*, 22 February 2024.

<sup>67</sup> “Kyrgyzstan: Japarov hits back at U.S. over NGO bill criticism”, *Eurasianet*, 12 February 2024.

<sup>68</sup> “Kyrgyz Foreign Agents Law Awaits President's Decision”, *VOA News*, 29 March 2024. To track the progress made by the bill, see: «Кыргыз Республикасынын айрым мыйзам актыларына («Коммерциялык эмес уюмдар жөнүндө» Кыргыз Республикасынын Мыйзамына жана Кыргыз Республикасынын Кылмыш-жаза кодексине) өзгөртүүлөрдү киргизүү жөнүндө» Мыйзамдын долбоору [Draft Law “On Amending Certain Legislative Acts of the Kyrgyz Republic (the Law of the Kyrgyz Republic “On Non-Commercial Organizations” and the Criminal Code of the Kyrgyz Republic)], *Yogorku Kenesh of the Kyrgyz Republic (Official Website)* (retrieved 1 April 2024).

<sup>69</sup> “Thousands Clash With Police In Georgia After Parliament OKs First Reading Of ‘Foreign Agent’ Law”, *Radio Liberty/Radio Free Europe*, 7 March 2023; “Georgia drops foreign agents law after massive protests”, *Associated Press*, 10 March 2023.

<sup>70</sup> “Why Georgia's Government Is Trying (Again) To Introduce An Unpopular ‘Foreign Agents’ Law”, *Radio Liberty/Radio Free Europe*, 4 April 2024.

<sup>71</sup> “Верховный суд России объявил «экстремистским» и запретил «движение ЛГБТ»” [The Supreme Court of Russia declared “extremist” and banned the “LGBT movement”], *Meduza*, 3 December 2023; “Верховный суд России принял нарушающее основополагающие права человека в том числе права ЛГБТ-людей решение” [The Supreme Court of Russia made a decision that violates fundamental human rights, including the rights of LGBT people], *ECOM - Eurasian Coalition on Health, Rights, Gender and Sexual Diversity*, 02 December 2023; “A Supreme Court Case Strikes Fear In Russia's LGBT Community”, *Radio Free Europe*, 28 November 2023.

<sup>72</sup> Although it was initially reported that the judgment would not be made public, ILGA World's research team had access to the copy published by Russian media outlet *Svobodnye Novosti*. See: “Разрушение традиционных ценностей и феминитивы. «Свободные новости» публикуют полный текст решения Верховного суда РФ о признании экстремистским «движения ЛГБТ»” [Destruction of traditional values and feminism. *Svobodnye Novosti* publishes the full text of the decision of the Supreme Court of the Russian Federation recognizing the “LGBTQ movement” as extremist], *Svobodnye Novosti*, 18 January 2024.

organisations can be used against LGBTQ people even if they don't participate in any form of activism.<sup>73</sup>

The legal consequences of being found to be part of an “extremist organisation” are varied and harsh.<sup>74</sup> Not only the distribution of so-called “extremist materials” or the display of “extremist symbols” are banned,<sup>75</sup> and severe punishments might also be imposed on alleged “members of an extremist organisation”. According to the *Penal Code* (1996), those who *create, lead, or organise* the activities of an “extremist organisation” can be imprisoned for up to 10 years,<sup>76</sup> while those who *participate* in such activities might be jailed for six years.<sup>77</sup> Moreover, if someone is found to have “incited, recruited or involved someone in the activities of an extremist organisation”, they might be given an eight-year sentence.<sup>78</sup> Furthermore, *financing* an “extremist organisation” can be punished with eight years’ imprisonment.<sup>79</sup> All of these actions may also be subject to fines, administrative arrest or several years of forced labour.

The impact of this legislation on the right to freedom of association in Russia should not be understated, even if the “international LGBT movement” targeted by the Supreme Court’s ruling is not a real organisation. In its reasoning, the Supreme Court sees Russian activists and civil society as “divisions” of the “international LGBT movement”; and as part of an “organisational structure” with local “divisions” and “cells” that would be actively promoting the international LGBT movement’s ideas in the Russian Federation. Moreover, the Supreme Court mentions that, according to the materials provided by the government, many of these “cells” in Russia are members of the “International Lesbian and Gay

Association”, a reference to ILGA World’s purported position as part of the “international LGTB movement”.<sup>80</sup>

Therefore, anti-extremism legislation could potentially be used to indict *any member of any civil society organisation* that engages in *any capacity* in advocating for the rights of queer people. According to a report by *Parni+*, following this decision, many activists have had to adopt additional measures to ensure their safety while seeing a dramatic increase in the calls for assistance they receive from their communities.<sup>81</sup> It was also reported that another activist initiative, the LGBT+ Cause, announced its dissolution right after the decision of the Supreme Court was issued.<sup>82</sup> Furthermore, laws against members of “extremist organisations” have already been enforced to target queer businesses and artists. On 18 March 2024, it was reported that two employees of “Pose”—a club in Orenburg (a city in southwest Russia, near the border with Kazakhstan)—had been arrested for hosting a drag show.<sup>83</sup> According to a statement by Ekaterina Mizulina, head of the para-governmental agency “Safe Internet League”,<sup>84</sup> a criminal case was brought against them for organising “extremist activities”, facing up to 10 years’ imprisonment.<sup>85</sup> A court in Orenburg remanded the two employees in custody until 18 May 2024, awaiting trial.<sup>86</sup> In April 2024, the owner of the club was also indicted for extremism, being added to the official list of extremists along with the two employees.<sup>87</sup> Although this has been regarded as the first case of enforcement of the anti-extremism legislation against so-called “members of the international LGBT movement”, several violent police raids against clubs and parties frequented by LGBTQ people have been reported since

<sup>73</sup> “Верховный суд объявил экстремистским «международное общественное движение ЛГБТ» — хоть его и не существует Людей в России теперь будут преследовать за ориентацию?” [The Supreme Court declared the “international LGBT social movement” extremist - even though it does not exist. Will people in Russia now be persecuted for their orientation?], *Meduza*, 17 December 2023.

<sup>74</sup> “Qué implica que Rusia declare extremista al movimiento LGTB+” [What does it mean for Russia to declare the LGTB+ movement extremist?], *Queeridico: Blog jurídico queer*, 23 December 2023.

<sup>75</sup> See the chapter on Restrictions to Freedom of Expression for more details.

<sup>76</sup> Article 282.1 and 282.2 of the Penal Code.

<sup>77</sup> Article 282.2.2 Penal Code.

<sup>78</sup> Article 282.1.1 Penal Code.

<sup>79</sup> Article 282.3 Penal Code.

<sup>80</sup> Supreme Court of the Russian Federation, *Judgment Case No. ACPI23-990c*, 30 November 2023, pp. 3-4.

<sup>81</sup> “Как изменилась работа квир организаций после решения Верховного суда” [How the work of queer organisations has changed since the Supreme Court decision], *Parni+*, 29 February 2024.

<sup>82</sup> “Правозащитная инициатива “Дело ЛГБТ+” объявила о самороспуске” [Human rights initiative “LGBT+ Cause” announced its dissolution], *Radio Svoboda*, 2 December 2023.

<sup>83</sup> “Мизулина сообщила, что после рейда в клубе Оренбурга завели первое в России дело об участии в экстремистской организации за связь с «движением ЛГБТ» — Meduza” [Mizulina reported that after the raid at the Orenburg club, the first case in Russia was opened for participation in an extremist organization for connections with the “LGBTQ movement” - Meduza], *Meduza*, 19 March 2024; “2 Russian drag show arrests; the charge is ‘LGBT extremism’”, *76 Crimes*, 22 March 2024.

<sup>84</sup> The Safe Internet League is a heavily influential organisation linked to the Russian Government whose leader, Ekaterina Muzolina, has been sanctioned by the Council of the European Union for “enforcing censorship practices against Internet content creators and artists in favour of the Russian government and its policies” and who “is responsible for serious and systematic abuses of freedom of opinion and expression”. See: Council Implementing Regulation (EU) No. 2024/417, of 29 January 2024 implementing Regulation (EU) 2020/1998 concerning restrictive measures against serious human rights violations and abuses, Annex, p. 1., Council of the European Union.

<sup>85</sup> See: “В Оренбурге впервые завели уголовное дело против ЛГБТ\*-клуба” [A criminal case was opened against an LGBT\* club for the first time in Orenburg], *Gazeta (Russia)*, 20 March 2024; “Суд оставил без изменения меру пресечения сотрудникам ЛГБТ\*-бара в Оренбурге” [The court upheld the preventive measure for employees of an LGBT bar in Orenburg], *TASS*, 29 March 2024.

<sup>86</sup> “Суд оставил без изменения меру пресечения сотрудникам ЛГБТ\*-бара в Оренбурге” [The court upheld the preventive measure for employees of an LGBT bar in Orenburg], *TASS*, 29 March 2024.

<sup>87</sup> “Владельца гей-клуба «Поза» внесли в список террористов-экстремистов” [The owner of the gay club “Pose” was added to the list of extremist terrorists], *Parni Plus*, 12 April 2024.

the Supreme Court's ruling.<sup>88</sup> Moreover, on 26 March 2024, it was reported that a club in Novosibirsk (a city in Siberia, southern Russia) was being investigated by the Ministry of Internal Affairs for "extremism".<sup>89</sup> Previously, in February 2024, it was reported that Mizulina's "Safe Internet League" had filed a formal complaint after a video of a resident denouncing the venue's activities got traction online.<sup>90</sup> Bars and clubs have reportedly become the first targets of anti-extremism legislation because they were the only remaining spaces where LGBTQ people could gather openly.<sup>91</sup>

Another method employed by Russian authorities throughout 2023 to further limit the freedom of association of civil society organisations working on sexual and diversity issues has been the declaration of such organisations as "undesirable". Under the authority of the Prosecutor General's Office, any foreign or international non-governmental organisation deemed to pose "a threat to the security of the state and the foundations of the constitutional order" can be classified as "undesirable". Such organisations are prohibited from conducting operations or distributing information within Russian territory. Moreover, anyone who engages with an "undesirable organisation" might be punished with up to four years' imprisonment.<sup>92</sup> Similar penalties apply to individuals found guilty of financing or organising the activities of an "undesirable" organisation, with imprisonment terms potentially extending to five or six years, respectively.

On 12 February 2024, the Ministry of Justice designated the British human rights organisation "Article 19" as "undesirable".<sup>93</sup> Later, on 18 March 2024, it was reported that a Canadian organisation, the Russian Canadian Democratic Alliance, had also been

included in the list of undesirable organisations for "promoting the banned international LGBT social movement".<sup>94</sup>

Furthermore, in March 2024 it was reported that the "international LGBT movement" had been incorporated into the Rosfinmonitoring (the Russian Government's fiscal overseer) blacklist. According to Russian legislation on money laundering and terrorism financing, individuals and organisations included in this list can have their assets frozen.<sup>95</sup>



On 9 December 2022, the Turkish Justice and Development Party (AKP) submitted to the Presidency of the National Assembly a constitutional amendment proposal focusing on the "constitutional guarantee for the headscarf and protection of the family" with the signatures of 336 MPs. One key aspect of the proposal is the definition of marriage, aimed at amending Article 41 of the Constitution to stipulate that "marriage shall consist only of the union of a man and a woman". The proposal justification reportedly indicated that family and marriage had to be protected from "all kinds of dangers, threats, and attacks" and from "the impositions of perverted movements". Commenting on the initiative, President Recep Tayyip Erdoğan stated: "We want to prevent the virus of heresy, which is against human nature, from poisoning our nation's existence".<sup>96</sup>

Later, in June 2023, an official affiliated with AKP stated that "if the constitutional amendment is adopted, the activities of LGBT associations will be 'terminated quickly'".<sup>97</sup> Local activists have expressed concern that

- <sup>88</sup> "«Они ходили и каждого спрашивали, мальчик ты или девочка» В российских городах устраивают рейды по закрытым вечеринкам в поисках представителей «международного движения ЛГБТ». Посетителей кладут лицом в пол и избивают», [“They walked around and asked everyone whether you were a boy or a girl.” In Russian cities, they are organizing raids on closed parties in search of representatives of the “international LGBT movement.” Visitors are placed face down on the floor and beaten], *Meduza*, 23 February 2024; "Силовики устроили облаву на закрытую ЛГБТ-вечеринку в российском ночном клубе" [Security forces raided a closed LGBT party in a Russian nightclub], *Lenta*, 22 February 2024; "LGBT bar in Russia's Krasnoyarsk announces closure following police raids and public accusations from censorship activist Ekaterina Mizulina" [LGBT bar in Russia's Krasnoyarsk announces closure following police raids and public accusations from censorship activist Ekaterina Mizulina], *Meduza*, 27 February 2024.
- <sup>89</sup> "«Элтон-бар» в Новосибирске проверяют на экстремизм" [Elton Bar in Novosibirsk is being checked for extremism], *Sibir Realii*, 27 March 2024.
- <sup>90</sup> "Men dress up as women." A resident of Novosibirsk appealed to Mizulina with a request to close the bar where drag queens perform, *Nemovska*, 27 February 2024.
- <sup>91</sup> "В России могут впервые посадить за «ЛГБТ-экстремизм» — сотрудников квир-клуба из Оренбурга Почему власти выбрали для прецедента именно клубную индустрию? И как организаторам и посетителям ЛГБТК-вечери [In Russia, employees of a queer club from Orenburg may be imprisoned for the first time for "LGBT extremism." Why did the authorities choose the club industry as a precedent? And as organizers and visitors of an LGBTQ party], *Meduza*, 25 March 2024.
- <sup>92</sup> Article 284.1 of the Penal Code of the Russian Federation. It can also lead to an administrative infraction, with sanctions reaching up to 15,000 rubbles, as per Article 20.33 of the Code of Administrative Offenses of the Russian Federation.
- <sup>93</sup> "В России признали "нежелательной" британскую правозащитную организацию Article 19. Она поддерживает журналистов и ЛГБТ-активистов" [The British human rights organization Article 19 has been declared "undesirable" in Russia. It supports journalists and LGBT activists], *Current Time*, 13 February 2024.
- <sup>94</sup> "Генпрокуратура РФ признала "нежелательными" три канадские неправительственные организации" [The Prosecutor General's Office of the Russian Federation recognized three Canadian non-governmental organizations as "undesirable"], *Kasparov.ru*, 19 March 2024.
- <sup>95</sup> "Russia adds 'LGBT movement' to list of extremist and terrorist organisations", *Reuters*, 22 March 2024.
- <sup>96</sup> "In new hate speech, Erdoğan deems LGBT+ 'virus of heresy'", *Duva R (English)*, 17 January 2023; "Press release: Draft amendments to the Turkish Constitution threaten to further rollback on LGBTIQ rights and violate European Convention on Human Rights", *European Parliament Intergroup on LGBTI Rights*, 25 January 2023.
- <sup>97</sup> "Anayasa değişikliği nefreti körükleyecek: Hedef LGBT derneklerinin 'itirazsız' kapatılması" [Constitutional amendment will fuel hatred: Target LGBT associations to be closed 'without objection'], *Haber Sol*, 23 June 2023; "İktidar, yeni anayasayla LGBTİ+ derneklerini "hızla" kapatmayı hedefliyor" [The government aims to close LGBTI+ associations "quickly" with the new constitution], *T24*, 23 June 2023.

such discriminatory amendments will pave the way for criminalising same-sex relationships and prohibiting LGBTI+ organisations from operating in the country.<sup>98</sup>

In September 2023, it was reported that the Ministry of Family and Social Services issued a directive to its provincial directorates, instructing them to organise “family workshops”. Local feminist lawyers argued that with these workshops, the government wanted to create the impression that it was “consulting with civil society” in preparation for the new constitution and amendments to the Civil Code, both of which are expected to be hostile towards the LGBTI community.<sup>99</sup> Moreover, in October 2023, a petition reportedly endorsed by 150,000 signatures was submitted to the Parliament calling for the closure of LGBTI associations and the “prevention of LGBTI propaganda”.<sup>100</sup>

In parallel to these formal efforts to close civic space for LGBT organisations, throughout 2023, the government continued its policy of systemic bans and crackdowns on demonstrations, often resulting in mass detentions and violence. In June, despite some successful Pride events, activists faced heavy-handed police actions and mass arrests. Additionally, Pride marches faced hostility from extremist religious and nationalist groups, as well as political parties. Anti-LGBT demonstrations, on the other hand, took place with State support, with open calls to ban so-called “LGBT Propaganda”. Classified as a “public service announcement”, an anti-LGBT rally’s promotional video was broadcast on TV channels by Turkey’s media watchdog.<sup>101</sup>

Despite these incidents, 2023 saw what was termed a “rare victory”, with a positive outcome in the legal battle led by the government against the feminist NGO “We Will Stop Femicide Platform” (KCDP). The lawsuit, initiated in 2022 by the Istanbul Governorship Directorate of Associations and the Public Prosecutor of Istanbul, aimed to permanently close down KCDP, alleging the organisation worked to “undermine the family structure” and “defend members of terrorist organisations”. Hearings took place between June 2022 and March 2023, and in September 2023, the 13th Court of First Instance of Istanbul rejected the lawsuit. Notably, the prosecutor’s office chose not to appeal, solidifying the court’s decision and allowing KCDP to continue its advocacy efforts supporting the Istanbul Convention and aiding victims of gender-based violence.<sup>102</sup>

In January 2024, it was reported that the closure of an office of the Tarlaşa Community Support Association, which the Governor’s Office of Istanbul had been trying to close since April 2022, hadn’t been made effective yet and instead had been postponed to May 2024.<sup>103</sup> According to Turkish media, the Governor was seeking its dissolution for organising an event on the protection of LGBTI children in education. According to reports, the lawsuit claimed that the association went against “good morals” by attempting to “influence the sexual identity of children”.<sup>104</sup>

<sup>98</sup> “Joint statement regarding Türkiye’s treatment of LGBTI+ people and human rights defenders, following the publication of the European Commission’s 2023 Enlargement Package”, *Civil Rights Defenders*, 16 November 2023.

<sup>99</sup> “Government’s ‘family workshops’ exclude NGOs, spread anti-LGBTI+ sentiment”, *Bianet*, 23 September 2023.

<sup>100</sup> “Petition from the Grand Family Platform demanding the closure of LGBTI+ associations”, *Bianet*, 3 October 2023.

<sup>101</sup> “Anti-LGBTI+ rally once again held in Istanbul with state support”, *Duva R (English)*, 18 September 2023.

<sup>102</sup> “Turkey drops bid to close leading women’s rights group”, *France 24*, 13 September 2023. For a comprehensive analysis of the case, please refer to: “We Will Stop Femicide Platform”, *Sessiz Kalma* (retrieved 1 April 2024).

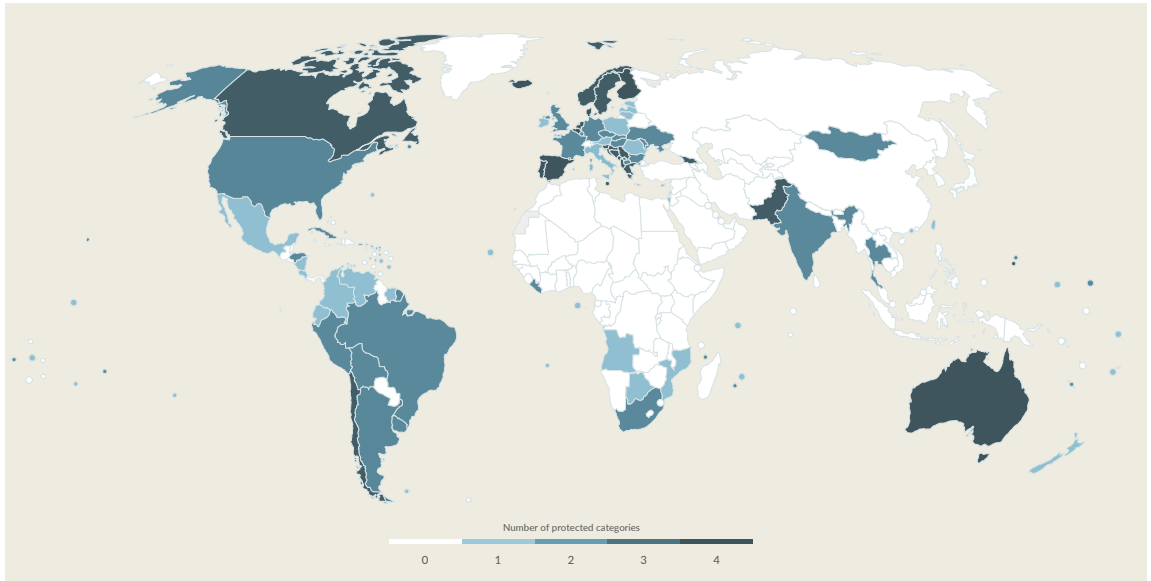
<sup>103</sup> “Tarlaşa Toplum Merkezi davası 8 Ocak’a bırakıldı” [Tarlaşa Community Center case was postponed to January 8], *Bianet*, 10 October 2023.

<sup>104</sup> “LGBTİ’lerle ilgili etkinlik yapan derneğe kapatma davası” [Closing case against the association that carries out activities related to LGBTIs], *Gazete Duvar*, 11 April 2022; “Son dakika: Çocuklara “LGBT” istismarna tepki: Tarlaşa Toplum Merkezi kapatılsın!” [Last minute: Reaction to “LGBT” abuse of children: Tarlaşa Community Center should be closed!], *Sabah*, 14 April 2022; “Tarlaşa Toplum Merkezi davası ertelendi: Örgütlenme özgürlüğüne müdahale ediliyor” [Tarlaşa Community Center trial adjourned: Freedom of association is being interfered with], *Yeşil Gazete*, 19 May 2022; “Tarlaşa Toplumunu Destekleme Derneği’ne açılan ‘fesih’ davası ertelendi” [‘Annulment’ lawsuit filed against Tarlaşa Community Support Association postponed], *Agos*, 20 May 2022.

## CHAPTER 4

# Protections against Discrimination

**Global Summary** – Progress in enacting new anti-discrimination legislation among UN Member States remained limited. However, prospects for advancement emerge as multiple bills await legislative approval.



## Top Legal Developments (January 2023 – April 2024)

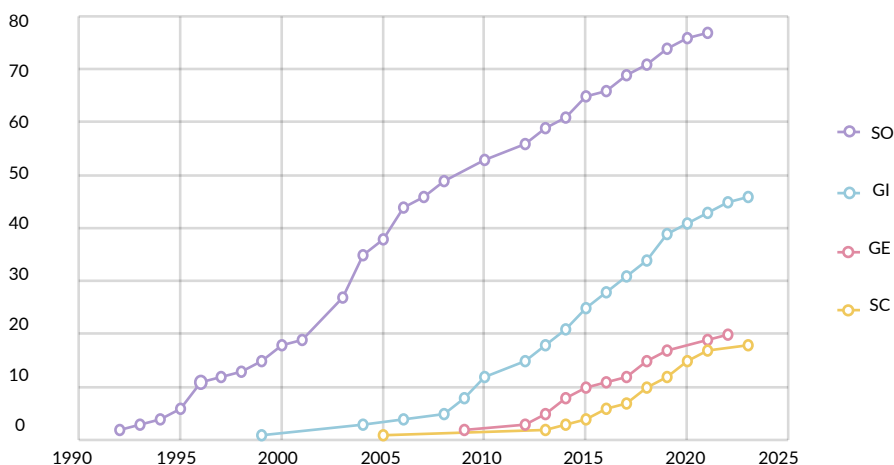
- ▶ One (1) UN Member State (**Netherlands**) amended its constitution to prohibit discrimination based on sexual orientation.
- ▶ Two (2) UN Member States and one non-UN member jurisdiction enacted new legal protections against discrimination:
  - **Moldova** enacted new legal protections based on SO and GI.
  - **Spain** enacted new legal protections based on SC.
  - Guernsey (**United Kingdom**), enacted new legal protection based on SO.
- ▶ In two (2) UN Member States, subnational entities enacted new legal protections against discrimination:
  - In the **Philippines**, the province of Laguna enacted new legal protections based on SO, GI and GE.
  - In **Spain**, the Basque Country enacted new legal protections based on “sexual and gender identity”.
- ▶ Three (3) UN Member States enacted provisions that expanded preexisting protections:
  - **Bulgaria** expanded existing legal protections based on SO.
  - **Cuba** expanded existing legal protections based on SO and GI.
  - **Spain** expanded existing legal protections based on SO, GI and GE.
- ▶ In at least nine (9) UN member states, various bills with differing scopes and protected categories were introduced or discussed:
  - **Colombia** (employment discrimination based on SO and GI).
  - **Costa Rica** (comprehensive protection based on GI, GE, and SC).
  - **Japan** (“no unjust discrimination” based on SO or GI) [*bill criticised as insufficient*]
  - **Kenya** (comprehensive protection for intersex people).
  - **Mexico** [federal level] (comprehensive protection based on GI and GE).
  - **Philippines** (comprehensive protection based on SO, GI, GE, and SC).

- **Türkiye** (protection in employment and goods and services based on SO, GI, and GE).
  - **United States of America** [federal level] (comprehensive protection based on SO, GI, and SC).
  - **Venezuela** (protection “in any area of public life” based on SO, GI, and GE).
  - In Australia, two (2) subnational jurisdictions introduced bills: Queensland (protection based on SC and GE) and New South Wales (protection based on “sexuality”, which includes “homosexuality”, “bisexuality”, or “asexuality”; and for any person “who lives as a member of another sex”).
- Instances of backtracking with regard to antidiscrimination protections were noted in at least five (5) UN Member States:
- **Georgia** (bill to remove GI and GE from anti-discrimination law).
  - **Portugal** (law to ensure gender identity and expression in education vetoed by the President).
  - **South Korea**, three (3) provinces (initiatives to repeal protections based on SO in education).
  - **Spain**, Community of Madrid (replaced protections based on GI and GE with “transsexuality condition”).
  - **United Kingdom** (regressive proposal to interpret “sex” as “biological sex” only).

Global Tallies (UN Member States) - April 2024

	CONSTITUTIONAL PROTECTION	GOODS AND SERVICES	HEALTHCARE	EDUCATION	EMPLOYMENT	HOUSING
Sexual Orientation	12	55	53	53	77	51
Gender Identity	5	40	38	40	46	38
Gender Expression	1	17	19	17	20	16
Sex Characteristics	0	17	15	15	18	14

Protection against discrimination (in employment) – Timeline



## Legal developments | January 2023 – April 2024

### Africa

#### Kenya

Kenya currently does not have national legislation protecting persons based on their SOGIESC in the provision of goods and services, healthcare, education, employment, or housing. As explained in other chapters of this report, a regressive draft bill was introduced in 2023, which, if enacted, will have deleterious effects on local communities.<sup>1</sup> However, some progress was noted in May 2023, as the Intersex Persons Implementation

Coordination Committee (IPICC) presented the draft [Intersex Persons Bill \(2023\)](#), fulfilling the task assigned by Kenya's National Human Rights Commission in August 2019. Article 3 of the bill states the object of the proposed law, which includes the "protection, fulfilment and promotion of the rights of intersex persons" and the "inclusion of intersex persons in all aspects of society, to eliminate all forms of discrimination, particularly in areas of access to justice, security, health, employment, information and education".<sup>2</sup> The IPICC also invited the public to comment on the bill by the end of May 2023.<sup>3</sup>

### Asia

#### Hong Kong (China)

In 2023, a favourable judicial decision by the Hong Kong Court of Appeal recognised the rights of same-sex couples regarding certain housing rights. For more information, refer to the chapter on Same-Sex Unions in this report.

#### Japan

In June 2023, a bill entitled [Bill for Enhancing Public Awareness of Diversity in Sexual Orientation and Gender Identity \(2023\)](#) was successfully passed and enacted into law. However, the law only includes a provision stating that "there shall be no unjust discrimination based on sexual orientation or gender identity". Local activists have thus raised concerns, arguing that this bill falls short of providing comprehensive legal protection against discrimination.<sup>4</sup> The law does not provide for penalties for those who engage in "unjust discrimination" but rather obligates national and local governments, employers, and schools

to implement a plan to promote an understanding of diverse sexual orientation or gender identity. Critics have called out the watered-down law as a way to appease political opponents of gender equality and sexual diversity.<sup>5</sup> Despite growing public support for same-sex marriage and other LGBTI rights in Japan, the director of the Japanese division of Human Rights Watch said that this legislation fails to meet international standards of anti-discrimination. In a press conference, Prime Minister Kishida said that he hopes further discussion will promote wider support for the proposed law. However, his former political aide, Masayoshi Arai, has gone on record saying that he would not want to live next to LGBTQ+ people.<sup>6</sup>

#### Philippines

Since the year 2000, lawmakers in the Philippines have been making efforts to enact national legislation prohibiting discrimination based on sexual orientation and gender identity. Many bills have also included gender expression and sex characteristics as protected categories. However, despite these attempts, numerous

<sup>1</sup> For more information refer to chapters on criminalisation of consensual same-sex sexual acts, restrictions to freedom of expression and restrictions to freedom of assembly.

<sup>2</sup> "Bill proposes 25% tax incentive for employing intersex individuals", *Kenya Moja*, 3 June 2023.

<sup>3</sup> "Call For Submissions – Intersex Bill 2023", *Kenya National Commission on Human Rights*, retrieved on 14 February 2024.

<sup>4</sup> "Lgbt法、性自認や「差別」で論争 同性婚は自民で賛否" [Controversy over LGBT laws, gender identity and discrimination], *Nikkei*, 2 July 2023.

<sup>5</sup> "Japan passes controversial LGBT law: 5 things to know", *Nikkei Asia*, 16 June 2023.

<sup>6</sup> "Lower house of Japan's parliament passes bill to promote LGBTQ+ awareness, but not guarantee rights", *Asahi*, 14 June 2023; "Bill to promote LGBTQ understanding passes key step in Japan's Lower House", *The Japan Times*, 09 June 2023.

bills to achieve this goal have faced obstacles and delays, ultimately leading to their expiration without becoming law.<sup>7</sup>

In June 2023, the Philippines Commission on Human Rights welcomed the approval of a revised Sexual Orientation, Gender Identity, Gender Expression, or Sex Characteristics (SOGIESC) Equality Bill (2023) by the House Committee on Women and Gender Equality.<sup>8</sup> This bill reportedly consolidates similar bills seeking to prohibit discrimination based on SOGIESC, including House Bills No. 222, 460, 3418, 3702, 4277, 5551, 6003, and 7036.<sup>9</sup> Given that the bill has been pending for 23 years without being passed, the Commission on Human Rights emphasised an urgent and overdue necessity for its legislation.<sup>10</sup>

The latest version of the bill reportedly outlines a variety of acts considered discriminatory based on SOGIESC, which include denying access to public services based on SOGIESC, including disclosure of SOGIESC in the criteria for hiring, promotion, or dismissal in employment, and refusing admission from an educational institution based on SOGIESC among others. The bill also includes acts that would incite violence or stigma against a person based on their SOGIESC as acts of discrimination. The author of this bill said that the proposed legislation essentially seeks to ensure that members of the LGBTQ community are “treated equally to every other human being”.<sup>11</sup>

At the sub-national level, the Laguna province passed a landmark ordinance offering comprehensive protection from discrimination based on “gender”. [Provincial Ordinance No. 8, S \(2023\)](#), also known as the “Gender-Fair Ordinance”, includes “LGBTQI” among the protected categories in Section 3 and defines this category as “a diverse and complex range of identities based on sexual orientation, gender identity, and expression”. It also indicates that the term ‘LGBTQIA+’ refers to the “gender and sexuality non-conforming persons, including, but not limited to lesbian, gay, bisexual, transgender, intersex, and queer persons”. Section 5 penalises with a prison term and a fine any act of discrimination in the delivery of goods and services, in access to health services and facilities, in education, in employment, and in accommodation in places of dwelling based on their “actual or perceived gender”.<sup>12</sup>

This makes Laguna the ninth province in the Philippines to enact a province-wide ordinance on anti-discrimination for LGBTIQ people, joining Agusan del Norte (2014), Cavite (2014), Batangas (2015), Iloilo (2016), Ilocos Sur (2017), Dinagat Islands (2017), Albay (2021) and Bataan (2021).

## South Korea

Article 30 of the [National Human Rights Commission Act](#) (2001) mandates the Commission to investigate acts of discrimination based on “sexual orientation” in various areas, including employment, public accommodations, healthcare, and housing, among others. Article 30(2) of the Act defines the prohibited discrimination and the grounds for protection.<sup>13</sup> Even though this law does not confer effective enforceable protection against discrimination, the explicit reference to “sexual orientation” in the Act is relied upon by subnational legislation to incorporate protection based on sexual orientation at the local level (see entries below).

Since 2007, 11 proposals to approve anti-discrimination bills have been discarded because of strong opposition. Additionally, this Act does not specify “gender identity” as a grounds for discrimination. Still, it serves more as a law governing the organisation and operation of the National Human Rights Commission of Korea. Thus, local activists have informed ILGA World there have been calls for more than a decade to enact an “Equality Act” with a more comprehensive list of prohibited grounds of discrimination, but it has yet to be enacted.

In 2023, South Korea saw regressive developments at the subnational level in the provinces, with attempts to repeal local legislation that grants students legal protection against discrimination based on sexual orientation and gender identity in Seoul and South Chungcheong and protection based on sexual orientation in the province of Gyeonggi.

In Seoul, the Ordinance on Student Human Rights ([Ordinance No. 7,888](#)) (2012) was enacted in 2012 and details the rights of students in elementary and secondary schools in Seoul. Article 5(1) of the ordinance

<sup>7</sup> For more information, see ILGA World, [ILGA World Database - Philippines](#), retrieved 1 April 2024.

<sup>8</sup> See “An Act Prohibiting Discrimination On The Basis Of Sexual Orientation, Gender Identity Or Expression, Or Sex Characteristic (SOGIESC) And Providing Penalties Therefor (HB00222) – 19th Congress [Text As Filed]”, *Republic of the Philippines, House of Representatives*, retrieved on 30 April 2024.

<sup>9</sup> “Statement of the Commission on Human Rights welcoming the approval of the SOGIESC equality bill by the House Committee on Women and Gender Equality”, *Republic of the Philippines Commission on Human Rights*, retrieved on 15 February 2024.

<sup>10</sup> “CHR, advocates raise concerns about efforts to derail SOGIE bills”, *ABS-CBN*, 11 February 2023.

<sup>11</sup> “Congress marks milestone in legislating gender equality bills in 2023”, *Philippine News Agency*, 18 January 2024.

<sup>12</sup> “A win for progress: Inside Laguna’s groundbreaking LGBTQIA+ ordinance”, *Good News Pilipinas*, 06 July 2023; “Laguna passes LSPU-proposed Gender-Fair Ordinance”, *Laguna State Polytechnic University*, retrieved on 04 April 2024.

<sup>13</sup> See version amended in 2005 at “National Human Rights Commission Act (2005)”, *Korea Legislation Research Institute*, retrieved on 30 April 2024.



states how students have the right not to be discriminated against based on "sexual orientation" and "gender identity". Article 5(2) requires school administration to make an active effort to ensure the rights of such students. In addition, Article 5(3) prohibits any discriminatory remarks, actions, or hate speech based on sexual orientation and gender identity. However, in August 2022, the [Residents' Claims Bill to Abolish the Student Human Rights Ordinance](#) (2022) was submitted to the Seoul Metropolitan Council to seek to abolish provisions protecting LGBTQ+ students in educational institutions.<sup>14</sup> In March 2023, the Chair of the Seoul Metropolitan Council proposed that the Ordinance be deliberated. According to MINBYUN, a local social organisation of lawyers, the Ordinance is currently being litigated in the Seoul Administrative Court for not meeting the requirements outlined in the Act on Resident Initiative (2021).<sup>15</sup> However, even though the lawsuit remains pending, the Chair of the Seoul Metropolitan Council attempted to force a plenary vote on the Ordinance. Meanwhile, civic groups applied for an injunction to block its abolition, to which the Seoul Administrative Court agreed in December 2023 and stated that "irreparable damage may occur if the Abolition Ordinance is passed."<sup>16</sup> Despite these efforts, ILGA World was informed by local activists that the Seoul Metropolitan Council voted to abolish the Ordinance No. 7,888 (2012) at the end of April 2024, sparking protests in the city.<sup>17</sup>

In December 2023, the South Chungcheong Provincial Council approved [Resident Claim Ordinance No. 586](#) (2023) to abolish the [Student Human Rights Ordinance](#) (2020) enacted in 2020.<sup>18</sup> The 2020 Ordinance prohibits discrimination based on sexual orientation and gender identity in schools. Similar to Seoul, the bill to repeal this Ordinance was filed with the provincial council by conservative protestant-based residents, who argued

that the ordinance followed an "incorrect concept of human rights" when it was passed, noting that it protects LGBTI students. The National Human Rights Commission issued a Formal Opinion in response to the petition to repeal the ordinance, saying the initiative "runs counter to the call for human rights guaranteed in the Constitution and international human rights norms" and threatens to "regress the human rights system of local residents".<sup>19</sup> According to the local organisation MINBYUN, this bill's legality has been challenged in court, where the court issued an injunctive decision to suspend the bill and its effects.

In early 2024, the Chungnam Provincial Office of Education requested a reconsideration of the abolition ordinance, stating that "[the] abolition of the Chungnam Student Human Rights Ordinance violates the Constitution and laws and seriously infringes on the public interest in ensuring the human rights of students, and requires reconsideration". The bill reportedly failed to meet the two-thirds majority required to pass in February 2024.<sup>20</sup> However, in the same month, right-wing lawmakers in the South Chungcheong Provincial Council introduced and passed a separate bill ([Bill No. 739](#)) (2023) to repeal the ordinance in a separate attempt.<sup>21</sup> The Superintendent of Education of South Chungcheong has expressed his intention to request reconsideration of the bill again.<sup>22</sup> Despite this, ILGA World was informed that on 24 April 2024, the earlier reconsideration requested by the Chungnam Provincial Office of Education resulted in the concerning abolishment of the Student Human Rights Ordinance (2020). This was the Provincial Council's fourth attempt to abolish the ordinance.<sup>23</sup> A similar instance occurred in 2018.<sup>24</sup> Similarly, some members of the Education Planning Committee of the Gyeonggi Provincial Council introduced a draft of the [Gyeonggi Province Student Human Rights Ordinance Abolition Ordinance](#) (2023).

<sup>14</sup> "6만여 서명" 학생인권조례 폐지 청구인 명부, 서울시의회에 제출 [출처] 기독교 일간지 신문 기독교일보 [List of applicants for the abolition of the Student Human Rights Ordinance with over 60,000 signatures submitted to the Seoul City Council], *The Christian Daily*, retrieved on 15 April 2024; see also "Urgent Appeal to the IE SOGI by South Korea", MINBYUN - Lawyers for a Democratic Society, retrieved on 15 April 2024.

<sup>15</sup> The Act on Resident Initiative (2021) governs matters regarding residents' requests for the enactment, amendment, and repeal of municipal ordinances (like the Student Human Rights Ordinance (2012) in Seoul). See "Act on Resident Initiative", *Korea Legislation Research Institute*, retrieved on 1 May 2024.

<sup>16</sup> "Seoul city council regrets court's decision against abolition of student rights ordinance", *Yonhap News Agency*, 19 December 2023; "Motion to Abolish Students' Rights Ordinance in Seoul Unsubmitted", *KBS World*, 22 December 2023.

<sup>17</sup> "Abolition of student rights ordinance triggers protests", *The Korea Times*, 28 April 2024.

<sup>18</sup> "South Chungcheong Votes to Abolish Student's Rights Ordinance", *KBS World*, 15 December 2023.

<sup>19</sup> For more information, see "「충청남도 인권 기본 조례」 폐지 청구에 대한 의견표명" [Expression of opinion on the request for abolition of the "Chungcheongnam-do Basic Human Rights Ordinance"], *National Human Rights Commission of the Republic of Korea*, retrieved on 12 March 2024.

<sup>20</sup> "충남 학생인권조례 재표결 끝에 존치" [The People's Power Vote to Leave and Fail to Re-Decide], *Maekyung*, 02 February 2024.

<sup>21</sup> "충남 학생인권조례, 또 '폐지안' 발의" [Chungnam Student Human Rights Ordinance, 'abolition plan' proposed again], *Daejeon Ilbo*, 05 March 2024.

<sup>22</sup> "충남교육청, 도의회에 '학생인권조례 폐지안' 재의 요구" [Chungnam Office of Education requests the Provincial Council to reconsider the 'Student Human Rights Ordinance Abolition Plan'], *Oh My News*, 5 January 2024.

<sup>23</sup> "'학생인권조례' 결국 충남이 처음 폐지했다...국힘, 가결 주도" [The 'Student Human Rights Ordinance' was eventually abolished in South Chungcheong Province... National Power, Leading the Passing], *The Hankyoreh*, 24 April 2024; "Chungnam Provincial Council Abolishes Student Human Rights Ordinance", *Maeil Business Newspaper (MK)*, 24 April 2024.

<sup>24</sup> Article 5 of the Ordinance for the Protection and Promotion of the Human Rights of South Chungcheong Residents (2012) enacted in 2012 prohibits discrimination on the grounds enumerated in the National Human Rights Commission Act (2001), which includes "sexual orientation". The Ordinance was briefly unenforceable in 2018, but it was fully reinstated in October 2018. Although the provincial council admitted its mistake and re-enacted the Basic Human Rights Ordinance through local elections, it is now once again under threat of repeal, with calls for the repeal of the Student Human Rights Ordinance in 2023. For more information, see "[이슈분석] 동성애 옹호 조례, 충남도 지자체 최초로 폐지" [[Issue Analysis] Ordinance supporting homosexuality was abolished for the first time by a local government in South Chungcheong Province], *KMIB (South Korea)*, retrieved on 12 March 2024.

This draft ordinance seeks to repeal the previously enacted [Gyeonggi Province Student Rights Ordinance \(2010\)](#), which states, under Article 5, that “students have the right not [to] be discriminated [based on] ... sexual orientation.” This Abolition Ordinance must pass through the relevant standing committee and be

approved by the plenary session to take effect.<sup>25</sup> The local organisation, MINBYUN, informed ILGA World that civil society and the National Human Rights Commission of Korea strongly opposed the draft ordinance, which was ultimately abandoned without being submitted to the Council in December 2023.

## Europe

### Bulgaria

In July 2023, the National Assembly passed the Law Amending and Supplementing the Criminal Code ([Decree No. 152](#)) (2023) to expand protections against discrimination in areas of employment. Decree No. 152 amended Article 172 of the Criminal Code to punish with up to three years' imprisonment and a fine anyone who intentionally impedes another from taking a job or compels them to leave a job because of their “sexual orientation”.<sup>26</sup> The local GLAS (Gays and Lesbians Accepted in Society) Foundation reportedly welcomed the amendments as “the first significant legislative change in favour of LGBTI+ people in Bulgaria since the Protection from Discrimination Act was adopted in 2004”.<sup>27</sup>

(2014) to remove “gender identity” and “gender expression” as categories protected from discrimination.<sup>29</sup> The bill's explanatory notes contain the proposal's rationale: “We believe that there are only two sexes, the difference of which is determined biologically, through chromosomes. The term ‘gender’, on the contrary, is such that any use of it creates ambiguity in the legislation”. Notably, the bill also refers to political discussions surrounding gender identity issues in the United States of America, claiming inaccurately that “biological men are allowed to participate in women’s tournaments on the basis that they identified themselves as women, [resulting in] the profanation and destruction [sic] of these [sports] disciplines”.<sup>30</sup> This bill is one of many regressive legislative attempts introduced and announced in 2023 and early 2024.<sup>31</sup>

### Georgia

Georgia has had legal protections against discrimination based on sexual orientation, gender identity, and gender expression since 2014. The scope of such protections comprises all public and private fields of action.<sup>28</sup> Despite this, there have been attempts to roll back the coverage of such protections and exclude the word “gender” from multiple laws. In July 2023, the [Elimination of All Forms of Discrimination Amendment Bill \(2023\)](#) was introduced to amend Section 1 of the [Act on the Elimination of All Forms of Discrimination](#)

### Guernsey (UK)

The [Prevention of Discrimination \(Guernsey\) Ordinance \(2022\)](#) was voted to pass in the States of Deliberation (the Parliament of the British Crown dependency of Guernsey) in 2022 and came into force in September 2023.<sup>32</sup> The ordinance prohibits discrimination based on sexual orientation in the provision of goods and services, education, employment and accommodation. The ordinance exempts from this prohibition “anything done in connection with acts of worship or other religious observance.”

<sup>25</sup> “경기도의 전국 첫 제정 ‘학생인권조례’ 폐지 움직임” [Gyeonggi Province's move to abolish the nation's first 'Student Human Rights Ordinance'], *Yonhap News Agency*, 7 December 2023.

<sup>26</sup> “Bulgaria steps up legislation against hate crimes”, *The Sofia Globe*, 29 July 2023.

<sup>27</sup> For more information on the existing legal provisions offering protection from discrimination in Bulgaria, refer to: ILGA World, [ILGA World Database - Bulgaria](#), retrieved 1 April 2024.

<sup>28</sup> See the English-translated version of the Act at ILGA World, [ILGA World Database: Protection against discrimination in employment - Georgia](#), retrieved on 2 April 2024.

<sup>29</sup> “იმ კანონების გაუქმებას ვითხოვთ, რომელიც გენდერულ იდენტობას აღიარებს და პრემიერს ვითხოვთ მხარდაჭერას” [We demand the repeal of those laws that recognize gender identity and we ask the Prime Minister for his support.], *Interpressnews*, 1 July 2023; “Гирчи» выступает с инициативой убрать из законодательной базы термин «гендер» [Girchi takes the initiative to remove the term “gender” from the legislative framework], *Аpsny*, 11 July 2023.

<sup>30</sup> “„Гирчи“ საკანონმდებლო ბაზიდან ტერმინის - „გენდერი“ ამოღების ინიციატივით გამოდის” [“Girchi” takes the initiative to remove the term “gender” from the legal base], *Interpressnews*, 9 July 2023.

<sup>31</sup> For more information, please refer to the chapters on Freedom of Expression and Freedom of Association in this report.

<sup>32</sup> “Anti-discrimination law comes into force on Sunday”, *BBC News*, 30 September 2023; “Guernsey anti-discrimination law 'States' biggest success”, *BBC News*, 14 February 2023.

## Italy

At least two progressive judicial decisions were made in Italy regarding employment discrimination based on sexual orientation and gender identity.

In the region of Lazio, in January 2023, the Labour Tribunal of Rome ruled that, even if there is no law explicitly prohibiting discrimination based on gender identity in employment, the dismissal of a trans woman from a teaching position was unlawful because it constituted “sex discrimination”. As a result, the school was ordered to compensate her for the time during which she could not perform her job.<sup>33</sup> Furthermore, in March 2023, the Court of Cassation, in *Judgment No. 7,029 (2023)*, established that making derogatory or mocking comments about a colleague based on their sexual orientation constitutes discrimination. The court ruled that such behaviour warrants dismissal from employment.<sup>34</sup>

## Moldova

In 2023, the Law on Ensuring Equality (*Law No. 121 (2012)*) was amended with the entry into force of the Law of Revision of the Regulatory Framework on Non-Discrimination and Ensuring Equality (*Law No. 2 (2023)*) to include sexual orientation and gender identity among the grounds protected from discrimination in Article 1. While employment discrimination has been legally prohibited since 2013, this amendment extended such protections, as well as protection based on gender identity, to the provisions of goods and services, education, medical assistance services, and other health services.

## Netherlands

In January 2023, a constitutional amendment was approved by a 56-15 vote in the Senate.<sup>35</sup> Article 1 of the *Dutch Constitution (2023)* now states that

discrimination based on “sexual orientation” shall not be permitted. In February, the Minister of Interior and Kingdom Relations officially signed the expansion to the anti-discrimination clause.<sup>36</sup>

It is to be noted that the 2023 amendment did not explicitly include gender identity, gender expression, or sex characteristics. However, COC Nederland stated that the government and its proposers “confirmed many times during the consideration of this bill” that the prohibition of discrimination on the grounds of “sex” (already enshrined in the Constitution) also constitutionally protects people against discrimination based on gender identity, gender expression, and sex characteristics.

According to media outlets, in March 2024, the Minister for the Interior and Kingdom Relations and the Minister for Justice and Security presented a bill to Parliament to amend the Criminal Code. The attempt is to provide better legal protection by updating legal terminology to prohibit and penalise discrimination on the grounds of “sexual orientation,” replacing the previous “hetero or homosexual orientation” phrasing.<sup>37</sup>

## Portugal

In January 2024, *Decree No. 127/XV (2024)* was passed by the Assembly of the Portuguese Republic to implement measures to respect children's gender identity and expression in education.<sup>38</sup> As per Article 1 of the law, its main aim was to establish the legal framework for the administrative measures that schools must adopt to promote the exercise of the right to self-determination of gender identity and gender expression and the right to protection of sex characteristics, as mandated by Article 12(1) of *Law No. 38 (2018)*.<sup>39</sup> The provisions of this bill aimed to ensure that young people undergoing social gender transitions had their autonomy and privacy respected. To that end, administrative procedures were adjusted to accommodate their self-identified gender, allowing for changes in name and gender on official documents. Schools were also mandated to adopt non-discriminatory practices and enable children to use their

<sup>33</sup> ““Fu licenziata perché transessuale”, il giudice condanna la scuola di Roma a rimborsare la professoressa: “Una sentenza storica” [“She was fired because she was transsexual”, the judge condemns the Rome school to reimburse the teacher: “A historic sentence”], *Il Fatto Quotidiano*, 16 January 2023.

<sup>34</sup> “Illazioni sull’orientamento sessuale della collega? Sì al licenziamento” [Inferences about the sexual orientation of the colleague? Yes to dismissal], *Il Sole 24 Ore*, 10 March 2023.

<sup>35</sup> “Niederländische Verfassung schützt jetzt auch LGBTIQ” [Dutch constitution now also protects LGBTIQ], *Mannschaft Magazin*, 22 January 2023.

<sup>36</sup> “Minister signs expanded anti-discrimination article to Dutch constitution”, *NL Times*, 19 February 2023.

<sup>37</sup> “Better legal protection for bisexual, transgender, and intersex people in the making” [Betere wettelijke bescherming bi+, trans en intersekse mensen in de maak], *Gaykrant*, 11 March 2024.

<sup>38</sup> “Escolas vão ter responsável para jovens manifestarem identidade de género” [Schools will have responsible for young people to manifest gender identity], *Público (Portugal)*, 18 April 2023.

<sup>39</sup> Article 12(1) establishes: Education and teaching. 1 – The State must guarantee the adoption of measures in the educational system, at all levels of education and study cycles, that promote the exercise of the right to self-determination of gender identity and gender expression and the right to protection of the sexual characteristics of people.

chosen name in all activities, creating environments where self-identified gender was respected, among other measures. Access to adequate bathrooms was also guaranteed, as long as “the well-being of everyone” was ensured and “any adaptations deemed necessary for this purpose” had been made.

However, the President of Portugal vetoed the bill. In his [veto resolution](#), the President argued that children under 16 cannot make decisions regarding school activities, locker rooms, or toilets without sufficient parental involvement.<sup>40</sup> This veto is one of several issued by the President against progressive laws on sexual and gender diversity. In this context, the President stated, “the future Assembly should introduce more realism on this issue.”<sup>41</sup>

## Spain

Between January 2023 and March 2024, Spain saw progress in legal protections against discrimination, specifically at the national level and in the Basque Country. However, during this period, the first legal regression on the rights of LGBTQ people took place in the Community of Madrid.

In February 2023, both chambers of the Parliament approved the momentous Law for the real and effective equality of trans people and to guarantee the rights of LGBTI people ([Law No. 4](#)) (2023). This law, among many other legal victories, amplifies the protections against discrimination based on sexual orientation, gender identity and gender expression that already existed in Spanish legislation. Moreover, it incorporated “sex characteristics” into the categories legally protected against discrimination. The law includes several provisions aimed at guaranteeing equality in the provision of goods and services in healthcare, education, employment, and housing.<sup>42</sup> These national-level provisions are complemented by subnational

legislation in most Autonomous Communities in Spain to varying degrees.<sup>43</sup> In March 2023, right-wing and far-right parliamentarians challenged this law before the Constitutional Court. However, the lodging of this appeal does not automatically result in the suspension of the law. Therefore, the law remains in full effect and continues to be enforced.<sup>44</sup>

Further progress was observed in the Basque Country when, in February 2024, the local parliament passed the Law on Non-Discrimination on the Grounds of Gender Identity and Recognition of the Rights of Trans Persons ([Law No. 4](#)) (2024). This law prohibits discrimination based on “sexual and gender identity”. While Article 10 guarantees the right to enjoy the highest level of physical and mental health without discrimination, Article 31 ensures that education is free from pressure, aggression, or discrimination. This protects students, professors, and school staff. Furthermore, Articles 27 and 29 forbid any discrimination in employment, whether in the public or private sector.<sup>45</sup>

However, in stark contrast to Spain’s consistent path of legal victories since the early 2000s—which has positioned the country as a leader in the legal protection of the rights of LGBTQ people—October 2023 saw the conservative People’s Party (PP) introduced [Bill No. 6](#) (XIII) (2023) and [Bill No. 7](#) (XIII) (2023). Holding an absolute majority in Madrid’s Parliamentary Assembly and control of the regional government, the PP introduced these bills to enact worrying amendments to both Law No. 2 and 3 (2016), as they removed most of the equality measures and safeguards against discrimination included in the 2016 laws, particularly (but not limited to) those concerning trans people. Both bills erase most explicit bans on discrimination based on gender identity or gender expression and replace them with a ban on any discrimination on the grounds of “a transsexuality condition”, expressly opening the door to make this “condition” dependent on a medical evaluation.<sup>46</sup>

<sup>40</sup> Several provisions in the law made explicit reference to the involvement of parents in adopted measures, in particular Articles 4(a), 5(2), 5(4)(a), and 6(1)(c). See: Decree No. 127 (2024). Original title: Decreto da Assembleia da República No. 127/XV: Estabelece o quadro jurídico para a emissão das medidas administrativas a adotar pelas escolas para a implementação da Lei n.º 38/2018, de 7 de agosto, e procede à sua alteração.

<sup>41</sup> “PAN acusa PR de “falta de imparcialidade” por vetar nome neutro e autodeterminação de género nas escolas” [PAN accuses PR of “lack of impartiality” for vetoing neutral names and gender self-determination in schools], *RTP*, 30 January 2024; “El presidente de Portugal veta la ley de autodeterminación de género en las escuelas” [The president of Portugal vetoes the law on gender self-determination in schools], *InfoLibre*, 30 January 2024; “No respeta el papel de los padres”: el presidente de Portugal vetó la Ley de Identidad de Género en las escuelas” [“Does not respect the role of parents”: the president of Portugal vetoed the Gender Identity Law in schools], *Perfil.com*, 30 January 2024.

<sup>42</sup> For example, Article 79 of Law No. 4 classifies the denial of goods and services based on “sexual orientation”, “sexual identity”, “gender expression” or “sex characteristics” as a “very serious infraction”. For more information, see ILGA World, *ILGA World Database: Protection against discrimination in employment - Spain*, retrieved on 20 October 2023.

<sup>43</sup> For more information, refer to: ILGA World, *ILGA World Database - Spain*, retrieved on 1 April 2023.

<sup>44</sup> “Vox recurrirá esta semana la ley trans ante el Tribunal Constitucional” [Vox will appeal this week the trans law before the Constitutional Court], *LaSexta*, 30 March 2023.

<sup>45</sup> “Más de 200 vascos han cambiado de sexo en el registro tras la entrada en vigor de la ‘ley trans’” [More than 200 Basques have changed their sex in the registry after the entry into force of the ‘trans law’], *El Correo*, 12 February 2024; “La reforma de la ‘ley trans’ de Euskadi supera el penúltimo trámite con el respaldo de todos los grupos salvo el PP” [The reform of the ‘trans law’ of Euskadi passes the penultimate process with the support of all groups except the PP], *Europa Press*, 31 January 2024.

<sup>46</sup> “En España hay 15 CCAA con leyes trans o LGTBI, pero Madrid es la primera en ‘recortar’ las suyas” [In Spain there are 15 CCAA with trans or LGTBI laws, but Madrid is the first to ‘cut’ its own], *Newtral*, 23 December 2023.

These bills have a wide impact on previous anti-discrimination legislation in different areas. For instance, Bill No. 6 (XIII) lifts the prohibition of requiring a psychiatric evaluation to access affirming care and, instead, states that such an evaluation will never be “considered” discriminatory. In practice, this might make it much more difficult to challenge any potentially discriminatory medical decision concerning trans-specific healthcare. Also, Bill No. 6 (XIII) implements a mandatory mental health evaluation for trans and gender-diverse children. If this evaluation is not passed, trans children could be denied authorisation to access trans-specific healthcare, and be given no easy route for them or their legal guardians to appeal. Moreover, Bill No. 6 (XIII) establishes that “transsexual” students should be able to dress freely, but only if this is not deemed as disrespectful to other students, while they should be addressed by their preferred name only if one of their legal representatives authorises it.

For its part, Bill No. 7 repeals every provision of Law No. 3 related to education, including Article 29. The bill also erases the obligation to include respect for sexual and gender diversity in educational curricula or to develop protocols against LGBTI-phobic bullying. Moreover, it also removes the provision that punished discrimination in housing on the grounds of SOGIESC. In December 2023, both bills were passed with no significant changes, as [Law No. 17 \(2023\)](#) and [Law No. 18 \(2023\)](#), respectively.

Although legislation at the State level still protects the right to non-discrimination, regional authorities hold most powers in critical areas such as healthcare and education, so setbacks in the legislation of the Autonomous Communities can profoundly impact effective equality in practice.<sup>47</sup> Moreover, in April 2024, it was reported that the Spanish Ombudsman had filed a lawsuit against Law No. 17 (2023) before the Constitutional Court. If successful, this could potentially revert the changes made to Law No. 2 (2016).<sup>48</sup>

## Türkiye

Türkiye has no national legislation in place protecting persons based on their SOGIESC. In 2015, the Republic People's Party introduced before the [Grand National Assembly a Bill to Amend the Labor Law and the Turkish Penal Code \(2015\)](#), which sought to include sexual orientation, gender identity, and gender expression as protected categories from discrimination in employment law and in the provision of goods and services. Despite being reintroduced three times in subsequent legislative sessions, the bill has yet to progress beyond the committee stage, where it was last referred to for review in June 2023 and has not been passed into law.<sup>49</sup>

## United Kingdom

In 2023, regressive initiatives were proposed in the United Kingdom, especially with regard to the legal protections of trans and gender diverse people.<sup>50</sup>

On 3 April 2023, the Equality and Human Rights Commission issued a [letter \(2023\)](#) addressed to the Equality Minister, recommending that the category of “sex” in the [Equality Act \(2010\)](#) be amended to mean “biological sex”. In their own words: “If ‘sex’ is defined as biological sex for the purposes of [the Equality Act], this would bring greater legal clarity”. The letter makes it clear that the purpose of the amendment would be to exclude trans women from accessing sex-based legal protections.<sup>51</sup>

In December 2023, the Department for Education published a draft of the non-statutory guidance for schools and colleges in England titled “Gender Questioning Children”, which underwent a 12-week consultation period.<sup>52</sup> Local organisations have

<sup>47</sup> “En España hay 15 CCAA con leyes trans o LGTBI, pero Madrid es la primera en ‘recortar’ las suyas” [In Spain there are 15 CCAA with trans or LGTBI laws, but Madrid is the first to ‘cut’ its own], Newtral, 23 December 2023; “Ayuso recorta las leyes LGTBI de la Comunidad de Madrid con el apoyo de Vox” [Ayuso cuts the LGTBI laws of the Community of Madrid with the support of Vox], RTVE, 23 December 2023.

<sup>48</sup> “El Defensor del Pueblo recurre ante el Constitucional la ley trans de Madrid por vulnerar derechos de los menores” [The Ombudsman appeals to the Constitutional Court against Madrid’s trans law for violating the rights of minors], *20 minutos*, 02 April 2024; “El Defensor del Pueblo lleva al Constitucional la reforma de la ‘ley trans’ de Ayuso por ‘patologizar a los menores’” [The Ombudsman takes the reform of Ayuso’s ‘trans law’ to the Constitutional Court for “pathologizing minors”], *eldiario.es*, 01 April 2024.

<sup>49</sup> “İş Kanunu ve Türk Ceza Kanununda Değişiklik Yapılması Hakkında Kanun Teklifi” [Law Proposal on Amending the Labor Law and the Turkish Penal Code], *Grand National Assembly of Turkey*, 22 June 2023.

<sup>50</sup> All four constituent countries of the United Kingdom (England, Wales, Scotland, and Northern Ireland) prohibit employment discrimination based on “gender reassignment”. Additionally, protections based on this characteristic extend to housing, health, goods and services, and education in England, Wales, and Scotland. “Gender reassignment” as a protected category varies from the seemingly more encompassing and widely adopted “gender identity” category. However, local case law and other sources, including the Solicitor General and the Equality and Human Rights Commission, have in recent years explained that “gender reassignment” also encompasses trans people who have not undergone any medical process of transition. For more information, please refer to ILGA World, *ILGA World Database - United Kingdom* (retrieved: 15 April 2024).

<sup>51</sup> “The EHRC wants to redefine sex. Here’s what it means for trans people - openDemocracy”, *Open Democracy*, 06 April 2023.

<sup>52</sup> Department for Education, *Gender Questioning Children: Non-statutory guidance for schools and colleges in England. Draft for consultation* (December 2023).

described this draft as “upsetting and scary” and “deeply disappointing”, as it “furthers the pain and the misunderstanding that trans young people have experienced in recent years”.<sup>53</sup> For its part, Stonewall stated that the draft guidance “does not put the best interests of children first, and as such is simply not fit for purpose”, and even if it does not constitute

enforceable law, it will have “a chilling effect akin to Section 28, leaving children and young people who are trans or questioning their gender exposed to bullying and harassment”.<sup>54</sup> The draft covers issues such as names, pronouns, uniforms, gender/sex markers, coming out, facilities, and sports.

## Latin America & the Caribbean

### Argentina

On 10 December 2023, President Javier Milei assumed office, and during his initial months in power, Argentina witnessed a succession of regressive measures concerning antidiscriminatory policies. These measures include the elimination of the Ministry of Women, Genders, and Diversity, the Subsecretariat of Diversity Policies, and the position of Special Representative on Sexual Orientation and Gender Identity within the Foreign Affairs Ministry; the announcement of the closure of the National Institute against Discrimination, Xenophobia, and Racism (INADI);<sup>55</sup> the announcement of a ban on inclusive language in the National Public Administration,<sup>56</sup> non-compliance with the national law on job quotas for trans and transgender individuals in public employment, among many others.<sup>57</sup>

In December 2020, the province of Santa Cruz passed the Comprehensive Law for the Recognition and Historical Reparation of the Rights of Trans Persons (Law No. 3.724) (2020). The law grants protections to persons in Santa Cruz based on their “gender identity” and “gender expression” in healthcare, education,

employment, and housing.<sup>58</sup> The implementation of this law was regulated by the Executive in March 2023 by Decree No. 259.<sup>59</sup>

### Chile

In January 2024, the Human Rights Commission of the Chamber of Deputies approved a bill to amend and strengthen Law No. 20,609 (2012) which establishes measures against discrimination, locally known as the “Zamudio Law”. The proposed changes to the law entail several key adjustments: revising the law’s objectives, broadening the definition of arbitrary discrimination to include indirect, multiple, and structural forms; increasing the maximum fine for those found guilty of discriminatory acts; explicitly introducing a compensatory action tied to instances of discrimination while declaring its incompatibility with similar actions; significant procedural modifications such as the filing of complaints, rules governing case resolution, and exceptions for defendants. Additionally, amendments are proposed for both the Penal Code and the Labor Code.<sup>60</sup>

<sup>53</sup> “Gender questioning children: ‘Just Like Us’ response to the government’s draft trans guidance for schools”, *Just Like Us*, January 2024; “What does the proposed trans schools guidance really say? A Mermaids explainer”, *Mermaids*, 10 January 2024.

<sup>54</sup> “Not fit for purpose” - Stonewall’s response to draft trans guidance for schools in England”, *Stonewall*, 19 December 2023.

<sup>55</sup> In 2023, during the previous administration, the National Institute against Discrimination, Xenophobia, and Racism (INADI) created and formalised antidiscriminatory programs and instruments aimed at various populations, including LGBTI+ individuals. These programs include the Workplace Spaces without Discrimination Program (Resolution No. 53/2023), the Schools without Discrimination Program (Resolution No. 116/2023), the Territories against Discrimination Program (Resolution No. 117/2023), the Equal Opportunity Initiative for People with Disabilities Program (Resolution No. 1 INADI - National Disability Agency), the National Observatory on Discrimination in Digital Coexistence (Resolution No. 138/2023), and the National Observatory on Stigma and Discrimination related to HIV, Viral Hepatitis, other Sexually Transmitted Infections (STIs), and Tuberculosis (TB). See, among others: “Políticas contra la discriminación en cada rincón del país” [Anti-Discrimination Policies in Every Corner of the Country], *Argentina.gob*, 17 June 2023.

<sup>56</sup> This was implemented within the Ministry of Defense through Resolution No. 160/2024 (2024).

<sup>57</sup> See, among others: “El Frente Orgullo y Lucha adhiere al paro y movilización del 24 de enero en rechazo al mega DNU y a la ley omnibus” [The Orgullo y Lucha Front adheres to the strike and mobilization of January 24 in rejection of the mega DNU and the omnibus law], *Conurbanes por la Diversidad* (retrieved 1 May 2024); “Sí a la continuidad del INADI! Pedido del Frente Orgullo y Lucha al Congreso” [Yes to the continuity of INADI! Request from the Orgullo y Lucha Front to Congress], *100% Diversidad y Derechos*, 14 January 2024; “Argentina: el gobierno anunció el cierre del INADI” [Argentina: the government announced the closure of INADI], *Agencia Presentes*, 22 February 2024; “La lucha contra la discriminación ya no es una política de Estado argentino de Milei” [The fight against discrimination is no longer an Argentine State policy by Milei], *Afro Fémias*, 23 February 2024; “El gobierno despidió a más de 90 personas trans de la administración pública” [The government dismissed more than 90 trans people from the public administration], *Página 12*, 6 April 2024; “Al prohibir el lenguaje inclusivo en el Estado, el gobierno argentino incumple la Ley de Identidad de género” [“By prohibiting inclusive language in the State, the Argentine government fails to comply with the Gender Identity Law”], *Agencia Presentes*, 28 February 2024; “Se oficializó por decreto la eliminación del Ministerio de las Mujeres, Géneros y Diversidad” [The elimination of the Ministry of Women, Gender and Diversity was made official by decree], *Perfil.com*, 12 December 2023;

<sup>58</sup> Other legislation protecting persons on the basis of “sexual orientation” have also been enacted in Santa Cruz in healthcare. For more information, see ILGA World, *ILGA World Database: Protection against discrimination in health - Santa Cruz (Argentina)*, retrieved on 20 October 2023.

<sup>59</sup> “Santa Cruz reglamentó la Ley Integral de Reconocimiento y Reparación de los Derechos de las personas trans” [Santa Cruz regulated the Comprehensive Law for the Recognition and Reparation of the Rights of trans people], *Página 12*, 27 March 2023.

<sup>60</sup> Information submitted to ILGA by OTD Chile. See also: “Derechos Humanos aprobó reforma que fortalece Ley Zamudio”, *Cámara de Diputadas y*



## Colombia

In 2023, the Government presented a Bill on Labour Reform ([Bill No. 367](#)) (2023), which, if passed, would amend various articles of Colombian labour law to prohibit discrimination based on sexual orientation and gender identity in employment. Another Bill on Labour Reform ([Bill No. 409](#)) (2023) was also introduced to enact similar protections.<sup>61</sup>

In May 2023, [Law No. 2294](#) (2023) set forth the National Development Plan that acknowledges LGBTIQ individuals as subjects of special constitutional protection and ensures their inclusion and effective equality, materializing it in various actions within this planning tool.<sup>62</sup> Furthermore, in June 2023, [Decree No. 1075](#) (2023) formalised the creation and operation of the Ministry of Equality and Equity.<sup>63</sup>

In 2023, the Colombian Constitutional Court issued several progressive decisions that have contributed to strengthening the Colombia legal framework in several regards.

In March, the Court ruled in [Judgment SU-067](#) (2023) in favour of a trans woman who was fired from the clinic she worked for as a doctor after undergoing several medical interventions as part of her transition. The Constitutional Court stated that the courts that had previously considered her case had not correctly assessed whether her dismissal had been motivated by her gender identity and that, in addition, the applicant had been discriminated against in the administration of justice. For these reasons, the Court decided to overturn the termination of her contract, to order her employer to restore her to her job, and to pay her all the wages she had not received since her dismissal.<sup>64</sup>

Furthermore, in [Judgement C-324](#) (2023), the Court ruled that transgender men and non-binary were entitled to apply for parental leave under the same conditions as cisgender women, arising from the Court's progressive interpretation of legal terms such as

“worker”, “mother”, and “woman” within Article 236 of the Substantive Labor Code, as amended by Article 2 of Law 2114 of 2021.



## Costa Rica

On 22 June 2023, the Frente Amplio party presented a new bill, [File No. 23.809](#) (2023), to recognise trans, non-binary, gender diverse and intersex identities. If passed, it would introduce a comprehensive legal framework for protection from discrimination based on gender identity, gender expression, and sex characteristics in education, employment, housing, and healthcare.<sup>65</sup>

In March 2024, according to media outlets, the Constitutional Court ruled against an establishment for refusing entry to an individual due to their appearance and way of dressing, specifically for wearing makeup and carrying a bag, which was perceived as discrimination based on sexual orientation and gender expression. The Court recognised this act as a violation of rights to equality and non-discrimination, ordering the establishment to compensate the victim and cautioning against future discriminatory practices.<sup>66</sup>



## Cuba

In September 2023, the Protocol of Action in Situations of Discrimination, Violence and Harassment in the Workplace ([Decree No. 96](#)) (2023) entered into force. Article 10(1) prohibits discrimination, violence and harassment based on sexual orientation and gender identity in the workplace.<sup>67</sup>

Furthermore, in December 2023, the National Assembly passed the Law on Public Health ([Law No. 165](#)) (2023), wherein Articles 132 and 133 recognise the right to sexual and reproductive health without discrimination. It expressly mentions sexual orientation

Diputados de Chile, 25 January 2024.

<sup>61</sup> “Últimos retoques: este es el nuevo borrador de la reforma laboral” [Final touches: this is the new draft of the labor reform], *El Universal (Colombia)*, 17 March 2023.

<sup>62</sup> For example, Article 70 establishes the National System of Equality and Equity, promoting policies to eliminate inequalities and non-discrimination. Article 74 urges the creation of policies for decent work with a differential approach, while Article 81 proposes a plan for formalizing public employment to ensure equal inclusion, especially for individuals with diverse gender identities. Likewise, Article 109 leads a policy of citizen and electoral participation, incorporating differential approaches to promote political rights of the LGBTIQ+ population. Finally, Article 114 establishes an interinstitutional and territorial mechanism for the prevention and comprehensive care of violence and discrimination against LGBTIQ+ individuals.

<sup>63</sup> The Ministry is dedicated to tackling racism, discrimination, gender disparities, and violence, prioritizing the protection of vulnerable rights. Its goals encompass policy development, equality promotion, and advocacy for constitutional protection and marginalized groups. Integrated state entities include ICBF, INSOR, and INCI, with plans for strategic partnerships. Five deputy ministries will oversee areas like Women's Affairs and Poverty Alleviation. Immediate focus is on establishing a national mechanism to combat discrimination against the LGBTIQ+ community. The Ministry's structure reflects its commitment to addressing multifaceted social challenges while ensuring inclusivity and equitable representation across various sectors.

<sup>64</sup> “Decisión histórica: Corte Constitucional ampara derechos de mujer trans y afrodescendiente que fue despedida por su identidad de género” [Historic decision: Constitutional Court protects the rights of trans and Afro-descendant women who were fired for their gender identity], *Semana*, 17 March 2023.

<sup>65</sup> “Diputada propone que instituciones reserven plazas a personas trans” [Deputy proposes that institutions reserve places for trans people], *CRHoy.com*, 25 June 2023.

<sup>66</sup> “Sala IV condena a conocido bar en Lindora por discriminación” [Chamber IV condemns a well-known bar in Lindora for discrimination], *CRHoy.com*, 14 March 2024.

<sup>67</sup> “Nuevo decreto en Cuba protege contra la discriminación, la violencia y el acoso en el ámbito laboral” [New decree in Cuba protects against discrimination, violence and harassment in the workplace], *Periódico Sierra Maestra*, 30 September 2023.

and gender identity as a characteristic protected by this right in the area of healthcare.<sup>68</sup>

## Mexico

In November 2023, the [Comprehensive Access to the Rights of Trans People Bill \(2023\)](#) was introduced into the Chamber of Deputies to expand these discrimination protections for transgender people. Article 6 enshrines a comprehensive ban on all forms of discrimination against trans people motivated by their gender identity or gender expression. The bill contains specific provisions on work and labour rights, dignified housing, comprehensive right to education, and the highest attainable standard of health without discrimination based on their self-perceived gender identity or gender expression.<sup>69</sup>

## Peru

In February 2023, [Supreme Decree No. 002-2023-MIMP \(2023\)](#) officially adopted the Joint Action Protocol of the State for the Articulation of Services in contexts of detention, retention, and police intervention for women and vulnerable individuals. This protocol

established certain measures to prevent discrimination against LGBT people in contexts of police intervention, detention, and retention. These measures include the duty not to assume the sexual orientation or gender identity of the person intervened and ensuring dignified treatment, which entails referring to individuals by the name they indicate, irrespective of the information stated in their National Identity Document. Additionally, according to the protocol, the Ministry of Women and Vulnerable Populations, through the National AURORA Program and within the framework of its competencies, provides complementary services as necessary, such as legal advice, psychological care, and social assistance.

## Venezuela

On 28 March 2023, the National Assembly of Venezuela decided to advance the [Draft Organic Law Against All Types of Discrimination \(2023\)](#) to the second stage of the legislative process. The bill prohibits any distinction, exclusion, restriction, preference, or other differential treatment based directly or indirectly on sexual orientation, gender identity, or gender expression in any area of public life. In August 2023, the bill underwent a public consultation before returning to the Assembly.<sup>70</sup>

## North America

### United States of America

On the occasion of Trans Day of Visibility in March 2023, and against a concerning trend of regressive legislation being proposed at the state level, the Democratic Party introduced [House Resolution No. 269 \(2023\)](#) and [Senate Resolution No. 144 \(2023\)](#) in the US Congress with the aim of affirming the obligation of the US Federal Government to formulate and enforce a “Transgender Bill of Rights”. These resolutions represent a call to safeguard and enshrine the rights of transgender and nonbinary individuals within the legal framework in order to ensure their access to essential resources such as medical care, housing, security, and financial stability.

However, these initiatives primarily serve a symbolic purpose, as they do not entail any immediate alterations

to federal laws or regulations. The directives outlined in them are not binding on lawmakers, even in the event of overwhelming support. Resolutions, being non-binding instruments, neither necessitate the endorsement of the opposing legislative chamber nor the approval of the president, and they lack the force of law.

These resolutions were introduced against the backdrop of the continued trend of state lawmakers introducing hundreds of anti-LGBTQ bills throughout the country. Indeed, by June 2023, the Human Rights Campaign Legislative Impact Report had already recorded over 525 state bills, with 220 targeting transgender individuals having been introduced and over 70 of them having been enacted. These bills and enacted laws reflect a coordinated anti-LGBTQ stance within the Republican establishment, supported by well-funded extremist groups like the Alliance Defending Freedom (ADF), Heritage Foundation, and

<sup>68</sup> “La mirada de género y de derechos sexuales y reproductivos de la nueva Ley de Salud Pública cubana” [The gender perspective and sexual and reproductive rights of the new Cuban Public Health Law], Radio Habana Cuba, 16 January 2024.

<sup>69</sup> “Diputada María Clemente García impulsa ley que dé vivienda, cirugías y tratamientos a personas trans” [Representative María Clemente García promotes a law that provides housing, surgeries and treatments for trans people], *El Universal (Mexico)*, 24 November 2023.

<sup>70</sup> “Parlamento prepara una ley contra todo tipo de discriminación” [Parliament prepares a law against all types of discrimination], *El Carabobeño*, 29 March 2023.



Family Policy Alliance, aiming to exert control over families and lives.<sup>71</sup>

Additionally, in June 2023, the Equality Bill (HR 15) (2023) was reintroduced to prohibit discrimination based on sexual orientation, gender identity, and sex characteristics in employment, housing, public accommodations, and education, among other areas at the federal level.<sup>72</sup> This bill is a successor of similar bills passed at the House level in 2019 and 2021 but stalled at the Senate, thus never becoming law. Human Rights Campaign President Kelley Robinson called for the swift and urgent passage of the bill, telling members of a Senate panel that “LGBTQ+ people of the United States of America are living in a state of emergency” in a time of rising political extremism and hundreds of regressive bills introduced and passed in state legislatures.<sup>73</sup>

Also, in June 2023, the Fair and Equal Housing Act (2023) was reintroduced in the House of Representatives. This bill aims to explicitly include sexual orientation and gender identity as protected characteristics under the Fair Housing Act (1968). Currently, less than half of US states offer this legal protection at the state level.<sup>74</sup>

In contrast to these progressive attempts in Congress, a sharp setback came from the judiciary with regard to discrimination protections for LGBTI people in the United States. On 30 June 2023, the Supreme Court rendered its decision in the case of *303 Creative LLC v. Elenis* (2023), asserting that the free speech clause of the First Amendment granted a designer the right to decline to create wedding websites for same-sex couples if it conflicts with their personal beliefs. In her dissenting opinion, Justice Sotomayor criticised the decision, contending that it essentially bestows “a constitutional right upon businesses open to the public to deny services to members of protected classes”.

The ruling has garnered widespread criticism as a significant setback in protecting the rights of LGBTI individuals against discrimination in public accommodations.<sup>75</sup>

### Facing the Tide: Monitoring the Assault on Sexual and Gender Diversity Through Regressive Bills in the United States of America

Due to resource constraints, ILGA World’s Research Programme has regrettably ceased its monitoring of the extensive and rapidly evolving legal developments at the subnational level in the United States of America, effective from January 2024.

For current and detailed information on developments in individual US states, please consult:

- Movement Advancement Project: [Snapshot LGBTQ Equality by State](#).
- Human Rights Campaign: [Attacks on Gender Affirming Care by State](#).
- ACLU: [Mapping Attacks on LGBTQ Rights in U.S. State Legislatures in 2024](#).
- Equality Federation: [State Legislation Tracker](#).
- The Trevor Project: [LGBTQ+ Legislation Heatmap by State](#).
- Track Trans Legislation: [2023 Anti-Trans Legislation](#).
- Trans Legislation Tracker Project: [2024 Anti-Trans Bills Tracker](#).
- For specific information on progressive legislative efforts, please refer to GLSEN: [State Legislative Tracker 2024: Pro-LGBTQ+ Legislation Affecting Schools](#).

## Oceania



### Australia

Between January 2023 and April 2024, Australia saw progress in protections against discrimination at the subnational level in the states of Queensland and New South Wales.

In April 2023, the Queensland government accepted in principle all recommendations from the Queensland Human Rights Commission (QHRC) in an [official government response](#) to introduce a new Anti-Discrimination Act. After public consultation, in February 2024, the Queensland government introduced the [Anti-Discrimination Bill \(2024\)](#), which would replace

<sup>71</sup> “LGBTQ+ Americans Under Attack: A Report and Reflection on the 2023 State Legislative Session”, *Human Rights Campaign*, 8 June 2023.

<sup>72</sup> “Equality Act, the Sweeping LGBTQ+ Rights Bill, Reintroduced in Congress”, *The Advocate (USA)*, 22 June 2023.

<sup>73</sup> “As Congress Re-Introduces Equality Act, Human Rights Campaign President Calls for its Urgent Passage, Testifies Before Senate Judiciary Committee: ‘LGBTQ+ People are Living in a State of Emergency’”, *Human Rights Campaign*, 21 June 2023.

<sup>74</sup> “Fair and Equal Housing Act”, *Human Rights Campaign*, 7 April 2024.

<sup>75</sup> “SCOTUS Rules in Favor of Anti-LGBTQ Business Owner”, *Raw Story*, 30 June 2023.

an existing 1991 Act.<sup>76</sup> The bill seeks to extend the coverage of such protections based on one's "sex characteristics" while also including "other expressions of the person's gender, including name, dress, speech and behaviour" in the definition of "gender identity" to provide protections based on gender expression.<sup>77</sup>

Moreover, in June 2023, the [Equality Legislation Amendment \(LGBTIQ+\) Bill \(2023\)](#) was introduced in the New South Wales Legislative Assembly, seeking to expand these protections and remove specific provisions limiting its coverage.<sup>78</sup> This omnibus bill amends the Anti-Discrimination Act (1977) by removing the term "homosexuality" and replacing it with "sexuality" to include "homosexuality", "bisexuality", or "asexuality". Reference to sexuality in this Bill includes "actual or perceived" sexuality. The Bill, if passed, would also replace the definition of a "transgender person" with "a person who lives as a member of another sex", which is also not exclusively "male or female", making it so that legal gender recognition is not a prerequisite to

be protected by the Anti-Discrimination Act. The Bill also introduces a new division in the Act, expanding the protections to include "variations of sex characteristics" as a protected category in the provision of goods and services, healthcare, education, employment, and housing.<sup>79</sup>

## New Zealand

In August 2023, the [Human Rights \(Prohibition of Discrimination on the grounds of Gender Identity or Expression, and Variations of Sex Characteristics\) Amendment Bill \(2023\)](#) was introduced in Parliament. The bill amends section 21 of the Human Rights Act to include gender identity, gender expression, and variations in sex characteristics in the prohibited grounds of discrimination. This would apply to access to goods and services (including health services), education, employment, and housing if passed.<sup>80</sup>

<sup>76</sup> In Queensland, the Anti-Discrimination Act prohibits broad protections against discrimination in the provision of goods and services, in healthcare, in education, in work-related areas, and in housing based on an individual's "sexuality" and "gender identity", which is a protected characteristic under Chapter 2, Part 2, Section 7(n) of the Act. "Sexuality" is defined as "heterosexuality, homosexuality or bisexuality". See as well: "Queensland To Introduce Stricter Anti-Hate Crime And Anti-Discrimination Laws", *Star Observer*, 06 April 2023; "The Queensland Government's overhaul of its anti-discrimination framework means big changes for employers", *Lexology*, 18 April 2023; "Queensland to toughen penalties for gay and trans hate crimes", *QNews*, 29 March 2023.

<sup>77</sup> See "Anti-Discrimination Bill 2024 Consultation", *Queensland Government - Department of Justice and Attorney-General*, retrieved on 18 April 2024.

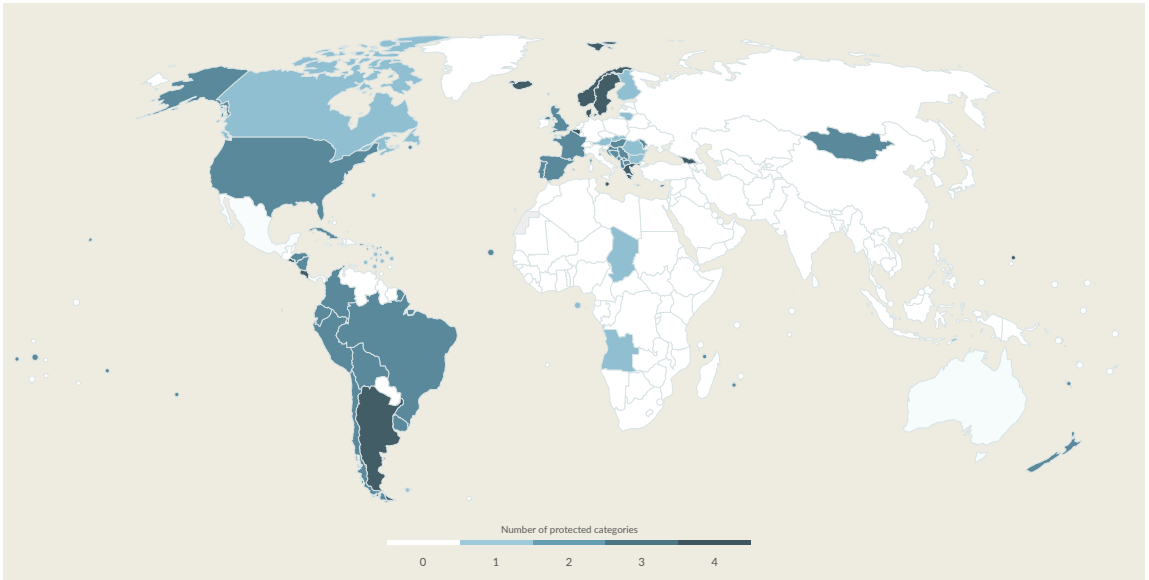
<sup>78</sup> Broad protections against discrimination based on "sexual orientation" have been enacted in New South Wales since the *Anti-Discrimination Act (1977)* was amended in 1982 (enacted in 1983). The 1996 amendment to the Act saw the inclusion of "transgender persons" as a protected ground against discrimination. For more information please refer to ILGA World, *ILGA World Database: Protection against discrimination in the provision of goods and services - New South Wales (Australia)* (retrieved: 2 April 2024).

<sup>79</sup> "NSW equality legislation set to make queer life easier", *Yahoo News Australia*, 22 June 2023; "Sydney MP to introduce omnibus equality bill to allow 16yos to change their sex without surgery, ban gay conversion therapy" [Sydney MP to introduce omnibus equality bill to allow 16yos to change their sex without surgery, ban gay conversion therapy], *The West Australian (Australia)*, 22 June 2023.

<sup>80</sup> "Members bills drawn: Rainbow protections, prescriptions and Samoan citizens", *RNZ*, 03 August 2023.

# Hate Crime Law

**Global Summary** – While very limited progress was noted, there is potential for further advancement in the coming years as multiple UN Member States deliberate on hate crime bills.



## Top Legal Developments (January 2023 – April 2024)

- Two (2) UN Member States (**Bulgaria** and **Germany**) joined the list of countries with hate crime laws for crimes motivated by sexual orientation.
- One (1) non-UN member (Northern Mariana Islands, **USA**) adopted a new hate crime law for crimes motivated by SO, GI, and GE.
- At least six (6) UN Member States and one subnational jurisdiction deliberated on bills aimed at addressing hate crimes, with varying scopes and protected categories.
  - **Dominican Republic** (inclusive of SO, GI, and GE) [only applicable to women].
  - **Ireland** (inclusive of SO, SC, and “gender”, in turn inclusive of trans and gender diverse people).
  - **Mexico** (inclusive of “sexual preference” and “sexual self-ascription”<sup>1</sup>).
  - **Poland** (inclusive of SO and GI).
  - **South Africa** (inclusive of SO, GI, GE, SC).<sup>2</sup>
  - **Ukraine** (inclusive of SO and GI).
  - **Australia, Queensland** (inclusive of SO, GI, GE, and SC).

Sexual Orientation (SO)  
Gender Identity (GI)  
Gender Expression (GE)  
Sex Characteristics (SC)

<sup>1</sup> In Spanish: “auto adscripción sexual”.

<sup>2</sup> Following the cut-off date for the production of this report, ILGA World received information confirming the enactment of this bill by the President of South Africa.

### Global Tallies (UN Member States) - April 2024

Sexual Orientation

60

Gender Identity

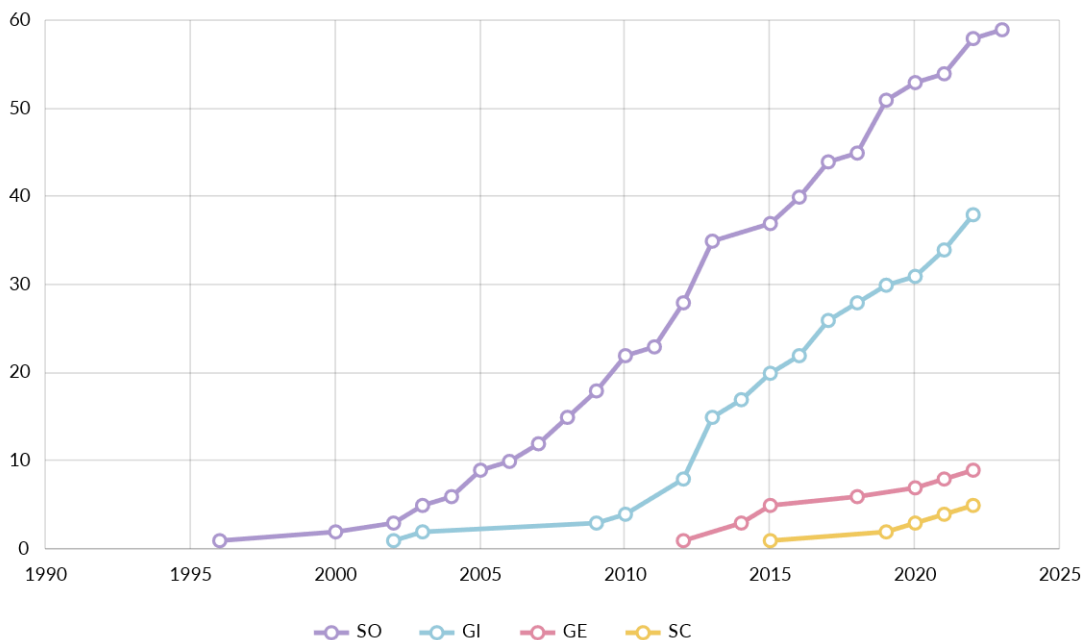
38

Gender Expression

9

Sex Characteristics

5



## Legal developments | January 2023 – April 2024

### Africa

#### South Africa

The National Assembly of South Africa has been considering the Prevention and Combating of Hate Crimes and Hate Speech Bill (Bill B9-2018) (2018) for several years. If enacted, crimes motivated by the victim’s sexual orientation, gender identity, gender expression or sex characteristics will be considered a “hate crime” under Article 3 of the bill. The bill lapsed in

2019 but was reintroduced unchanged in October of that year after the country’s national elections. Nationwide public hearings began on 30 March 2022 to decide the fate of the bill. On 14 March 2023, the National Assembly endorsed the bill, pending the endorsement of the National Council of Provinces (NCOP).<sup>3</sup> In April 2023, the NCOP Select Committee on Security and Justice solicited further comments from the public and interested parties on the bill.<sup>4</sup> In November 2023, the NCOP approved the bill with

<sup>3</sup> “Adoption of Hate Crimes and Hate Speech Bill welcomed”, *The South African*, 18 March 2023;

<sup>4</sup> “New round of public comments for Hate Crimes and Hate Speech Bill”, *Mamba Online*, 23 April 2023.

proposed amendments, which were sent back to the National Assembly for consideration.<sup>5</sup> On 5 December 2023, the bill was finally approved and sent to the President to be signed into law.

Representatives of the largest political party to oppose the bill, the Democratic Alliance (DA) – the primary opposition party at the national level, and governing party of the Western Cape Province and several municipalities – claimed that the bill was “irrational” as existing anti-discrimination legislation could already be considered to cover the issues dealt with in the proposed new law. Notably, Glynis Breytenbach, the DA’s Shadow Minister of Justice and Correctional Services, told local media in 2023 that while her party

did not oppose the inclusion of sexual orientation in a bill of this nature, it was concerned about the inclusion of “gender identity or expression or sex characteristics”, alleging that “no evidence” existed to show that LGBTIQ+ people have faced systematic hate because of their “gender identity or expression or sex characteristics”.<sup>6</sup>

Local civil society and LGBTIQ+ organisations have largely welcomed the eventual progression of the Prevention and Combating of Hate Crimes and Hate Speech Bill, though, given the prevalence of homophobic, transphobic and misogynistic attacks in South Africa and the dearth of comprehensive data and tracking of such incidents.<sup>7</sup>

## Europe

### Bulgaria

To comply with the 2022 judgment of the European Court of Human Rights in the case of *Stoyanova v. Bulgaria* (No. 56070/18) (2022), the National Assembly adopted the Law Amending and Supplementing the Penal Code (Decree No. 152) (2023) on 29 July 2023, becoming the only UN Member State in 2023 to join the list of countries with hate crime legislation. This measure is reportedly the first significant legislative change in favour of the LGBTQ community introduced in Bulgaria since 2004 when the Law on Protection from Discrimination was passed.<sup>8</sup>

In 2022, the ECHR ruled that Bulgaria had to ensure that violent assaults motivated by hostility towards the actual or presumed “sexual orientation” of victims were treated as an aggravated crime. As such, the newly adopted Decree aggravates penalties for the crimes of murder, bodily injury, kidnapping, unlawful deprivation of liberty, criminal damage, destruction of property and instigation to commit a serious crime, when their perpetration is motivated by the “sexual orientation” of the victim.<sup>9</sup>

### Germany

In August 2023, Article 1(4) of the [Law on the Revision of the Law on Sanctions \[...\] \(2023\)](#) amended Article 46 of the Penal Code to aggravate crimes motivated by the victim’s “sexual orientation”.

In November 2023, the German government announced a [Bill on International Criminal Law \(2023\)](#), which would amend the Code of International Law to include “sexual orientation” among the prohibited grounds of the “international crime of persecution”. The goal is to allow German authorities to prosecute violations of International Criminal Law committed against individuals on the grounds of “sexual orientation”.<sup>10</sup>

### Ireland

In April 2023, the Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill ([Bill No. 105](#)) (2022) was passed by the Dáil Éireann (Lower

<sup>5</sup> “Parliament passes key Bills”, *South African Government News Agency*, 6 December 2023.

<sup>6</sup> “Why is the DA so opposed to the Hate Crimes Bill?”, *Mamba Online*, 13 February 2023; “Hate Crimes and Hate Speech Bill passes final hurdle in Parliament”, *Mamba Online*, 5 December 2023.

<sup>7</sup> “Press Release: Hate Crimes Abound across South Africa, but are Poorly Documented”, *Hate Crimes Working Group*; “Hate Crimes Working Group Welcomes the Adoption of the Hate Crimes and Hate Speech Bill by the National Assembly”, *Amnesty International*, 15 March 2023; “CHR supports the National Assembly’s passing of the Prevention and Combating of Hate Crimes and Hate Speech Bill”, *Centre for Human Rights*, 22 March 2023; “South African trans advocates at Iranti-org create hate crime reporting app to influence policy reform”, *Medill Reports Chicago*, 22 May 2023.

<sup>8</sup> “Bulgaria passes landmark legislation against homophobic hate crimes”, *GNC*, 1 August 2023.

<sup>9</sup> “Bulgaria steps up legislation against hate crimes”, *The Sofia Globe*, 29 July 2023.

<sup>10</sup> “Gesetzentwurf der Regierung - Mehr Schutz für LGBTI\*-Menschen angedacht” [Government bill - More protection for LGBTI\* people planned], *Schwilissimo*, 3 November 2023.

House) and sent to the Senate. By June 2023, the bill entered the “Committee Stage” for deeper analysis. The bill lists “sexual orientation” and “sex characteristics” as protected characteristics for the definition of hate crime. “Gender identity” is not explicitly listed, but the term “gender”, included under Section 3(1)(g), is defined as “the gender of a person or the gender which a person expresses as the person’s preferred gender or with which the person identifies and includes transgender and a gender other than those of male and female”.<sup>11</sup>

## Poland

On 25 March 2023, the Polish government published its first draft of the [Bill to amend the Penal Code \(2024\)](#),

which would modify Article 53.2 of the Penal Code to aggravate crimes based on the victim’s sexual orientation or gender identity.<sup>12</sup>

## Ukraine

In May 2023, after a two-year deliberation period, the parliamentary Committee on Law Enforcement reviewed Bill No. 5,488 (2021) and recommended its adoption by the Verkhovna Rada (Ukraine’s Parliament). The bill would criminalise hate crimes, including on grounds of sexual orientation and gender identity. As outlined in the Plan of Legislative Work of the Verkhovna Rada for 2023, the bill was slated for deliberation in the last quarter of the year.<sup>13</sup>

## Latin America and the Caribbean

### Argentina

In March 2024, the Federal Criminal Oral Court No. 1 of La Plata, made a significant decision by acknowledging transgender individuals as victims of crimes against humanity, resulting in the sentencing of ten perpetrators from the Argentine military dictatorship to life imprisonment. This was the first time that transgender individuals have been officially recognised as victims of such crimes, shedding light on the systematic violence they endured during the Argentine dictatorship (1976-1983). Survivors shared their harrowing experiences of detention and torture at this secret facility, providing crucial testimony for the court.<sup>14</sup>

### Brazil

Acts motivated by racial prejudice have encompassed homophobic and transphobic motivations since 2019,

following the Federal Supreme Court decision in *ADO No. 26 and MI No. 4733* (2019).<sup>15</sup>

In January 2023, [Law No. 14,532](#) (2023) amended [Law No. 7.716](#) (1989) and Brazil’s Penal Code to introduce the crime of “racial insult” [*injúria racial*] with enhanced penalties when a racist offence occurs in the context of sports, religious, or artistic activities.<sup>16</sup> On 22 August 2023, the Supreme Federal Court ruled to classify homo-transphobic insults against individuals as a form of racial insult.<sup>17</sup>

### Dominican Republic

In September 2023, the [Comprehensive Bill for the Prevention, Attention, and Eradication of Violence against Women](#) (2023) was introduced in the Senate of the Dominican Republic. Article 8 outlines the different types of violence against women. Subsection 8 of this clause defines “violence based on prejudice towards sexual orientation, gender identity, or gender expression” as “actions aimed at repressing and

<sup>11</sup> “Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022 (Bill 105 of 2022)”, *Houses of the Oireachtas* (retrieved on 31 March 2024).

<sup>12</sup> “Za mowę nienawiści będzie grozić więzienie. Jest projekt zmian” [Hate speech will be punishable by imprisonment. There is a project for changes]. *Wprost*, 29 March 2024; “Takie słowa wobec osób LGBT więcej nie przejdą. Resort Bodnara szykuje surowe kary” [Such words against LGBT people will no longer be accepted. Bodnar’s resort is preparing severe penalties], *naTemat*, 29 March 2024; “Kph Składa Uwagi Do Projektu Nowelizacji Kodeksu Karnego W Zakresie Ochrony Przed Przeszypstwami Z Nienawiści I Mową Nienawiści” [Kph submits comments on the draft amendment to the criminal code regarding protection against hate crimes and hate speech], *Campaign Against Homophobia*, 12 April 2024.

<sup>13</sup> “Situation of LGBTQ in Ukraine January – June 2023”, *LGBT Human Rights Nash Svít Center*, 8 July 2023.

<sup>14</sup> “La Justicia argentina reconoce a personas trans como víctimas de delitos de lesa humanidad en un fallo histórico” [In a historic ruling, the Argentine justice system has recognized transgender individuals as victims of crimes against humanity], *El País*, 27 March 2024.

<sup>15</sup> This decision was supposed to fill the legal void until the National Congress adopts a formal law on the matter. For more information, see ILGA World, *ILGA World Database: Hate crime law - Brazil*, retrieved on 4 January 2024.

<sup>16</sup> “Nova lei da injúria racista ajudará no combate ao racismo estrutural negrofóbico e homotransfóbico” [New racist injury law will help combat black-phobic and homo-transphobic structural racism], *Estadão*, 22 January 2023.

<sup>17</sup> “STF julga ação que pode reconhecer ofensa contra LGBTQIA+ como injúria racial” [STF judges action that may recognize offense against LGBTQIA+ as racial injury], *G1*, 13 August 2023.

penalising individuals who do not conform to traditional gender norms, whether due to their orientation, identity, or expression of gender". Moreover, Article 11 enshrines the right of every victim to be respected in their sexual orientation and gender identity, as well as the protection of their dignity, autonomy, and intimacy.<sup>18</sup>

## Mexico

In December 2023, a [Bill seeking to reform the Federal Penal Code \(2023\)](#) was introduced in the Federal Congress of Mexico. The bill adds two paragraphs to Article 51 of the Federal Penal Code with the aim of considering hate crimes and defining them as "intentional crimes perpetrated against any person based on their "sexual [...] preference" and their "sexual self-ascription" [in Spanish: "auto adscripción sexual"]. The proposal will increase the penalty for such offences by up to one-third and will further enhance the penalty when the crime is committed by any person holding public office and acting within the scope of their duties. Additionally, the bill amends Article 149-bis and defines the crime of genocide as "the total or partial destruction

of groups based on [...] sexual diversity, carried out by any means".<sup>19</sup> There are currently no provisions for aggravating penalties for crimes motivated by the victim's "sexual orientation" at the federal level in Mexico. Still, several jurisdictions have included such provisions in their local Penal Codes.<sup>20</sup>

In February 2024, the Supreme Court of Justice of Mexico ruled on the constitutionality of the Law to Prevent and Eradicate Femicide in the State of Michoacán de Ocampo (2022), declaring that, although this law does not expressly mention transgender women, all of its provisions should be understood as applying to all women, regardless of their gender identity.<sup>21</sup>

In March 2024, a Morena party deputy in the Mexico City Congress introduced the Draft Bill to Criminalise Transfemicides (2024), also known as "Paola Buenrostro Law", proposing modifications to various legal frameworks, including the Civil Code, Penal Code, the Organic Law of the Attorney General's Office, and the Victims Law in Mexico City. The bill seeks to introduce a specific categorisation for transfemicide and improve access to justice for those affected by transmisogynistic violence.<sup>22</sup>

## Oceania

### Australia

On 29 March 2023, the government of the state of Queensland introduced [The Criminal Code \(Serious Vilification and Hate Crimes\) and Other Legislation Amendment Bill \(2023\)](#). This bill, if approved, would introduce new penalties for crimes motivated by the victim's "sexual orientation, gender identity, gender expression, and sex characteristics".<sup>23</sup>

### Northern Mariana Islands (USA)

In 2023, the U.S. territory of the Northern Mariana Islands joined the list of countries with national hate crime legislation when [Public Law 23-2 \(2023\)](#) was signed into law in January 2023. This effectively aggravated penalties for hate crimes committed on the basis of actual or perceived "sexual orientation", "gender identity", and "gender expression".<sup>24</sup> Those convicted of committing a hate crime are subject to an extended term of imprisonment for up to 10 years and/or a maximum fine of USD 15,000.<sup>25</sup>

<sup>18</sup> "Castigarán con dos años de cárcel a quienes "repriman" a mujeres por su orientación sexual" [Those who "repress" women for their sexual orientation would be punished with two years in prison], *Diario Libre*, 6 January 2024;

<sup>19</sup> "Olga Sánchez Cordero presenta iniciativa para considerar delitos de odio en el Código Penal Federal" [Olga Sánchez Cordero presents initiative to consider hate crimes in the Federal Penal Code], *MVS Noticias*, 5 January 2024; "Senado alista reforma para establecer delitos de odio" [Senate prepares reform to establish hate crimes], *Pulso de San Luis*, 5 January 2024.

<sup>20</sup> These include Baja California Sur, Mexico City, Coahuila, Colima, Michoacán, Oaxaca, Puebla, and Querétaro. For more information, see ILGA World, *ILGA World Database: Hate crime law - Mexico*, retrieved on 23 April 2024.

<sup>21</sup> "SCJN determina que personas transgénero y transexuales son consideradas víctimas de feminicidio" [SCJN determines that transgender and transsexual people are considered victims of feminicide], *El Imparcial (Oaxaca)*, 2 March 2024.

<sup>22</sup> "Presentan iniciativa para tipificar transfeminicidio en CDMX" [They present an initiative to classify transfemicide in CDMX], *El Debate*, 26 March 2024.

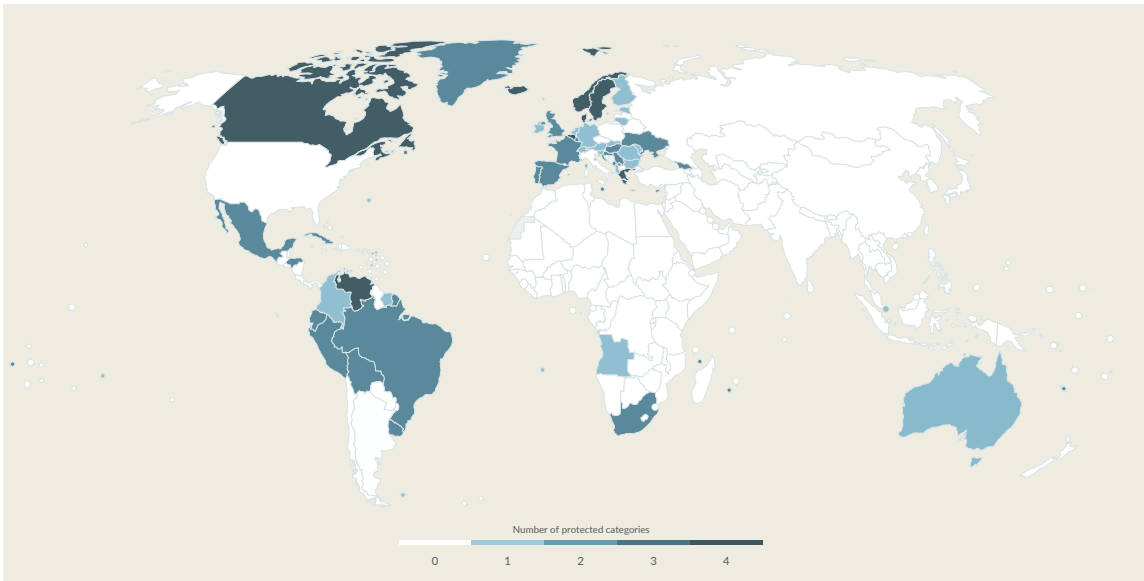
<sup>23</sup> "Queensland to toughen penalties for gay and trans hate crimes", *Qnews*, 30 March 2023; "Queensland To Introduce Stricter Anti-Hate Crime And Anti-Discrimination Laws", *Star Observer*, 6 April 2023.

<sup>24</sup> "Senator thanks Palacios for signing hate-crime law", *Marianas Variety*, 16 February 2023.

<sup>25</sup> "Members bills drawn: Rainbow protections, prescriptions and Samoan citizens", *RNZ*, 3 August 2023.

# Prohibition of Incitement to Hatred, Violence, or Discrimination

**Global Summary** – Despite the urgency to combat hate speech, minimal progress has been made on laws specifically targeting incitement to hatred, violence, and discrimination based on SOGIESC. However, there is potential for future progress, as several States are currently discussing legislative measures on this matter.



## Top Legal Developments (January 2023 – April 2024)

- Only one (1) UN Member State (**Bulgaria**) joined the list of countries that prohibit incitement to hatred, and only with regard to the victim's SO.
- At least five (5) UN Member States are currently deliberating on bills, with varying scopes and protected categories.
  - **Estonia** (to include GI).
  - **Ireland** (SO, SC, and "gender", inclusive of trans and gender diverse people).
  - **Philippines** (SO, GI, GE, SC).
  - **Poland** (SO, GI).
  - **South Africa** (SO, GI, GE, SC).<sup>1</sup>
  - Queensland, **Australia** (inclusive of SO, GI, GE, and SC).

Sexual Orientation (SO)  
 Gender Identity (GI)  
 Gender Expression (GE)  
 Sex Characteristics (SC)

<sup>1</sup> Following the cut-off date for the production of this report, ILGA World received information confirming the enactment of this bill by the President of South Africa.



Global Tallies (UN Member States) - April 2024

Sexual Orientation

59

Gender Identity

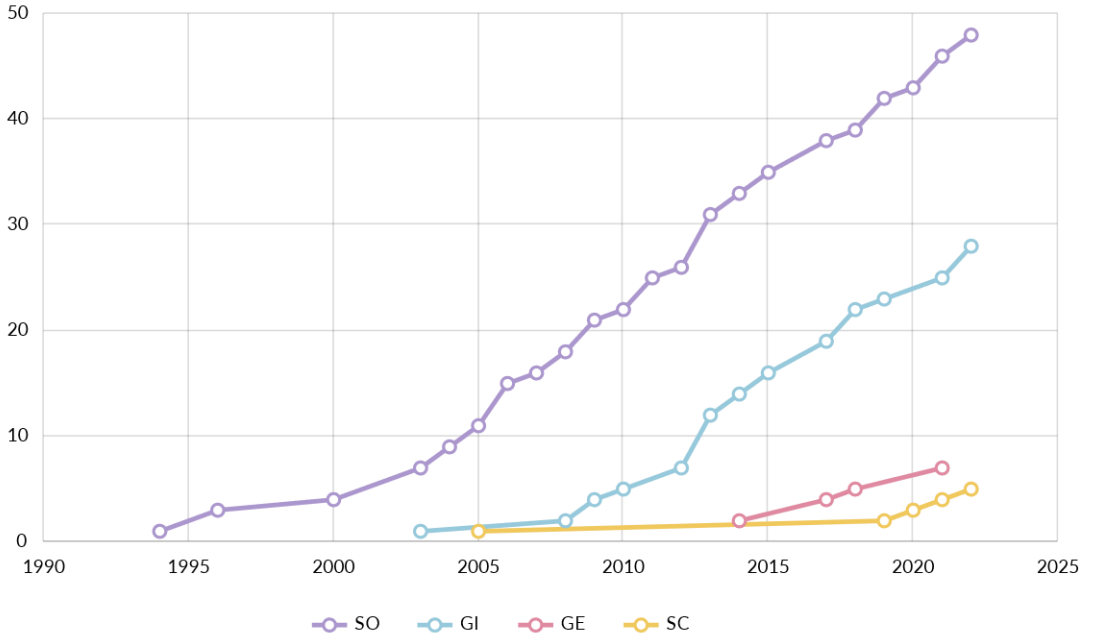
38

Gender Expression

9

Sex Characteristics

5



Legal developments | January 2023 – April 2024

Africa

 South Africa

The National Assembly of South Africa has been considering the Prevention and Combating of Hate Crimes and Hate Speech Bill (Bill B9-2018) for several years.

The bill lapsed in 2019 but was reintroduced unchanged in October of that year after the country's national

elections. Nationwide public hearings began on 30 March 2022 to decide the fate of the bill. On 14 March 2023, the National Assembly endorsed the bill's approval, pending the endorsement of the National Council of Provinces (NCOP) and subsequent signing by the president to enact it into law.<sup>2</sup> In April 2022, the NCOP Select Committee on Security and Justice solicited comments from the public and interested parties on the bill.<sup>3</sup> In April 2023, the NCOP Select Committee on Security and Justice solicited comments

<sup>2</sup> "Adoption of Hate Crimes and Hate Speech Bill welcomed", *The South African*, 18 March 2023;

<sup>3</sup> "New round of public comments for Hate Crimes and Hate Speech Bill", *Mamba Online*, 23 April 2023.

from the public and interested parties on the bill.<sup>4</sup> Finally, in November 2023, the NCOP approved the bill with proposed amendments, which were sent back to the National Assembly for consideration.<sup>5</sup> On 5 December 2023, the bill was finally approved and sent to the President to be signed into law.

Under Section 4 of the bill, any person who intentionally publishes, propagates, advocates, makes available or communicates anything to one or more persons in a manner that could reasonably be construed to demonstrate a clear intention to (i) be harmful or to incite harm; and (ii) promote or propagate hatred, based on sexual orientation, gender identity or expression or sex characteristics, is guilty of the offence of “hate speech”.

Exemptions to hate speech provisions exist for “any *bona fide* artistic creativity, performance or other form of expression, to the extent that [it] does not advocate hatred that constitutes incitement to cause harm”; “any academic or scientific inquiry”; “fair and accurate reporting or commentary in the public interest”; and “the *bona fide* interpretation and proselytising or espousing of any religious tenet, belief, teaching, doctrine or writings, to the extent that [it] does not advocate hatred that constitutes incitement to cause harm”. Nevertheless, opponents to the bill, such as representatives of the African Christian Democratic

Party (ACDP), have claimed that the bill’s criminalisation of “hate speech” would have a “chilling effect” on freedom of expression and religious liberty. Representatives of the largest political party to oppose the bill, the Democratic Alliance (DA) – the primary opposition party at the national level, and governing party of the Western Cape Province and several municipalities – claimed that the bill was “irrational” as existing anti-discrimination legislation could already be considered to cover the issues dealt with in the proposed new law. Notably, Glynnis Breytenbach, the DA’s Shadow Minister of Justice and Correctional Services, told local media in 2023 that while her party did not oppose the inclusion of sexual orientation in a bill of this nature, it was concerned about the inclusion of “gender identity or expression or sex characteristics”, alleging that “no evidence” existed to show that LGBTQI+ people have faced systematic hate because of their “gender identity or expression or sex characteristics”.<sup>6</sup>

Local sources reported that religious and conservative groups resisted the hate speech components of the legislation even from abroad. For example, the detractor group Alliance Defending Freedom (ADF) International—an organisation labelled as a “hate group” in the United States—stated that this “unconstitutional bill” should be challenged in court.<sup>7</sup>

## Asia

### Philippines

Since the year 2000, lawmakers in the Philippines have been making efforts to enact national legislation prohibiting discrimination based on sexual orientation and gender identity.<sup>8</sup>

The latest version of the bill—Sexual Orientation, Gender Identity, Gender Expression, or Sex Characteristics (SOGIESC) Equality Bill (2023)—reportedly outlines a variety of acts considered discriminatory on the basis of SOGIESC, which include acts that incite violence or stigma against a person based on their SOGIESC. The author of this bill said that the proposed legislation essentially seeks to ensure that members of the LGBTQ community are “treated equally to every other human being”.<sup>9</sup>

At the subnational level, in May 2023, the province of Laguna effectively passed [Provincial Ordinance No. 8, S \(2023\)](#), also known as the “Gender-Fair Ordinance”, which includes “LGBTQI” among the protected categories in Section 3 and defines this category as “a diverse and complex range of identities based on sexual orientation, gender identity, and expression”. It also indicates that the term “LGBTQIA+” refers to the “gender and sexuality non-conforming persons, including, but not limited to, lesbian, gay, bisexual, transgender, intersex, and queer persons”. Section 5(h) penalises the “promotion of discrimination against LGBT”, deeming it unlawful to “organise groups and activities which promote and incite discrimination against persons based on actual or perceived gender”.

<sup>4</sup> “New round of public comments for Hate Crimes and Hate Speech Bill”, *Mamba Online*, 23 April 2023.

<sup>5</sup> “Parliament passes key Bills”, *South African Government News Agency*, 6 December 2023.

<sup>6</sup> “Why is the DA so opposed to the Hate Crimes Bill?”, *Mamba Online*, 13 February 2023; “Hate Crimes and Hate Speech Bill passes final hurdle in Parliament”, *Mamba Online*, 5 December 2023.

<sup>7</sup> “Press Release: Up to five years in prison for peaceful expression: South African parliament passes “hate speech” bill”, *ADF International*, 6 December 2023.

<sup>8</sup> For more information on these bills please refer to the chapter on Protection against Discrimination.

<sup>9</sup> “Congress marks milestone in legislating gender equality bills in 2023”, *Philippine News Agency*, 18 January 2024.

## Europe

### Bulgaria

On 29 July 2023, the National Assembly of Bulgaria passed the Law Amending and Supplementing the Criminal Code ([Decree No. 152](#)) (2023), which amended Article 162(1) of the Criminal Code to punish with one to four years' imprisonment and a fine "anyone who, by speech, press or other media, by electronic information systems or in another manner, propagates or incites discrimination, violence or hatred" on the ground of sexual orientation.<sup>10</sup> Previously, harassment and incitement to discrimination on the grounds of sexual orientation were classified as forms of discrimination, as per Articles 4(1) and 5 of the [Protection Against Discrimination Act](#) (2003).<sup>11</sup>

However, on 11 October 2023, the Supreme Administrative Court ruled in its [Decision No. 9474](#) (2023) that certain derogatory statements made by a public figure on social media against Sofia Pride 2021 volunteers did not violate the Protection Against Discrimination Act. The court argued that these statements were aimed specifically at the Pride volunteers and not at the LGBTQ community as a whole. According to the court, the statements were deemed to be "not directed at a fundamental aspect of the identity of the LGBTQ community and were unable to affect the human dignity of its representatives".<sup>12</sup>

### Estonia

In Estonia, incitement to hatred based on sexual orientation is currently prohibited under to the [Electronic Communications Amendment Act](#) (2006). In May 2023, the Estonian Minister of Justice sought to expand these protections by submitting a draft bill to criminalise incitement to hatred, violence, or discrimination on the grounds of sexual orientation and gender identity, among other grounds. In June 2023 the bill was approved by the Government and referred to the Parliament.<sup>13</sup> While the bill passed its first reading in the Estonian Parliament, in September 2023, the parliament's Legal Affairs Committee Chair indicated

that the bill would not be sent for its second reading before spring 2024.<sup>14</sup>

### France

In March 2024, the National Assembly approved the Bill to Reinforce the Criminal Liability of Racist, Antisemitic or Discriminatory Infractions (Bill No. 251) (2024), which criminalises incitement to hatred, discrimination or violence based on sexual orientation and gender identity, even when not perpetrated publicly.

The proposed law converts current "administrative offenses of provocation, defamation, and non-public insults with racist or discriminatory content" into criminal offenses. It aims to more effectively penalise remarks made within specific settings, such as in workplaces, public services, or private messages. Additionally, these offences may entail supplementary penalties like community service or citizenship courses. The proposal also includes measures for victim-offender mediation and allows organisations, rather than just individuals, to act as plaintiffs. Furthermore, it introduces a dedicated course on combating discrimination, which may be mandated for offences punishable by imprisonment.<sup>15</sup>

### Georgia

In December 2022, the Georgian Parliament passed [amendments to the Broadcasting Law](#) (2022) to ban media content that incites violence or intolerance based on sexual orientation and gender identity. The Georgian National Communication Commission (GNCC) was designated as the exclusive oversight agency to monitor hate speech in the media.

In June 2023, the Commission's authority to enforce the law was revoked, reverting to the previous "self-regulatory" system for broadcasters. Nevertheless, in October 2023, Parliament reinstated the GNCC's oversight powers once again.<sup>16</sup>

<sup>10</sup> "Bulgaria steps up legislation against hate crimes", *The Sofia Globe*, 29 July 2023.

<sup>11</sup> For more information, refer to ILGA World, *ILGA World Database: Prohibition of incitement to violence, hatred or discrimination - Bulgaria*, retrieved on 26 November 2023.

<sup>12</sup> "BAC: Милена Славова не е осъществила дискриминация по признак "сексуална ориентация"" [YOU: Milena Slavova did not discriminate based on "sexual orientation"], *Youth LGBT Organization Deystvie*, 28 October 2023; "Bulgaria Court Rules In Favour Of Woman Who Called All Gay People 'Perverts'", *Lavender Magazine*, 14 October 2023.

<sup>13</sup> "Laanet sends hate speech draft amendments for approval", *ERR News (English)*, 12 May 2023.

<sup>14</sup> "Hate speech law will not come up for second reading before spring", *ERR.ee*, 21 December 2023.

<sup>15</sup> "Proposition de loi visant à renforcer la réponse pénale contre les infractions à caractère raciste, antisémite ou discriminatoire" [Proposal for a law aimed at strengthening the criminal response against racist, anti-Semitic or discriminatory offenses], *Vie Publique - République Française*, 7 March 2024.

<sup>16</sup> "Georgian Dream rushes through controversial amendments outlawing 'obscenity'", *OC Media*, 21 October 2023.

## Ireland

In April 2023, the Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill (Bill No. 105) (2022) was passed by the Dáil Éireann (Lower House) and sent to the Senate. By June 2023, the bill entered the “Committee Stage” for deeper analysis. Section 7 criminalises communication or behaviour in public likely to incite violence or hatred against individuals or groups based on protected characteristics, requiring intent or recklessness regarding incitement of violence or hatred.

The bill lists “sexual orientation” and “sex characteristics” as protected characteristics. “Gender identity” is not explicitly listed but the term “gender”, included under Section 3(1)(g), is defined as “the gender of a person or the gender which a person expresses as the person’s preferred gender or with which the person identifies and includes transgender and a gender other than those of male and female”. A person guilty of this offence would be liable to a fine or a five-year prison term.<sup>17</sup>

## North Macedonia

Since 2014, amendments to the Criminal Code have designated hate speech as a criminal offence. Article 394-d, paragraph 1 of the [Criminal Code \(2014\)](#) stipulates a prison sentence of one to five years for anyone spreading racist and xenophobic material via computer systems or inciting hatred, discord, or intolerance based on any discriminatory grounds, including membership in a marginalised group. Although “sexual orientation” was not explicitly listed as one of the protected areas from discrimination, in March 2024, the first judicial conviction for hate speech based on sexual orientation was issued. The Basic Court in Negotino issued a one-year suspended sentence to an individual who had disseminated hate speech against the LGBTI+ community.<sup>18</sup>

## Poland

On 25 March 2024, the Polish government published its first draft of the [Bill to amend the Penal Code \(2024\)](#),

which would modify Articles 256 and 257 of the Penal Code to punish whoever “incites to hatred against” or “publicly insults” a person or a group based on their sexual orientation and gender identity with up to three years of imprisonment.<sup>19</sup>

## Latin America

### Brazil

Law No. 14.532 (2023) was enacted in January 2023, amending [Law No. 7.716 \(1989\)](#) and the Penal Code, to classify “racial insult” as a crime of racism with a penalty of two to five years’ imprisonment and a fine. In August, the Supreme Federal Court issued a decision to include homo-transphobic insults against individuals as a form of “racial insult”.<sup>20</sup>

## Oceania

### Australia

On 29 March 2023, the Government introduced [The Criminal Code \(Serious Vilification and Hate Crimes\) and Other Legislation Amendment Bill \(2023\)](#). This bill would amend Section 124A to clarify what constitutes incitement. Furthermore, it would also relocate Section 131A of the Anti-Discrimination Act (1991) to the Penal Code and raise the maximum penalty to 3 years of imprisonment.<sup>21</sup>

In April 2023, the Queensland government accepted “in principle” all recommendations from the Queensland Human Rights Commission (QHRC) in [an official government response](#) to introduce a new Anti-Discrimination Act. After a period of public consultation, the Queensland government introduced the [Anti-Discrimination Bill \(2024\)](#) which would replace the 1991 Act.<sup>22</sup>

<sup>17</sup> “Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022 (Bill 105 of 2022)”, *Houses of the Oireachtas* (on 31 March 2024).

<sup>18</sup> “Изречена казна затвор од една година во првата осудителна пресуда во Македонија за говор на омраза врз основа на сексуална ориентација” [Sentenced to one year in prison in the first conviction in Macedonia for hate speech based on sexual orientation], *Vesti.mk*, 27 March 2024.

<sup>19</sup> “3 lata więzienia za mowę nienawiści wobec LGBT. Nowelizacja kodeksu karnego” [3 years in prison for anti-LGBT hate speech. Amendment to the Penal Code], *naTemat*, 30 March 2024; “Za mowę nienawiści będzie grozić więzienie. Jest projekt zmian” [Hate speech will be punishable by imprisonment. There is a project for changes], *Wprost*, 29 March 2024; “Takie słowa wobec osób LGBT więcej nie przejdą. Resort Bodnara szykuje surowe kary” [Such words against LGBT people will no longer be accepted. Bodnar’s resort is preparing severe penalties], *naTemat*, 29 March 2024.

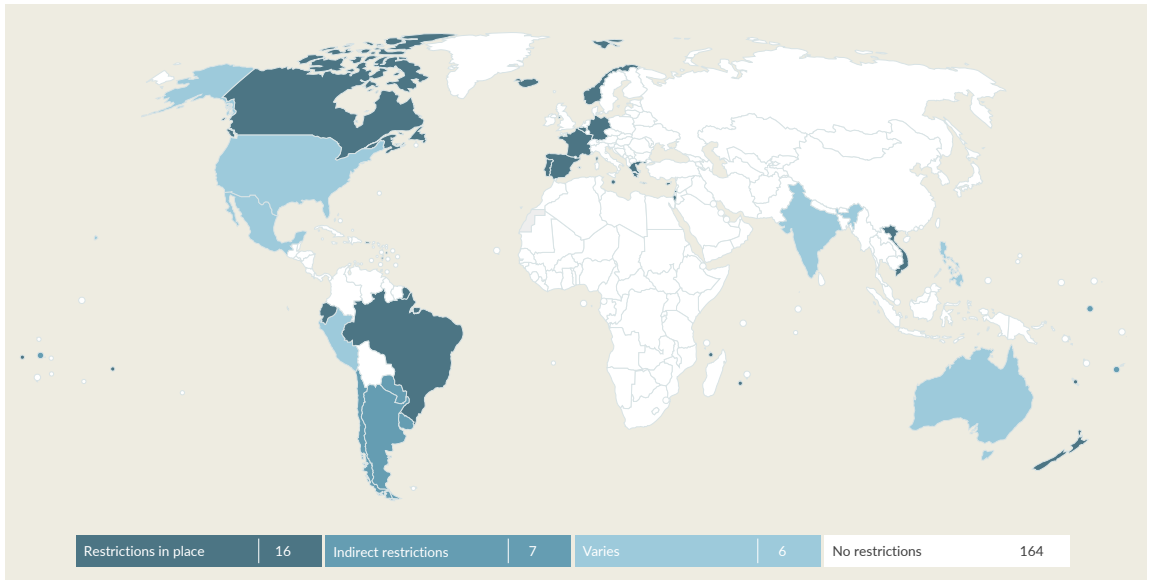
<sup>20</sup> “STF julga ação que pode reconhecer ofensa contra LGBT como injúria racial” [STF recognizes offense against LGBT as racial injury], *G1*, 13 August 2023.

<sup>21</sup> Section 124A(1) of the Anti-Discrimination Act (1991) was amended by the Discrimination Law Amendment Act (Act No. 74) (2002) to prohibit incitement of hatred towards a person or a group on the ground of “sexuality” and “gender identity”. For more information refer to ILGA World, [ILGA World Database: Prohibition of incitement to violence, hatred or discrimination - Queensland \(Australia\)](#) (retrieved: 23 April 2024).

<sup>22</sup> “Queensland to toughen penalties for gay and trans hate crimes”, *Qnews*, 30 March 2023; “Queensland To Introduce Stricter Anti-Hate Crime And Anti-Discrimination Laws”, *Star Observer*, 6 April 2023.

## Regulation of So-Called “Conversion Therapies”

**Global Summary** – While the number of UN Member States enacting regulations against “conversion therapies” continues to grow, State-sponsored “rehabilitation” appears to be making inroads in Africa and advancing as official policy in Malaysia.



### Top Legal Developments (January 2023 – April 2024)

- Momentum for regulatory action against so-called “conversion therapies” increased from January 2023 to April 2024:
  - Seven (7) UN Member States enacted nationwide bans (**Belgium, Cyprus, Iceland, Mexico, Norway, Portugal, and Spain**).
  - Four (4) UN Member States where subnational bans were enacted (**Australia, Mexico, Switzerland, and the United States of America**).
  - Bills were under debate at the national level in at least seven (7) UN Member States (**Brazil, Chile, Colombia, Costa Rica, Croatia, Netherlands, and the United Kingdom**).
  - Bills were under debate at the subnational level in at least four (4) UN Member States (**Australia, Brazil, Switzerland, and the United States of America**).
- Indirect regulations were not favoured.<sup>1</sup> No additional UN Member States enacted such legislation since 2022.
- Increasing number of concerning legal provisions and public policies aimed at “treating” or “rehabilitating” LGBT people. Examples:
  - **Malaysia** continued to implement State-led programmes for LGBT “rehabilitation”.
  - **Uganda** enacted provisions to permit courts to order “rehabilitation” for convicted homosexuals.
  - In **Ghana** and **Kenya** proposals for the “rehabilitation” of homosexuals have been included in proposed or announced bills.
  - **Russia** issued a Ministerial Order to deploy sexologists to treat “sexual identity and sexual preference disorders” with regulated forced interventions.

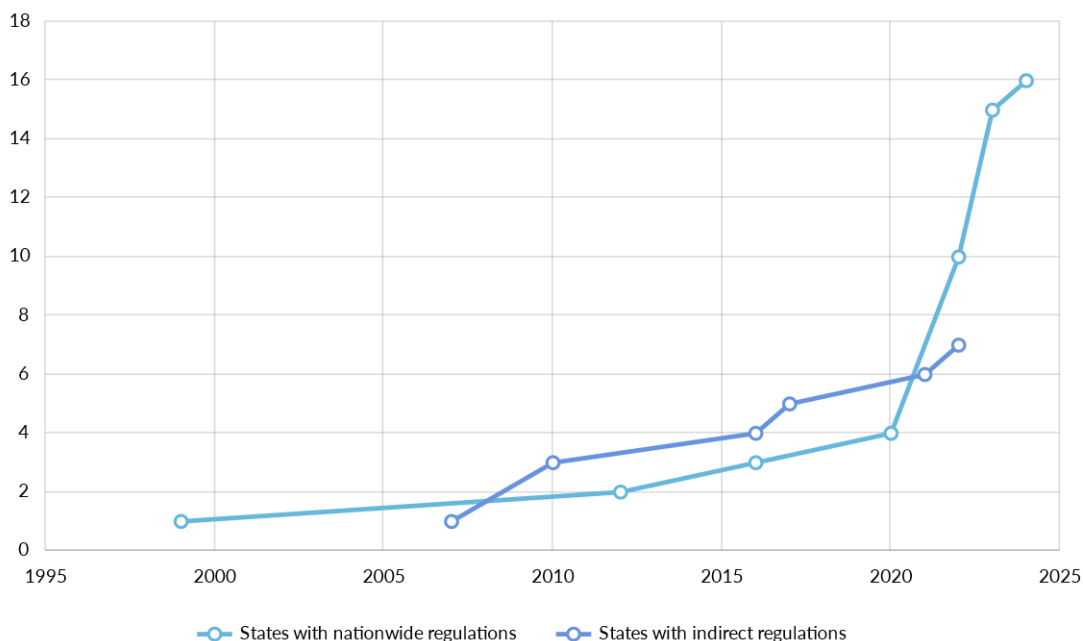
<sup>1</sup> “Indirect regulations” refer to laws that, even though they do not explicitly target so-called “conversion therapies”, prevent health professionals from legally providing them by prohibiting a diagnosis based on the patient’s sexual orientation or gender identity.

## Global Tallies (UN Member States)

**16**  
with nationwide regulations

**6**  
with nationwide regulations

**7**  
with nationwide regulations



## Legal developments | January 2023 – April 2024

### Africa

#### Ghana

In early March 2024, Ghana's parliament approved the contentious [Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill \(2021\)](#) nearly three years after the bill's initial introduction in 2021.<sup>2</sup> The bill contains various provisions criminalising different aspects of LGBTI people's lives, from consensual same-

sex sexual acts to gender-affirming care. Article 23 of the bill also provides for the "assistance for persons designated as 'questioning'".<sup>3</sup> This provision essentially empowers the government to "provide assistance [...] in the form of therapy or any other assistance relevant to the circumstance" to individuals questioning their sexual orientation, gender identity or gender expression. Given that virtually all diverse sexual orientations and gender identities are in and of themselves criminalised by the

<sup>2</sup> "Ghana's anti-LGBTQ bill draws international condemnation after it is passed by parliament", *NBC News*, 01 March 2024.

<sup>3</sup> Under Section 2 of the Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill (2021), "questioning" is defined as "the process engaged by a person by the use of social media or other means to explore or discover the sexual orientation, gender identity or gender expression of the person".

bill, the document all but mandates "conversion therapy" for any publicly out individual, lest they face fines or jail time for their identity. Similarly, Article 20 provides "accused persons" under the bill the option to "recant" and "make a voluntary request to access approved medical help or treatment".<sup>4</sup>

Following internal pressure to sign the bill into law and external pressure to reject the bill, it was reported in late March 2024 that the President's office submitted an official letter to Parliament to refrain from sending the bill for presidential assent. Reportedly, this has been requested until legal challenges to the bill have been resolved. This includes a challenge initiated in May 2023, where a private citizen filed a legal action against the Speaker of Parliament and the Attorney General, challenging the validity of the bill's legislative procedure,<sup>5</sup> as well as another challenge in the Supreme Court to the law's passage, on the grounds of insufficient parliamentary quorum.<sup>6</sup>

In parallel, the UN High Commissioner for Human Rights and other UN experts are urging Ghana's President to reject the discriminatory bill, saying that the bill would "[tear] at the very fabric of human rights and democracy in the country".<sup>7</sup> The Finance Ministry also reportedly noted that Ghana could lose up to 3.8 billion USD from the International Monetary Fund (IMF) over the next five to six years due to internal IMF policies prohibiting discrimination based on personal characteristics if the bill becomes law.<sup>8</sup>

## Kenya

In March 2023, MP Peter Kaluma introduced the [Family Protection Bill \(2023\)](#). Similar to Section 16 of the Ugandan law, per Section 31 of the bill courts can order the provision of "social services for the purposes of rehabilitating" those convicted under this law. The Kenyan bill provides that this "rehabilitation" may be provided by prison services or by probation officers.

## Uganda

In February 2023, the Inter-Religious Council of Uganda, which brings together seven top religious Christian and Muslim institutions, issued a statement expressing concerns over what they labelled the "growing spread of homosexuality and the LGBTQ agenda in the country", which had led to young people being "lured into homosexuality with the promise of money, property and a better future". Therefore, the Council stated that they would "advocate for the establishment of centres from where individuals with spiritual, emotional, physical and medical needs arising out of homosexual and LGBTQ activities will be supported".<sup>9</sup>

The issue of the "rehabilitation of homosexuals" sparked a debate between President Museveni and Members of Parliament, as reported on the President's website. In a meeting held with MPs of the National Resistance Movement Parliamentary caucus at Kololo Independence Grounds in April 2023, President Museveni congratulated MPs for their stance on homosexuality and agreed to sign the Anti-Homosexuality Bill (2023) into law once a few changes were made. He stated, "I totally agree with the bill, but my original concern lies with the psychologically disoriented individual". Hellen Wandera, MP for Busia Auma, told the President that "homosexuals, once rehabilitated, can change", citing supposed examples of her female colleagues who were homosexuals but had "changed" and are "now happily married with families".<sup>10</sup>

On 29 May 2023, President Yoweri Museveni signed the [Anti-Homosexuality Act \(2023\)](#) into law. While the text does not directly mention "conversion therapy", Section 16 grants the courts the authority to order the provision of "social services aimed at rehabilitating the convicted individual" after being found guilty of the offence of homosexuality. As a result, those who are convicted may face the possibility of court-ordered "conversion therapies".<sup>11</sup>

Mental health professionals from various regions of Africa criticised the bill, warning as well that

<sup>4</sup> During parliamentary proceedings on February 15, Deputy Majority Leader Alexander Afenyo-Markin proposed to replace incarceration with "community service" for homosexuality offences, emphasising the need for "rehabilitation" of homosexuals over punishment. However, due to strong opposition within Parliament, he withdrew these proposed amendments. See: "Afenyo-Markin blocks 3rd reading over custodial sentencing", *Joy FM*, 16 February 2024; "Afenyo-Markin surrenders to Minority pressure, withdraws proposed amendments to anti-gay bill", *Happy Ghana*, 22 February 2024; "Parliament ready to pass Anti-LGBTQ+ Bill", *Ghana MMA*, 23 February 2024.

<sup>5</sup> "Farmer files suit to stop passage of anti-LGBTQ+ Bill", *Modern Ghana*, 09 May 2023.

<sup>6</sup> "Ghana president caught in squabble over anti-LGBTQ bill", *Africa News*, 21 March 2024; "Ghana president won't act on anti-LGBTQ bill before legal challenge resolved", *Reuters*, 19 March 2024.

<sup>7</sup> "UN experts urge Ghana's President to reject discriminatory bill", *OHCHR*, retrieved on 25 March 2024.

<sup>8</sup> "Ghana Anti-LGTQ+Bill Could Put IMF Funding At Risk, Finance Ministry Says", *VOA Africa*, 04 March 2024.

<sup>9</sup> "IRCU Advocates for Centers to Help People Struggling with Homosexuality", *Uganda Radio Network*, 17 February 2023. A full-text version of the statement can be read at: "Inter-Religious Council Uganda speaks up against same sex marriage", *Apostle Dr. Joseph Serwadda*, 7 March 2023. The statement was signed by Dr Stephen Samuel Kaziimba Mugalu, Archbishop Church of Uganda; Dr. Joseph Serwadda, Presiding Apostle, Born Again Faith in Uganda; Sheikh Shaban Ramadhan Mubaje, Grand Mufti of Uganda; Joseph Antony Zziwa, Chairman of the Ugandan Catholic Episcopal Conference; Moses Maka Ndimukika, President Seventh-day Adventist Church in Uganda; Bishop Joshua Lwere, General Overseer, Association of Pentecostals and Evangelicals; Charles Kasibante Vicar General, Archdiocese of Kampala; Joshua Kitakule, Secretary General Inter-Religious Council of Uganda.

<sup>10</sup> "Be Ready To Sacrifice - President Tells NRM Caucus Members", *President Yoweri Museveni (Official Website)* (retrieved on 5 March 2023).

<sup>11</sup> "Amnesty International: The signing of Anti-Homosexuality Bill is dark day for LGBTI community", *Eagle Online*, 31 May 2023.

psychologists in Uganda may be compelled to breach confidentiality if a client discloses their LGBTQ status. This included practitioners from Kenya, Uganda, Cameroon, Nigeria, and South Africa who reportedly endorsed a declaration condemning “conversion practices” aimed at coercively altering the sexual orientation, gender identity, or expression of individuals.<sup>12</sup>

## ★ Somalia

In February 2023, Australian media outlets reported an incident involving the alleged forcible transfer of an Australian citizen to Somalia for “conversion therapy”. Officials from the Australian Department of Foreign Affairs confirmed their provision of consular support and assistance to the individual, with the Australian High Commission in Nairobi actively monitoring the case.<sup>13</sup>

A similar story emerged in November 2023 when a high school student residing in Sweden travelled to Somalia to visit his father, originally planning a two-week stay. However, upon arrival, he was unexpectedly locked up in a reformatory and subjected to a cruel attempt to forcibly change his sexual orientation. His father, disapproving of his perceived femininity, sought to “convert” him. During his time in captivity, the youth reportedly endured physical abuse, including beatings with a whip, and was coerced into praying for hours each day. He managed to escape after a year with

assistance from a relative to return home to Sweden.<sup>14</sup> These are not the first cases of individuals being unexpectedly interned and made captive to undergo “conversion therapy” in Somalia that ILGA World is aware of. The 2020 report “[Curbing Deception](#)” included the story of a Somali-American queer woman who travelled to Mogadishu to visit her family, but was shortly thereafter interned by her father in a “rehabilitation facility” where people are sent to receive “an Islamic education” geared to eliminate behaviour deemed “culturally unacceptable”. Additionally, the testimony of a Kenyan refugee residing in the United States described how religious leaders operate camps in Somalia and Kenya, where captives are subjected to severe beatings, shackling, food deprivation, and other cruel practices, often involving an intensive Islamic curriculum.<sup>15</sup>

## 🇿🇲 Zambia

President Museveni’s position on “assisting homosexuals” reverberated in the Zambian National Assembly in March 2023, as MP Kampyongo articulated: “Those experiencing same-sex attraction need help. For us, as African nations, Presidents have spoken. If you listen to President Yoweri Kaguta Museveni, you will find that he is very clear and does not miss his words”. He further stressed that there are people who have that condition, but that could not be accepted. In conclusion, he declared: “Let us help those people who are unwell”.<sup>16</sup>

## Asia

### 🇭🇰 Hong Kong (China)

In January 2023, the Hong Kong government was urged to take action to regulate “conversion therapies” as activists and researchers presented their findings on the adverse effects of these harmful practices. Led by the “Society of True Light”—an LGBTQ-affirming rights

group—and supported by members of academia, this call to action emphasised the need for legislative measures and highlighted the importance of the government fostering greater understanding and support for sexual minorities within social welfare, education, and medical sectors. The study showed that SOGIE change efforts in Hong Kong are primarily headed and administered by faith-based organisations and local churches.<sup>17</sup>

<sup>12</sup> “Uganda’s anti-homosexuality bill wants to ‘rehabilitate’ LGBTIQ+ people – African psychologists warn of its dangers”, *The Conversation*, 29 April 2023; “African psychologists condemn LGBTIQ+ conversion therapy”, *Mamba Online*, 29 April 2023; “Rehabilitating gay people”, *The Independent*, 23 May 2023.

<sup>13</sup> “Concern that Australian was smuggled to Somalia for conversion therapy”, *Out In Perth*, 19 February 2023; “Concerns Australian smuggled to Somalia for gay therapy”, *Canberra Times*, 17 February 2023.

<sup>14</sup> “Yasin lästes in på uppfostringsanstalt: “Skulle sluta vara homosexuell” [Yasin was locked up in a correctional facility: “Would stop being gay”], *SVT Nyheter*, 9 November 2023.

<sup>15</sup> ILGA World: Lucas Ramon Mendos, *Curbing Deception: A world survey on legal regulation of so-called “conversion therapies”* (Geneva: ILGA World, 2020), 29, citing: “Season Two - Episode 05: From Minneapolis To Mogadishu”, *Afro Queer Podcast*, 21 November 2019; Owen Amos, “Ex-Muslims: The American who fled ‘gay conversion’ in Africa”, *BBC News*, 26 February 2018; “Escaping gay conversion therapy in Kenya”, *The Ithacan*, 7 February 2018.

<sup>16</sup> National Assembly of Zambia, *Order Paper (2024) Friday, 10 March 2023* (retrieved 1 April 2024).

<sup>17</sup> Society of True Light, *Research Report on Sexual Orientation Change Efforts in Hong Kong* (Hong Kong, 2022). See also: “團體指「拗直」性小眾致八成人想自殺倡立法禁性向改變課程” [Groups report 80% of “converted straight” sexual minorities to commit suicide and advocate legislation to ban conversion therapy courses], *LINE Today*, 15 January 2023; “A Dark Journey Into Hong Kong’s World of LGBTQ Conversion Therapy”, *World Crunch*, 25 July 2023.





## India

In March 2023, reports emerged indicating the occurrence of a three-month training program operating under the auspices of the "World Congress of Psychologists" within the territory of Andhra Pradesh (in the southern coastal region of India). The program purportedly involved training sessions aimed at addressing 47 distinct "disorders", encompassing categories such as "homosexuality, lesbianism, and transvestism". Upon receiving knowledge of this training program, the Delhi Commission of Women issued a formal notice to the National Medical Council, requesting remedial measures against the responsible organising entities.<sup>18</sup>

Subsequent to the disclosure of numerous testimonies by survivors to the media in 2023 detailing their experiences with "conversion therapy", activists have continued to advocate for governmental intervention through the enactment of comprehensive legislation proscribing such practices beyond the purview of medical professionals and practitioners. It has been reported that a local activist is currently in the process of initiating legal proceedings by filing a petition with the Supreme Court. Concurrently, efforts were reportedly underway to solicit additional individuals to participate as co-petitioners in this legal action.<sup>19</sup>



## Malaysia

In Malaysia's pervasive context of criminalisation, another aspect of the State's position regarding LGBT people is that LGBT people "can" and "should" change their SOGIE. Misinformation, alongside religious, cultural, and societal beliefs about sexual and gender diversity, creates overwhelming pressure for LGBT persons to change while concurrently fuelling government action and policies.

In March 2023, during a parliamentary sitting, the Religious Affairs Minister in the Prime Minister's

Department explained the government's policy with regard to "curbing the perverse culture of LGBT in the country". In his response, Na'im Mokhtar said that a special committee convened by the Islamic Development Department (JAKIM) and consisting of various ministries, departments, agencies and NGOs "handled" matters and issues involving LGBT Muslims in the country through a four-pronged approach: "(1) education and advocacy, (2) research, (3) guidance (i.e. 'rehabilitation'), and (4) enforcement". He also noted that, between January 2021 and April 2023, several "rehabilitation" programmes had been conducted. This included JAKIM's largest "rehabilitation camp", known as *Mukhayyum*, as well as other programmes administered by Islamic-based NGOs, and the "Riqab" Rehabilitation Programme run by the Selangor state government.

In terms of education and advocacy, the committee conducted various seminars, webinars, and programmes in collaboration with the Youth and Sports Ministry, JAKIM, and the Ministry of Health aimed at curbing "social issues" and preventing the spread of HIV. Moreover, the committee and JAKIM funded a research study by the Islamic Science University (USIM) on Islamic *fatwas* surrounding transgender people and *mukhannath* (a term commonly found in Islamic scholarship to describe individuals with effeminate characteristics) to effectively disprove Islamic acceptance of gay and transgender people, and assert that they should be "guided to the right path". The Religious Affairs Minister clarified that these programmes were part of the [Islamic Social Action Plan 2019 – 2025](#) (2019).<sup>20</sup>

It is important to emphasise that "rehabilitation" programmes and "conversion practices" in Malaysia are funded and supported by the government. The *Mukhayyum* camp is currently the most extensive programme run by JAKIM and consists of a three-day, two-night "conversion" camp. The programme started in 2011 and has since had thousands of individuals sent to such camps.<sup>21</sup> The latest available statistics from 2021 reveal that over 1,730 LGBT people have been sent to JAKIM's "rehabilitation" camp to "change" their sexual

<sup>18</sup> "DCW asks NMC to take action against illegal training on conversion therapy for LGBTQIA+ community", *The Indian Express*, 25 March 2023. Nota Bene: The Delhi Commission for Women is a statutory body established by the Government of the National Capital Territory (NCT) of Delhi, India. It operates as an independent organisation tasked with safeguarding and promoting the rights of women within the NCT of Delhi. The commission operates under the provisions of the Delhi Commission for Women Act, 1994, and has the authority to investigate and address complaints related to gender-based discrimination, violence against women, and other issues affecting women's welfare.

<sup>19</sup> See, among others: "Conversion therapy' still continues in India, despite a ban", *The News Minute*, 1 August 2023; "Will file a petition urging the Supreme Court to declare conversion therapy as illegal in India: Manverda Singh Gohil", *Times of India*, 12 August 2023. In February 2022, the National Medical Council informed the Madras High Court (in Tamil Nadu) that any medical practitioner under their authority who practised "conversion therapies" would be guilty of an "illegal act" and in breach of the Indian Medical Council Regulations (2002), though the regulations do not expressly ban these practices. The Madras High Court ordered the National Medical Council to thus disseminate recommendations pertaining to "professional misconduct" for "conversion therapy" to all state-level medical councils. The court also issued a directive to the National Medical Council in July 2022, asking it to "formally define" the practise of "conversion therapy" as a form of professional misconduct. For more information, see ILGA World, [ILGA World Database: Regulation of so-called "conversion therapies" - India](#), retrieved on 27 March 2024.

<sup>20</sup> See "Oral Answers of Second Meeting of Second Term, Fifteenth Parliament (2022-Present) (May 22, 2023) - Archived", *Portal Rasmi Parlimen Malaysia*, retrieved on 29 March 2024; see also "Multiple aspects in govt efforts to curb LGBT activities among Muslims, Dewan Rakyat told", *The Star (Malaysia)*, 29 March 2023; "Govt forms special committee on LGBT Muslims in M'sia", *The Vibes*, 23 May 2023.

<sup>21</sup> In October 2018, an official from JAKIM stated that these programmes had "helped 1,450 people", indicating that "some have gone on to get married, some have changed their dressing, and some are practising control from going back to that lifestyle". Furthermore, in 2022, the Selangor Islamic Religious Council (MAIS) reported that they were able to "guide" and "return" 200 LGBT individuals to their "original selves" through the Riqab Rehabilitation Division since 2012. For more information, see ILGA World, [ILGA World Database: Regulation of so-called "conversion therapies" - Malaysia](#), retrieved on 5 March 2024.

orientation and gender identity, as stated by the then-Prime Minister, Ismail Sabri, in a written parliamentary reply.<sup>22</sup> However, this figure represents merely one instance of such camps. Numerous other programmes are conducted by different government bodies and by state governments locally, as well as non-state actors, including faith-based and “ex-LGBT” groups. Consequently, the actual number of LGBTQ individuals subjected to “conversion practices” in Malaysia is likely substantially higher than reported, considering the multitude of programmes available across the country.

Additionally, the Malaysian government developed and disseminated a phone application for self-taught “conversion therapy” in 2018. The app, “Hijrah Diri – Homoseksualiti”, offered users resources to “overcome the problem of homosexuality”, including audio files with thematic talks, an e-book with Islamic teachings and a step-by-step guide through topics such as “Understanding the Challenges” and “Controlling Your Lust”.<sup>23</sup> It was subsequently removed from the Google App Store in 2022 after it was found to be in breach of the platform’s guidelines.<sup>24</sup>

The overwhelming number of these state-run “camps” and programmes in Malaysia have unfortunate consequences, as such bias and discriminatory policies create the notion that LGBTI people are “deviant” and “wrong” in the public eye. Comments by local activists reveal that LGBTI youth are particularly affected, with many having reported being bullied by their peers at school in the form of physical, verbal, and cyberbullying. These bullying behaviours are justified to “correct” those who are or are perceived as non-heterosexual and non-gender-conforming.<sup>25</sup> A 2022 report published by “Justice For Sisters”, a local organisation, highlights the extent of “conversion practices” in the country, documenting the various state-led and non-state-led efforts and their dire impact on LGBTIQ persons in Malaysia.<sup>26</sup>

Also in 2023, ILGA World noted attempts by the Malaysian government to expand such programmes when the state government of Johor announced in November that they would establish the country’s first “rehabilitation centre” for individuals deemed to be

“deviant to Islamic teachings” and those who engage in same-sex relationships. During a Johor State Assembly sitting, the State Islamic Religious Affairs Committee chairman said that the government allocated roughly 400,000 Malaysian Ringgit (approximately 84,500 USD) to set up the centre, with operations expected to start in July 2024.<sup>27</sup> LGBT advocacy groups in the country have criticised the state government’s plans and urged State actors to ensure the right to equality, non-discrimination, and privacy for the LGBTI community in Malaysia.<sup>28</sup> Rights groups backed their opposition, citing local research that studied the impact of these “rehabilitation” efforts, such as the negative effect on their mental health, resulting in them dropping out of school and harbouring suicidal thoughts.<sup>29</sup> The Malaysian AIDS Council also described such plans as regressive and a “waste of taxpayers’ money”, considering the high costs associated with setting up the centre.<sup>30</sup>



In 2023, ILGA World was informed of a State-sponsored programme that has been conducting “conversion therapy” practices in health centres in Qatar. These practices reportedly take place mainly at the Behavioural Health Support Centre in Doha, which is a “private institution of public benefit” overseen by the Social Work Foundation (an influential organisation founded by Sheikha Moza bint Nasser, mother of the Emir of Qatar). The Charter of the Behavioural Health Support Centre, published on the website of the Ministry of Justice, uses relatively transparent language to indicate, under Article 1, that its target social group includes individuals “experiencing gender identity disorders” or “those vulnerable to difficulties adapting to their biological nature or society”. As per the same provision, the Centre aims to promote “righteous” and “positive” behaviour aligned with “common sense, Islamic teachings, cultural norms, and national values”. Additionally, it focuses on “rehabilitating individuals” who struggle with physical, psychological, social, cultural, or legal adaptation while also aiming to

<sup>22</sup> See: “Oral Answers of First Meeting of Fourth Term, Fourteenth Parliament (2018-2022) (September 14, 2021)”, *Portal Rasmi Parlimen Malaysia*, retrieved on 29 March 2024; see also: “M’sia PM Ismail Sabri: Over 1,730 M’sian LGBTs have been sent to ‘religious’ rehab camp”, *Mothership*, 16 September 2021; “Lebih 1,700 Rakyat Malaysia Dari Komuniti LGBT Di Hantar Ke Kem Pemulihan Tahun Ini” [More than 1,700 Malaysians from the LGBT community were sent to rehabilitation camps this year], *The Vocket*, 17 September 2021.

<sup>23</sup> ILGA World: Lucas Ramon Mendos, *Curbing Deception: A world survey on legal regulation of so-called “conversion therapies”* (Geneva: ILGA World, 2020) 56.

<sup>24</sup> “JAKIM’s ‘Hijrah Diri’ App to Save The LGBTQ Among Muslims Removed From Google’s Play Store”, *World of Buzz*, 18 March 2022.

<sup>25</sup> Comment by Jeremy Tan Fok Jun, “On the impact of government policies to “convert” LGBT people” in ILGA World: Lucas Ramon Mendos, *State-Sponsored Homophobia 2019* (Geneva: ILGA, March 2019) 451.

<sup>26</sup> See: Justice For Sisters, *Hidden Behind The ‘Right Path’: Untangling Malaysia’s “soft approach” to LGBTQ rehabilitation* (Kuala Lumpur: Justice For Sisters, 2022).

<sup>27</sup> See “Official Statement (Hansard) from 15<sup>th</sup> Johor State Assembly, Second Conference Term, Fourth Meeting (23 November to 03 December 2023)”, *Johor State Assembly*, retrieved on 18 April 2024; “Johor to set up first Islamic rehab centre for ‘deviants’, LGBT community”, *New Straits Times*, 1 December 2023.

<sup>28</sup> “‘This is torture’ - rights group slams Johor LGBT rehab plan”, *Malaysia Kini*, 02 December 2023; ‘Johor Islamic rehab centre for LGBT akin to torture’ | *Daily Express Malaysia*, *Daily Express (Malaysia)*, 1 December 2023; “Justice for Sisters: Johor ‘rehab’ centre for LGBT akin to torture”, *Malay Mail*, 1 December 2023.

<sup>29</sup> See Justice For Sisters, *“I Don’t Want to Change Myself”: Anti-LGBT Conversion Practices, Discrimination, and Violence in Malaysia* (Kuala Lumpur: Justice For Sisters, 2022), retrieved on 27 March 2024; see also: Justice For Sisters, *Hidden Behind The ‘Right Path’: Untangling Malaysia’s “soft approach” to LGBTQ rehabilitation* (Kuala Lumpur: Justice For Sisters, 2022).

<sup>30</sup> “LGBTQ rehab centre seen as waste of taxpayers’ money”, *Daily Express (Malaysia)*, 9 December 2023.

"protect vulnerable individuals" from "behavioural deviations" or manifestations of "gender identity disorders".<sup>31</sup>

Several victims, whose identities are withheld for safety reasons, have described the "treatment" they received at the centre. This treatment often involved extended

sessions where the perceived sinful nature of their sexuality or gender identity was consistently emphasised, along with persistent efforts to compel changes in their behaviour. Many of these individuals were reportedly referred to the centre by their families and, in some cases, even their schools.

## Europe

### Council of Europe

In February 2023, Commissioner for Human Rights, Dunja Mijatović, issued a statement urging the 46 Member States of the Council of Europe to unequivocally prohibit "conversion therapy", denouncing it as a violation of fundamental human rights and emphasising that such practices infringe upon the rights to freedom from torture, privacy, family life, and equality. Mijatović stressed the urgent need for member states to enact comprehensive legislation to combat and remedy these practices, highlighting concerns that societal prejudices and misinformation may pressure victims to consent to such interventions.<sup>32</sup>

### Austria

In response to the Government's failure to comply with [Motion No. 557 A\(E\)XXVI/GP](#) (2019) approved by the National Council in July 2019—which called on the Government of Austria to "immediately submit to the Federal Council a government bill banning the use of 'conversion and reparative therapies' on minors"<sup>33</sup>—a parliamentary petition was submitted to Parliament in February 2023. This petition, supported by individual citizens, urges the Federal Government of Austria to promptly submit a bill prohibiting these pseudo-scientific practices.<sup>34</sup>

### Belgium

In July 2023, the Chamber of Representatives adopted [Bill No. 3429](#) (2023) after consolidating two similar bills from 2019 and 2021.<sup>35</sup> In October it was officially enacted as the [Law amending the Penal Code to criminalise conversion practices](#) (2023), making Belgium one of the six UN member states to enact national legislation aimed at banning SOGI change efforts throughout the reporting period of this publication. The law introduces a new section in the Penal Code titled "About Conversion Practices", penalising individuals with up to two years' imprisonment and a fine for engaging in such practices. Attempts to administer them also incur penalties ranging from eight days to six months' imprisonment.

The law identifies aggravating factors to determine the gravity of the offence. This includes situations where an individual perpetrates the act in a recognised position of trust, authority, or influence over the victim, or when the offence is committed against a minor or an individual whose vulnerability due to age, pregnancy, illness, or physical or mental disability is apparent or known to the perpetrator.

In relation to professionals, courts are also empowered to prohibit the exercise of a professional or social activity associated with the commission of any offences punishable under this law for a maximum period of five years.

<sup>31</sup> "وثيقة تأسيس مركز دعم الصحة السلوكية 'مؤسسة خاصة ذات نفع عام'" [Document of Establishment of the Behavioral Health Support Center], *Website of the Ministry of Justice of Qatar* (retrieved on 20 March 2024).

<sup>32</sup> "Nothing to cure: putting an end to so-called 'conversion therapies' for LGBTI people", *Commissioner for Human Rights of the Council of Europe*, 16 February 2023.

<sup>33</sup> For more information, see ILGA World, *ILGA World Database: Regulation of so-called "conversion therapies" - Austria* (retrieved: 29 August 2023).

<sup>34</sup> "Zwei Jahre nach Beschluss: Noch immer kein Verbot von 'Konversionstherapien'" [Two years after the decision: still no ban on "conversion therapies"], *GGG*, 16 January 2023; "Fortschritte bei Verbot von Konversions-„Therapien'" [Progress in banning conversion "therapies"], *Kurier*, 12 February 2023; "Weiterhin kein Verbot von „Konversionstherapien'" [Still no ban on "conversion therapies"], *ORF*, 24 February 2023; "Weiter keine Einigung bei Verbot von "Konversionstherapien'" [Still no agreement on the ban on "conversion therapies"], *Salzburger Nachrichten*, 24 February 2023.

<sup>35</sup> "La Chambre approuve l'interdiction des pratiques de conversion, des amendes ou des peines de prison seront prévues" [The House approves the prohibition of conversion practices, fines or prison terms will be provided], *RTBF*, 20 July 2023; "Menschen mit einer anderen sexuellen Orientierung zu „bekehren", wird strafbar" ["Converting" people with a different sexual orientation becomes a criminal offence], *Grenz-Echo*, 23 July 2023; "Kamer stemt over verbod op omstreden conversietherapie om LGBTQI+-personen "te genezen'" [Chamber votes on ban on controversial conversion therapy to "cure" LGBTQI+ people], *VRT*, 20 July 2023.

Section 9 delineates that any institution of public interest and any legal entity meeting specific domestic requirements can initiate legal proceedings in cases pertaining to the application of this law with the victim's consent.



## Croatia

In May 2023, a bill to reform the Criminal Code ([Bill No. 489](#)) (2023) was submitted, among other things, to criminalise so-called “conversion therapies”. Proponents of the bill explained to the media that even when such practices are, in principle, not officially carried out in hospitals in Croatia, there are indications that they are often carried out in private practices or premises.<sup>36</sup>



## Cyprus

In May 2023, Cyprus became the second UN Member State in 2023 to successfully enact national legislation prohibiting “conversion therapies” by passing the [Criminal Code Reform \(2023\)](#). Initially filed in January 2022, the bill received broad parliamentary support.<sup>37</sup>

Before the bill's passage, the Church of Cyprus and the far-right National Popular Front (ELAM) exerted extensive political pressure against it. On 22 May, the Holy Synod of the Church of Cyprus issued a statement asserting that the bill violated religious freedom, and condemned what it deemed “the criminalisation of seeking pastoral care within the Church”. The Synod argued that the law would undermine the right to freely decide, choose, and seek spiritual guidance within legal and religious freedom frameworks, especially in personal and sensitive matters.<sup>38</sup> In the legislative process, ELAM attempted to insert amendments exempting priests and non-health professionals from the law and sought not to criminalise the act when there was consent. As explained by the vice president of Accept-LGBT Cyprus, these amendments contradicted the philosophy of the bill. They would have worsened the situation as the law would have validated the existence of these “cures”.<sup>39</sup> The Cyprus Psychologists Association (ΣΨΚ) also expressed its opposition to the exemption of cases where individuals

provide consent, as well as to the exemption for “conversion” practices carried out by priests.<sup>40</sup> Even though the attempt to include an exemption was unsuccessful, a clause stating that the legal provisions are applied “without affecting the right to freedom of thought, conscience and religion” was inserted in the law.

The approved text introduced Article 233B to the Criminal Code to prohibit “conversion therapies”, referred to as “pseudo-therapies”, that aim to change sexual orientation, gender identity, or gender expression. Those found in violation of this prohibition could face a maximum penalty of two years’ imprisonment and a fine. The law also specifies that the penalty can be increased to up to three years’ imprisonment in cases where the victim is a minor, is in a vulnerable position, or depends on the person applying the therapy. The same aggravated penalty applies to legal guardians who refer individuals under guardianship to such practices. The legislation also addresses the promotion of these practices and assigns penalties accordingly.



## Finland

In June 2023, a citizens’ initiative calling for a ban on “conversion therapy” garnered over 50,000 signatures, meeting the requirement for parliamentary consideration in six weeks. A similar initiative had been submitted in October 2021.<sup>41</sup>



## Iceland

On 9 June 2023, the Icelandic Parliament unanimously voted in favour of passing [Bill No. 153](#) (2023) to ban so-called “conversion therapy”. With the enactment of this law, Iceland officially joins the list of the six UN member states that enacted nationwide legislation to ban “conversion practices” from January 2023 to March 2024. The law amends the Penal Code (1940) to incorporate Article 227b. This provision outlines that individuals who use tactics like coercion, deceit, or threats to compel someone into treatment aimed at suppressing or altering their sexual orientation, gender

<sup>36</sup> “Bosanac: Postoje naznake da neke klinike pružaju “terapije” obraćanja LGBTIQ osoba” [Bosanac: There are indications that some clinics provide “therapy” for LGBTIQ people], *Index.hr*, 18 May 2023; “MOŽEMO! predstavio paket mjera “Ravno do ravnopravnosti!” za unapređenje prava LGBTIQ osoba” [MOŽEMO! presented a package of measures “Straight to equality!” for the advancement of the rights of LGBTIQ persons], *Crol LGBT News Portal*, 18 May 2023.

<sup>37</sup> “AKEL draft bill submitted for the criminalisation of “conversion therapies” against LGBTI people”, *Progressive Party of Working People (website)*, 27 January 2022.

<sup>38</sup> “Ανακοίνωση Ιεράς Συνόδου για την πρόταση νόμου «Ψευδοθεραπείες μεταστροφής…» [Announcement of the Holy Synod on the proposal of the law “Pseudotherapies of conversion...”], *Church of Cyprus (Official Website)*, 22 May 2023.

<sup>39</sup> “Ποινικοποίησε τις ψευδοθεραπείες στους ομοφυλόφιλους η Βουλή-Πέρασε η κοινή τροπολογία” [The Parliament criminalized pseudo-treatments for homosexuals-The joint amendment passed], *Reporter Cyprus*, 26 May 2023; “Proposed amendments to conversion therapy bill receive backlash (Updated)”, *Cyprus Mail*, 19 May 2023.

<sup>40</sup> “Σύνδεσμος Ψυχολόγων Κύπρου: Εναντίον σε εξαιρέσεις για ιερείς και σύνεση για θεραπείες μεταστροφής ΛΟΑΤΚΙ+ ατόμων” [Association of Psychologists of Cyprus: Against exemptions for priests and prudence for conversion treatments of LGBTI+ people], *To Thema Online*, 12 May 2023.

<sup>41</sup> “50 000 vill förbjuda omvändelseterapi – frågan går till riksdagen” [50,000 want to ban conversion therapy – the question goes to the Riksdag], *Svenska YLE*, 4 June 2023.

identity, or gender expression may face a maximum prison sentence of three years. If the "therapy" is imposed on a minor under the age of 18, the penalty could extend to five years in prison. Those who take a minor abroad for such treatment would face the same penalty. Moreover, anyone who directly performs, indirectly encourages, or financially gains from the described treatment could be fined or sentenced to up to two years in prison.<sup>42</sup>

## Ireland

In January 2023, Ireland's Minister for Children, Roderic O'Gorman, stated the government's intention to enact a ban against "conversion therapy".<sup>43</sup> In February 2023, the government announced the launch of a report titled "An Exploration of Conversion Therapy Practices in Ireland", conducted by Trinity College Dublin's School of Nursing and Midwifery under the Department of Children, Equality, Disability, Integration and Youth.<sup>44</sup> The study revealed the existence of "conversion therapy" practices in Ireland and emphasised the resultant harm inflicted on individuals. The commitment to enact a legislative ban was reiterated in June 2023.<sup>45</sup>

## Malta

Malta became the first European country in 2016 to enact regulations against "conversion therapy" when the Maltese legislature signed into law an act that became the most comprehensive ban enacted until then and the first nationwide law specifically thought, drafted, and approved with a comprehensive approach to prohibit and prevent these practices by professionals and non-professionals alike.<sup>46</sup>

In January 2023, the Maltese government submitted bill [NRU 45 \(2023\)](#) to amend the [Affirmation of Sexual Orientation, Gender Identity and Gender Expression](#)

[Act \(2016\)](#). The bill aims to strengthen existing legislation by redefining the advertising clause of the law to expressly prohibit the "publication, display, sharing, promotion, referral, circulation of" any material promoting the practice.<sup>47</sup>

## Netherlands

On 27 January 2023, the Advisory Division of the Council of State adopted its official advice on the legislative proposal on a bill aiming to criminalise "conversion therapies" initially filed in February 2022.<sup>48</sup> The Council questioned the necessity of a new law, suggesting that existing legislation may suffice and warned that enacting laws that are too difficult to enforce risked eroding public trust in criminal law. It also advised initiators to further justify the need for criminalisation and clarify its relationship with existing measures.<sup>49</sup>

In October 2023, local media announced that a new bill was introduced in the House of Representatives, reportedly taking into account the suggestions made by the Council of State.<sup>50</sup>

## Norway

On 16 June 2023, [Bill No. 132 L \(2022-2023\)](#) was introduced in the Norwegian Parliament, aiming to penalise the practice of "conversion therapies" directed towards changing the sexual orientation or gender identity of children and adults.<sup>51</sup>

Later, in December 2023, the bill was passed as [Law No. 16 \(2023-2024\)](#).<sup>52</sup> This law amends Article 270 of the Penal Code to punish "conversion therapies" with a fine, or imprisonment of up to three years (or up to six if the offence is deemed to be aggravated). Under Article 270a, titled "serious conversion therapy", the severity of the offence is assessed based on factors such as the

<sup>42</sup> "Iceland bans 'conversion therapy' in unanimous vote", *Yahoo News UK*, 13 June 2023; "Iceland bans sexual orientation and gender identity 'conversion therapy'", *Jurist*, 14 June 2023; "Iceland becomes latest country to ban conversion therapy", *Washington Blade*, 13 June 2023.

<sup>43</sup> "Irish Minister plans to ban conversion therapy in 2023", *Irish Central*, 9 January 2023.

<sup>44</sup> Brian Keogh, Ciarán Carr, Louise Doyle, Agnes Higgins, Jean Morrissey, Greg Sheaf, Adam Jowett, *An Exploration of Conversion Practices in Ireland* (Dublin: School of Nursing and Midwifery, Trinity College Dublin, 2023). See press release: "Minister O'Gorman announces the publication of the report 'An Exploration of Conversion Therapy Practices in Ireland'", *Central Portal for Government Services and Information (gov.ie)*, 17 February 2023.

<sup>45</sup> "Ban on conversion practices to be brought forward this year", *Irish Legal News*, 21 June 2023.

<sup>46</sup> For more information, see ILGA World, *ILGA World Database: Regulation of so-called "conversion therapies" - Malta* (retrieved on 25 September 2023).

<sup>47</sup> "Harsher penalties for promoting conversion therapy under new law", *Malta Today*, 13 January 2023; "Conversion therapy law amendments approved unanimously at committee stage", *Malta Today*, 30 March 2023.

<sup>48</sup> The Council of State advises the government and States General, comprising royal family members and Crown-appointed individuals with political, commercial, diplomatic, or military backgrounds.

<sup>49</sup> "Samenvatting advies initiatiefwetsvoorstel strafbaarstelling conversiehandelingen" [Summary of advice on private member's bill criminalizing conversion acts], *Raad van State (website)*, 30 January 2023. See as well: "Council of State warns ban on 'gay conversion' therapy would breach rights", *Dutch News*, 31 January 2023; "Council of State advises against criminalising gay conversion therapy", *NL Times*, 1 February 2023.

<sup>50</sup> "Initiatiefwet verbod conversietherapie ingediend bij de Tweede Kamer" [Initiative law banning conversion therapy submitted to the House of Representatives], *Gay Krant*, 13 October 2023; "Wetsvoorstel voor verbod conversietherapie ingediend bij de Tweede Kamer - Out TV" [Bill to ban conversion therapy submitted to the House of Representatives - Out TV], *OUTtv*, 13 October 2023.

<sup>51</sup> "Regjeringen har lagt frem forbud mot konverteringsterapi" [Government has put forward a ban on conversion therapy], *Prime Minister*, 17 June 2023.

<sup>52</sup> "Lov om endringer i straffeloven (konverteringsterapi)" [Act on Amendments to the Criminal Code (Conversion Therapy)], *Law Data*, 22 December 2023; "Konverteringsterapi blir forbudt: - En seier for skeive" [Conversion therapy is banned: - A victory for the queer], *VG*, 13 December 2023; "Forbud mot konverteringsterapi vedtatt i Stortinget" [Ban on conversion therapy adopted in the Storting], *Document.no*, 13 December 2023.

extent of harm caused to the person’s body or health, the duration of the therapy, and whether it involved a larger group of people. Furthermore, under Article 270b, anyone who markets specific offers to expose others to psychotherapeutic, medical, alternative medicine or religiously based methods or similar systematic methods aimed at influencing someone to change, deny or suppress their sexual orientation or gender identity, is liable to imprisonment of up to six months and a fine.

## Portugal

In April 2023, Portugal’s legislature granted preliminary approval to four different bills aimed at prohibiting “conversion therapies” and referred them for further review to the Committee on Constitutional Affairs, Rights, Freedoms and Guarantees. In December 2023, these proposals were approved in a single unified text.<sup>53</sup> In January 2024, the president promulgated the law as [Law No. 15 \(2024\)](#).<sup>54</sup>

This law introduces Article 176c into the Penal Code to penalise anyone who subjects another person to acts intended to alter or suppress their sexual orientation, gender identity, or expression. Such acts include medical-surgical procedures, pharmacological practices, psychotherapeutic methods, or other psychological or behavioural interventions. Offenders face imprisonment for up to three years or a fine if a more severe penalty isn’t applicable under another legal provision.

Furthermore, under Article 177, harsher sentences under specific circumstances are established, including when the practices involve more than one person; when the victim is pregnant; experiences severe physical harm; infection with a potentially deadly pathogen; suicide; when the victim is a minor; and when the victim is exceptionally vulnerable due to disability, illness, or pregnancy.

Additionally, the law amended Articles 69b and 69c to impose certain restrictions on employment and child-rearing. Under Article 69b, convicted individuals, when the victim is an adult, may face a prohibition from professions, employment, or activities involving regular interaction with minors for a duration ranging from two to 20 years. When the victim is a minor, penalties

extend to prohibitions ranging from five to 20 years. Moreover, under Article 69c, those found guilty under 176c may be barred from assuming the care of a minor (i.e. by means of adoption, guardianship, foster care, civil sponsorship, custody, etc.) for two to 20 years if the victim was an adult, and five to 20 years if the victim was a minor. Offenders may be restricted from exercising parental responsibilities for five to 20 years if the offence is perpetrated against the offender’s own descendant.

Lastly, the law mandates a study to examine the prevalence of such practices in Portugal and the implementation of awareness campaigns.

## Russia

In June 2015, media reports emerged alleging that President Vladimir Putin had instructed the Ministry of Health of the Russian Federation to establish an institute at the “Serbsky Centre for Psychiatry and Narcology” to study the “social behaviour” of LGBT people. This revelation came from Minister of Health Mikhail Murashko during a dialogue with Deputy Anatoly Wasserman at the first reading of the bill banning trans-affirming care in the State Duma.<sup>55</sup>

On 1 July 2023, [Ministry of Health Order No. 668N \(2022\)](#)—titled “Approval of the procedure for providing medical care in mental disorders”—officially came into force. According to the order, the duties of a sexologist now formally include “providing primary specialised medical and sanitary care to persons suffering from mental disorders related to sexual development and orientation, disorders of sexual identity and sexual preference” as well as treating patients with “family-sexual disharmony, sexual dysfunctions”. In addition, sexologists will offer services in standard clinics alongside primary medical care and will have the authority to employ “coercive measures of a medical nature” in coordination with a psychiatrist.<sup>56</sup>

Russian activists have raised concerns regarding the appointment of sexologists to clinics under Russia’s restrictive legal framework against sexual and gender diversity. They expressed fear that these professionals may not adhere to internationally accepted treatment protocols but instead resort to “conversion therapy”.

<sup>53</sup> “Aprovada lei que criminaliza “práticas de conversão” de pessoas LGBT+” [Law passed that criminalizes “conversion practices” of LGBT+ people], *Público (Portugal)*, 22 December 2023; “Parlamento aprova proibição e criminalização de ‘terapias de conversão’ sexual” [Parliament approves ban and criminalization of sexual ‘conversion therapies’], *Expresso*, 22 December 2023; “Parlamento aprova proibição e criminalização de terapias de conversão sexual” [Parliament approves ban and criminalization of sexual conversion therapies], *Observador*, 23 December 2023.

<sup>54</sup> The official title of the law reads: A law to prohibit so-called “sexual conversion” practices against LGBT+ people, criminalizing acts aimed at altering, limiting or repressing sexual orientation, gender identity or expression, amending Law No. 38/2018, of August 7, and the Penal Code [Proibe as denominadas práticas de «conversão sexual» contra pessoas LGBT+, criminalizando os atos dirigidos à alteração, limitação ou repressão da orientação sexual, da identidade ou expressão de género, alterando a Lei No. 38/2018, de 7 de agosto, e o Código Penal]. See: “Lei que proíbe práticas de conversão sexual em pessoas LGBT+ entra em vigor em Março” [Law prohibiting sexual conversion practices in LGBT+ people comes into force in March], *Público (Portugal)*, 29 January 2024; “Portugal promulga la criminalización de las terapias de conversión forzada a personas LGTB+” [Portugal enacts the criminalization of forced conversion therapies for LGTB+ people], *Cadena SER*, 21 January 2024.

<sup>55</sup> “Мурашко: Путин поручил Минздраву создать психиатрический институт по исследованию поведения ЛГБТ-людей” [Murashko: Putin instructed the Ministry of Health to create a psychiatric institute to study the behavior of LGBT people], *Important Stories (Stories)*, 15 June 2023.

<sup>56</sup> “С 1 июля в российских поликлиниках и ПНД появится кабинет врача-сексолога” [From July 1, a sexologist’s office will appear in Russian polyclinics and PND], *Чепта*, 27 June 2023; “What is going on with the draft law on the prohibition of transgender transition [...] [...]”, *LGBT World Beside*, 12 July 2023.

While the assignment of sexologists to clinics could be viewed positively, activists argue that in Russia, "it can be used more to harm than to benefit patients", given the potential misuse of such measures within the existing legal context.<sup>57</sup>

Further indication that sexologists deployed in clinics may engage in "conversion therapy" was found in the explanatory text provided by "Parlamentskaya Gazeta" (the official publisher of federal laws and acts of the chambers of the Federal Assembly), which stated that the help from a sexologist is necessary if a person wants to get rid of "disorders of sexual behaviour", including non-standard preferences such as "homosexuality", among many others.<sup>58</sup>



In February 2023, Spain enacted legislation at the national level banning "conversion therapies" when both chambers of the Parliament approved the Law for the Real and Effective Equality of Trans People and to Guarantee the Rights of LGBTI People (Law No. 4) (2023).<sup>59</sup> This nationwide provision is complemented by existing regulations in several Autonomous Communities, including Andalusia (2018), Aragon (2018), Cantabria (2020), Castilla-La Mancha (2022), Cataluña (2014), Balears (2016), Canarias (2021), La Rioja (2022), Madrid (2016), Murcia (2016), Navarra (2017) and Valencia (2017).<sup>60</sup>

Article 17 of this law establishes that "the practice of aversion, conversion or counterconditioning methods, programs and therapies, in any form, intended to modify the sexual orientation or identity or gender expression of persons is prohibited, even if they have the consent of the person concerned or that of their legal representative". Under Article 79, these acts are classified as a "severe administrative offences". Moreover, Article 82 prevents individuals and organisations that promote or practice "conversion therapies" from receiving public funding.

In March 2023, right-wing and far-right parliamentarians challenged this law before the

Constitutional Court. However, the lodging of this appeal does not necessarily mean the suspension of the law.<sup>61</sup>

In February 2024, the Basque Parliament passed the Law on Non-Discrimination on Grounds of Gender Identity and Recognition of the Rights of Trans People (Law No. 4) (2024). Article 14 prohibits "the use of aversive therapies and any other procedure that involves an attempt to annul the personality or will of the trans person" in the public health system.

#### *Regressive legal developments in the Community of Madrid*

In what is largely considered to be the first regression on the legal protections of LGBT people in Spain, in December 2023, the Autonomous Community of Madrid passed Law No. 18 (2023).<sup>62</sup> Introduced and promoted by the conservative People's Party (PP), this law rolled back many of the protections enshrined in Law No. 3 (2016), especially with regard to trans and gender-diverse people.

Among the many concerning amendments introduced by this law, Clause 6 specifically removed "self-perceived gender identity" from Article 7(2), which prohibited "conversion therapies" in the Public Health System of the Community of Madrid. Therefore, protection against these harmful practices now applies only with regard to sexual orientation. Additionally, Clause 15 repealed the entire chapter of Law No. 3 (2016) that specified the penalties for perpetrators.

In combination with other measures targeted at trans people's right to health—such as imposing psychiatric evaluations to access gender-affirming care and making it legally impossible to challenge those evaluations—local activists have argued that this bill could create the conditions for "conversion therapies" aimed at changing "gender identity".<sup>63</sup>

Despite this regression at the subnational level, legislation prohibiting "conversion therapies" with regard to gender identity and gender expression remains in force at the national level under Law No. 4 (2023) referenced above. It is still unclear how much this regression will hinder legal protections in this area.<sup>64</sup>

<sup>57</sup> "В РФ начнут "лечить" гомосексуальность" [In the Russian Federation will begin to "treat" homosexuality], *Korrespondent.net*, 29 June 2023; "У Росії офіційно в лікарнях з'являться спеціалісти для "лікування" ЛГБТ-людей" [In Russia, specialists will officially appear in hospitals to "treat" LGBT people], *ZMINA*, 3 July 2023; "Sexologii ruși vor ajuta oamenii să „depășească” homosexualitatea și alte „tulburări” (Ministerul rus al Sănătății) [Russian sexologists will help people "overcome" homosexuality and other "disorders" (Russian Ministry of Health)], *RFI România*, 30 June 2023.

<sup>58</sup> "В поликлиниках могут появиться сексологи и детские психиатры", *Parlamentskaya Gazeta*, 14 March 2023. See as well: "У Росії офіційно в лікарнях з'являться спеціалісти для "лікування" ЛГБТ-людей" [In Russia, specialists will officially appear in hospitals to "treat" LGBT people], *ZMINA*, 3 July 2023;

<sup>59</sup> "Autodeterminación de género y otras claves de la ley trans, que entrará en vigor este jueves tras ser publicada en el BOE" [Gender self-determination and other keys to the trans law, which will come into force this Thursday after being published in the BOE], *eldiario.es*, 2 March 2023.

<sup>60</sup> For comprehensive details regarding each of these provisions, please refer to: ILGA World, *ILGA World Database: Regulation of so-called "conversion therapies"* (retrieved: 30 March 2024).

<sup>61</sup> "Vox recurrirá la ley trans ante el Tribunal Constitucional" [Vox appeal the trans law before the Constitutional Court], *La Sexta*, 30 March 2023.

<sup>62</sup> "Ayuso recorta las leyes LGTBI de la Comunidad de Madrid con el apoyo de Vox" [Ayuso cuts the LGTBI laws of the Community of Madrid with the support of Vox], *RTVE*, 23 December 2023.

<sup>63</sup> "En España hay 15 CCAA con leyes trans o LGTBI, pero Madrid es la primera en 'recortar' las suyas" [In Spain there are 15 CCAA with trans or LGTBI laws, but Madrid is the first to 'cut' its own], *Newtral*, 23 December 2023.

<sup>64</sup> "En España hay 15 CCAA con leyes trans o LGTBI, pero Madrid es la primera en 'recortar' las suyas" [In Spain there are 15 CCAA with trans or LGTBI laws, but Madrid is the first to 'cut' its own], *Newtral*, 23 December 2023.

## Sweden

In July 2023, Swedish government-appointed investigator, Court of Appeal Judge Maria Hölcke, submitted her report addressing whether and how “conversion therapy” should be criminalised in Sweden. Hölcke argued against criminalisation, deeming existing legislation sufficient for protecting LGBTQ individuals. She asserted that expanding punishment grounds without concrete evidence of the insufficiency of existing laws was unwarranted. Therefore, she opposed aggravating punishments for “conversion” attempts. RFSL’s acting president, Peter Sidlund Ponkala, strongly criticised the inquiry’s stance.<sup>65</sup>

In August, the Swedish Government announced its intention to gather more information about the prevalence of conversion therapy in the country. The initiative will involve the Swedish Agency for Gender Equality and the County Administrative Board.<sup>66</sup>

## Switzerland

The regulation issue of “conversion therapies” prompted extensive discussions among Swiss authorities and members of legislative bodies at both the cantonal and federal levels throughout 2023 and early 2024.

In May 2023, Neuchâtel became the first Swiss canton to pass a local law regulating “conversion therapies”.<sup>67</sup> A bill was formally introduced in the canton of Geneva,<sup>68</sup> while another is still pending in the canton of Vaud.<sup>69</sup> In Valais, a bill was introduced in January 2024 following a consultation held in 2023.<sup>70</sup>

Furthermore, since 2021, several cantons—including Geneva, Basel, Lucerne, Bern, and Saint Gallen—have

raised this issue locally and adopted motions calling for a ban on these practices. These motions represent partial progress towards enacting regulations. In 2023, the cantons of Jura and Zurich joined the list of subnational jurisdictions with motions of this kind.<sup>71</sup>

At the federal level, in August 2023, the Legal Affairs Committee of the Council of States issued a press release to clarify the potential implementation of a federal ban. While acknowledging consensus against “conversion therapy” among multiple cantons, the Committee decided to temporarily suspend progress on the matter until the publication of a commissioned report on the prevalence of “conversion therapy” in Switzerland and the technical needs of regulating these practices through legislation.<sup>72</sup>

## United Kingdom

In January 2023, the UK government announced plans to introduce a draft bill prohibiting “conversion therapy” for all individuals. The bill would undergo pre-legislative scrutiny, with potential review by a joint Parliamentary Committee. However, by September, reports suggested the government might fail to fulfil its pledge, sparking protests and accusations of broken promises.<sup>73</sup> The issue has persisted for five years, with concerns growing over the lack of progress.<sup>74</sup>

On 22 October 2023, news emerged that the commitment to outlaw “conversion therapy” had been postponed. This decision came in response to over 40 Tory MPs who wrote to the Prime Minister, urging him to abandon the proposed legislation despite its long-standing promise.<sup>75</sup> Nevertheless, on 20 November 2023, the [Conversion Therapy Prohibition \(Sexual Orientation and Gender Identity\) Bill \(2023\)](#) was submitted to the House of Lords. The bill would apply to England, Wales, Scotland, and Northern Ireland if

<sup>65</sup> “RFSL ”mycket besvikna” på utredning som inte vill kriminalisera omvändelseterapi” [RFSL “very disappointed” at investigation that does not want to criminalize conversion therapy], *QX.se*, 4 July 2023.

<sup>66</sup> “Regeringen ger uppdrag: Undersök omvändelseförsök mer” [The government gives assignments: Investigate conversion attempts more], *QX.se*, 6 August 2022.

<sup>67</sup> “Première en Suisse: Neuchâtel interdit les thérapies de conversion” [First in Switzerland: Neuchâtel prohibits conversion therapies], *Tribune de Genève*, 3 May 2023; “First law banning conversion therapies passed in Switzerland”, *Swissinfo*, 2 May 2023.

<sup>68</sup> “Projet de loi pour interdire les ”thérapies de conversion” déposé à Genève” [Bill to ban “conversion therapies” tabled in Geneva], *RTS*, 10 May 2023.

<sup>69</sup> “Communiqué du Conseil d’état: Vers l’interdiction des pratiques visant à modifier l’orientation affective et sexuelle ou l’identité de genre” [Press release from the Council of State: Towards the prohibition of practices aimed at modifying emotional and sexual orientation or gender identity], *Site Officiel État de Vaud*, 22 December 2022.

<sup>70</sup> “Nouvelle loi sur la santé: le nombre de médecins pourra être limité en Valais” [New health law: the number of doctors may be limited in Valais], *Le Nouvelliste*, 7 February 2024.

<sup>71</sup> “Une motion veut interdire les thérapies de conversion dans le Jura” [Motion wants to ban conversion therapy in Jura], *Tribune de Genève*, 22 January 2023. “Zürich will «Konversionstherapien» verbieten” [Zurich wants to ban “conversion therapies”], *Mannschaft Magazin*, 8 November 2023.

<sup>72</sup> “Communiqué de presse: La CAJ-E se penche sur l’interdiction des mesures de conversion” [Press release: The CAJ-E examines the ban on conversion measures], *L’Assemblée Fédérale Suisse (website)*, 16 August 2023.

<sup>73</sup> “Anger as time runs out for government to ban conversion therapy in UK”, *The Guardian*, 15 September 2023.

<sup>74</sup> For more information, see ILGA World, *ILGA World Database: Regulation of so-called “conversion therapies” - United Kingdom* (retrieved on 12 January 2024).

<sup>75</sup> “Prime Minister shelves conversion therapy ban after MPs demand he scrap plans for long-promised manifesto pledge”, *Daily Mail*, 23 October 2023.



adopted. It would subject those who practise or offer to practise to change a person's sexual orientation, gender identity, or expressions thereof to a fine.<sup>76</sup>

In January 2024, the Scottish Government initiated a formal 12-week consultation aimed at addressing and ultimately banning “conversion therapy” practices.<sup>77</sup> The consultation outlines that the proposed legislation will

focus on identifying coercive and repetitive behaviours directed at changing or suppressing an individual's sexual orientation or gender identity.<sup>78</sup> Shortly after the launch of the consultation process, the Catholic Church in Scotland expressed concern over the proposal's “unclear nature”, fearing it could have a “chilling effect”. Meanwhile, the Christian Institute has begun laying the groundwork for legal action.<sup>79</sup>

## Latin America & the Caribbean

### Brazil

In 2023, ILGA World noted legal developments concerning “conversion therapies”—encompassing legislative and judicial actions—at the federal and subnational levels, including in the state of São Paulo and the Federal District.

Brazil was the first UN Member State to regulate “conversion therapy” through [Resolution No. 1/99](#) (1999), issued by the Federal Council of Psychology. Though the Resolution initially only referred to “sexual orientation”, [Resolution No. 1/18](#) (2018) extended these restrictions for change efforts for “gender identity”.<sup>80</sup> In 2023, new attempts were made to roll back the protections offered by these resolutions. As explained in ILGA World in its “Curbing Deception” (2020) report, this is not the first time that these protections have come under attack by religious groups.<sup>81</sup> In September 2023, the conservative Novo party and the Brazilian Institute of Law and Religion filed a lawsuit challenging the resolutions, claiming they infringe on psychologists' religious freedoms and constitutional rights.<sup>82</sup>

However, efforts to bolster the prohibition through legislation were also underway in 2023. In Brazil's Federal District, [Bill No. 312](#) (2023) was introduced in April 2023. This bill prohibits the practice and

promotion of “conversion efforts”, imposing fines of up to BR 6,510 (approximately USD 1,300). For cases involving minors, fines may be increased by up to tenfold. Additionally, repeat offenders could face license revocation for operating their establishment following a fifth penalty.<sup>83</sup> In São Paulo, [Bill No. 22](#) (2023) was introduced in February 2023 by the first trans woman in the Legislative Assembly of São Paulo, Erica Malunguinho. The bill aims to prohibit “conversion efforts or therapies”. After it was shelved at the start of the new legislature, it was reintroduced in November 2023 as [Bill No. 1495](#) (2023).<sup>84</sup>

### Chile

In August 2023, [Bill 12.660-18](#) (2019)—locally known as “Nada Que Corregir” or “Nothing To Fix” in Spanish—was approved by the Commission on Human Rights. Introduced to the Chamber of Deputies in May 2019, the bill seeks to classify “conversion therapy” on LGBTI youth as a type of “intrafamily violence” and “arbitrary discrimination”. It would complement the existent prohibition on mental health professionals from diagnosing patients based on their sexual identity or orientation under Article 7 of [Law No. 21.331](#) (2021). The approval by the Commission paves the way for the bill's consideration and approval by the plenary of the Chamber of Deputies.<sup>85</sup>

<sup>76</sup> “Conversion therapy ban tabled by Lib Dem peer”, *BBC News*, 20 November 2023.

<sup>77</sup> See “Ending conversion practices in Scotland: consultation – Supporting documents”, *Scottish Government (official)*, retrieved on 19 April 2024.

<sup>78</sup> “Conversion therapy ban proposal published by Scottish Government”, *The National*, 9 January 2024; “Proposals to ban conversion therapy published by Scottish Government | The Herald”, *Herald Scotland*, 9 January 2024.

<sup>79</sup> “SNP minister wants plan for conversion practices ban to send 'strong message'”, *The Guardian (UK)*, 10 January 2024.

<sup>80</sup> The resolution bars psychologists from performing any action that favours the pathologisation of transsexual and *travesti* people and from proposing, carrying out or collaborating with private, public, institutional, community or promotional events or services aimed at conversion, reversal, readjustment or reorientation therapy of gender identity of transgender and *travestis*. For more information, see ILGA World, *ILGA World Database: Regulation of so-called “conversion therapies” - Brazil* (retrieved on 15 March 2024).

<sup>81</sup> ILGA World: Lucas Ramon Mendes, *Curbing Deception: A world survey on legal regulation of “conversion therapies”* (Geneva: ILGA World, 2020), 86.

<sup>82</sup> “Partido Novo quer legalizar a “cura gay”” [New Party wants to legalize “gay cure”], *Revista Fórum*, 15 September 2023; “Partido Novo aciona STF contra norma que veda uso religioso da psicologia” [New Party sues STF against rule prohibiting religious use of psychology], *UOL Notícias*, 15 September 2023; ““Cura gay”: deputados querem legalizar tortura contra pessoas LGBTQ+” [“Gay cure”: deputies want to legalise torture against LGBTQ+ people], *Revista Fórum*, 26 October 2023.

<sup>83</sup> ““Cura gay”: projeto quer multa de até R\$ 65 mil para quem promover “conversão sexual”” [“Gay cure”: project wants a fine of up to R\$ 65,000 for those who promote “sexual conversion”], *Metrópoles*, 21 April 2023.

<sup>84</sup> “Projeto de lei busca punir programas de ‘cura gay’” [Bill seeks to punish ‘gay cure’ programs], *gay.blog.br*, 16 November 2023.

<sup>85</sup> “Comisión de DDHH de la Cámara aprueba y despacha la reforma a la Ley Zamudio” [House Human Rights Commission approves and dispatches the reform to the Zamudio Law], *MOVILH*, 25 January 2024.



## Colombia

In May 2023, public hearings on the approval of [Bill No. 272 \(2022\)](#) began, which was introduced in May 2022 and aimed at banning so-called "conversion therapies" as well as any medical diagnosis based on sexual orientation, gender identity or expression.<sup>86</sup> Efforts to "correct" and/or "suppress" sexual orientation and gender identity and expression will be prohibited when carried out through medical interventions, surgical procedures, hormonal treatments, psychological counselling, and religious or spiritual guidance that undermine human dignity, through torture, cruel, inhuman, degrading treatment, and violence.

The initial phase of the discussion proved intricate, marked by proposals from detractors to archive the initiative, but these were ultimately rejected, ensuring that the bill would remain active.<sup>87</sup> However, a specific provision was added to the bill, stating that "under no circumstances shall this law be interpreted and/or applied to prohibit messages, counselling, guidance, or spiritual teachings, which are carried out without the use of violent means". Local activists have informed ILGA World that religious entities, the main opponents of the bill, will not be excluded or completely prohibited from working with individuals seeking spiritual guidance, as long as it does not involve the use of violent means.<sup>88</sup>

On 20 March 2024, the bill was passed by the Chamber of Representatives and was submitted to the Senate.<sup>89</sup>



## Costa Rica

Throughout 2023, [Bill No. 20,970 \(2018\)](#), aimed at regulating "conversion therapies" in Costa Rica and

initially introduced in the Legislative Assembly in 2018, experienced several delays. In October 2023, local media reported that, despite the collective efforts of three opposition political parties to expedite the bill's consideration, the ruling party had managed to obstruct proceedings.<sup>90</sup>

In 2024, resistance against the bill grew considerably. In February, Deputy and leader of Nueva República, Fabricio Alvarado, threatened to submit 100 motions to delay Bill 20,970 if parliamentary debate on the bill proceeded. He stated that his party would not support it until a less detrimental project for churches, psychologists, and counsellors was developed. In March, additional stakeholders opposed the Bill, including the Evangelical Alliance and the Catholic Episcopal Conference, which argued that the law would violate the rights of individuals "who are dissatisfied with their condition and seek help to change".<sup>91</sup> Shortly thereafter the President of Costa Rica, Rodrigo Chaves Robles, also expressed his opposition to the bill.<sup>92</sup>



## Mexico

In Mexico, the regulation of "conversion therapy" saw multiple legal developments between January 2023 and March 2024, both at the federal and the subnational levels, including in the states of Baja California Sur, Coahuila, Morelos, Querétaro, Quintana Roo, and Yucatán.

In October 2022, the Federal Senate of Mexico passed the [Bill amending the Federal Penal Code and General Health Law \(2020\)](#). The amendment introduces a chapter titled "Crimes against Sexual Orientation or Gender Identity of Persons" in the Federal Penal Code and amends the General Law on Health. The amended provisions would establish penalties of up to six years in prison and fines for individuals offering "conversion

<sup>86</sup> "Así se vivió la audiencia pública contra las "terapias de conversión"" [This is how the public hearing against "conversion therapies" was lived], *El Espectador*, 12 May 2023; "Se Realizó audiencia pública en el Congreso para discutir proyecto de ley "inconvertibles" que busca prohibir las "terapias de conversión" en Colombia. Para evitar archivo debe aprobarse en primer debate" [A public hearing was held in Congress to discuss the "inconvertible" bill that seeks to prohibit "conversion therapies" in Colombia. To avoid file must be approved in first debate], *Orgullo LGBT*, 12 May 2023; "En el Congreso intentarán, de nuevo, prohibir las llamadas 'terapias de conversión'" [In Congress they will try, again, to prohibit the so-called 'conversion therapies'], *El Tiempo*, 11 May 2023.

<sup>87</sup> "Aprueban en primer debate proyecto que prohíbe terapias de conversión a personas LGTBIQ+" [The project that prohibits conversion therapies for LGTBIQ+ people is approved in the first debate], *Semana*, 14 June 2023; "Proyecto para prohibir 'terapias de conversión' a comunidad LGTBIQ+ pasó primer debate" [Project to ban 'conversion therapies' for the LGTBIQ+ community passed its first debate], *El Tiempo (Colombia)*, 14 June 2023; "Fue aprobado en primer debate el proyecto de ley que busca prohibir en Colombia los Esfuerzos de Cambio de Orientación Sexual, Identidad y Expresión de Género, mal llamadas 'terapias de conversión'" [The bill that seeks to prohibit in Colombia Efforts to Change Sexual Orientation, Identity and Gender Expression, wrongly called 'conversion therapies', was approved in the first debate], *Caribe Afirmativo*, 14 June 2023.

<sup>88</sup> We are grateful for the information provided by Fundación GAAT.

<sup>89</sup> "Las "terapias de conversión" a personas LGTBIQ serán prohibidas en Colombia" ["Conversion therapies" for LGTBIQ people will be prohibited in Colombia], *Congreso de la República de Colombia: Cámara de Representantes*, 20 March 2024 "Plenaria de Cámara aprueba la prohibición de las terapias de conversión" [Chamber Plenary approves the ban on conversion therapies], *El Heraldito (Colombia)*, 20 March 2024. Note: ILGA World was informed that Bill PL 270 – "Inconvertibles" is currently undergoing its third debate in Senate First Commission. *Final Text of the Plenary Chamber - Bill Number 272 (2022)*.

<sup>90</sup> "Pulso por proyecto para prohibir terapias de conversión sexual" [Push for project to ban sexual conversion therapies], *La Nación (Costa Rica)*, 27 October 2023; "Plan para prohibir terapias de conversión sexual al congelador por 3 meses" [Plan to ban sexual conversion therapies in the freezer for 3 months], *La República (Costa Rica)*, 3 November 2023; "Fabricistas lograron bloquear proyecto contra terapias de conversión sexual" [Fabricistas managed to block a project against sexual conversion therapies], *La Nación (Costa Rica)*, 2 November 2023.

<sup>91</sup> "Alianza Evangélica se pronuncia contra prohibición de 'terapias de conversión'" [Evangelical Alliance speaks out against ban on 'conversion therapies'], *La Nación (Costa Rica)*, 6 March 2024; "Iglesia católica rechaza prohibición de 'terapias de conversión'" [Catholic Church rejects ban on 'conversion therapies'], *La Nación (Costa Rica)*, 7 March 2024.

<sup>92</sup> "Presidente Chaves se opone a plan del FA para prohibir 'terapias de conversión'" [President Chaves opposes FA plan to ban 'conversion therapies'], *Noticias Monumental*, 8 March 2024.

therapies". Penalties would be more severe for cases involving minors, seniors, or individuals with disabilities, and when there's a work, teaching, domestic, medical, or any other relationship implying subordination of the victim. Professionals practising such therapies face suspension from practice for up to three years.

The bill was submitted to the Chamber of Deputies, where it made parliamentary progress during 2023.<sup>93</sup> However, in response to several delays, activists launched a renewed call, urging deputies to approve the bill.<sup>94</sup> In March 2024, the bill was approved by the Chamber and returned to the Senate for final approval.<sup>95</sup> In April 2024, the law passed the finally passed by the Senate.

- Please note that due to the timing of the law's approval, subsequent to the cut-off date of this report, ILGA World was unable to obtain access to the final approved version of the law's text. We kindly request that our readers consult the ILGA World Database for updates in the near future.

In April 2023, the Supreme Court of Mexico rendered a ruling with regard to one of the provisions regulating

"conversion therapy" in the state of Baja California Sur in *Constitutionality Action No. 130/2021* (2023).<sup>96</sup> The Supreme Court deemed the penalty of permanent disqualification for a public official repeatedly convicted of administering "conversion therapies" as a "disproportionate punishment". Consequently, the Court annulled said clause while affirming the validity of the remaining provisions of the law in their entirety.<sup>97</sup>

Additionally, laws to ban "conversion therapies" were effectively adopted in the states of Morelos,<sup>98</sup> Querétaro,<sup>99</sup> and Quintana Roo,<sup>100</sup> and, in September 2023, a law that had been adopted in Yucatán in 2021 was finally enacted with the publication of *Decree No. 667* (2023) in the Official Gazette, following pressure from local activists.<sup>101</sup>

A bill was introduced in the state of Coahuila in April 2023, joining two separate bills introduced in 2022. This new bill aims to add Article 238 bis, which would punish the imparting or coercing of "conversion therapy" with two to five years of imprisonment and community work.<sup>102</sup>

- <sup>93</sup> "Listo dictamen que sanciona terapias de reorientación sexual" [Ready opinion that sanctions sexual reorientation therapies], *TV Azteca Noticias*, 21 April 2023; "PRI aprueba la prohibición y tipificación de terapias de conversión" [PRI approves the prohibition and typification of conversion therapies], *El Debate*, 20 April 2023; "'Nada que curar': Avanza ley que prohíbe las 'terapias de conversión' de género en México" ["Nothing to cure": Law advances that prohibits gender 'conversion therapies' in Mexico], *PalabrasClaras.mx*, 22 April 2023.
- <sup>94</sup> "Colectivo LGBT urge a diputados prohibir terapias de conversión: 'Ningún tipo de tortura debe estar permitida'" [LGBT collective urges deputies to ban conversion therapies: "No type of torture should be allowed"], *Infobae*, 11 October 2023.
- <sup>95</sup> "Diputados prohíben terapias de conversión pese a que el PAN intentó posponer la discusión" [Deputies prohibit conversion therapies despite the fact that the PAN tried to postpone the discussion], *Animal Político*, 24 March 2024; "¿Qué son las 'terapias de conversión'? Diputados aprobaron reforma para tipificarlas como delito" [What are 'conversion therapies'? Deputies approved reform to classify them as a crime], *Vanguardia*, 23 March 2024.
- <sup>96</sup> This provision was part of Decree No. 2,778 (2021) which introduced Article 205 bis to the Penal Code to punish so-called "conversion therapies".
- <sup>97</sup> "Analizará la Corte si hay penas excesivas en ley contra terapias de reorientación sexual" [The Court will analyze whether there are excessive penalties in law against sexual reorientation therapies], *La Jornada*, 12 April 2023; "SCJB invalida la 'inhabilitación definitiva' a funcionarios que promuevan terapias de conversión" [SCJB invalidates the "definitive disqualification" of officials who promote conversion therapies], *Proceso*, 13 April 2023; "Quita SCJN inhabilitación por terapias de reconversión" [SCJN removes disqualification for conversion therapies], *Reforma*, 11 April 2023.
- <sup>98</sup> In December 2023, the Congress of Morelos had adopted a law to amend the state Penal Code by adding Chapter V titled "Conversion Therapies for Sexual Orientation and Gender Identity". Individuals reported for coercing others into undergoing such practices may face imprisonment ranging from one to two years, along up to 100 hours of community service. The amendment came into force in February 2024. See: "Prohíben terapias de conversión en Morelos y Quintana Roo" [Conversion therapies banned in Morelos and Quintana Roo], *Plumas Atómicas*, 15 December 2023; "Terapias de conversión serán castigadas" [Conversion therapies will be punished], *El Sol de Cuautla*, 15 December 2023; "De 1 a 2 años de cárcel por obligar a terapias de conversión en Morelos" [From 1 to 2 years of imprisonment obligatory for conversion therapy in Morelos], *Diario de Morelos*, 3 March 2024.
- <sup>99</sup> On 29 June 2023, the Congress of Querétaro approved Bill No. 168 (2022), adding Article 142 Ter to the Penal Code, which punishes with two to six years of imprisonment, a fine, and community work anyone who "imparts, applies, forces or finances any type of treatments, therapies, services, efforts or actions to repress the free development of the personality concerning sexual orientation or gender identity and expression". Penalties are aggravated when the conduct is imparted to children or individuals who cannot understand or resist the conduct. See: "Serán delito en Querétaro las terapias de conversión" [Conversion therapies will be a crime in Querétaro], *24-horas*, 28 April 2023.
- <sup>100</sup> In December 2023, the Quintana Roo Congress enacted Decree No. 188 (2023), amending the Penal Code to introduce Article 195-octies. Individuals found guilty of promoting, offering, administering, coercing, inducing, financing, or subjecting others to such "therapies" face imprisonment from two to six years, along with fines. Aggravated penalties apply if the victim is a minor, elderly, or disabled, or if the perpetrator holds a position of authority over the victim, exploits their vulnerability, abuses their public office, or resorts to physical, psychological, or moral violence. See: "Congreso de Q Roo presenta iniciativa contra terapias de conversión" [QRoo Congress presents initiative against conversion therapies], *Milenio*, 8 December 2023; "Prohíben terapias de conversión en Morelos y Quintana Roo" [Conversion therapies banned in Morelos and Quintana Roo], *Plumas Atómicas*, 15 December 2023;
- <sup>101</sup> "Yucatán prohíbe 'terapias de conversión'" [Yucatán prohibits "conversion therapies"], *Pulso de San Luis*, 17 September 2023; "Yucatán prohíbe terapias, tras 2 años de avalarse ley" [Yucatan prohibits therapies, after 2 years of endorsing the law], *Imagen del Golfo*, 18 September 2023.
- <sup>102</sup> "Morena propone cárcel contra terapias de conversión sexual" [Morena proposes jail against sexual conversion therapies], *Vanguardia*, 4 April 2023.

## North America

### United States of America

Throughout 2023, numerous legal developments were observed at the subnational level in the United States of America. Progressive legislation was enacted in Minnesota and Michigan while existing protections were formally codified into law in Utah. Additionally, a groundbreaking bill was introduced in Oregon and the Supreme Court declined to hear a case challenging a ban in Washington. However, regressive measures were adopted in Indiana and Wisconsin, while regressive judicial decisions invalidating local bans against “conversion therapies” in Florida continued to be issued by the 11th Circuit of the US Court of Appeals.

At the time of publication, restrictions on “conversion therapies” (mainly for minors) exist in 22 US states and the District of Columbia. Minnesota and Michigan were the states that joined this list in 2023.<sup>103</sup>

In May, the Minnesota Senate passed [HF No. 16](#) (2023), which had previously been approved by the House of Representatives, to outlaw “conversion therapy” on individuals below the age of 18 and “vulnerable adults”, with violators liable to disciplinary action. The law also banned advertising, sales and misrepresentations of “conversion therapy”.<sup>104</sup> The following month, the Michigan state legislature passed [House Bill No. 4616](#) (2023) and [House Bill No. 4617](#) (2023). While the former prohibits mental health professionals from conducting “conversion therapy” with minors, the latter introduces the definition of “conversion therapy” in the state’s Mental Health Code. The definition encompasses attempts to alter an individual’s sexual orientation or gender identity, including modifying behaviour, gender expression, or reducing same-gender attractions. Violators are liable to disciplinary action, including license suspension or revocation.<sup>105</sup>

Additionally, in March 2023, Utah codified into law an existing administrative ban from 2020.<sup>106</sup> In Arizona, additional measures to restrict “conversion therapies” were adopted, including mandates for State Agencies to refrain from supporting such practices for minors and prohibiting fund allocations to them.<sup>107</sup>

In terms of new bills being introduced, in January 2023, [House Bill No. 2458](#) (2023) was introduced in Oregon to ban licensed counsellors and therapists from practising “conversion therapy” on adults, potentially becoming the first US state to prohibit such practices on adults.<sup>108</sup>

However, in a clearly regressive move, [Senate Bill No. 350](#) (2023) was signed into law by the Indiana Governor in May 2023, thereby restricting the authority of local government units to pass bans on so-called “conversion therapies”. This law, the first of its kind in the United States, came after the withdrawal of a city ordinance that was meant to ban unlicensed counsellors in West Lafayette from conducting “conversion therapy”.<sup>109</sup> Furthermore, in January 2023, Wisconsin’s Joint Committee for the Review of Administrative Rules temporarily suspended Rule 20.02 (25) of the MPSW Administrative Code, which defined “conversion therapies” as unprofessional conduct.<sup>110</sup> A bill—[AB No. 3](#) (2023)—was later introduced in both houses of the legislature to make this suspension permanent.<sup>111</sup>

In February 2023, the Eleventh Circuit of the US Court of Appeals issued a decision in [Vazzo and Pickup v. City of Tampa](#) (2023), affirming the district court’s judgment against the local ordinance that prohibited “conversion therapies” on minors in the city of Tampa, Florida. This decision follows a concerning precedent set by the same Court in [Otto & Hamilton v. City of Boca Raton & County of Palm Beach](#) (2020), where county ordinances banning sexual orientation change efforts on minors were deemed unconstitutional under the First Amendment.

Furthermore, in December 2023, the United States Supreme Court dismissed a case sponsored by the “Alliance Defending Freedom” (ADF) that aimed to challenge the ban against “conversion therapy” in the state of Washington, despite objections from three conservative justices. Justices Thomas, Alito, and Kavanaugh expressed interest in hearing the appeal, highlighting concerns over free speech rights and the “fierce public debate over how best to help minors with gender dysphoria”.<sup>112</sup>

<sup>103</sup> “Equality Maps: Conversion Therapy Laws”, *Movement Advancement Project* (retrieved 30 March 2024).

<sup>104</sup> “HF 16 – Status in the House for the 93<sup>rd</sup> Legislature (2023 – 2024)”, *Office of the Revisor of Statutes (Minnesota)* (retrieved 1 April 2024).

<sup>105</sup> “Michigan Legislature approves ban on ‘conversion therapy’ for LGBTQ+ minors”, *Houston Chronicle*, 29 June 2023.

<sup>106</sup> “Utah Governor Signs Conversion Therapy Ban Into Law”, *The Advocate (USA)*, 28 March 2023; “Utah Governor signs historic bill protecting youth from conversion therapy”, *Queer Forty*, 27 March 2023.

<sup>107</sup> “Arizona Governor’s Executive Actions Ban ‘Conversion Therapy,’ Allow Transgender Health Care”, *US News & World Report*, 28 June 2023.

<sup>108</sup> “Oregon bill would ban therapists from trying to change a person’s sexual orientation”, *Oregon Capital Chronicle*, 14 February 2023.

<sup>109</sup> “Weekly Roundup of Anti-LGBTQ+ Legislation Advancing In States Across the Country”, *Human Rights Campaign*, 2 May 2023.

<sup>110</sup> “Wisconsin Republicans Look to Undo ‘Conversion Therapy’ Ban”, *US News & World Report*, 12 January 2023.

<sup>111</sup> “Wisconsin legislature endangers LGBTQ rights by legalizing conversion therapy”, *News Break*, 6 February 2023.

<sup>112</sup> Supreme Court of the United States, *Brian Tingley v. Robert W. Ferguson, Attorney General of Washington, et al, On Petition for Writ Of Certiorari to the United States Court of Appeals for the Ninth Circuit*, No. 22–942. Decided December 11, 2023.

## EXPLAINER

## Making Sense of Ongoing Litigation on “Conversion Therapies” in the United States of America

Most laws and ordinances regulating “conversion therapies” in the United States have a limited scope of protection, usually imposing restrictions exclusively on medical or mental health professionals and only concerning minors. However, psychologists and counsellors who are promoters of these pseudo-scientific practices have fiercely contested these provisions, with legal aid often provided by religious organisations. In summary, they argue that such laws violate their freedom of conscience, religion, and speech by prohibiting their attempts to convert minors to cis-heterosexuality.

In these debates—extensively covered in ILGA World’s “Curbing Deception” report—opponents of restrictions on “conversion therapies” claim, among other things, that such provisions impede their ability to express and disseminate their views on sexual and gender diversity, contending that therapy is primarily “conveyed through speech”. This has even been stretched to suggest that prohibiting “conversion therapies” would “ban the Bible”.<sup>113</sup>

Legal action based on these arguments was promptly brought by “conversion therapy” proponents shortly after California enacted the first state ban in 2012. Similar litigation was replicated in other US states when new bans were enacted. However, these legal challenges were largely unsuccessful as Courts consistently determined that such regulations constrained specific forms of “professional conduct”. This framing is a critical element of judicial reasoning in these cases because restricting professional conduct requires a lower level of judicial scrutiny compared to the one required to limit a fundamental right, as is the case for freedom of expression or freedom of religion. In other words, if the act of providing “conversion therapy” had been regarded purely as a form of speech, the assessment of the restriction imposed by the ban would have been carried out under a more stringent test, technically called “strict scrutiny”. In essence, stronger arguments are required to justify limitations on a fundamental right (in this case, the right to free speech and religion of “conversion therapy” proponents) compared to the regulation of professional conduct.

Case law consistently validated the evidence of harm caused by “conversion therapies” and their ineffectiveness, justifying the restriction of professional conduct and upholding the legal bans. However, this changed when the bans enacted in Palm Beach County and the cities of Tampa and Boca Raton in Florida were challenged in district courts and subsequently appealed

to the 11th Circuit of the US Court of Appeals. For the first time, the view that providing “conversion therapy” to minors falls within the protection of the First Amendment of the US Constitution was accepted by the courts. The Court of Appeals sided with marriage and family therapists who were willing to administer these “therapies” to children in November 2020.

This has created a situation where conflicting case law now exists among different circuits of the US Court of Appeals, typically necessitating a decision by the Supreme Court to determine which direction of case law should prevail. Indeed, detractor organisations are pushing for a case on “conversion therapy” to ascend the appellate chain to the Supreme Court in hopes of obtaining a victory that could potentially invalidate all bans in force in the United States.

The latest attempt was made by the “Alliance Defending Freedom” in *Tingley v. Ferguson*, where they provided legal aid to a Christian licensed marriage and family counsellor who challenged Washington state’s prohibition on “conversion therapy” for minors. However, the majority of the Supreme Court decided to “deny certiorari” (i.e., reject the appeal). Nevertheless, conservative justices—including Thomas, Alito, and Kavanaugh—explicitly wrote about “the need to discuss this issue”.

In fact, Justice Thomas anticipated how he would approach the issue in the following terms:

The petitioner, Brian Tingley, stands on one side of the divide. He believes that a person’s sex is “a gift from God, integral to our very being.” As a licensed marriage and family counsellor, Tingley seeks to assist minors who suffer from gender dysphoria but “want to become comfortable with their biological sex.” Tingley does so through “talk therapy”—i.e., therapy conducted solely through speech. The State of Washington is on the other side of the divide. Its view is that the State should “protec[t] its minors against exposure to serious harms caused by” counseling to change a minor’s gender identity, Note, Wash. Rev. Code §18.130.180 (2018), and, as a result, that counselors should only affirm a minor’s chosen gender identity. Washington silenced one side of this debate by enacting S.B. 5722, 65th Leg., Reg. Sess. (2018) (SB 5722). SB 5722 prohibits licensed healthcare providers from “[p]erforming conversion therapy on a patient under age eighteen.”

More cases are expected to be brought before the Supreme Court in the future.

<sup>113</sup> ILGA World: Lucas Ramon Mendos, *Curbing Deception: A world survey on legal regulation of so-called “conversion therapies”* (Geneva: ILGA World, 2020), Chapter 5: Rights at Stake, 59-69.

## Oceania

### Australia

Developments related to the regulation of “conversion therapy” took place at the subnational level in Australia.

On 12 December 2023, the [Justice Miscellaneous \(Conversion Practices\) Bill 2024 \(2023\)](#) was introduced in the state of Tasmania for public consultations, scheduled to last until February 2024.<sup>114</sup> This came after the State Government committed to ban such practices in June 2023.<sup>115</sup> The bill seeks to make amendments to the Health Complaints Act (1995) and the Police Offences Act (1935) to prohibit attempts to alter a person's sexual orientation or gender identity. However, local activists have reportedly criticised the bill for several claimed “loopholes” which would allow psychological or religious attempts at “conversion” to continue.<sup>116</sup>

In March 2024, both houses of the New South Wales parliament passed the [Conversion Practices Ban Bill \(2024\)](#). The legislation effectively makes conversion practices directed at “changing or suppressing the sexual orientation or gender identity of individuals” an offence punished with up to five years of imprisonment if they cause substantial damage to the person's physical or mental health or endanger their life (Section 5). Moreover, Section 8 also punishes with up to three years or a fine the act of taking somebody to or from New South Wales to force them into “conversion practices” (Section 6). Section 8 also bans any kind of “conversion practice” in general terms (even if only those included in Sections 5 and 6 would be criminally

punishable), creating a mechanism to enforce civil liability for them.<sup>117</sup> A previous attempt to ban “conversion practices” was introduced in 2023, although it lapsed at the end of the year without approval.<sup>118</sup>

### New Zealand

In October 2023, the New Zealand Human Rights Commission (NZHRC) published the [Guidance for Medical Healthcare Practitioners on Conversion Practices \(2023\)](#). The guidance clarifies ethical standards, which will help the NZHRC and the courts determine which medical practices are unethical, unreasonable, and not up to professional standards.<sup>119</sup> The guidelines say that “conversion” practices are only legal if they are both (1) according to a medical practitioner's “reasonable professional judgement” and (2) in compliance with all “legal, professional, and ethical standards.” Otherwise, they are punishable.

These guidelines exist alongside the [Conversion Practices Prohibition Legislation Act](#) enacted in 2022 that prohibits “conversion practices” aimed at changing the sexual orientation, gender identity or gender expression of any person under the age of 18 or those lacking legal decision-making capacity. Those in violation are liable to imprisonment for up to three years, while those responsible for practices which cause “serious harm” can be sentenced to up to five years imprisonment.<sup>120</sup>

<sup>114</sup> “Sex conversion practices to be criminalised under draft law”, *Launceston Examiner*, 14 December 2023.

<sup>115</sup> “Tasmanian Government commits to conversion therapy ban in 2023”, *Out In Perth*, 10 June 2023.

<sup>116</sup> “Draft bill to ban gay conversion practices in Tasmania criticised by advocates for having too many loopholes”, *ABC News*, 14 December 2023; “Claims bill to ban gay conversion therapies doesn't go far enough to protect LGBTQIA+ Tasmanians”, *The Mercury*, 14 December 2023; “Tasmania's Proposed Bill To Ban Gay Conversion Practices Panned”, *Star Observer*, 16 December 2023; “Survivors slam ‘useless’ Tas bill to ban conversion practices”, *Qnews*, 18 December 2023.

<sup>117</sup> “NSW Government introduces laws to ban harmful LGBTQ+ conversion practices”, *Govt. of New South Wales*, 13 March 2024; “‘Everyone deserves respect’: New South Wales bans gay conversion therapy”, *9News*, 22 March 2024.

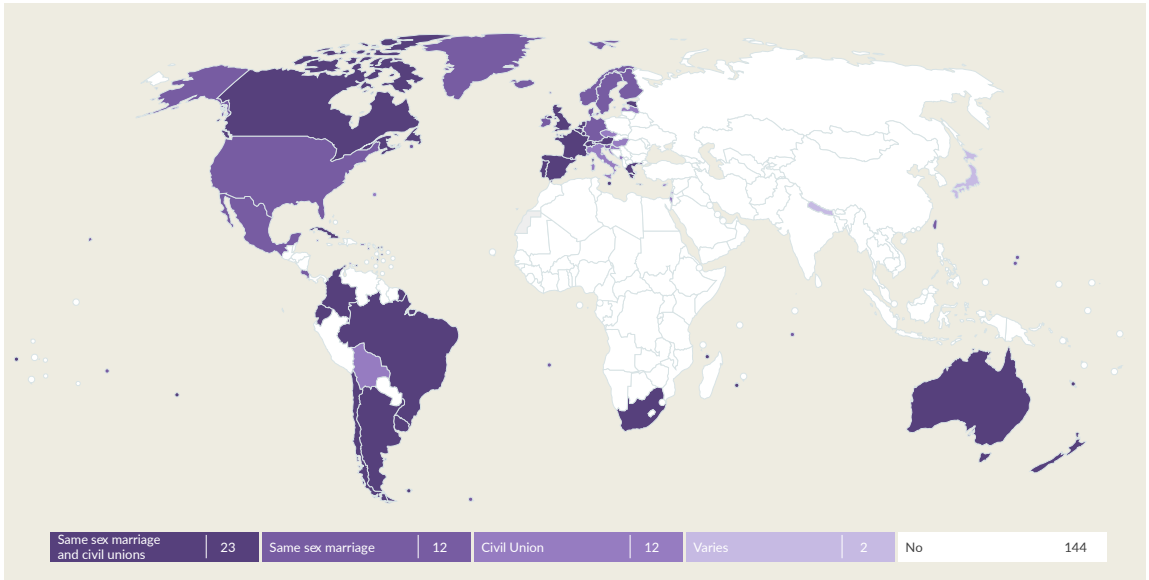
<sup>118</sup> “NSW Government To Delay Gay Conversion Ban Until 2024”, *Star Observer*, 25 November 2023; “Gay conversion law delay to allow for ‘careful’ reform”, *Yahoo News Australia*, 24 November 2023.

<sup>119</sup> “Conversion Practices Guidance for medical healthcare professionals”, *Gender Minorities Aotearoa*, 17 October 2023.

<sup>120</sup> Active prosecution of cases, however, may only be undertaken with the consent of the Attorney-General. The bill was initially introduced in October 2018, receiving around 106,000 submissions from the public (approximately three times as many submissions as were made during the process of legalising same-sex marriage). For more information, see ILGA World, *ILGA World Database: Regulation of so-called “conversion therapies” - New Zealand*, (retrieved on 18 April 2024).

## Same-Sex Marriage and Civil Unions

*Global Summary* – Legal protection for same-sex couples continued to grow, primarily in Europe and some parts of Asia. Multiple bills currently under debate reflect the potential for more progress.



### Top Legal Developments (January 2023 – April 2024)

- ▶ Steady progress in the enactment of rights for same-sex couples:
  - Four (4) UN Member States legalised same-sex marriage (**Andorra, Estonia, Greece, and Slovenia**). Additionally, an interim order has been issued in **Nepal** to allow for same-sex marriage.
  - Two (2) UN Member States legalised same-sex civil unions (**Bolivia and Latvia**).
  - In one (1) UN Member State (**Japan**), multiple subnational jurisdictions legalised same-sex unions.
- ▶ Bills indicating forthcoming advancements have been deliberated in multiple UN Member States across regions.
  - At least six (6) UN Member States introduced bills to legalise same-sex marriage (**Italy, Japan, Liechtenstein, Peru, South Korea, Thailand**).
- At least six (6) UN Member States introduced bills to legalise same-sex partnerships<sup>1</sup> (**Lithuania, Peru, Philippines, Slovakia, South Korea, Ukraine**).
- Additionally, in one (1) UN Member State (**Czechia**), a bill aims to expand the rights granted to existing civil unions (after the same-sex marriage bill was heavily modified).
- ▶ Favourable judicial decisions in six (6) UN Member States (**Croatia, Japan, Latvia, Namibia, Peru, South Korea**) and two (2) non-UN Member jurisdictions (Hong Kong, **China**; Cayman Islands, **United Kingdom**).
- ▶ Unfavourable judicial decisions in at least four (4) UN Member States (**India, Lithuania, Panama, Suriname**).

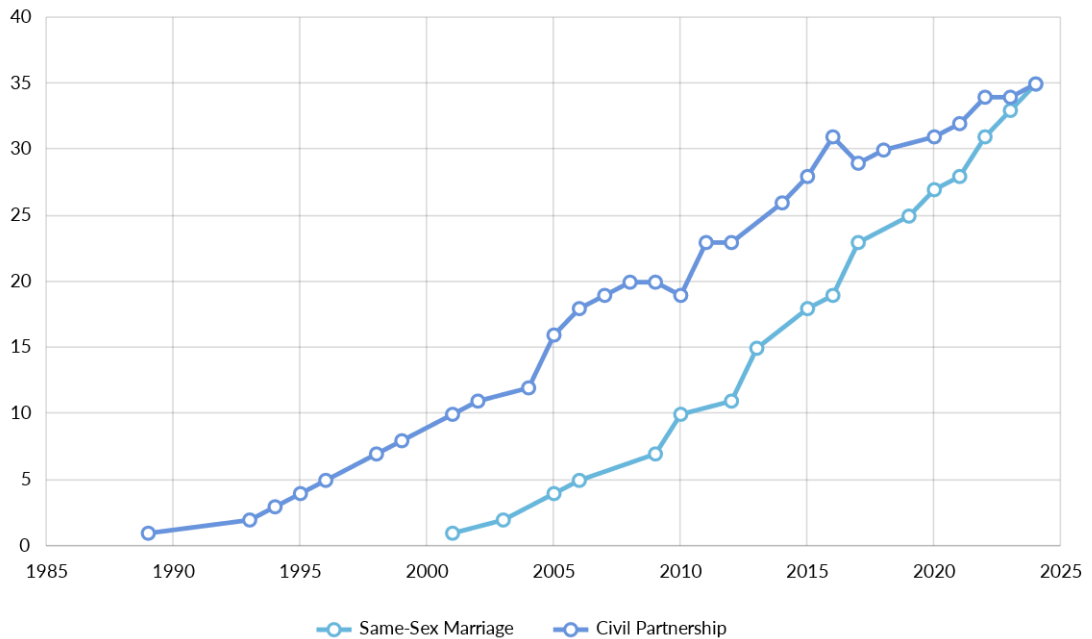
<sup>1</sup> Brazil has witnessed the introduction of a bill aimed at enshrining same-sex marriage into legislation. Since 2013, same-sex marriage has been legal nationwide following a decision by the National Council of Justice.

Global Tallies (UN Member States) - April 2024

**35**  
with full  
marriage equality

**35**  
with other forms of  
civil partnership

**1**  
with different levels of protection  
across subnational entities



Legal developments | January 2023 - April 2024

Africa

 Ghana

In early March 2024, Ghana’s parliament approved the contentious [Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill \(2021\)](#) nearly three years after the bill’s initial introduction in 2021. The bill contains various provisions criminalising different aspects of LGBTI people’s lives, from consensual same-sex sexual acts to gender-affirming care. Although

same-sex marriages or civil unions are not recognised in Ghana, this bill introduces a clause to punish those who enter into same-sex marriages and those who “administer, witness, abet or aid” the solemnisation of such marriages with a prison term of between one and three years. Marriage to any person who has undergone gender-affirming surgery (except for intersex individuals) would also be prohibited. In late March 2024, the President’s office requested that Parliament postpone sending the bill for presidential assent due to ongoing legal challenges against it.<sup>2</sup>

<sup>2</sup> For more information about this bill please refer to the section on criminalisation of consensual same-sex sexual acts in this report.



 Kenya

In March 2023, the parliamentarian George Peter Kaluma announced the draft [Family Protection Bill \(2023\)](#), which aims to amend the definition of “family” in Article 45(2) of the Constitution and Section 162 of the Penal Code (1930). Article 6 of the bill not only criminalises same-sex marriages but also punishes those who “solemnise,” “witness”, “aid”, or “knowingly attend” such unions with a prison term of not less than ten years.<sup>3</sup>

In October 2023, the National Policy on Family Promotion and Protection “Happy and Stable Families For a Strong Society” (2023) was approved by the Ministry of Labour and Social Protection. Under this policy, “family” is defined as “a societal group that is related by blood (kinship), adoption, foster care or the ties of marriage (civil, customary or religious) of two persons of opposite sex”. Furthermore, under Section 2.4, “efforts to guide and nurture families with skills to inculcate, internalise and practice good moral and family values” are included among the rationale for the policy. In the same line, “promoting gender responsive and age-appropriate programs that help people understand sexuality framed in the context of marriage as the best option” is included as a priority for policy interventions by the government in collaboration with relevant stakeholders.<sup>4</sup>

 Namibia

On 16 May 2023, the Namibian Supreme Court ruled in *Digashu et al. v. Government of the Republic of Namibia et al.* (2023), recognising two foreign same-sex partners as “spouses” for migration purposes under the [Immigration Control Act \(1993\)](#). This ruling overturned a 2022 High Court decision that had ruled against the applicants. The case involved two same-sex couples who challenged the State’s refusal to issue a work permit and permanent residency visa, respectively. In hearing their case, the High Court had rejected their claims, citing a 2001 Supreme Court ruling. However, the Supreme Court determined that even though same-sex marriage was not legal in Namibia, denying recognition to same-sex marriages lawfully concluded outside the

country infringed on the applicants’ right to dignity and equality.<sup>5</sup>

In late May 2023, the government reportedly began conducting a legal assessment of the landmark ruling before deciding on a course of action.<sup>6</sup> However, on 6 June, the Prime Minister of Namibia, Saara Kuugongelwa-Amadhila, announced that the Government would introduce a bill to the National Assembly to restrict the recognition of same-sex marriages, even if solemnised in countries where such marriages are legal.<sup>7</sup> Soon after that, in July 2023, lawmakers from the governing SWAPO Party submitted two bills that would prohibit same-sex marriages. On the one hand, the [Bill to Provide for the Definition of the term “Spouse” \(Bill\) \(2023\)](#) invokes Articles 81 and 45 of the Namibian Constitution to expressly contradict the Supreme Court decision and define “spouse” as “a person, being one half of a legal union between a man and a woman of the opposite sex of that person”. The other bill, the [Marriage Amendment \(Bill\) \(2023\)](#), would also define the term “spouse” to only include those of the “opposite sex”, in addition to introducing a clause that would prohibit same-sex marriages and not recognise foreign same-sex marriages as valid. Any person found to solemnise such marriages or “witness, promote or propagate” same-sex marriages would also be guilty of committing an offence, being liable, upon conviction, to a fine or to imprisonment. Both bills reportedly passed the National Assembly vote with minimal amendments, and on 19 July 2023, the National Council, Namibia’s upper house, reportedly passed both bills. Since September 2023, both bills have been awaiting final approval from the President.<sup>8</sup>

In addition, the [Amendments to the Civil Registration and Identification Bill \(2023\)](#) were also introduced to define “spouse” as a “genetically born man of full age” and “a genetically born woman of full age”.<sup>9</sup> This would place many trans, gender-diverse or intersex Namibians who have attained legal gender recognition in a position of being excluded from “heterosexual marriages”.

 South Africa

In July 2023, the Department of Home Affairs invited public comment on the [Draft Marriage Bill \(2022\)](#). The bill seeks to consolidate the three different acts

<sup>3</sup> For more information about this bill please refer to the section on criminalisation of consensual same-sex sexual acts in this report.

<sup>4</sup> Ministry of Labour and Social Protection, *National Policy on Family Promotion and Protection: Happy and Stable Families for a Strong Society* (October, 2023).

<sup>5</sup> “Analysing the case of *Digashu and Others v Government of the Republic of Namibia, Seiler-Lilles v Government of the Republic of Namibia*”, *Southern Africa Litigation Center*, 5 October 2023. For more information on these and other cases, refer to: Source: ILGA World, *ILGA World Database: Same-Sex Marriage and Civil Unions - Namibia* (retrieved: 13 April 2024).

<sup>6</sup> “Govt seeks legal advice on same-sex marriage ruling”, *The Namibian*, 29 May 2023.

<sup>7</sup> Office of the Prime Minister, *Ministerial Statement on the Recent Judgement of the Supreme Court of Namibia* [...], 6 June 2023.

<sup>8</sup> “Ekandjo anti-gay bills now on Geingob’s table”, *The Namibian*, 28 September 2023; “Same-sex marriage’s fate in Geingob’s hands”, *New Era Live*, 27 September 2023.

<sup>9</sup> The full definition under Article 14 of the bill reads: “In this section, ‘spouse’ means a person, being one half of a legal union between a genetically born man of full age and a genetically born woman of full age of the opposite sex of that person in a civil marriage concluded under the laws governing civil marriages in Namibia and a genetically born man or a genetically born woman of full age of the opposite sex of that person in a customary marriage concluded under customary law in Namibia”.

governing marriage in South Africa and to recognise all types of intimate partnerships, irrespective of “gender, sex, or sexual orientation”. The bill would legislate and define monogamous marriages as being possible between any two adult prospective spouses, regardless of their sex or gender, while also allowing for polygamous marriages.<sup>10</sup>

## Uganda

On 29 May 2023, the [Anti-Homosexuality Act \(2023\)](#) was signed into law by the President of Uganda. Section 10 of the bill expressly prohibits and punishes the attempt to contract marriage, formally or informally, with a person of the same sex as well as the presiding over, preparation, or attendance to a same-sex wedding with up to ten years imprisonment.<sup>11</sup>

## Asia

### Hong Kong (China)

In September 2023, the Hong Kong Court of Final Appeal issued a landmark decision in [Sham Tsz Kit v. Secretary for Justice](#) (2023) establishing that the Government was in violation of its obligation under Article 14 of the Hong Kong Bill of Rights to establish an alternative framework for the legal recognition of same-sex partnerships and to provide for appropriate rights and obligations. The applicant, a Hong Kong permanent resident, entered into a same-sex marriage in New York in 2013 after being unable to marry locally. The Court gave the government two years to comply with its final order.<sup>12</sup>

Furthermore, in October 2023, the Court of Appeal issued a progressive ruling in [Ng Hon Lam Edgar and Li Yik Ho v. Secretary for Justice](#) (2023), affirming a 2020 decision issued by the Court of First Instance that established that the marriage provisions excluding same-sex couples under local inheritance laws and regulations were discriminatory and unconstitutional.<sup>13</sup> Hong Kong’s Secretary for Justice appealed the decision, reportedly arguing that the law needed to

protect traditional marriages and the formation of traditional families, and that a decision in the opposite direction would weaken the status of traditional marriages and families, but the Court of Appeals unanimously dismissed the government’s appeal in all its claims.<sup>14</sup> In November 2023, it was reported that the Secretary for Justice decided again to appeal the decision, this time before the Court of Final Appeal.<sup>15</sup> On 26 February 2024, the Court of Appeal granted permission for the defendant to appeal the case at the Court of Final Appeal.<sup>16</sup>

### India

By 2022, many cases were pending in several Indian High Courts seeking legal recognition of same-sex marriage, including the Supreme Court, the Delhi High Court, and the Kerala High Court. In January 2023, the Supreme Court absorbed all pending cases at other courts relating to this matter. In March, the central government appealed to the Supreme Court to defer the issue of same-sex marriage to Parliament. The government argued that “same-sex marriage cannot be

<sup>10</sup> “South Africa’s new Marriage Bill raises many thorny issues - a balancing act is needed”, *The Conversation*, 03 August 2023.

<sup>11</sup> For more information about this bill, please refer to the section on criminalisation of consensual same-sex sexual acts in this report.

<sup>12</sup> “終院促政府兩年內確立替代框架提供法律承認同性伴侶關係” [Court of Final Appeal urges government to establish an alternative framework within two years to provide legal recognition for same-sex partnerships], *Bastille Post*, 28 October 2023; “同婚案終極上訴部分得直政府須付考子杰訟費” [The appeal section of the same-sex marriage case finally wins and the government must pay the legal fees of Shum Zijie], *Oriental Daily News*, 27 October 2023. Following the ruling, a member of Hong Kong’s Legislative Council known for his pro-Beijing political stance wrote to the Chairman of the Council’s Panel on Constitutional Affairs, questioning the verdict and urging the Government to seek clarification from the Chinese National People’s Congress (NPC). He also called for a review of previous decisions on sexual and gender diversity issues to ensure alignment with the Constitution and the National Security Law. See: “同性婚姻 | 何君堯不滿終院裁定設框架承認同性伴侶促提人大釋法” [Same-sex marriage | Ho Kwan-yiu is dissatisfied with the Final Court’s ruling to establish a framework for recognising same-sex couples and urges the National People’s Congress to interpret the law], *HK 01*, 09 November 2023.

<sup>13</sup> This includes the Intestates’ Estates Ordinance (IEO) and the Inheritance (Provision for Family and Dependents) Ordinance (IPO). The Intestates’ Estates Ordinance is a law that outlines what happens to a person’s property and assets if they die without leaving a will (intestate). In other words, it determines how the deceased person’s estate will be distributed among their surviving family members according to a predefined set of rules. These rules typically prioritise spouses, children, and other close relatives in a specific order. The Inheritance (Provision for Family and Dependents) Ordinance is a law that allows certain family members and dependents to claim a share of a deceased person’s estate if they believe they have not been adequately provided for in the deceased’s will or under the rules of intestacy (if there is no will). Simply put, this ordinance provides a legal mechanism for family members and dependents to claim the deceased’s estate if they feel they have not received a fair share of the inheritance.

<sup>14</sup> “同志權利案一再勝訴李亦豪擲詞到墓前助政府還亡夫尊嚴” [LGBT Rights Case Wins Repeatedly - Lee Yihao Brings the Verdict to His Spouse’s Grave, Hoping for Government to Restore His Late Husband’s Dignity], *Yahoo News (Hong Kong)*, 25 October 2023.

<sup>15</sup> “同志伴侶遺產繼承權訴訟政府不服上訴被駁回提終極上訴” [The government’s appeal against the gay couple’s inheritance lawsuit was rejected, and the government lodged a final appeal], *HK 01*, 15 November 2023.

<sup>16</sup> “公屋政策及遺產條例 同性配偶受歧視被指違憲 政府准作終極上訴” [Public Housing Policy and Heritage Ordinance: Discrimination against same-sex couples is alleged to be unconstitutional. Government allows final appeal], *HK01*, 26 February 2024.

equated to traditional Indian family values, where the only legally recognised marriage is between a man and a woman, as husband and wife”.<sup>17</sup>

In October 2023, amidst global anticipation within the LGBT movement, the Supreme Court in *Supriyo v. Union of India* (2023) determined that it lacked the power to legalise same-sex marriages, citing that India's constitution does not consider marriage a fundamental right. In its ruling, the Supreme Court reminded the State of its obligation to recognise such unions while also stressing that the responsibility of creating legislation on this issue lies within the authority of the Indian Parliament, not the judiciary.<sup>18</sup> According to the judgement: “This court cannot either strike down the constitutional validity of the Special Marriage Act or read words into the Special Marriage Act because of its institutional limitations. The court, in the exercise of the power of judicial review, must steer clear of matters, particularly those impinging on policy, which fall in the legislative domain. [...] The judiciary cannot legislate”.

On 1 November 2023, a plea was submitted to the Supreme Court, urging a review of its decision. The petition argued that the judgment contains evident errors and is perceived as “self-contradictory” and “manifestly unjust”.<sup>19</sup> As a subsequent development, a hearing was scheduled in the Supreme Court on 28 November. The petitioners, who had filed review petitions against the Constitution Bench's earlier decision, further demanded that these petitions be heard in an open court rather than a closed chamber.<sup>20</sup>

The Supreme Court's October ruling marks a possible backpedalling in a country where jurisprudence has historically been a critical avenue for the recognition of the rights of people of diverse sexual orientations and gender identities and expressions in India. The historic judgement of *Navtej Singh Johar v. Union of India* (2018), which struck down the colonial-era provision criminalising consensual same-sex sexual acts,<sup>21</sup> paved the way for other significant court decisions recognising the “right to love”. Cases such as *Mandu Bala v. State of Uttaraahand* (2020) and *Shampa Singh v The State of West Bengal* (2019) were significant in recognising the right of same-sex adult individuals to have consensual

relationships, including the right to cohabitation.<sup>22</sup> Against this backdrop of progressive judicial decisions, the 2023 Supreme Court ruling marked a challenge for India in fully recognising the “right to love” and the right to same-sex marriages.

Additionally, following the apex court's decision and the subsequent disappointment from local communities, the Madras High Court presented a separate opportunity for the recognition of same-sex unions. In November 2023, at the subnational level in the state of Tamil Nadu, it was reported that the Madras High Court issued an order urging the Tamil Nadu government to establish an administrative procedure to register “Deeds of Familial Association” to same-sex couples, thereby recognise civil unions between such couples.<sup>23</sup> This emerging concept aims to provide protection against harassment and discrimination for same-sex couples, ensuring they have a right to live in a recognised relationship. This, however, does not amount to a contractual legal status as couples, nor does it grant the rights of a marriage or civil union. Nevertheless, it could provide a legal template for the recognition of such relationships in the absence of a national, unequivocal right to marriage.<sup>24</sup>

## ● Japan

Japan has no nationwide law recognising same-sex civil unions or marriages. However, on 6 March 2023, Japan's Constitutional Democratic Party introduced a *Bill to Revise the Civil Code* (2023) to legalise same-sex marriage by using gender-neutral language in the law and explicitly mentioning “parties ... [of] the same sex” under the article defining marriage.<sup>25</sup> On 29 March 2023, the Japanese Communist Party also submitted a bill to the same effect.<sup>26</sup>

Additionally, a variety of lawsuits have been filed against the Japanese government in various districts in the years since 2019, arguing that not allowing same-sex marriages is unconstitutional. On 29 May 2023, the Nagoya District Court ruled in *Case No. 597* (2023) that not allowing same-sex marriage was in violation of

<sup>17</sup> “Same-sex Hearings: How Far Will The Courts Go?”, *Outlook India*, 29 April 2023; “Why knot: Queer community talks about their equal rights to marry”, *New Indian Express*, 27 April 2023; “Parliament didn't protect LGBTQ+ rights, so courts must step in”, *Times of India*, 24 April 2023.

<sup>18</sup> “സാമ്പർത്തുവിവാഹത്തിന് അംഗീകാരമില്ല : സുപ്രീംകോടതി ഭരണഘടനാ ബെഞ്ച് ഹർജി തള്ളി” [Gay marriage is not recognized; The Constitution Bench of the Supreme Court rejected the petition], *Mangalam*, 17 October 2023.

<sup>19</sup> “Self-contradictory and manifestly unjust”, Plea filed in SC for review of same-sex marriage judgment”, *Deccan Herald*, 01 November 2023.

<sup>20</sup> “समलैंगिक शादी को कानूनी मान्यता न देने के फैसले पर होगा पुनर्विचार, 28 नवंबर को sc में होगी सुनवाई” [The decision not to give legal recognition to gay marriage will be reconsidered, hearing will be held in SC on November 28], *Raftaar*, 25 November 2023.

<sup>21</sup> See as well: Arvind Narrain, *Right to Love: Navtej Singh Johar v. Union of India: A Transformative Constitution and the Rights of LGBT Persons* (2018).

<sup>22</sup> See Ajita Banerjee, “Emerging Jurisprudence on Queer Love in India”, *Oxford Human Rights Hub*, 6 September 2023.

<sup>23</sup> “Consider Evolving Procedure To Register “Deed Of Familial Association” To Protect Rights Of LGBTQIA+ Partners: Madras High Court To TN Govt”, *Live Law*, 17 November 2023.

<sup>24</sup> “Madras HC order offers LGBTQs a ray of hope on gay marriage”, *Times of India*, 27 November 2023.

<sup>25</sup> “同性婚法制度化、立民が法案提出・時事通信” [Same-sex marriage legalisation, Limin submits bill-Jiji Press], *JJLcom*, 08 March 2023.

<sup>26</sup> “婚姻平等法案を提出：参院 共産党「国会の緊急課題」” [Marriage equality bill submitted; House of Councilors Communist Party “Urgent Issues for the Diet”], *Japan Communist Party*, retrieved on 15 April 2024.

Article 14(1) of the Constitution (equality before the law). Notably, the court also found that not allowing same-sex marriage does not violate Article 24(1) but does violate Article 24(2). Paragraph 1 of Article 24 establishes marriages as “solely on the basis of consent of both sexes” while Paragraph 2 of the Article stipulates that laws regarding marriage and family “must be enacted based on the individual dignity and the essential equality of the sexes”. Essentially, the ruling recognises that marriages are between those of different sexes but also rules it unjust and unconstitutional for the government not to create a system for same-sex couples to become families.<sup>27</sup> Additionally, although the court rejected the claim for compensation from the male couple who filed the lawsuit, it affirmed the unconstitutionality of the current legal system.<sup>28</sup> This verdict follows a previous ruling by the Tokyo District Court in November 2022 (*Case No. (Wa) 3465 (2022)*), which deemed the country’s Civil Code and Family Registration law as unconstitutional for violating Article 24(2).<sup>29</sup>

One week after the Nagoya District Court ruling, on 8 June 2023, the Fukuoka District Court also handed down a ruling in *Case No. (Wa) 447 (2023)*, which – like previous rulings from the Fukuoka District Court – deemed current legislation to be in violation of Article 24(2) of Japan’s Constitution.<sup>30</sup>

Furthermore, a 2021 Sapporo District Court ruling—one of the first in the nation to deal with the recognition of same-sex unions—saw an appeal by the plaintiffs more recently. The Sapporo District Court initially ruled in 2021 that the Japanese government’s failure to recognise same-sex marriage was unconstitutional. On 14 March 2024, the Sapporo High Court reaffirmed that the absence of same-sex marriage provisions in the law violated Article 14(1), adding that it also violated Article 24(2) but not Article 24(1).<sup>31</sup> Despite this, the plaintiffs were reportedly dissatisfied with this decision, as the court also concluded that the Japanese Diet

(legislature) could not be said to have failed to legislate on same-sex marriages, making it unlikely for the government to pass such legislation in the near future. The plaintiffs have since expressed intent to bring this forward to the Supreme Court.<sup>32</sup> It was reported that on the same day, the Tokyo District Court also found the lack of same-sex marriage provisions unconstitutional, which the plaintiffs also reportedly seek to appeal in order to obtain a stronger judgement of unconstitutionality at the High Court.<sup>33</sup> This makes it the sixth instance of courts finding Japan’s lack of recognition for same-sex unions to be unconstitutional.

In contrast to the significant progress by courts in recognising the right for same-sex couples to marry, another instance where a court declined to recognise the rights of same-sex couples was also noted in September 2023. It was reported that the Sapporo District Court rejected a claim for damages filed by a former employee of the Hokkaido prefectural government in a same-sex partnership who did not receive spousal benefits. The plaintiff argued that Hokkaido’s denial in providing spousal benefits violated the constitutional guarantee of equality. ILGA World was informed by a local organisation, Marriage For All Japan, that the plaintiff declined to appeal against the decision, making the District Court decision final.

Despite the absence of a national law, since 2019 several prefectures—Japan’s first level of administrative divisions—and hundreds of other local administrations have recognised same-sex couples by issuing “partnership certificates”. These certificates usually allow same-sex partners to consent to each other’s medical treatments, or visit each other at the hospital, as well as other social welfare issues. However, family relations and their duties or rights are still defined by the national Civil Code, limiting the scope of benefits afforded to same-sex couples that heterosexual couples can access. Nevertheless, some prefectures have started signing bilateral and multilateral agreements to

<sup>27</sup> “【主張】同性婚訴訟の判決 男女否定は理解しがたい” [Claim] Judgment in same-sex marriage lawsuit denial of gender is difficult to understand, *Sankei Shimbun*, 2 June 2023.

<sup>28</sup> “Japan court rules that a bar on same-sex marriage is unconstitutional”, *Openly*, 30 May 2023; “Japanese higher court rules in favor of marriage equality”, *LGBTQ Nation*, 05 June 2023.

<sup>29</sup> For more information on the different judicial rulings on same-sex marriage in Japan, see ILGA World, *ILGA World Database: Same-Sex Marriage and Civil Unions - Japan*, retrieved on 12 January 2024.

<sup>30</sup> “主張/同性婚の法制化/続く違憲判断 国が動く番だ - 日本共産党” [Claim / Legalization of same-sex marriage / Continuing unconstitutional judgment It’s the turn of the country to move-Japanese Communist Party], *Shimbun Akahata*, 11 June 2023; “同性婚地裁判決 法制化を強く求めている - 信濃毎日新聞” [Same-sex marriage court ruling strongly calls for legalization-Shinano Mainichi Shimbun], *Shinano Mainichi Shimbun*, 11 June 2023.

<sup>31</sup> “High court: Lack of provisions for gay marriage unconstitutional”, *The Asahi Shimbun*, 14 March 2024.

<sup>32</sup> “同性婚訴訟で原告側が上告 札幌、違憲判断も請求棄却” [Plaintiff appeals in same-sex marriage lawsuit, Sapporo dismisses claim as unconstitutional], *Nikkei*, 26 March 2024; “同性婚訴訟で原告側上告 最高裁「違憲」で「国会にプレッシャーを」” [Plaintiff appeals same-sex marriage lawsuit, Supreme Court declares unconstitutional, calls for pressure on the Diet], *Mainichi*, 25 March 2024.

<sup>33</sup> “High court: Lack of provisions for gay marriage unconstitutional”, *The Asahi Shimbun*, 14 March 2024; “同性婚、東京訴訟で控訴 「高裁で明解な違憲判断を」” [Same-sex marriage appealed in Tokyo lawsuit: “High court must clearly rule unconstitutional”], *Sankei Shimbun*, 28 March 2024.

mutually recognise legal partnership certificates issued by one another. For instance, Saga has signed agreements with Fukuoka and Ibaraki, while Ibaraki has signed similar agreements with Gunma and Tochigi. In the absence of a nationwide mechanism, these agreements allow same-sex couples to be legally recognised as such beyond the borders of their prefecture.

Between January 2023 and March 2024, legal progress in this direction was made in the prefectures of Aichi,<sup>34</sup> Fukui,<sup>35</sup> Gifu,<sup>36</sup> Hyogo,<sup>37</sup> Ishikawa,<sup>38</sup> Kagawa,<sup>39</sup> Nagano,<sup>40</sup> Nara,<sup>41</sup> Oita,<sup>42</sup> Okinawa,<sup>43</sup> Shimane,<sup>44</sup> Shizuoka,<sup>45</sup> Shiga,<sup>46</sup> Tottori,<sup>47</sup> Toyama,<sup>48</sup> Yamagata,<sup>49</sup> Yamanashi,<sup>50</sup> Yamaguchi,<sup>51</sup> and Wakayama.<sup>52</sup>

- <sup>34</sup> In August 2023, Aichi decided to implement a "family-ship" system starting April 2024 that officially recognises children residing with same-sex common-law couples as family members, granting them access to administrative services. "愛知・ファミリーシップ制度導入 都道府県で初・子どもを含め証明" [Aichi introduces family-ship system, first in the prefecture to prove including children], *Saitama*, 17 August 2023; see also "Aichi Prefecture Family-ship Oath System Implementation Guidelines", *Aichi Prefectural Office*, retrieved on 17 April 2024.
- <sup>35</sup> Fukui Prefecture announced that from November 1, it will introduce a "partnership oath system" that officially recognizes relationships between same-sex couples and other members of sexual minorities. "福井県が11月からパートナーシップ宣誓制度を導入 性的少数者カップルを公的に認め不利益軽減" [Fukui Prefecture will introduce partnership oath system from November, officially recognizing sexual minority couples and reducing disadvantages], *Fukui Shimbun*, 17 October 2023; see also "Guidelines for the Fukui Prefecture Partnership Oath System" *Fukui Prefectural Office*, retrieved on 16 April 2024.
- <sup>36</sup> On 1 September 2023, the prefecture of Gifu started legally recognising same-sex couples under a system of partnership certificates. See: "「岐阜県パートナーシップ宣誓制度」スタート 同居家族としての公営住宅入居や緊急連絡先の指定が可能に" ["Gifu Prefecture Partnership Oath System" starts - It is now possible to move into public housing as a family living together and to specify emergency contact information], *Yahoo! Japan*, 02 September 2023; see also "Gifu Prefecture Partnership Oath System User Guide", *Gifu Prefectural Office*, retrieved on 17 April 2024.
- <sup>37</sup> "兵庫県、4月からパートナーシップ制度 lgbtqカップルに" [Hyogo Prefecture to start partnership system for LGBTQ couples from April], *Nikkei*, 10 January 2024; see also "Hyogo Prefecture Partnership System Implementation Guidelines", *Hyogo Prefectural Office*, retrieved on 17 April 2024.
- <sup>38</sup> In May 2023, local media reported that the Ishikawa Prefecture had announced its plans to approve a partnership registration system to recognize same-sex partnerships legally. See: "石川県がパートナーシップ宣誓制度導入へLGBTQ条例案、9月議会に提出" [Ishikawa Prefecture to Introduce Partnership Oath System Draft LGBTQ Ordinance Submitted to Assembly in September], *Yahoo! Japan*, 16 May 2023.
- <sup>39</sup> In September 2023, the governor of Kagawa announced that a same-sex partnership registration system would be implemented in the prefecture starting on October 1, 2023. Previously, all 17 municipalities of Kagawa had already implemented same-sex partnership recognition systems at the local level. See: "香川県、パートナー制度導入へ全17市町と連携、全国初" [Kagawa Prefecture to introduce partner system, collaborating with all 17 municipalities, first in Japan], *Nippon.com*, 11 September 2023; "Kagawa Prefecture Partnership System Outline", *Kagawa Prefectural Office*, retrieved on 17 April 2024.
- <sup>40</sup> After being announced in April 2023, a partnership registration system, which allows same-sex couples to be legally recognised, became operational in Nagano prefecture in August 2023. See: Guidelines to the Nagano prefecture partnership registration system (2023).
- <sup>41</sup> "奈良県、4月にパートナーシップ制度導入へ どちらかが県内在住条件" [Nara Prefecture to introduce partnership system in April, with the condition that one person resides within the prefecture], *Asahi Shimbun*, 6 March 2024; see also "Nara Prefecture Partnership Procedures Guide", *Nara Prefectural Office*, retrieved on 17 April 2024.
- <sup>42</sup> "大分県もlgbtカップル認める「パートナーシップ宣誓制度」...公営住宅や医療で家族扱いに" [Oita Prefecture also has a "partnership oath system" that recognizes LGBT couples... Treating them as family in public housing and medical care], *Yahoo! Japan*, 31 March 2024; see also "Oita Prefecture Partnership Oath System Guide", *Oita Prefectural Office*, retrieved on 17 April 2024.
- <sup>43</sup> "沖縄県が「パートナーシップ制度」導入へ 同性カップルの公的証明書、県全域に拡充 (琉球新報)" [Okinawa Prefecture to introduce "partnership system", expand public certificates for same-sex couples throughout the prefecture (Ryukyu Shimpou)], *Yahoo! Japan*, 28 February 2024.
- <sup>44</sup> After previously announcing it at the beginning of 2023, in October of that same year the Shimane prefecture implemented a legal partnership system to legally recognise same-sex couples. See: "島根県「パートナーシップ宣誓制度」導入へ 同性カップルなどを「結婚に相当する関係」と認める制度" [Shimane Prefecture to introduce "partnership oath system" A system that recognizes same-sex couples as "relationships equivalent to marriage"], *Docomo (Japan)*, 21 March 2023; "島根・鳥取両県が「パートナーシップ宣誓制度」導入" [Shimane and Tottori prefectures introduce partnership oath system], *Chugoku Shimbun*, 03 October 2023; see also "Shimane Prefecture Partnership Oath System Guidelines", *Shimane Prefectural Office*, retrieved on 15 April 2024.
- <sup>45</sup> Shizuoka prefecture reportedly began their "partnership oath system" in March 2023, recognising common law and LGBTQ couples. "多様な結婚広がる 県も「パートナー宣誓制度」" [Promoting diverse marriages: The prefecture also has a "partner oath system"], *Chunichi Shimbun*, 22 April 2023; see also "Shizuoka Prefecture Partnership Oath System Implementation Guidelines", *Shizuoka Prefectural Office*, retrieved on 15 April 2024.
- <sup>46</sup> "滋賀県「パートナーシップ宣誓制度」導入に向け具体的検討へ" [Shiga Prefecture to start concrete study towards introduction of "Partnership Oath System"], *NHK*, 19 September 2023; see also "Draft of Shiga Prefecture Partnership Oath System", *Shiga Prefectural Office*, retrieved on 17 April 2024.
- <sup>47</sup> In October 2023, the Tottori prefecture implemented a legal partnership system to legally recognise same-sex couples. See: "島根・鳥取両県が「パートナーシップ宣誓制度」導入" [Shimane and Tottori prefectures introduce partnership oath system], *Chugoku Shimbun*, 03 October 2023; see also "Tottori Prefecture Family-ship Implementation Guidelines", *Tottori Prefectural Office*, retrieved on 17 April 2024.
- <sup>48</sup> In 2022, the Toyama prefecture announced its intention to adopt a partnership system for same-sex couples, which was implemented on 1 March 2023 with the Toyama Prefecture Partnership Pledge System (2023). See: "【同性パートナーシップ証明制度】富山県が3月から導入、北海道で5市が連携協定" [[Same-sex partnership certification system] Introduced by Toyama Prefecture in March, 5 cities in Hokkaido signed partnership agreement], *Out Japan (1)*, 31 January 2023; see also "Toyama Prefecture Partnership Oath System Implementation Guidelines", *Toyama Prefectural Office*, retrieved on 17 April 2024.
- <sup>49</sup> In December 2023, the Yamagata prefecture announced its intention to introduce a partnership system for same-sex couples in January 2024. See: "【同性パートナーシップ証明制度】山形県、市原市、松山市が導入へ" [[Same-sex partnership certification system] Yamagata Prefecture, Ichihara City, and Matsuyama City to introduce], *Out Japan (1)*, 05 December 2023; see also "Yamagata Prefecture Partnership Oath System User Guidelines", *Yamagata Prefectural Office*, retrieved on 17 April 2024.
- <sup>50</sup> Yamanashi Prefecture announced that they would introduce a "partnership oath system" in November that will officially recognize sexual minority couples and promote understanding of gender diversity. "山梨県が「パートナーシップ宣誓制度」11月から導入" [Yamanashi Prefecture will introduce "partnership oath system" from November], *Asahi Shimbun*, 15 September 2023; see also "Yamanashi Prefecture Partnership Oath System Oath Guide", *Yamanashi Prefectural Office*, retrieved on 15 April 2024.
- <sup>51</sup> "同性パートナーシップ制度 知事が導入の方針を表明" [Governor announces policy to introduce same-sex partnership system], *Mainichi*, 24 January 2024. See also "Yamaguchi Prefecture Partnership Oath System Implementation Guidelines", *Yamaguchi Prefectural Office*, retrieved on 17 April 2024.
- <sup>52</sup> "和歌山県、パートナーシップ宣誓制度導入 同性カップル理解促進に" [Wakayama Prefecture introduces partnership oath system to promote understanding of same-sex couples], *Sankei Shimbun*, 25 January 2024; see also "Wakayama Prefecture Partnership Oath System Implementation Guidelines", *Wakayama Prefectural Office*, retrieved on 17 April 2024.

## Unveiling the Rainbow: Japan's Journey Towards Marriage Equality<sup>53</sup>

As of present, neither of the two bills proposed to the Diet aimed at legalising same-sex marriage has undergone any discussion at the national level. Despite a ruling by the Sapporo High Court in 2021 declaring the existing laws that do not recognize same-sex marriages as unconstitutional, Prime Minister Kishida has reiterated the stance of the previous government, stating that the recognition of same-sex marriages is “not envisioned in the Constitution”. Furthermore, he has suggested that “not having a provision on same-sex marriage does not constitute a violation of the Constitution”.<sup>54</sup>

In February 2023, the Prime Minister addressed the House of Representatives Budget Committee, emphasising the need for careful consideration of same-sex marriage, citing its potential to impact people's perceptions of family, values, and society.<sup>55</sup> In response to Kishida's remarks, Masayoshi Arai, who served as an Executive Secretary responsible for media relations for Kishida, expressed personal reservations, stating a reluctance to reside near individuals identifying as gay or other sexual minorities. Arai further commented on same-sex marriage, expressing concerns about its negative impact on society and indicating opposition from the secretary's office.<sup>56</sup>

An opinion poll conducted by the Asahi Shimbun newspaper revealed that more than 70% of respondents supported the legalisation of same-sex marriage, marking the highest percentage ever recorded.<sup>57</sup> However, conservative politicians, led by Japan's ruling Liberal Democratic Party, continue to resist legalising same-sex marriage despite repeated unconstitutional rulings. This misalignment between the viewpoints of conservative politicians and public sentiment has hindered progress in Japan. While over 70% of the public supports same-sex marriage, only 42% of Diet members are in favour.<sup>58</sup>

Nevertheless, various prefectures and municipalities (including cities, wards, towns, and villages) have made notable progress in introducing “partnership certificate systems” since 2015.<sup>59</sup> The first of these same-sex partnership systems was the “Partnership Declaration System” of Shibuya Ward, put in place in 2015. Initially, only the municipality-level bodies introduced similar systems one after another, after which Ibaraki prefecture introduced the first prefecture-level one in 2019 when there was no municipality in the prefecture implementing the system. Later, Akashi City (in the

prefecture of Hyogo) introduced the first “Family-ship system” which recognised the couple as well as children brought up by them as a family, which was followed by other local government bodies soon introducing “family-ship” systems as well as adding the recognition of family members (primarily children) to partnership systems. Meanwhile, more prefectures began in 2020 to introduce the prefecture-level systems to follow Ibaraki, with or without municipalities within them that had implemented the systems before.

With the development of these “partnership certificate” systems across the many different prefectures across Japan, as of 2023, only about 20% of the population do not have access to this system, including one whole prefecture (Miyagi) which does not have the system in any of its municipalities. While there is no thorough analysis of the registered users who have accessed these “partnership certificate” systems, most of the local bodies have found a fair number of users. Commonly, some time passes before the first couple accesses the certificate system. Data provided by Nijiro Diversity have estimated that the population coverage ratio of these same-sex partnership systems has significantly increased from about 64.7% at the end of 2022 to roughly 81.1% as of March 2024, where more than 5,000 couples have registered their partnerships through these mechanisms as of June 2023.<sup>60</sup> The introduction of the system has been mostly welcomed and regarded as a sign of the community's friendliness and acceptance towards LGBT people living in the different municipalities and prefectures.

Additionally, local bodies (prefectures and municipalities) usually implement other policies together with these partnership systems that benefit LGBT residents, including public housing eligibilities in properties managed by these local bodies and welfare services to same-sex couples equally given to heterosexual married couples (both in private and public employment). Moreover, the private sector is introducing benefits, such as banks offering combined mortgages to registered couples, hospitals and clinics allowing medical authorisation to same-sex partners, and telecommunication providers regarding registered couples as families, among other benefits. In this context, activists believe that the gradual spread of the system over eight to nine years has improved the social and community awareness of general LGBT issues, developing from urban and suburban to rural areas.

<sup>53</sup> We are appreciative of the information provided by Marriage For All Japan for this essay.

<sup>54</sup> “editorial: Diet behind the times in dealing with same-sex marriage issue”, *Asahi Shimbun*, 16 March 2024.

<sup>55</sup> “Kishida cautious on gay marriage because it would ‘change society’”, *Asahi Shimbun*, 03 February 2024.

<sup>56</sup> “Japan PM to dismiss secretary for discriminatory remarks against sexual minorities”, *The Mainichi*, 04 February 2023.

<sup>57</sup> “Survey: 72% of voters in favour of legalizing gay marriages”, *Asahi Shimbun*, 21 February 2023.

<sup>58</sup> See the “Opinion Meter of the Japanese Diet”, *Marriage For All Japan*, retrieved on 15 April 2024.

<sup>59</sup> For more information and to see a specific example of the prefectures and municipalities in Tokyo, see “The Structure of the Tokyo Metropolitan Government (TMG)”, *Tokyo Metropolitan Government*, retrieved on 17 April 2024.

<sup>60</sup> See “Rainbow Diversity National Partnership Joint Survey - Infographic”, *Certified NPO Nijiro Diversity*, retrieved on 17 April 2024.

## Nepal

On 3 May 2023, in the case of *Adheep Pokhrel and Tobias Volz v. Ministry of Home Affairs, Department of Immigration* (2023), the Supreme Court of Nepal issued an interim order directing the government to establish a transitional mechanism for the registration of marriages for same-sex couples and other non-traditional heterosexual couples.<sup>61</sup> The order recognises marriage rights based on gender identity and sexual orientation, calling for necessary amendments to the provisions related to marriage within the Civil Code. The court also mandated the creation of a separate register of marriages for sexual and gender minority communities. The court's order allows same-sex couples to legally register their marriages while awaiting potential legislative changes.<sup>62</sup>

However, in July 2023, media reported that the Kathmandu District Court had refused to register a same-sex marriage on the grounds that since the Supreme Court's order was addressed to the government, the lower courts were not bound to comply with it. In October 2023, the Patan High Court reportedly upheld the decision of Kathmandu District Court denying the marriage registration of Maya Gurung and Surendra Pandey.<sup>63</sup> It was reported a month later in November 2023 that authorities in Dordi in the district of Lamjung, where Gurung and Pandey are both from, agreed to follow the interim court order and officially register their marriage, making it the first-ever instance of same-sex marriage in Nepal.<sup>64</sup>

## Philippines

There have been several attempts to legalise same-sex civil partnerships in the Philippines since the 17<sup>th</sup> Congress session in 2017, but none of the legislative proposals moved past the second and third readings.<sup>65</sup> In January 2023, the Civil Partnership Bill ([House Bill No. 6,782](#)) (2023) was introduced in the House of Representatives.<sup>66</sup> Section 3 of this bill defines "civil partnership" as the "legal relationship between two persons, of either the same or opposite sex".

At the subnational level, in February 2024, Quezon City in Metro Manila passed [Ordinance No. SP-3221](#) (2024), also known as the "Quezon City Right to Care Ordinance", which authorises same-sex couples to choose the kind of hospital treatment, medical procedures, tests, and prescriptions that their partners shall receive. They will also be allowed to provide care during hospitalisation and receive important information for the duration of admission.<sup>67</sup>

## South Korea

In February 2023, South Korea's High Court reached a decision in *Case No. 2022-32797* (2023) where it concluded that there was no rational justification for differentiating between same-sex and different-sex couples under the principle of equality in the context of extending insurance coverage to "dependents". The case had started in February 2020, when the plaintiff secured health insurance beneficiary status as the "de facto spouse" of his male partner. Following media exposure of this fact, the National Health Insurance Service (NHIS) retroactively rescinded the plaintiff's dependent qualification, asserting that the prior grant was an "error". In 2022, the Seoul Administrative Court ruled against the couple's claims and asserted that there existed no legal foundation to extend protection to same-sex couples. Therefore, with its February 2023 ruling, the High Court issued an order requiring the NHIS to reinstate coverage for partners within same-sex relationships.<sup>68</sup> However, in March 2023 the NHIS filed an appeal against the High Court decision.<sup>69</sup>

Additionally, in April 2023, Congressman Yong Hae-in introduced the Life Partnership Bill ([Bill No. 2121647](#)) (2023) in the National Assembly. The bill aims to legalise same-sex unions and includes amendments to 25 laws to provide social security protections for life partners similar to those granted to married couples.

Soon after, in May 2023, Jang Hye-yong, a member of the minor opposition Justice Party, introduced the Family Formation Right Act (2023), a bill to amend the Civil Code to recognise same-sex marriage. This is the country's first-ever same-sex marriage bill, hailed by

<sup>61</sup> See the English-translated version of the court decision here: *Adheep Pokhrel and Tobias Volz. v. Ministry of Home Affairs, Department of Immigration*, retrieved from ILGA World on 6 February 2024.

<sup>62</sup> "Nepal Supreme Court delivers historic ruling in favour of same-sex marriage", *GCN*, 03 May 2023.

<sup>63</sup> "Nepal Gay Marriage 'Victory' Hits Legal Roadblock", *Lavender Magazine*, 27 August 2023; नेपालमा समलिंगी जोडीको विवाह दर्ता गर्न अदालतहरूद्वारा अस्वीकार [Rejection by courts to register same-sex couple's marriage in Nepal], *Human Rights Watch*, 12 October 2023.

<sup>64</sup> "Nepal Registers Same-Sex Marriage - A First", *Human Rights Watch*, 01 December 2023.

<sup>65</sup> [HB 6595](#) (2017) was filed in the 17<sup>th</sup> Congress while [HB 1357](#) (2019) was filed in the 18<sup>th</sup> Congress. [S.B. 449](#) (2022) was filed earlier in the 19<sup>th</sup> Congress in 2022 but was also unable to pass the legislative process. For more information, see ILGA World, *ILGA World Database: Same-Sex Marriage and Civil Unions - Philippines*, retrieved on 22 September 2023.

<sup>66</sup> "Civil Partnership Bill pushed anew", *Philippine News Agency*, 15 February 2023.

<sup>67</sup> "QC Council passes ordinance strengthening 'Right to Care Card' for LGBTQIA+", *Manila Bulletin*, 20 February 2024.

<sup>68</sup> "South Korea: High Court health insurance ruling offers hope for marriage equality", *Amnesty International*, 21 February 2023.

<sup>69</sup> "건보공단, 동성커플 진료 자격 인정' 2심 판결에 불복해 상고" [Health Insurance Corporation appeals against the second trial ruling on the recognition of health insurance qualifications for same-sex couples], *YTN*, 07 March 2023.

civil society groups as a significant moment in achieving LGBTI equality.<sup>70</sup> These bills are part of a move to increase pressure on the government to expand the idea of “family” beyond traditionally defined terms. South Korea does not currently recognise same-sex civil partnerships as the country’s Constitution stipulates that marriage shall be established “on the basis of individual dignity and equality of both genders”, which is often read as restricting marriage to only different-sex couples.<sup>71</sup>

## Taiwan (China)

Before 2023, foreign nationals were only allowed to enter into a same-sex marriage in Taiwan if the laws of their home country recognised such unions.<sup>72</sup> However, this changed in January 2023 when Taiwan’s Ministry of the Interior issued [Ordinance No. 1120240466 \(2023\)](#), notifying local governments that the [Act for the Implementation of J.Y. Interpretation No. 748 \(2019\)](#) extends to transnational same-sex couples. In the ordinance, the Ministry states that “two persons of the same gender shall not be denied the ability to establish an intimate and exclusive permanent union for the purpose of living together”.<sup>73</sup> This means that same-sex couples consisting of one Taiwanese citizen and one foreign national can now register their marriage, regardless of the legality of same-sex marriages in the foreign partner’s jurisdiction. This law extends as well to partners from Hong Kong and Macau but does not encompass “cross-strait” couples, which are governed by different regulations.<sup>74</sup>

## Thailand

In May 2023 the Move Forward Party, which won the general elections, announced it had reached a

government agreement with other political forces that included the approval of same-sex marriage.<sup>75</sup> However, the party’s leader was denied the position of Prime Minister, ultimately leading to his coalition being dissolved and replaced by a Pheu Thai-led coalition without the Move Forward Party, leaving them consigned to the opposition, sparking protest and criticism.<sup>76</sup> The Move Forward Party had previously submitted a [Draft Act to Amend the Civil and Commercial Code \(2022\)](#) in June 2022, which was approved by the House of Representatives before the 2023 elections.<sup>77</sup> Following the parliamentary dissolution in March 2023, progress on the bill lapsed.

However, on 28 September 2023, the [Marriage Equality Bill \(2023\)](#) was presented to Parliament by members of the Move Forward Party in another attempt to legalise same-sex marriage.<sup>78</sup> The bill aims to amend Section 1448 of the Civil and Commercial Code by making the marriage law applicable to “any couple, regardless of gender”, essentially granting same-sex couples the same rights, duties, and family status as their heterosexual counterparts, including adoption. Following this, the Ministry of Justice opened the bill for public comment throughout October and November 2023.<sup>79</sup>

On 21 December 2023, the Lower House of Parliament gave preliminary approval to four separate bills on same-sex marriage, including the Marriage Equality Bill (2023). The other bills were submitted by another opposition party, the current governing party, and members of civil society for the first time. A local activist informed ILGA World that the bill submitted by civil society successfully gathered 360,000 signatures, despite only requiring 10,000 to show sufficient public support for parliamentary submission.<sup>80</sup>

After Parliament’s approval in the first reading, a committee of 39 members scrutinised the four proposed drafts before they were tabled for the second reading. Following the scrutiny, it was reported that

<sup>70</sup> “South Korea’s first ever same-sex marriage bill goes to parliament”, *The Guardian*, 31 May 2023.

<sup>71</sup> “Where does Korea stand on same-sex marriage?”, *The Korea Herald*, 20 March 2023; “Proposed bill aims to embrace more diverse types of families”, *Korea Times*, 7 May 2023.

<sup>72</sup> In March 2021, in a case concerning a couple from Taiwan and Malaysia, the Taipei High Administrative Court ruled against this prohibition in *Qi Jia Wei v Taipei City Daan District Household Registration Office* (2021). The Court ordered the government to pass legislation to amend it and ruled that Taiwanese nationals should be entitled to enter into same-sex marriages whether their partner is Taiwanese or a foreign national. For more information, see ILGA World, *ILGA World Database: Same-Sex Marriage and Civil Unions - Taiwan (China)*, retrieved on 7 February 2024.

<sup>73</sup> “蘇貞昌拍板跨國同婚透過函釋解套” [Su Zhenchang decides on cross-border same-sex marriage through letter explanation], *Radio Taiwan International (English)*, 22 January 2023.

<sup>74</sup> “Rule barring registration of cross-national gay couple marriages scrapped”, *Focus Taiwan*, 21 January 2023.

<sup>75</sup> “Thailand’s Move Forward prioritises marriage equality as Bangkok makes WorldPride 2028 push”, *South China Morning Post*, 30 May 2023.

<sup>76</sup> “Thailand’s Pheu Thai Party Takes Control – But at a Long Term Cost”, *Council on Foreign Relations*, 02 August 2023; “Thailand’s Election Winner Fails First Parliament Vote to Become Prime Minister—What to Know and What Comes Next”, *Time*, 13 July 2023.

<sup>77</sup> This proposed legislation aimed to modify the Civil and Commercial Code by revising the marriage definition from “between a male and female” to “between two persons”. While the bill intended to acknowledge same-sex couples as “civil partners”, it essentially offered them the equivalent legal rights enjoyed by heterosexual married couples. See ILGA World, *ILGA World Database: Same-Sex Marriage and Civil Unions - Thailand*, retrieved 1 May 2024.

<sup>78</sup> “ภาค ประชาชน 3 ร่างกฎหมาย ‘สมรสเท่าเทียม-รองรับเพศสภาพ-เลิกค้าประเวณี’” [People’s Party submits 3 draft laws ‘equal marriage - gender accommodating - abolition of prostitution’], *Bangkok Biz News*, 28 September 2023.

<sup>79</sup> “ครม.อนุมัติหลักการร่างพระราชบัญญัติแก้ไขเพิ่มเติมประมวลกฎหมายแพ่งและพาณิชย์” [Cabinet approves in principle the draft Act amending the Civil and Commercial Code], *Royal Thai Government*, 21 November 2023.

<sup>80</sup> “Thailand is one step closer to marriage equality. Let’s look at how far we’ve come”, *BK*, 28 March 2024; “Thailand’s same-sex marriage bill a boon for equality and economy but hurdles remain”, *Eco-Business*, 08 February 2024.



these four draft bills were to be consolidated into one version.<sup>81</sup>

By March 2024 the Marriage Equality Bill (2023) received the committee's approval as well as that of the Lower House of Parliament, with an overwhelming 400 representatives voting in favour and only 10 against. On 2 April 2024, it was reported that the Senate had also

overwhelmingly voted in favour of the bill on its first reading (147 in favour, 4 against, 7 abstentions).<sup>82</sup> As of the time of publication of this report, the bill still requires endorsement from the King before marriage equality is achieved in Thailand. If passed into law, Thailand would be the first nation in Southeast Asia to legally recognise same-sex marriage.<sup>83</sup>

## Europe

### Andorra

In 2022, the Andorran General Council approved the Qualified Law on the Person and the Family (Law No. 30) (2022), which introduced marriage equality.<sup>84</sup> However, it maintained a slight difference in the name between civil marriages (*casament*), which are open for same-sex couples, and Catholic marriage (*matrimoni*), which are not, although the legal effects were the same. Shortly after the law was passed, the Constitutional Court declared this terminological difference unconstitutional in its *Judgment on Case No. 2022-1-L* (2022), considering that it amounted to discrimination on the grounds of religious beliefs and sexual orientation.<sup>85</sup> Following this ruling, in January 2023 the Andorran Parliament unanimously approved a reform that uses the same wording for all types of unions, effectively legalising same-sex marriage in the country, becoming one of four UN member States in 2023 to allow such unions.<sup>86</sup>

### Bulgaria

After Bulgaria's Supreme Administrative Court refused in 2019 to recognise a marriage between two Bulgarian

women who had married in the UK, both women challenged its ruling before the European Court of Human Rights (ECHR). As a result, in September 2023 the ECHR ruled against Bulgaria in *Koilova and Babulkova v. Bulgaria* (Application No. 40209/20) (2023) for failing "to satisfy its positive obligation to ensure that the applicants had available to them a specific legal framework providing for the recognition and protection of their union as a same-sex couple".<sup>87</sup> The Court, in its ruling, rejected the Bulgarian government's arguments that the recognition of same-sex unions would be a violation of public interest and that such grounds do not outweigh the plaintiffs' interest in obtaining adequate recognition and protection by law of their relationship.<sup>88</sup>

### Croatia

In December 2023, the Constitutional Court rejected in *Judgment No. 92-14 and 98-19* (2023) three claims that were filed almost a decade prior in 2014 against the *Same-Sex Life Partnership Act* (2014), which legalised same-sex civil unions.<sup>89</sup> The Constitutional Court pointed out that the right to respect for family life is guaranteed to all persons, regardless of sexual orientation and gender identity, and is under the direct protection of the Constitutional Court and the

<sup>81</sup> "#สมรสเท่าเทียม : เปิด 3 ร่างแก้ไขประมวลกฎหมายแพ่งฯ ปลดล็อกไม่จำกัดเฉพาะชาย-หญิง" [#Equal Marriage: Opening 3 draft amendments to the Civil Code. Unlocking is not limited to men and women.], *iLaw (Thailand)*, 20 December 2023.

<sup>82</sup> "สว. รับหลักการ ร่างกม.สมรสเท่าเทียมแล้ว" ['Senate' has accepted the principles of the draft law on equal marriage.], *Bangkok Biz News*, 03 April 2024; "เปิดคำอภิปรายกฎหมายสมรสเท่าเทียมของ สว. ก่อนมีมติรับหลักการ" [Open debate on the equal marriage law of the Senate before deciding to accept the principle.], *BBC (Thailand)*, 2 April 2024.

<sup>83</sup> "Same-sex marriage bill moving ahead", *Bangkok Post (Thailand)*, 14 March 2024; "Thailand's lower house passes bill to legalize same-sex marriage", *CNN*, 27 March 2024.

<sup>84</sup> "Andorra aprueba el matrimonio civil igualitario" [Andorra approves equal civil marriage], *Dos Manzanas*, 22 July 2022.

<sup>85</sup> "L'ús del terme 'casament' per a les parelles gais acaba al TC" [The use of the term 'marriage' for gay couples ends in TC], *Diari d'Andorra*, 15 September 2022.

<sup>86</sup> "Lum verd a la tipificació de matrimoni, sigui quina sigui la orientació sexual de la parella" [Green light for the classification of marriage, whatever the sexual orientation of the couple], *Andorra Difusió*, 31 January 2023.

<sup>87</sup> "Court Rules Bulgaria Must Recognize Same-Sex Relationships", *Human Rights Watch*, 8 September 2023.

<sup>88</sup> "Страсбург: България трябва да признае еднополовите семейства" [Strasbourg: Bulgaria recognise same-sex families], *Lupa BG*, 5 September 2023.

<sup>89</sup> Croatia formally adopted a constitutional ban on same-sex marriage after a 2013 referendum on the matter was supported by 66.28% of those who voted. However, only 37.88% of the population is reported to have participated. The *Constitution* now defines marriage as solely between a man and a woman under Article 61. See ILGA World, *ILGA World Database: Same-Sex Marriage and Civil Unions - Croatia*, retrieved on 8 February 2024.

European Court of Human Rights.<sup>90</sup> Local LGBTI organisations have hailed this decision as a “significant step towards achieving equality.”<sup>91</sup>

## Czechia

In June 2023, the Chamber of Deputies voted in favour of [Bill No. 241 \(2022\)](#), aimed at reforming the Civil Code to legalise same-sex marriage. After its initial reading, the bill was forwarded to various parliamentary committees for thorough discussion.<sup>92</sup> Subsequently, on 7 February 2024, the revised text, as agreed upon by the committees, passed a second reading in the Chamber.<sup>93</sup> However, before the final reading, several amendments were proposed seeking to exclude marriage equality from the legislation. One such amendment, introduced by MPs from different parties, suggested replacing same-sex marriage with a new form of legally recognised partnership called “partnerství”. This proposal granted these partnerships similar rights and obligations as traditional marriages unless specified otherwise by law.<sup>94</sup> On 20 February 2024, this amendment was ratified during the bill’s third reading in the Chamber, resulting in the approved text focusing on partnerships rather than same-sex marriage.<sup>95</sup> The revised version, now designated as [Bill No. 234 \(2024\)](#), was then forwarded to the Senate for further consideration. While the amended bill aimed to enhance the rights of registered partnerships in Czechia, it still lacked provisions granting them equivalent parental rights to those enjoyed by married couples.<sup>96</sup>

## Estonia

In June 2023, the Estonian parliament adopted the [Law to reform Family Law and other related laws \(2023\)](#), which amended the legal concept of marriage to define it in gender-neutral terms, thus legalising marriage equality. Besides legalising same-sex marriage, this law extends certain rights and responsibilities to registered partnerships, including property rights, adoption, legal residency, and citizenship. The President of Estonia enacted the Law a few days after it was passed. The law entered into force on the first day of 2024.<sup>97</sup> Prior to this, same-sex couples had been able to enter civil unions since the [Registered Partnership Act \(2014\)](#) which entered into force in 2016.<sup>98</sup>

## Greece

The Greek government announced in September 2023 its intention to introduce a bill to legalise same-sex marriage.<sup>99</sup> Previously, in July 2023, the Prime Minister had publicly supported marriage equality after being re-elected by a landslide. Furthermore, in December 2023 government spokesman Pavlos Marinakis, reaffirmed the government’s stance and said that it would fulfil its commitment to legalise same-sex marriage following strong opposition from the country’s influential Orthodox Church. In a 1,500-word statement of opinion, the Church expressed its arguments against same-sex marriage, but the government reassured the

<sup>90</sup> “Rješenje Ustavnog suda Republike Hrvatske o Zakonu o životnom partnerstvu - Dugine obitelji” [Ruling of the Constitutional Court of the Republic of Croatia on the Law on Life Partnership - Rainbow Family], Dugine obitelji, 28 December 2023.

<sup>91</sup> “Ustavni sud donio važnu odluku za istospolne zajednice: “Značajan korak naprijed” [The Constitutional Court made an important decision for same-sex unions: “A significant step forward”], Dvenik (Croatia), 28 December 2023.

<sup>92</sup> “Bill on legalizing marriage for same sex couples approved in first reading”, Radio Prague, 1 July 2023; “Sněmovna schválila manželství pro homosexuály v prvním čtení. Kdo jak hlasoval?” [The House approved marriage for homosexuals in the first reading. Who voted how?], Seznam Zprávy, 29 June 2023.

<sup>93</sup> “V ČR posunuli návrh o manželství i pre homosexuálne páry do 3. čítania” [In the Czech Republic, they moved the proposal on marriage for homosexual couples to the 3rd reading], Teraz, 08 February 2024.

<sup>94</sup> “O Čem Bude Hlasovat Sněmovna Ve 3. Čtení Aneb Jedno Manželství, Jeden Pozměňovák A Čtyři Úplné Ukrajovány” [What Will The House Vote On In The 3rd Reading, Or One Marriage, One Amendment And Four Complete Cuts], Jsme Fér, 16 February 2024.

<sup>95</sup> “Sněmovna schválila partnerství pro páry stejného pohlaví. Adopce možné nebudou” [The House approved partnerships for same-sex couples. Adoptions will not be possible], denik.cz, 28 February 2024; “Czech lawmakers approve bill on same-sex marriages, without the right to adopt children”, Radio Prague, 29 February 2024; “Sněmovnou ve středu prošla novela občanského zákoníku, která mění svazky stejnopohlavních párů a zlepšuje jejich práva” [An amendment to the Civil Code, which changes the unions of same-sex couples and improves their rights, was passed by the Chamber of Deputies on Wednesday], Deník N, 01 March 2024.

<sup>96</sup> “Otázky A Odpovědi K Novele O Partnerství”, [Questions and answers to the partnership amendment], Jsme Fér, 07 March 2024.

<sup>97</sup> “Riigikogu kehtestas abieluvõrdsuse” [The Riigikogu established marriage equality], Gei ja lesbi infokeskus (Estonian Gay League), 22 June 2023.

<sup>98</sup> The Registered Partnership Act (2014) is open to same-sex and different-sex couples and contains limited adoption rights for joint adoption by a second parent. However, “family status” under Estonian law requires a union between a man and a woman. However, effective implementation of the Registered Partnership Act reportedly remains sporadic, as many of the amendments to laws and provisions required to do so have not been ratified by the Parliament to date, meaning that some same-sex couples have had to have certain rights confirmed by the courts on a case-by-case basis. For more information about this Act, see ILGA World, [ILGA World Database: Same-Sex Marriage and Civil Unions - Estonia](#), retrieved on 8 February 2024.

<sup>99</sup> “ΑΟΑΤΚΙ+ : Νομοσχέδιο της κυβέρνησης για γκέι γάμους και τεκνοθεσία” [LGBTI+ : Government bill on gay marriage and procreation], in.gr, 04 September 2023.

media that it would commit to legalising same-sex marriage.<sup>100</sup> This is not the first time in recent years that the government had discussions surrounding the legalisation of same-sex marriage following the approval of same-sex civil unions in 2016 through Greece's [Government Gazette](#) (2016).<sup>101</sup>

After a period of public consultation in January 2024, the government introduced its marriage equality bill to the Greek Parliament on 1 February 2024. The bill also improves labour legislation to protect same-sex spouses and parents, and expands anti-discrimination protections.<sup>102</sup> On 15 February 2024, the bill was passed by 175 votes to 77. It was signed by the President the following day and enacted as the Law on Civil Marriage Equality ([Law No. 5,089](#)) (2024), taking immediate effect and legalising same-sex marriage in Greece. Same-sex couples will also now be allowed to jointly adopt children with the passing of this law.<sup>103</sup>

## Latvia

In 2022, the Bill on a Civil Unions Law ([Bill No. 1380](#)) (2022) to legalise civil unions for same-sex couples was introduced, but it has not yet been passed by Parliament. There have been several attempts to vote on the bill, but they have all failed. Activists have also tried to collect signatures for a citizens' legislative initiative, but the Parliament has so far voted against taking it into consideration.<sup>104</sup>

However, there have been judicial decisions recognising same-sex couples as "couples" within the meaning of the Latvian Constitution. By April 2023, the Riga Administrative District Court had recognised 36 same-sex couples as "families", and about 30 more cases have been filed or are being prepared. The Minister of Justice

has also declared that a package of several draft laws on same-sex partnerships was under preparation.<sup>105</sup>

In November 2023, Parliament passed a bill that would allow same-sex couples to enter into civil unions. The bill was submitted for approval of the President, and it was originally slated to enter into force in July 2024.<sup>106</sup> However, a group of 34 parliamentarians have since submitted a motion to the President requesting a postponement of the law's entry into force in order to hold a referendum on the matter. The bill's entry into force was reportedly suspended for two months as per the country's Constitution, allowing the group time to collect the signatures required to proceed with the referendum (at least 155,000).<sup>107</sup> As of January 2024, according to reports from Latvian media, they had not yet reached this threshold having roughly only 15% of the required number of signatures.<sup>108</sup> Accordingly, that same month, the President enacted the [Law on the Reform of the Notary Law](#) (2024), which allows same-sex couples who "have a close personal relationship, a common household and the intention to mutually nurture and support each other" to formalise their relationship in a public deed signed before a notary. The law also specifies that such a "partnership" does not constitute a marriage in any case.<sup>109</sup> Notably, the passing of this law also comes after eight attempts to pass legislation on civil partnerships over a 24-year period.

## Liechtenstein

In November 2022, a bill was introduced to amend three existing laws: the Marriage Act, the Partnership Act, and the Personal and Company Act. In March 2024, Parliament approved the bill legalising same-sex marriage in its first reading, with 24 votes in favour and

<sup>100</sup> "Greek government says it stands by same-sex marriage pledge even after opposition from the Church", *Yahoo News UK*, 22 December 2023.

<sup>101</sup> The Removal of Gender Discrimination in Family Law Bill (2021) was published for public comment in 2021 which would have allowed same-sex couples to adopt, expanded co-parenting rights to the same-sex spouses of parents, and removed the requirement that married transgender persons get divorced. Similarly, in June 2022, the SYRIZA coalition submitted a bill titled [Eliminating gender discrimination in family law, guaranteeing the right to marry for all persons and necessary adjustments to the legislation](#) (2022) to Parliament for consideration. For more information, see ILGA World, [ILGA World Database: Same-Sex Marriage and Civil Unions - Greece](#), retrieved on 13 February 2024.

<sup>102</sup> "SYRIZA submits legislative proposal on same-sex marriage", *Ekathimerini*, 09 January 2024; "Βουλή: Κατέτεθηκε το νομοσχέδιο για τον γάμο των ομόφυλων ζευγαριών" [Parliament: The bill for the marriage of same-sex couples was submitted], *News 24-7 (Greece)*, 03 February 2024.

<sup>103</sup> "Γάμος ομόφυλων ζευγαριών: Ευρύτατη πλειοψηφία εξασφάλισε το νομοσχέδιο" [Marriage of same-sex couples: The bill secured a large majority], *Rosa*, 08 February 2024; "Νόμος του κράτους ο γάμος των ομόφυλων ζευγαριών" [Same-sex marriage is state law], *Lifo*, 16 February 2024; "Greece legalises same-sex marriage", *BBC*, 15 February 2024.

<sup>104</sup> For more information on this bill, see ILGA World, [ILGA World Database: Same-Sex Marriage and Civil Unions - Latvia](#), retrieved on 13 February 2024.

<sup>105</sup> "Tieslietu ministre: Partnerattiecību regulējums nebūs viens likums, bet gan pakotne" [Minister of Justice: The regulation of partnership relations will not be a single law, but a package], *LSM (Latvian Public Media)*, 12 April 2023.

<sup>106</sup> "Законопроекты о введении института партнерства концептуально одобрены Сеймом" [Bills on introducing the institution of partnership were conceptually approved by the Seimas], *Gorod*, 05 November 2023.

<sup>107</sup> "Оппозиция собрала 34 подписи за инициирования референдума по вопросам партнерства" [The opposition collected 34 signatures to initiate a referendum on partnership issues], *Grani*, 10 November 2023; "Valsts prezidents uz diviem mēnešiem aptur Saeimā pieņemtos likuma grozījumus partnerības ieviešanai" [The President suspends the amendments to the law adopted in the Saeima for the introduction of partnership for two months], *BNN News (Latvian)*, 14 November 2023.

<sup>108</sup> "Референдума об отмене института партнерства не будет" [There will be no referendum on the abolition of the partnership institution], *Gorod*, 06 January 2024.

<sup>109</sup> "В Латвии введен институт партнерства. Теперь однополые пары смогут легализовать свои отношения" [The institution of partnership has been introduced in Latvia. Now same-sex couples will be able to legalize their relationships], *LRT*, 21 January 2024; "Президент провозгласил поправки к закону, вводящие в Латвии институт партнерства" [The President announced amendments to the law introducing the institution of partnership in Latvia], *Grani*, 20 January 2024.

only one against. A second reading of the bill is slated for July 2024, and if approved, the law will be enacted on 1 January 2025.<sup>110</sup> According to the bill, no further registered partnerships will be formed in Liechtenstein, though existing ones will still be acknowledged and may be converted to marriages through a straightforward process.

- *After the cut-off date of this report, ILGA World was informed that the bill was passed. We kindly request that our readers consult the ILGA World Database for updates in the near future.*

## Lithuania

In May 2023, the [Bill on Civil Unions \(2022\)](#), introduced in May 2022, passed the first stage of the legislative process.<sup>111</sup> The bill defines civil unions in gender-neutral terms, although it has been reported that it is not as comprehensive as local CSOs would have preferred. Nevertheless, it has been described as an important step forward. It was subsequently reported in March 2024 that the Seimas voted not to include a discussion on this bill in the current legislative agenda.<sup>112</sup>

Amidst these legislative discussions and in the absence of legal protections, same-sex couples resorted to the courts to have their unions recognised. In April 2023, local media reported that a group of same-sex couples had filed a request before local courts to have their civil partnerships officially recognised. However, later that month, it was reported that the District Court of the City of Vilnius rejected the motion on the basis that there existed no law on civil partnerships.<sup>113</sup> Similarly, in July 2023, the Vilnius District Court denied another request from a same-sex couple to register their union. The couple appealed this decision in August 2023 before the Vilnius Regional Court.<sup>114</sup>

## Luxembourg

In 2023, a new version of the [Constitution of Luxembourg \(2023\)](#) entered into force. Although it includes no mentions of “sexual orientation”, Article 15.4 establishes the right of “every person” to “form a family” and be respected in their family life,<sup>115</sup> which some commentators have interpreted as a safeguard for marriage equality.<sup>116</sup>

## Moldova

In March 2023, a same-sex couple submitted an application to the Public Services Agency to register their marriage, despite the absence of any law recognising same-sex marriage in Moldova. Their request was officially rejected, leading them to file a joint suit against the administrative body. In September 2023, the couple announced via social media that they had received a summons for the first hearing on their case.<sup>117</sup>

## Poland

In November 2023, media reports revealed that the Supreme Administrative Court of Poland sought a preliminary ruling from the Court of Justice of the European Union (CJEU). The query pertained to whether EU Member States are obligated to recognise a same-sex marriage legally solemnised in another EU Member State, despite the former's domestic legislation not permitting such unions. The case involved a couple comprising a Polish man and a Polish-German man who had wed in Germany and subsequently sought recognition of their marriage in Poland.<sup>118</sup>

<sup>110</sup> “Parlament in Liechtenstein sagt Ja zur Ehe für alle” [Parliament in Liechtenstein says yes to marriage for all], *Mannschaft Magazin*, 10 March 2024.

<sup>111</sup> “Seimas po svarstymo pritarė Civilinės sąjungos įstatymo projektui (papildyta)” [After the discussion, the Seimas approved the draft law on Civil Union (supplemented)], *Alfa*, 24 May 2023.

<sup>112</sup> “Civilinės sąjungos projektas išbrauktas iš pavasario darbų programos” [The civil union project has been removed from the spring work program], *LRT*, 15 March 2024.

<sup>113</sup> “Teismas atmetė vienalytės poros prašymą registruoti civilinę partnerystę” [The court rejected the same-sex couple's request to register a civil partnership], *LRT*, 22 April 2023.

<sup>114</sup> “Skundžiamas teismo sprendimas neregistruoti tos pačios lyties asmenų santuokos, prašoma kreiptis ir į KT” [The court's decision not to register a same-sex marriage is being appealed, please also apply to the CT], *LRT*, 12 September 2023.

<sup>115</sup> Original provision reads: “Toute personne a le droit de fonder une famille. Toute personne a droit au respect de sa vie familiale”.

<sup>116</sup> “Luxemburgs neue Verfassung schützt die Ehe für alle” [Luxembourg's new constitution protects marriage for all], *Queer*, 1 July 2023.

<sup>117</sup> “Un cuplu LGBT din Moldova a depus cerere la ASP pentru înregistrarea căsătoriei: Dacă primim refuz, vom merge în judecată” [An LGBT couple from Moldova submitted an application to ASP for marriage registration: If we receive a refusal, we will go to court], *UNIMEDIA*, 02 March 2023; “Cuplul LGBT, care a depus cerere de înregistrare a căsătoriei la ASP, a fost refuzat” [The LGBT couple, who applied for marriage registration at the ASP, was refused], *Yam News*, 04 March 2023; “Cuplul LGBT Angelica Frolov și Leo merge în judecată: Cer drepturi egale” [LGBT couple Angelica Frolov and Leo go to court: They demand equal rights], *Știri.md*, 23 September 2023.

<sup>118</sup> So far, the CJEU has ruled in the *Coman* case that same-sex marriages celebrated in an EU Member State must be recognised in the rest of EU States for residence purposes (for instance, when an EU citizen marries a person of the same sex who is not an EU citizen and they ask for the permission to reside in the EU Member State of origin of their partner). For this reason, a new EU ruling could have wide implications for same-sex marriages throughout the European Union, as it could potentially force Member States that don't allow (or even ban) same-sex marriages to admit their validity in their own jurisdictions as long as they were legally celebrated in another EU Member State. See: “Un tribunal polaco preguntará a la UE si tiene que reconocer los matrimonios homosexuales” [A Polish court will ask the EU if it has to recognize gay marriages], *Infobae*, 18 November 2023.

In December 2023, the European Court of Human Rights ruled against Poland in the case *Przybyszewska and others v. Poland* (Application No. 11454/17) (2023). The Court concluded that the Polish State had neglected its obligation to establish a specific legal framework for recognising and safeguarding same-sex partnerships. This failure resulted in the inability of applicant couples to regulate fundamental aspects of their lives, deemed a violation of their right to privacy and family life. After national elections, the newly formed Polish government (comprising several opposition parties supportive of advancing LGBT issues) declared its intention to introduce legislation recognising same-sex civil unions.<sup>119</sup>

## Romania

In May 2023, the European Court of Human Rights (ECHR) ruled against Romania in the case *Buhuceanu and others v. Romania* (2023). The court found Romania in violation of the right to private and family life of several couples, based on Romania's failure to establish a system to adequately recognise and protect same-sex civil relationships, notably in the form of civil unions.<sup>120</sup> However, in August 2023, the Romanian government formally communicated its decision to challenge this ruling before the Grand Chamber of the ECHR.<sup>121</sup>

In July 2023, the Romanian Ministry of Internal Affairs released a *Draft Amendment to GEU 194-2002* (2023) to supplement the Emergency Ordinance on the Regime of Aliens in Romania (GEO No. 194) (2002) and enable family members of Romanian citizens "who have established a family life in another EU member state", to apply for a visa for family reunification (e.g., same-sex

partners/spouses).<sup>122</sup> In response to rumours and misinformation that this amendment was "a disguised legalisation of same-sex marriage in Romania", the Ministry issued a *Press Release* clarifying the proposal in the following terms: "This draft law does not regulate the recognition of same-sex marriages or civil conventions on Romanian territory and other rights deriving from this recognition. The draft law is an implementation in the national legislation of the legal provisions existing at the EU level, only regarding the free movement of persons. The implementation of these provisions is a mandatory condition for Romania, following the judgment of the Court of Justice of the European Union (CJEU) of 5 June 2018 in *Case C-673/16* (2018), and failure to comply with it makes it possible to initiate an infringement procedure that can end with the conviction of Romania by the European Court".<sup>123</sup> A local organisation, Asociația Accept, has criticised this move by the Romanian government, calling it a "timid step" five years after the CJEU decision.<sup>124</sup> They explained that if the draft law is approved as presented, same-sex couples would still face unequal treatment, lacking full rights, and same-sex couples who have entered into a civil partnership in another State will continue to be treated as two strangers with no family ties.<sup>125</sup>

## Slovakia

In January 2023 Slovakia's Ministry of Justice put forth a legislative amendment titled *Act on Fiduciary Declaration and Amendment of Certain Acts* (2023), aiming to address the circumstances of unmarried couples, including same-sex pairs.<sup>126</sup> The bill aimed to establish a procedure, facilitated by a notary, where an

<sup>119</sup> "Polens nya regering vill erkänna samkönade relationer" [Poland's new government wants to recognize same-sex relationships], QX.se, 19 December 2023; "Historyczny wyrok Trybunału w Strasburgu. Polska ma wprowadzić regulację związków tej samej płci" [Historic judgment of the Strasbourg Court. Poland is to introduce regulation of same-sex relationships], Warszawa Wyborcza, 12 December 2023; "El Tribunal de Estrasburgo reprocha a Polonia que no reconozca los derechos de las parejas del mismo sexo" [The Strasbourg Court reproaches Poland for not recognizing the rights of same-sex couples], *El País*, 14 December 2023; "Premier Tusk: ustawa o związkach partnerskich to kwestia tygodni" [Prime Minister Tusk: the law on civil partnerships is a matter of weeks], *Queer.pl*, 28 December 2023.

<sup>120</sup> "România e obligată să recunoască legal cuplurile de același sex" [Romania is obliged to legally recognize same-sex couples], *Avocatnet.ro*, 23 May 2023.

<sup>121</sup> "Ultima oră - România contestă decizia CEDO prin care era condamnată pentru nelegalizarea parteneriatelor între persoane de același sex" [Last minute - Romania contests the decision of the ECtHR by which it was condemned for the illegalization of partnerships between persons of the same sex], *Știrișurse* (Romania), 26 August 2023.

<sup>122</sup> "Dreptul de ședere pentru membrii de familie ai românilor căsătoriți în alt stat UE nu va mai fi condiționat de transcrierea certificatului de căsătorie între persoane de același sex" [The right of residence for family members of Romanians married in another EU state will no longer be conditional on the transcription of the same-sex marriage certificate], *Avocatnet.ro*, 7 July 2023.

<sup>123</sup> "Asociația Accept a găsit hibe mari la proiectul de lege care dă unele drepturi pentru cuplurile gay căsătorite în alte state" [The Accept Association found strong support for the bill that gives some rights to married gay couples in other states], *Spotmedia*, 22 September 2023.

<sup>124</sup> In June 2018, the CJEU issued a decision in *Relu Adrian Coman et al. v Inspectoratul General pentru Imigrări et al.* (Case C-673/16) (2018), ruling in favour of Adrian Coman, a Romanian citizen who—with support from the Romanian organisation Asociația Accept—had filed a lawsuit before a Romanian court, seeking recognition of his marriage to Claibourne Hamilton (an American citizen) which had been solemnised in Belgium. The CJEU ruled that EU Member States were required to recognise same-sex marriages conducted in another EU Member State for residency rights. In light of this decision, in September 2019, the Constitutional Court of Romania ruled that the State must grant residency rights to same-sex spouses of EU citizens and that same-sex couples enjoy the same rights to a private and family life as different-sex couples. For more information, see ILGA World, *ILGA World Database: Same-Sex Marriage and Civil Unions - Romania*, retrieved on 14 February 2024.

<sup>125</sup> "Asociația Accept - Statement on the draft law on the regime of foreigners in Romania", Facebook, retrieved on 14 February 2024.

<sup>126</sup> "Navzajom si blízke osoby vrátane nezobášených párov rovnakého pohlavia by mohli jednoduchšie riešiť životné situácie" [People close to each other, including unmarried same-sex couples, could deal with life situations more easily], *Bleskovky - Zoznam*, 21 January 2023.

individual could designate a fiduciary to act on their behalf in various life situations, encompassing matters such as inheritance, guardianship, and health information access.<sup>127</sup> By April 2023 the finalised version reached the National Council. However, this proposed law was criticised by activists as an inadequate substitute for true recognition of same-sex couples as it does not provide for inheritance and joint ownership policies awarded to heterosexual couples.<sup>128</sup> As the bill progressed through the legislative process in May 2023, the Ministry of Justice suggested its withdrawal.<sup>129</sup>

Following public discourse on the draft law, in May 2023 a group of 30 National Council members reportedly lodged a petition with the Constitutional Court, urging the court to call upon Parliament to align with international human rights standards by legally acknowledging and safeguarding same-sex couples through the official recognition of civil partnerships.<sup>130</sup> A positive ruling from the Constitutional Court could find the National Assembly's inaction to recognise same-sex partnerships as unconstitutional. One of the MPs who petitioned the court said that they are convinced "that the Constitutional Court is the institution that can send a clear message to the [National Assembly] to adopt legislation that will be in accordance with the Constitution".

Simultaneously, by April 2023 the [Bill on Life Partnerships \(2023\)](#) had been presented to the National Council by members of the Freedom and Solidary (SaS) party. This bill aims to permit both same-sex and different-sex couples to formalise their relationships through a civil union.<sup>131</sup> According to the bill, couples where at least one of them is a citizen of the Slovak Republic can enter into a civil union. This is not the first time such a legislative amendment has been proposed in the country.<sup>132</sup>

## Slovenia

On 31 January 2023, in accordance with the 2022 and 2023 decisions of the Constitutional Court of the Republic of Slovenia, the [Act Amending the Family Code \(2023\)](#) entered into force, thereby legalising same-sex marriage.<sup>133</sup> The law was initially meant to be adopted in October 2022, but it was blocked by an attempted referendum by representatives of the conservative "Coalition For Children" who submitted 30,600 citizens' signatures to the National Assembly.<sup>134</sup> The initiative was deemed inadmissible by a vote of the National Assembly on 28 October 2022. Subsequently, the Constitutional Court issued [Decision U-I-398/22-16 \(2023\)](#), confirming that the decision to reject the referendum was, indeed, in line with the Constitution. Following the enactment of the law in January, various administrative bodies notified persons in pre-existing same-sex partnerships and civil unions in February 2023 that they could convert these partnerships into marriages if they so wished until 31 July 2023.<sup>135</sup>

## Türkiye

In January 2023, the Constitutional Commission of Türkiye's Grand National Assembly approved [Bill No. 2/4779 \(2022\)](#) which, if passed, would amend Article 41 of the Constitution (on the "protection of family") to stipulate that "marriage shall consist only of the union of a man and a woman".<sup>136</sup> President Erdoğan, when commenting on the proposed amendments in a public speech, said: "We want to prevent the virus of heresy, which is against human nature, from poisoning our nation's existence".<sup>137</sup>

<sup>127</sup> "Nezosobášené páry sa dočkali: Konečne budú mať na svojho partnera papier! Týka sa to aj homosexuálov" [Unmarried couples are waiting: They will finally have a piece of paper for their partner! This also applies to homosexuals], *Topky*, 15 April 2023.

<sup>128</sup> "Parlament posunul do druhého čítania zákon," [Parliament moved the law to the second reading.], *Denník N*, 11 May 2023.

<sup>129</sup> "Dobovcová predložila stiahnutie obdoby registrovaných partnerstiev" [Dobovcová presented the withdrawal of the registered partnerships], *SME (Slovakia)*, 25 May 2023.

<sup>130</sup> "Práva párov rovnakého pohlavia má posúdiť ÚS SR" [The rights of same-sex couples are to be assessed by the ÚS SR], *Správy RTVS*, 17 May 2023.

<sup>131</sup> "Poslanci za SaS predložili do parlamentu návrh zákona o životnom partnerstve" [SaS MPs submitted a draft law on life partnership to parliament], *Parlamentnelisty (Slovakia)*, 17 April 2023.

<sup>132</sup> In October 2021, a draft law for same-sex partnerships was rejected in its second reading by the National Council of the Slovak Republic. Its aim was to improve the legal situation of these couples and their children. Similarly, in August 2022, the Progressive Slovakia party introduced [Bill No. 1124 \(2022\)](#) to legally recognise partnerships irrespective of the sex of the persons forming them, although it is unclear if it has been dropped already. Another bill with the same aim was introduced by the Freedom and Solidarity party, but it failed to pass. For more information, see ILGA World, [ILGA World Database: Same-Sex Marriage and Civil Unions - Slovakia](#), retrieved on 14 February 2024.

<sup>133</sup> "V veljavo stopa nov družinski zakonik: kaj bo odselej drugače?" [The new Family Code enters into force: what will be different from now on?], *N1 Info (Slovenia)*, 31 January 2023.

<sup>134</sup> The National Assembly held an extraordinary legislative session where it initially passed the bill with a final vote, enshrining same-sex marriages and adoption in law on 18 October 2022. The group Coalition For Children attempted the referendum despite Article 90 of the Constitution prohibiting referendums on laws related to human rights and fundamental freedoms. For more information on the law and these judicial decisions, see ILGA World, [ILGA World Database: Same-Sex Marriage and Civil Unions - Slovenia](#), retrieved on 14 February 2024.

<sup>135</sup> "Nekateri istospolni pari morajo znova pred matičarja" [Some same-sex couples have to go before the registrar again], *Siol.net*, 2 March 2023.

<sup>136</sup> "Başörtüsünde anayasa değişikliği teklifi Meclis Anayasa Komisyonu'nda görüşülmeye ..." [The proposal to change the constitution in the headscarf is to be discussed in the Parliamentary Constitutional Commission.], *Super Haber*, 21 January 2023.

<sup>137</sup> "In new hate speech, Erdoğan deems LGBTI+ 'virus of heresy'", *DuvaR. English*, 17 January 2023.

## United Kingdom

Same-sex marriage was legalised across all constituent countries of the United Kingdom between 2014 and 2020, though some religious exemptions continue to apply.<sup>138</sup> To this end, in March 2023 a Labour MP introduced a bill that would make it legal for willing Church of England clergy to conduct same-sex marriages on church grounds. British law currently prevents the clergy from carrying out same-sex marriages even if they want to. This is due to what is known as the “quadruple lock” to the Equal Marriage Act.<sup>139</sup> As of January 2024, the bill has had only its first reading.<sup>140</sup>

## Ukraine

In 2022, in the context of the Russian invasion of Ukraine, a petition by an activist to legalise same-sex marriage obtained the 25,000 signatures that the Ukrainian Constitution requires before the President is obliged to respond to it. The petition was based on the need to guarantee the rights of same-sex couples,

particularly in the case of the death of one of the partners. In response to the petition, President Zelenskyy stated that the Ukrainian Constitution does not allow for equal marriage, and would therefore need to be amended, and that this was prohibited during wartime. However, he announced that his government would consider the possibility of legally recognising same-sex couples.<sup>141</sup>

In March 2023 it was reported that an MP from the opposition introduced the Draft Law on the Registration of Partnerships ([Draft Law No. 9103](#)) (2023), which would recognise the “voluntary family union of two persons of legal age, of the same or different sex, registered in accordance with the procedure laid down in this law, based on mutual respect, mutual understanding, mutual support, mutual rights and obligations”.<sup>142</sup>

Moreover, in June 2023, the European Court of Human Rights ruled in [Maymulakhin and Markiv v. Ukraine](#) (2023) that denying same-sex couples the possibility of having their relationship recognised through a civil union amounted to discrimination on the grounds of sexual orientation. However, in keeping with its current case law, the court also stated that Ukraine is free to restrict access to marriage to different-sex couples.<sup>143</sup>

## Latin America & the Caribbean

### Aruba (Netherlands)

Same-sex marriages cannot be legally performed in Aruba.<sup>144</sup> However, in December 2022 the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba ruled in [Case No. AUA 2020 H00099](#) (2022) that same-sex partners must be allowed to marry in Aruba. In the ruling, the court stated that excluding the possibility for same-sex

couples to enter marriages violates the prohibition of discrimination enshrined in the constitution. In February 2023, it was reported that the government of Aruba had appealed against this decision, thereby delaying the implementation of the ruling.<sup>145</sup>

In December 2023, the Attorney General contended that the countries' arguments were unfounded, as the antidiscrimination law of the Netherlands is applicable to Aruba. A provisional ruling by the Supreme Court is anticipated in May 2024.<sup>146</sup>

<sup>138</sup> For more information on the different Acts legalising same-sex marriage across the constituent countries of England and Wales, Scotland, and Northern Ireland, see ILGA World, [ILGA World Database: Same-Sex Marriage and Civil Unions - United Kingdom](#), retrieved on 14 February 2024.

<sup>139</sup> “Same Sex Marriage (Church of England) – Parliamentary Hansard (21 March 2023 debate)”, [UK Parliament](#), retrieved on 14 February 2024; The quadruple lock occurs due to the four safeguards put in place to protect religious institutions and individuals who oppose same-sex marriage. For more information on the quadruple lock, see “Equal Marriage – the key to the (quadruple) lock”, [The Campaign for Equal Marriage in the Church of England](#), retrieved on 14 February 2024.

<sup>140</sup> “Bill could force Church of England to allow same-sex weddings”, [The Times](#), 15 March 2023.

<sup>141</sup> “Зеленський відповів на петицію про легалізацію одностатевих шлюбів - Укрінформ” [Zelensky responded to the petition on the legalization of same-sex marriages - Ukrinform], [Укрінформ. Новини України та світу](#), 02 August 2022.

<sup>142</sup> “У Раду направили законопроект про реєстровані партнерства для ЛГБТ-пар” [A draft law on registered partnerships for LGBT couples was sent to the Council], [Novoe Vremya](#), 08 March 2023.

<sup>143</sup> “Перемога в ЄСПЛ: суд визнав порушення Україною прав одностатевих пар” [Victory in the ECtHR: the court recognized Ukraine's violation of the rights of same-sex couples], [Helsinki Committee for Human Rights in Ukraine](#), 01 June 2023.

<sup>144</sup> After years of political and social pushback, the Aruban legislature voted to amend the [Civil Code](#) (2012) to recognise same-sex couples from other parts of the Netherlands and afford them the legal rights of a married heterosexual couple. For more information, see ILGA World, [ILGA World Database: Same-Sex Marriage and Civil Unions - Curaçao \(Netherlands\)](#), retrieved on 22 September 2023.

<sup>145</sup> “Aruba continues court fight against same-sex marriage”, [NL Times](#), 26 February 2023.

<sup>146</sup> “Advies aan Hoge Raad: homohuwelijk Aruba en Curaçao laten staan” [Advice to the Supreme Court: allow gay marriage in Aruba and Curaçao], [Drimble](#), 23 December 2023.



## Bolivia

In 2020, Bolivia marked a significant milestone towards the recognition of civil unions between individuals of the same sex, following a court decision which facilitated the inaugural registration of a civil union between a same-sex couple.<sup>147</sup> However, the validity of this registration, along with subsequent registrations, hinged upon a review mandated by the Plurinational Constitutional Court. In June 2022, this court rendered [Judgment SCP 577/2022-S2](#) (2022) in the case of David Aruquipa Pérez and Guido Montaña Durán.<sup>148</sup> Through this decision, the registration of the couple's union was affirmed, thereby officially validating unions between individuals of the same sex, commonly referred to locally as “free unions”.<sup>149</sup> Subsequently, in July 2023, the Full Chamber of the Supreme Electoral Tribunal (TSE), following Judgement SCP 577/2022-S2 (2023), issued [Resolution TSE-RSP-ADM No. 175](#) (2023) to amend the Regulations on Free Unions (2016) and extend its applicability to all same-sex couples. Consequently, same-sex couples are now able to formalise their free unions under the same conditions and criteria as heterosexual couples.<sup>150</sup>



## Brazil

In Brazil, there is no specific law regulating same-sex marriage. This right has been recognised nationwide since 2013 by means of [Resolution No. 175](#) (2013) issued by the National Council of Justice. Ten years later, in March 2023, the Brazilian Chamber of Deputies reopened the discussion on [Bill No. 580](#) (2007), originally proposed in 2007 to legalise same-sex marriage in the country. The bill, which has been stalled for over 16 years, passed the Social Assistance, Childhood, Adolescence and Family Committee, and

was submitted to the Human Rights, Minorities and Racial Equality Committee in December 2023.<sup>151</sup>

Conversely, in September 2023, [Bill No. 5.167](#) (2009) was reactivated in the Chamber of Deputies. This bill establishes that “under constitutional terms, no relationship between people of the same sex can be equated to marriage or a family entity”.<sup>152</sup> Legislators justified this text under Article 226 of the Constitution, which establishes that family unions are “between a man and a woman”, despite the 2013 Court ruling revising the definition thereof. In October 2023, this bill passed the Social Security Commission vote.<sup>153</sup>

Additionally, in October 2023 Brazilian media reported that three bills were being discussed in a committee of the Chamber of Deputies aimed at banning the legal recognition of polyamorous relationships of the same sex and between different sexes.<sup>154</sup>



## British Virgin Islands (UK)

In June 2021, two women who were married in the United Kingdom initiated a lawsuit against the government of the British Virgin Islands. They contested the government's refusal to issue them a marriage certificate, arguing that the ban on same-sex marriage violated the territory's Constitution. The High Court commenced proceedings on this case in July 2023.<sup>155</sup>

Concurrently, in December 2022, Cabinet decided to refer the issue of same-sex marriage to a referendum, marking the first such referendum in the history of the British Virgin Islands.<sup>156</sup> Before the referendum can take place, a resolution regarding this matter must be presented to the House of Assembly. Upon successful passage, a date for the referendum will be established. In June 2023, Cabinet submitted a [Draft Resolution](#)

<sup>147</sup> In July 2020, the Second Constitutional Chamber of the Departmental Court of Justice of La Paz issued [Constitutional Resolution No. 127](#) (2020), quashing a resolution issued by the National Civil Registry (known locally as “SERECI”) that denied registration to a same-sex couple in 2019. SERECI had alleged that the registration of same-sex couples was contrary to article 63 of the Bolivian Constitution (which limits marriages and “free unions” to those formed by a man and a woman) and to article 168 of the Family Code. For more information on similar court cases, see ILGA World, [ILGA World Database: Same-Sex Marriage and Civil Unions - Bolivia](#), retrieved on 7 February 2024.

<sup>148</sup> The decision is dated 22 June 2022, but was made public in March 2023 and only then were the parties notified. “Sentencia del TCP legaliza unión libre entre personas del mismo sexo” [TCP ruling legalizes common-law union between people of the same sex], [Los Tiempos](#), 21 March 2023.

<sup>149</sup> “Bolivia permitirá unión libre civil a partir de esta noche” [Bolivia will allow free civil union starting tonight], [Midiario.com](#), 27 March 2023.

<sup>150</sup> “TSE modifica reglamento y parejas del mismo sexo pueden legalizar su unión” [TSE modifies regulations and same-sex couples can legalize their union], [Correo del Sur](#), 22 July 2023. Note: As stressed by Colectivo TLGB de Bolivia, however, marriage continues to be restricted in a discriminatory manner, exclusively for heterosexual couples.

<sup>151</sup> “Após 16 anos, Câmara dos Deputados debaterá projeto de lei sobre casamento homoafetivo” [After 16 years, the Chamber of Deputies will debate a bill on same-sex marriage], [Diário de Pernambuco](#), 30 March 2023.

<sup>152</sup> “Deputados querem proibir o casamento civil LGBT: ‘Deus não fez Adão com Adão’” [Deputies want to ban LGBT civil marriage: “God did not make Adam with Adam”], [Revista Fórum](#), 6 September 2023.

<sup>153</sup> “Após vetar casamento gay, comissão da Câmara pode votar nova polêmica” [After vetoing gay marriage, House committee may vote on new controversy], [Metrópoles](#), 14 October 2023.

<sup>154</sup> “Após casamento gay, deputados brasileiros querem proibir união poliafetiva no país” [After gay marriage, Brazilian deputies want to ban polyaffactive unions in the country], [Observatório G](#), 17 October 2023.

<sup>155</sup> “Controversial same-sex case to get underway today in BVI High Court”, [BVI News](#), 4 July 2023.

<sup>156</sup> “Revised Statement By Premier Wheatley on the Announcement of Referendum on Same Sex Marriage”, [Govt of the Virgin Islands](#), 19 December 2022.



(2023) to the House of Assembly, outlining proposed referendum questions. This resolution addresses the provisions within the Matrimonial Proceedings and Property Act (1995), which declare marriages void if the parties are not of different sexes, as well as the Referendum Act (2002), which authorises Cabinet to refer significant matters to a referendum when deemed to be of national importance.<sup>157</sup>



## Cayman Islands (UK)

After initially failing to pass by a vote, the Governor of the Cayman Islands used his executive authority to pass the [Civil Partnership Act \(2020\)](#). In December 2021 a judicial review was brought against the Governor by a conservative Christian preacher, arguing that he had acted unconstitutionally in using his executive authority to enact the law. In March 2022 the Grand Court ruled that it was within the Governor's authority to act, as the government's failure to offer an equivalent system to marriage for same-sex couples constituted a "breach of the European Convention on Human Rights". In October 2023 local media reported that a representative of a conservative Christian advocacy group had requested leave to take the matter up with the UK's Privy Council, though the Court of Appeal refused this action.<sup>158</sup>



## Curaçao (Netherlands)

Same-sex marriages cannot be legally performed in Curaçao.<sup>159</sup> However, in December 2022 the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba ruled in [Case No. AUA 2020 H00099](#) (2022) that same-sex partners must be allowed to marry in Curaçao. In the ruling, the court stated that excluding the possibility for same-sex couples to enter marriages violates the prohibition of discrimination enshrined in the constitution. In February 2023, it was reported that the government of Curaçao had appealed against this decision, thereby delaying the implementation of the ruling.<sup>160</sup>

In December 2023, the Attorney General contended that the countries' arguments were unfounded, as the

antidiscrimination legislation of the Netherlands applies to Curaçao as well. A provisional ruling by the Supreme Court is anticipated in May 2024.<sup>161</sup>

Following these developments, in May 2023 MP Rennox Calmes reportedly introduced a bill to ban same-sex marriage in the Constitution of Curaçao.<sup>162</sup>



## Mexico

Same-sex marriage has been legal in all jurisdictions within Mexico since 2022. However, in June 2023 the Congress of the state of Nuevo León approved the [Civil Code Amendment Bill \(2023\)](#) that enshrined same-sex marriage in the state's legislation.<sup>163</sup> Same-sex marriage has been legal in Nuevo León since 2019 following a decision issued by the Supreme Court of Mexico.<sup>164</sup>



## Panama

On 16 February 2023, the Supreme Court of Justice issued its [Decision No. 1042-16](#) (2023) concerning a constitutional challenge against several provisions defining marriage as "between a man and a woman" and explicitly prohibiting same-sex marriage. The court held that the legal norms were not unconstitutional on the grounds that it was justified to "privilege heterosexual unions that establish families, reproduce, and ensure the continuity of society". Furthermore, the court stated that the "differential treatment" was based on the immanent purpose of the classical institution of marriage and "not on the sexual propensities of individuals".<sup>165</sup> In the court's verdict, officials stated that the right to equal marriage "does not fall into the category of a human right or a fundamental right".<sup>166</sup>

It's worth mentioning that this litigation was the result of lawsuits filed by four couples, each with their own allegations and requests. In October 2016, Enrique Raúl Jelensky Carvajal challenged the constitutionality of the phrase "between a man and a woman" in Article 26 of Law No. 3 (1994), which approved the Family Code, and requested the registration of his marriage conducted abroad with John Winstanley. In March 2017, a second claim was filed before the same court. Álvaro José

<sup>157</sup> "Questions released for same-sex marriage referendum", *BVI Beacon*, 19 July 2023.

<sup>158</sup> "Appeals court refuses to send same-sex partnership review to Privy Council", *Cayman Compass*, 27 October 2023.

<sup>159</sup> After years of political and social pushback, the Aruban legislature voted to amend the [Civil Code \(2012\)](#) to recognise same-sex couples from other parts of the Netherlands and afford them the legal rights of a married heterosexual couple. For more information, see ILGA World, [ILGA World Database: Same-Sex Marriage and Civil Unions - Curacao \(Netherlands\)](#), retrieved on 22 September 2023.

<sup>160</sup> "Aruba continues court fight against same-sex marriage", *NL Times*, 26 February 2023.

<sup>161</sup> "Advies aan Hoge Raad: homohuwelijk Aruba en Curaçao laten staan" [Advice to the Supreme Court: allow gay marriage in Aruba and Curaçao], *Drimble*, 23 December 2023.

<sup>162</sup> "Parlementariër Curaçao wil via wet openstellen huwelijk blokkeren" [Parliamentarian Curaçao wants to block the opening of marriage through law], *Reformatisch Dagblad*, 27 May 2023.

<sup>163</sup> "Congreso de estado mexicano de Nuevo León aprueba el matrimonio igualitario" [Congress of the Mexican state of Nuevo León approves equal marriage], *Swissinfo*, 16 June 2023.

<sup>164</sup> For more information, refer to: ILGA World, [ILGA World Database: Same-sex marriage and civil unions - Mexico](#), retrieved on 14 April 2024.

<sup>165</sup> "La Corte Suprema falla en contra del matrimonio igualitario" [Supreme Court rules against same-sex marriage], *La Prensa (Panama)*, 02 March 2023.

<sup>166</sup> "Panama's Supreme Court rules against same-sex marriages", *Le Monde*, 2 March 2023.

López Levy also questioned the constitutionality and requested the registration of his marriage conducted abroad with Kenneth Jay Gilberg, focusing as well on the phrase “persons of the same sex” in Article 34(1) of the Family Code and Article 35 of Law No. 61 (2015) in its entirety, which prohibits the marriage of persons of the same sex. A third and fourth couple joined these initiatives in 2018, Yamileth Garcés and her wife Jessica Atkinson, and Juan Francisco Alonzo and his husband Juan David Parra, but this time through the Third Chamber of the Court. The decision was unfavourable despite the submission of 75 *amicus curiae* in support of the lawsuits. This outcome not only affected the first two couples involved but also closed the door to the other two who joined later. In April 2024, local activists informed ILGA World that all 4 cases have been brought before the Inter-American Commission on Human Rights, following the corresponding processes.<sup>167</sup>

## Peru

In July 2023, the Fourth Constitutional Chamber of the Superior Court of Justice of Lima issued a ruling in *Case No. 00931-2020* (2023), instructing the National Registry of Identification and Civil Status (RENIEC) to officially register the marriage of a same-sex couple solemnised in Argentina. Notably, the court opted not to enforce Article 234 of the Civil Code, which stipulates marriage as being “between a man and a woman”, citing its inconsistency with the principles of equality and non-discrimination outlined in the constitution and international agreements. While this ruling establishes a significant precedent for the legal recognition of marriage equality, it does not alter the substance or validity of Article 234.<sup>168</sup>

Subsequently, in September 2023, a congresswoman introduced the Bill on Equal Marriage (*Bill No. 5819*) (2023). This bill would amend Article 234 of the Civil

Code to define marriage in gender-neutral terms as the “voluntarily agreed union between two persons”, which, if passed, would legalise same-sex marriage.<sup>169</sup> Similar bills have been introduced in the legislature in 2017 and 2021 but failed to pass.<sup>170</sup>

Another bill was introduced in Peru’s Congress in July 2023 but was rather aimed at legalising civil unions for same-sex couples. The contents of *Bill No. 05584/2022-CR* (2023) were notably similar to that of *Bill No. 02803/2022-CR* (2022) introduced the year before in August 2022. Although both bills sought to recognise same-sex civil unions, they both excluded the right to second-parent adoption in its provisions.<sup>171</sup>

## Suriname

In February 2023, Suriname’s Constitutional Court refused to recognise the marriage of a same-sex couple which was performed in Argentina. The court ruled that the ban on same-sex marriage did not violate the Constitution and upheld the decision of the Central Bureau for Civil Affairs to withhold registration of the marriage. The court, in its ruling, highlighted that Suriname’s Civil Code only permits marriage between a man and a woman. Although the court reportedly acknowledged “the outdated nature of the law”, it did not find it discriminatory.<sup>172</sup>

Activists criticised the decision for disregarding international and regional jurisprudence on the rights of LGBTQ people, particularly considering Suriname’s status as a party to the American Convention on Human Rights and the fact that the decision openly contradicts *Advisory Opinion No. 24* (2017) of the Inter-American Court. Activists expressed disagreement with the decision calling “for a public debate on the matter” made by the Court and argued that human rights should not be subjected to public opinion, especially for marginalised groups.<sup>173</sup>

<sup>167</sup> We are grateful for the information provided by Asociación Hombres y Mujeres Nuevos de Panama.

<sup>168</sup> “Poder Judicial dispone que Reniec inscriba matrimonio entre personas del mismo sexo” [Judiciary provides that Reniec register marriage between people of the same sex], *AP Noticias Perú*, 22 July 2023.

<sup>169</sup> “Plantean PL para reconocer matrimonio igualitario en el Perú y los realizados en el extranjero” [They propose PL to recognize equal marriage in Peru and those carried out abroad], *La República* (Peru), 7 September 2023.

<sup>170</sup> In 2017, a same-sex marriage bill was introduced but failed to pass. In 2021, several MPs introduced *Bill No. PL-525* (2021), which would amend the Civil Code to define marriage as the union between two “persons”, thus allowing same-sex marriage. For more information, see ILGA World, *ILGA World Database: Same-Sex Marriage and Civil Unions - Peru*, retrieved on 8 February 2024.

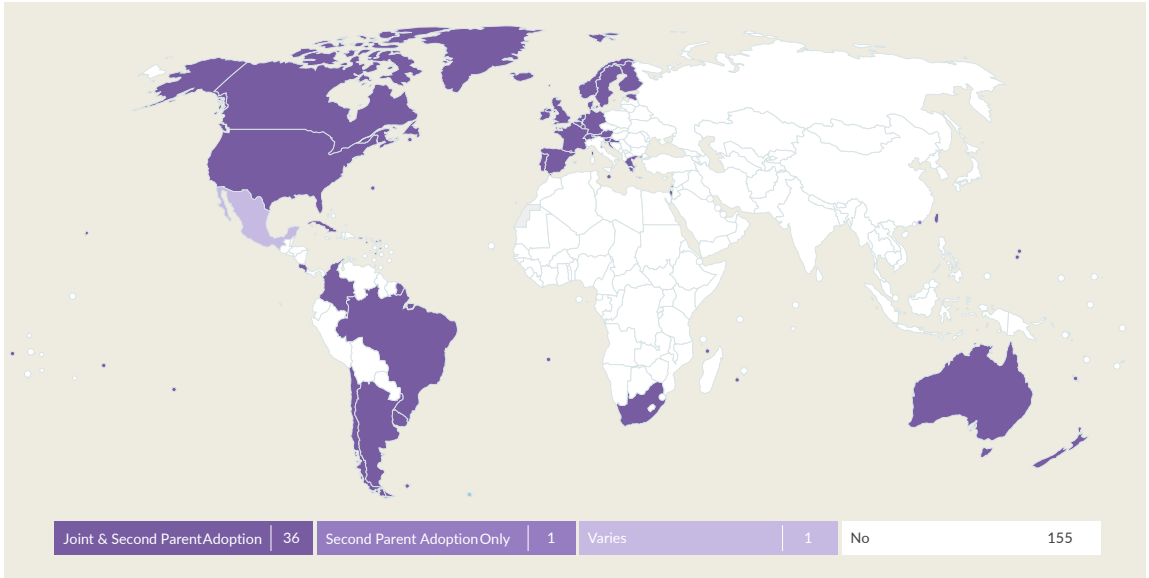
<sup>171</sup> “Presentan proyecto de ley para permitir la unión civil de parejas del mismo sexo” [They present a bill to allow the civil union of same-sex couples], *Perú* 21, 19 July 2023.

<sup>172</sup> “Zware klap voor LGBTQ-gemeenschap Suriname” [Heavy blow to LGBTQ community Suriname], *Drimble*, 9 May 2023.

<sup>173</sup> “LGBTQIA-gemeenschap krijgt bittere pil te slikken” [LGBTQIA community gets a bitter pill to swallow], *DWT Online*, 1 February 2023.

## Adoption by Same-Sex Couples

**Global Summary** – Legal protection for same-sex couples continued to grow, primarily in Europe and some parts of Asia. Multiple bills currently under debate reflect the potential for more progress.



### Top Legal Developments (January 2023 – April 2024)

- Adoption by same-sex couples was legalised in two (2) UN Member States (**Greece**, joint and second-parent adoption; **Estonia**, joint adoption). One (1) non-UN member (**Taiwan**) legalised joint adoption for same-sex couples.
- Progressive developments were observed in at least four (4) UN Member States: **Cyprus** (bill introduced), **Brazil** (decision to ensure non-discrimination of same-sex couples in adoption), **Italy** and **Israel** (judicial decisions).
- Regressive developments were observed in at least six (6) UN Member States (**Czechia**, **Ghana**, **Israel**, **Kazakhstan**, **Kenya**, **Latvia**).

### Global Tallies (UN Member States) – April 2024

# 36

where joint adoption  
is legal

# 6

where second parent  
adoption is legal

## Legal developments | January 2023 – April 2024

### Africa

#### Ghana

In early March 2024, Ghana's Parliament approved the contentious [Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill \(2021\)](#) nearly three years after its initial introduction in 2021.<sup>1</sup> The bill contains various provisions criminalising different aspects of LGBTI people's lives, from consensual same-sex sexual acts to gender-affirming care. The bill introduces a clause (Clause 17) which would allow courts to refuse applications for adoption, intercountry or otherwise, on the basis that the applicant is a "lesbian, a gay, a bisexual, a transgender, a transsexual, a queer, an ally, a pansexual, intersex, [or] questioning".

Clause 18 also allows the Department of Social Welfare to do the same in applications for "fosterage". At the time of writing, the bill is still awaiting presidential assent.<sup>2</sup>

#### Kenya

In March 2023, MP George Peter Kaluma announced the draft [Family Protection Bill \(2023\)](#), which aims to amend the definition of "family" contained in Article 45(2) of the Constitution and Section 162 of the [Penal Code \(1930\)](#). Section 23 of the bill prohibits adoption for those "who openly identify as a homosexual" and those "who engage in unnatural sexual activity", essentially prohibiting adoption by LGBTQ individuals.<sup>3</sup>

### Asia

#### Israel

Joint adoption has been available to same-sex couples in Israel since 2008 through judicial interpretation of the 1981 Adoption Law by the Attorney General.<sup>4</sup> However, the actual wording of the law still states that adoption is limited to "a husband and wife".<sup>5</sup> Local sources state that current practice prioritises adoption to married heterosexual couples, pushing same-sex couples to the end of the State's "waiting list" to adopt children.<sup>6</sup>

In February 2023, the Knesset reportedly rejected a lawmaker's bill to formally allow same-sex couples and

single people to adopt children. The bill was defeated in a preliminary reading by 45 votes to 37.<sup>7</sup> The opposition lawmaker who introduced the bill criticised those who voted against it, calling this the "most homophobic government in the history of the State of Israel".<sup>8</sup> A similar bill was reportedly introduced in 2019 but was not successful in the Knesset either.<sup>9</sup>

At the same time, local media reported that the government requested to delay a hearing on a petition against the 1981 Adoption Law, which the High Court of Justice rejected in April 2023 following several postponements by the government in recent years. This is the first hearing since the initial petition was filed in 2017 when the State had already admitted before the

<sup>1</sup> "Ghana's anti-LGBTQ bill draws international condemnation after it is passed by parliament", *NBC News*, 01 March 2024.

<sup>2</sup> "Ghana president caught in squabble over anti-LGBTQ bill", *Africa News*, 21 March 2024; "Ghana president won't act on anti-LGBTQ bill before legal challenge resolved", *Reuters*, 19 March 2024. For more information about this bill please refer to the section on criminalization of consensual same-sex sexual acts in this report.

<sup>3</sup> "Details of Kaluma's bill on criminalising LGBTQ", *Kenya Moja*, 09 April 2023.

<sup>4</sup> Although revisions to the 1981 Adoption Law make no reference to "reputed spouses", in 2008 the Attorney General declared it should nonetheless be interpreted as also relating to them. The right to joint adoption was affirmed in 2018 by the High Court of Justice that ordered the Interior Ministry to list the names of a same-sex couple as the legal parents on the birth certificate of their adopted child. For more information, see : [ILGA World, ILGA World Database: Adoption by same-sex couples - Israel](#), retrieved on 22 September 2023.

<sup>5</sup> "Adoption of Children", *Hagit Halevy & Co, Law Office*, retrieved on 28 February 2024.

<sup>6</sup> "Israel's Top Court Rejects State Request to Delay Hearing on LGBTQ Right to Adopt", *Haaretz*, 04 April 2023.

<sup>7</sup> "Knesset shoots down opposition bill to enable adoption for same sex couples", *Times of Israel*, 23 February 2023.

<sup>8</sup> "Amir Ohana votes against coalition on LGBTQ+ rights bill", *Jerusalem Post*, 23 February 2023.

<sup>9</sup> "Israel's Top Court Rejects State Request to Delay Hearing on LGBTQ Right to Adopt", *Haaretz*, 04 April 2023.

High Court that the law discriminates against LGBTQ people and pledged to amend it.<sup>10</sup> In August 2023 the Supreme Court in Jerusalem began hearing arguments on whether to include same-sex couples in the adoption of children. Supreme Court Justices noted that a decision would need to be reached through the judiciary, as “it is unlikely the issue will be resolved through legislation”. Justice Uzi Vogelmann said to the media that “there is absolutely no prospect that this will come to legislation” and that “an interpretative decision cannot be avoided”.<sup>11</sup>

In response to the ongoing hearings of the petition, the Welfare Minister reportedly said in July that the current Adoption Law should not be amended or reinterpreted, as allowing a child to be adopted by a same-sex couple would be against the child’s best interests.<sup>12</sup> The legal debates culminated in December 2023, as the Supreme Court ruled unanimously in favour of allowing same-sex couples to adopt children under the terms of the 1981 Adoption Law.<sup>13</sup> In the ruling, Justice Vogelmann asserted that professional opinions presented to the court illustrated that the sexual preferences of a child’s parents have no bearing on the child’s welfare and that including homosexual couples in the interpretation of the law “best realises the provision’s purpose” for the good of the child.<sup>14</sup>

## Kazakhstan

In February 2024, the [Law on Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Education, Mentoring and Children’s Safety](#) (2024) came into effect. This legislation prohibits individuals of “non-traditional sexual orientation” from serving as “mentors” for children residing in orphanages and from applying to adopt children. Natalya Zhumadildaeva, the First Vice-Minister of Education, informed local media about the implementation of a “special large psycho-test” to assess the suitability of applicants for mentorship or adoption of orphans.<sup>15</sup>

Kazakhstani human rights activists have reportedly voiced their opposition to this law, saying that the authorities have acted “according to the Russian model in the field of persecution of minorities”.<sup>16</sup>

## Taiwan (China)

The [Act for the Implementation of J.Y. Interpretation No. 748](#) (2019), which legalised same-sex marriage in the country, ensures under Section 20 that one of the spouses in a married same-sex couple may adopt the biological children of the other as a second parent. This has widely been interpreted as excluding joint adoption by both parents, with numerous suits brought by same-sex couples being rejected.<sup>17</sup>

Nevertheless, in May 2023, the Legislative Yuan enacted [amendments](#) (2023) to Section 20 the Act, granting same-sex married couples the right to engage in joint adoption of children who are not biologically related to either party. This amendment was first passed in a preliminary review at the Taiwanese legislature’s Judiciary and Organic Laws and Statutes Committee in May 2022. The revised Article 20 eliminated the reference to a “genetic child”. Instead, it states that the adoption provisions of the Civil Code shall be applicable when one party to the union “adopts the child of the party” or when the couple jointly adopts a child.<sup>18</sup> This change makes the process for adoption the same for same-sex couples as it is for any other couple under Taiwan’s laws.<sup>19</sup> With the passing of these amendments, Taiwan joins the list of countries that allow joint adoption for same-sex couples.

Additionally, in April 2023 the Ministry of the Interior reportedly announced amendments to regulations that omit mentions of adoptive parents in the national identity cards of those adopted by same-sex parents, bringing the regulations in line with the current practice for those adopted by different-sex couples.<sup>20</sup>

<sup>10</sup> “Israel’s Top Court Rejects State Request to Delay Hearing on LGBTQ Right to Adopt”, *Haaretz*, 4 April 2023.

<sup>11</sup> “High Court hears petition on adoption by LGBTQ couples: ‘Decision cannot be avoided’”, *Times of Israel*, 3 August 2023.

<sup>12</sup> “Shas’s welfare minister to court: Same-sex adoption against child’s best interests”, *Times of Israel*, 27 July 2023.

<sup>13</sup> “High Court approves adoptions by same-sex couples in landmark decision”, *Times of Israel*, 29 December 2023.

<sup>14</sup> “State Can’t Discriminate Against Same-sex Couples Looking to Adopt, Israel’s Top Court Rules”, *Haaretz*, 29 December 2023.

<sup>15</sup> “Тоқаев ЛГБТ өкілдерінің жетім балаларды асырап немесе тәлімгерлікке алуына тыйым салатын заңға қол қойды” [Tokayev signed a law prohibiting LGBT representatives from adopting or mentoring orphans], *Stan.kz*, 23 February 2024; “Представители ЛГБТ не смогут стать наставниками для детей-сирот в Казахстане - КазТАГ” [LGBT representatives will not be able to become mentors for orphans in Kazakhstan - KazTAG], *Kaztag (Kazakhstan)*, 2 February 2024.

<sup>16</sup> “В Казахстане представителям ЛГБТ+ не дадут усыновлять сирот. Закон копирует российские практики преследования меньшинств” [In Kazakhstan, LGBT+ representatives will not be allowed to adopt orphans. The law copies Russian practices of persecution of minorities], *Current Time*, 07 February 2024.

<sup>17</sup> Although numerous suits brought by same-sex couples were rejected, it is to be noted that a judge at the Kaohsiung Juvenile and Family Court ruled in favour of two men seeking to co-adopt in December 2021, reportedly on the basis that Section 20 does not explicitly prohibit such joint adoptions. This ruling, however, does not appear to set a judicial precedent on the matter. For more information, see ILGA World, *ILGA World Database: Adoption by same-sex couples - Taiwan (China)*, retrieved on 28 February 2024.

<sup>18</sup> “Adoption rights for same-sex couples expanded”, *Taipei Times*, 16 May 2023.

<sup>19</sup> “Taiwan amends law to allow same-sex couples to adopt”, *Taiwan News*, 16 May 2023.

<sup>20</sup> “內政部預告同性婚收養子女比照異性婚省略「養」字” [The Ministry of the Interior announces that the word “adopted” will be omitted for children of same-sex marriages, same as heterosexual marriages], *Yahoo News Taiwan*, 24 April 2023.

## Europe

### Croatia

In October 2023, Croatian media reported that, despite the Government introducing a new bill amending several provisions related to the Family Law, none of them included recognising same-sex couples' right to adopt.<sup>21</sup> This was despite the High Administrative Court granting this right to same-sex couples in April 2022.<sup>22</sup> Even with the High Administrative Court ruling, activists of the local NGO, Rainbow Family Association, have said same-sex couples' applications for adoption differ from couple to couple as it "depends on who you run into in the [social welfare] centre" and "what kind of information you will receive from the ministry". Legal experts have also said that judicial verdicts are insufficient. Given the absence of the "inclusion of [same-sex] partners in the legal text, public authorities are actually free [...] to discriminate" against same-sex couples in adoption procedures. The bill introduced in October presented an opportunity to resolve these issues, but the Ministry of Social Policy said that changes to the Family Law were introduced for different reasons, thus sparking dissatisfaction among the Croatian LGBTI community.<sup>23</sup> A parliamentary representative of the Social Democratic Party also publicly called upon the ruling party in November to make the formal amendments to the Family Law to ensure the equal right to adoption, regardless of sexual orientation.<sup>24</sup>

### Cyprus

In Cyprus, adoption is reserved for married couples. Since same-sex marriage has not been legalised, same-sex couples are effectively barred from adopting.

However, in October 2023, an MP of the Green Party tabled a [Bill to reform the Civil Partnership Law \(2023\)](#) that would remove the clause from the current law that bars those in a civil partnership from adopting children. The bill would effectively allow all couples in a civil partnership agreement—including same-sex couples—to adopt. When speaking to local media, the Green Party leader explained that the tabled bill provides the opportunity for same-sex couples to "offer the love and stability" children need, instead of going from foster home to foster home.<sup>25</sup>

### Czechia

Although Czechia's Constitutional Court ruled in [Pl. ÚS 7/15 \(2016\)](#) that couples living in registered partnerships should have no impediments to adopting children as individuals, joint and second-parent adoption by same-sex couples still remains illegal to date. However, in January 2023, local media reported that the Ministry of the Interior was preparing a decree that would allow same-sex couples to be formally registered on birth certificates as parents of their children.<sup>26</sup> The following month the official [Draft Decree Amending Decree No. 207/2001 \(2023\)](#), along with its relevant explanatory notes, was published on the official government information website.<sup>27</sup>

This proposal acts as a response to [Judgement No. 29 A 166 \(2018\)](#) of the Regional Court in Brno in 2018. In that judgement, a same-sex couple's request to be entered in their child's birth certificate as father and father or parent and parent was initially rejected by the Brno registry office, which the court then annulled in 2018. The court essentially upheld the right of the couple to be recognised as the child's parents on the

<sup>21</sup> "Dugine obitelji o izmjenama Obiteljskog zakona: 'Nastavlja se diskriminacija LGBTIQ osoba'" [Rainbow's family on amendments to the Family Law: 'Discrimination of LGBTIQ persons continues'], *Vecernji*, 16 October 2023.

<sup>22</sup> In 2016, a same-sex couple who lived under a "life partnership" agreement (akin to a civil union) lodged two applications to become foster parents and adoptive parents, respectively. Both of them were rejected by the Ministry of Family, so they appealed to the courts. As for the request to apply for foster care, in 2020, the Croatian Constitutional Court ruled that this possibility should be equally accessible to everyone, including same-sex couples. Although in 2022 a new Law on Foster Care (2022) was passed without expressly mentioning same-sex couples as potential foster parents, the Constitutional Court judgment still would grant that right to them. For more information, see ILGA World, [ILGA World Database: Adoption by same-sex couples - Croatia](#), retrieved on 29 February 2024.

<sup>23</sup> "Hrvatski gay par: 'Traže nas da udomimo još djece, a kad trebamo postati posvojitelji država nas sprječava'" [Croatian gay couple: "They ask us to adopt more children, and when we need to become adoptive parents, the state prevents us"], *Dalmacija Danas*, 17 October 2023; "Ivo Šegota: 'Traže nas da udomimo još djece, a kad trebamo postati posvojitelji država nas sprječava'" [Ivo Šegota: "They ask us to adopt more children, and when we need to become adoptive parents, the state prevents us"], *Dvenik (Croatia)*, 17 October 2023.

<sup>24</sup> "Gej parovima treba dati da posvajaju djecu, kaže saborska zastupnica" [Gay couples should be allowed to adopt, says MP], *Index.hr*, 10 November 2023.

<sup>25</sup> "Greens propose law allowing same-sex couples to adopt children", *Cyprus Mail*, 14 October 2023; "На Кипре однополым парам могут разрешить заводить детей" [Same-sex couples may be allowed to have children in Cyprus], *Parni Plus*, 18 October 2023.

<sup>26</sup> "Vnitro chystá nové formuláče pro matriky, které počítají i se dvěma otci či matkami" [Vnitro is preparing new forms for registers, which also allow for two fathers or mothers], *Denik N*, 28 January 2023.

<sup>27</sup> "Návrh vyhlášky, kterou se mění vyhláška č. 207/2001 Sb., kterou se provádí zákon č. 301/2000 Sb., o matrikách, jménu a příjmení a o změně některých souvisejících zákonů, ve znění pozdějších předpisů" [Draft decree amending Decree No. 207/2001 Coll., implementing Act No. 301/2000 Coll., on registers, names and surnames and amending some related laws, as amended], *Portal of the ODok Information System of the Office of the Government of the Czech Republic*, retrieved on 29 February 2024.

birth certificate regardless of gender.<sup>28</sup> The 2023 draft decree of the Ministry of the Interior effectively responds to this court judgement by creating a new birth certificate, in which the terms “father” and “mother” will be replaced by “parents”.

This draft decree follows a similar attempt in 2021, though this was ultimately not approved due to objections from the Office of the President. Nevertheless, the Ministry of the Interior’s spokesperson said that “the main goal of the proposed amendment is the introduction of a completely new birth certificate exclusively for children of same-sex parents”, when speaking to local media.<sup>29</sup> This means that while the law doesn’t specifically allow for joint adoption by same-sex couples, both partners in a same-sex relationship can legally adopt the same child at the same time, effectively granting them parental rights jointly. The draft decree introduced in 2023, if approved, could ease this process by providing an established procedure with relevant documentation.

In June 2023 the Chamber of Deputies voted in favour of the Bill to reform the Civil Code (Bill No. 241) (2022), which would legalise same-sex marriage and adoption, on its first reading and sent it to several parliamentary committees for discussion.<sup>30</sup> Later, on 7 February 2024, the Chamber approved the text adopted by the committees in a second reading.<sup>31</sup> However, several amendments aimed at removing marriage equality from the text were introduced before the third and final reading. One of them, introduced by MPs from different parties, proposed a new form of legally recognised partnership for same-sex couples (*partnerství*) rather than permitting same-sex marriage. This arrangement would have the same rights and obligations as are conferred to married couples except where legislation explicitly states otherwise.<sup>32</sup> On 20 February 2024, this amendment was approved by the Chamber in the third reading of the bill.<sup>33</sup> The approved text, which dropped same-sex marriage and focused on partnerships instead, was then sent to the Senate as Bill No. 234 (2024).

Although the amended bill would expand the rights registered partnerships currently enjoyed in Czechia, such as entitlement to widower’s pensions and the ability to jointly purchase a house, it would still fall short of granting them the right to adopt.<sup>34</sup>

## Estonia

On 20 June 2023, the Estonian Parliament adopted the [Law to reform Family Law and other related laws](#) (2023), which amended the legal concept of marriage to define it in gender-neutral terms, thus legalising marriage equality. Moreover, it also reformed many other provisions to expand the rights and obligations of married couples to legally registered partnerships, including those of the same sex. For instance, property rights, adoption, legal residency or citizenship, among others. The President of Estonia ratified the law, which entered into force on the first day of 2024.<sup>35</sup>

## Greece

Joint and second-parent adoption in Greece were restricted to married couples under Article 1545 of the Civil Code (1975). Consequently, due to the absence of legal recognition for same-sex marriage in Greece before 2024, same-sex couples were also ineligible for joint and second-parent adoption.

Following a period of public consultation in January 2024, the government introduced its marriage equality bill to the Greek Parliament and on 15 February 2024 it was passed. The next day, it was signed by the President and enacted as the Law on Civil Marriage Equality (Law No. 5,089) (2024), thus legalising equal marriage in Greece. The law includes several provisions aimed at ensuring equal parenting rights for all couples.<sup>36</sup>

<sup>28</sup> “Už ne otec a matka. Jen rodič. Vnitro chystá nové rodné listy pro děti stejnopohlavních párů” [No more father and mother. Just a parent. Vnitro is preparing new birth certificates for children of same-sex couples], *Echo24.cz*, 28 February 2023.

<sup>29</sup> “Dvě matky, dva otcové, nebo dva rodiče? Rodné listy dětí českých gay/les párů by se měly již letos změnit a ulehčit všem život” [Two mothers, two fathers, or two parents? The birth certificates of the children of Czech gay couples should change this year and make life easier], *LUI*, 25 February 2023.

<sup>30</sup> “Bill on legalizing marriage for same sex couples approved in first reading”, *Radio Prague*, 1 July 2023; “Sněmovna schválila manželství pro homosexuály v prvním čtení. Kdo jak hlasoval?” [The House approved marriage for homosexuals in the first reading. Who voted how?], *Seznam Zprávy*, 29 June 2023.

<sup>31</sup> “V ČR posunuli návrh o manželství i pre homosexuálne páry do 3. čítania” [In the Czech Republic, they moved the proposal on marriage for homosexual couples to the 3rd reading], *Teraz*, 8 February 2024.

<sup>32</sup> “O Čem Bude Hlasovat Sněmovna Ve 3. Čtení Aneb Jedno Manželství, Jeden Pozměňovák A Čtyři Úplně Ukrajovány” [What Will The House Vote On In The 3rd Reading, Or One Marriage, One Amendment And Four Complete Cuts], *Jsme Fér*, 16 February 2024.

<sup>33</sup> “Sněmovna schválila partnerství pro páry stejného pohlaví. Adopce možné nebudou” [The House approved partnerships for same-sex couples. Adoptions will not be possible], *denik.cz*, 28 February 2024; “Czech lawmakers approve bill on same-sex marriages, without the right to adopt children”, *Radio Prague*, 29 February 2024; “Sněmovnou ve středu prošla novela občanského zákoníku, která mění svazky stejnopohlavních párů a zlepšuje jejich práva” [An amendment to the Civil Code, which changes the unions of same-sex couples and improves their rights, was passed by the Chamber of Deputies on Wednesday], *Deník N*, 1 March 2024.

<sup>34</sup> “OTázky A Odpovědi K Novele O Partnerství”, [Questions and answers to the partnership amendment], *Jsme Fér*, 7 March 2024.

<sup>35</sup> “У однополых пар появилась возможность получать детские пособия наравне с разнополыми семьями” [Same-sex couples now have the opportunity to receive child benefits on the same basis as opposite-sex families], *ERR News*, 09 January 2024; “Estonia’s first ever same-sex marriages take place”, *ERR News* (English), 4 February 2024.

<sup>36</sup> “Γάμος ομόφυλων ζευγαριών: Ευρύτατη πλειοψηφία εξασφάλισε το νομοσχέδιο” [Marriage of same-sex couples: The bill secured a large majority], *Rosa*, 08 February 2024; “Νόμος του κράτους ο γάμος των ομόφυλων ζευγαριών” [Same-sex marriage is state law], *Lifo*, 16 February 2024; “Greece legalises same-sex marriage”, *BBC*, 15 February 2024.



Joint adoption by same-sex couples is currently not allowed in Italy. However, in 2021, the Court of Cassation declared in its [Judgment No. 9006 \(2021\)](#) that an adoption legally made abroad by a same-sex couple was valid in Italy, as long as surrogacy was not involved.<sup>37</sup>

Between October 2022 and March 2023, several bills on marriage equality and adoption were proposed. On 13 October 2022, the Movimento 5 Stelle party introduced [Bill DDL 130 \(2022\)](#) to the Senate, aiming to legalise adoption for same-sex couples. Similarly, on 25 October 2022 Italia Viva proposed [Bill DDL 215 \(2022\)](#) in the Senate with the same objective. Furthermore, on 26 October 2022, Alessandro Zan, a member of the Chamber of Deputies, proposed Chamber Act No. 479 (2022), seeking to reform the Civil Code and Civil Procedure Code to permit adoption for same-sex couples. Building upon these efforts, on 7 March 2023 Giulia Pastorella, another member of the Chamber of Deputies, introduced the proposed Chamber Act No. 958 (2023), also aiming to reform the Civil Code and Civil Procedure Code to allow for joint adoption for same-sex couples.<sup>38</sup>

In sharp contrast, in February 2023, the right-wing Fratelli d'Italia (FdI) party submitted [Draft Law No. 887 \(2023\)](#) to amend article 12 of Law No. 40 (2004), which would potentially enable legal action against Italian residents who resort to surrogacy abroad.<sup>39</sup> Following this, the Democratic Party and +Europa proposed amendments to the draft law in May. Their amendments sought to allow recognition of filiation relationships between children and parents through official foreign documents in the Italian civil registry. However, these amendments were ultimately rejected in Parliament. It was later reported in June 2023 that the Commission of Justice concluded the vote on the amendments, sending the text to the Chamber of Deputies for further consideration.<sup>40</sup>

These legislative discussions took place against a backdrop of concerning instances of refusal by certain authorities to register birth certificates of children born abroad via surrogacy and the rejection of registration for the second mother of children born in Italy through

medically assisted reproduction. Families affected by these refusals turned to the European Court of Human Rights (ECtHR), yet their appeals were deemed inadmissible as the matters fell within the State's discretionary powers.<sup>41</sup> In July 2023, a mother reportedly received an official letter notifying her that her name had been removed from her daughter's birth certificate. Such administrative actions are seen to be in line with the ruling FdI party, and Prime Minister Giorgia Meloni's, policies against same-sex parenting and surrogacy.<sup>42</sup>

Despite the apparent regressive moves made in the legislature and through official policy, courts in Italy were noted to have ruled in favour of same-sex couples and their children. It was reported in November 2023 that after the Municipality of Palermo refused to issue adoption certificates for four children born in the UK and adopted by bi-national same-sex couples, the Court of Appeals of Palermo ruled in favour of the couples. The Court ordered the Municipality and the Ministry of the Interior to recognise the adoptions and to reimburse litigation expenses to the couples.<sup>43</sup> Local sources also reported that in March 2024 the Court of Padua rejected a 2023 order by the Public Prosecutor's office, which challenged the Municipality's decision to register the children of two mothers. The order by the Prosecutor's office aimed to retroactively remove non-biological mothers from the birth certificates of 37 children dating back to 2017, however, the court found it inadmissible.<sup>44</sup>

Between the right-wing government's attempts to make surrogacy a crime and progressive attempts to recognise joint adoption for same-sex couples, it was reported in September 2023 that a bill was introduced in the Senate proposing a streamlined adoption process for children born through surrogacy. The proposal reportedly mandates applications to juvenile courts for expedited decisions within four months. The courts are to ascertain the minor's birth from a deliberate, jointly held parental intention and continuous nurturing and affective ties, ensuring the adoption serves the child's best interest. The adoption, however, can be challenged by the Public Prosecutor within 30 days. The bill has been described as a "thorny" attempt, as the introductory texts of the bill reportedly state that the bill's purpose is to maintain the ban on surrogacy.<sup>45</sup>

<sup>37</sup> For more information, see ILGA World, [ILGA World Database: Adoption by same-sex couples - Italy](#), retrieved on 5 April 2024.

<sup>38</sup> "Matrimonio egualitario e adozione per i single nella proposta di legge del Pd" [Egalitarian marriage and adoption for singles in the Pd's bill], *La Repubblica (Italy)*, 20 March 2023.

<sup>39</sup> "Il governo Meloni vuole bloccare il riconoscimento dei figli delle coppie gay nell'Unione Europea" [The Meloni government wants to block the recognition of children of gay couples in the European Union], *Gayburg*, 7 March 2023.

<sup>40</sup> "Majority rejects amendments on same-sex birth registration", *Agenzia ANSA*, 25 May 2023.

<sup>41</sup> "Coppie gay, Corte europea dei diritti umani respinge il ricorso per il riconoscimento di due madri" [Gay couples, European Court of Human Rights rejects the appeal for the recognition of two mothers], *TGCom 24*, 8 July 2023.

<sup>42</sup> "Italy erases names of gay mothers from their children's birth certificates in crackdown", *Daily Mail*, 16 July 2023.

<sup>43</sup> "Una coppia gay può adottare. La Corte d'Appello di Palermo condanna il sindaco e il ministero dell'Interno" [A gay couple can adopt. The Court of Appeal of Palermo condemns the mayor and the Ministry of the Interior], *Gayburg*, 18 November 2023.

<sup>44</sup> "Padova: respinti ricorsi famiglie arcobaleno, madri riconosciute" [Padua: rainbow families' appeals rejected, mothers recognized], *Circolo di Cultura Omosessuale Mario Mieli*, 5 March 2024.

<sup>45</sup> "Figli delle coppie gay, la terza via dei cattolici del Pd: una adozione "affettiva" [Children of gay couples, the third way of the Catholics of the Democratic Party: an "affective" adoption], *Il Fatto Quotidiano*, 14 September 2023.



## Jersey (UK)

The self-governing UK dependency of Jersey has allowed for joint adoption for same-sex couples since the [Civil Partner Clauses Rules](#) were enacted in 2012.<sup>46</sup> It was reported in September 2023 that Jersey authorities were drafting new legislation to build upon this and enhance the legal rights of same-sex parents. The proposed law would enable both same-sex parents to be listed on birth certificates and confer legal parental status to children born through surrogacy. Deputy Children's Minister Louise Doublet was noted as actively prioritising this initiative, with the goal of safeguarding the rights of same-sex parents and ensuring equality for their families within Jersey's legal framework. Notably, this legislation goes a step further than the UK by retrospectively extending these rights to the majority of same-sex parents on the island.<sup>47</sup> In March 2024, the State Assembly unanimously approved the Draft Children and Civil Status (Amendments) Law (2024), which the Minister for Children and Education said would take effect by the end of 2024.<sup>48</sup>

## Latvia

In April 2023, the parliament approved an [Amendment to the Law on the Protection of Children's](#)

[Rights](#) (2023), which essentially prohibits foreign same-sex couples from adopting children in Latvia. The amendment states that "a child can be adopted by a person or spouses within the meaning of Article 110 of the Constitution", with Article 110 prohibiting same-sex marriage. The law took effect in May 2023.<sup>49</sup>

## Liechtenstein

In January 2023, the Liechtenstein Parliament passed the [Bill for the Equality of Same-Sex Couples in Adoption Law](#) (2023) in its first reading. This law amends the Civil Code and the [Partnership Act](#) (2022) to further secure the right to adoption for same-sex couples, with equal rights and obligations as married different-sex couples. The law was published in the National Legal Gazette on 25 April 2023 and entered into force on 1 June 2023.<sup>50</sup>

## Russia

In September 2023, the Republic of Tatarstan made amendments to the Family Code to ban citizens who have changed their gender from being guardians and adopting children.<sup>51</sup>

## Latin America

### Brazil

In November 2023, the National Council of Justice<sup>52</sup> issued [Resolution No. 532](#) (2023), reaffirming the rights of same-sex couples to adopt. The resolution mandates that courts and judges uphold equal rights and combat discrimination based on sexual orientation and gender identity. It prohibits expressions opposing applications solely due to the sexual orientations or gender identities of individuals, couples, or families applying to

adopt, ensuring fair treatment in qualification, adoption, custody, and guardianship processes. Additionally, State Courts of Justice are required to develop interdisciplinary preparatory courses for adoption, emphasising procedural guarantees and providing personal assistance to applicants. Judges must assess caregiver qualifications in shelters, report inadequacies, and promote adoption by including same-sex and transgender-affirming families in encouragement activities while facilitating avenues for lodging discrimination complaints.<sup>53</sup>

<sup>46</sup> See also "Adoption (Amendment No. 3) Rules 2012", *Jersey Legal Information Board*, retrieved on 25 April 2024.

<sup>47</sup> "Same-sex parents in Jersey to be given greater legal rights", *ITV Channel TV*, 16 September 2023.

<sup>48</sup> "Same-sex parents given equal rights in Jersey", *BBC*, 20 March 2024; "Jersey's government urged to enact same-sex parental rights", *BBC*, 21 March 2024. See also "Draft Children and Civil Status (Amendments) Law", *States Assembly (States of Jersey) - Official Website*, retrieved on 25 April 2024.

<sup>49</sup> "Bērnu aizsardzības likumā iedz bērna adopciju viendzimuma pāriem ārvalstīs" [The Child Protection Act prohibits the adoption of a child by same-sex couples abroad], *Delfi (Latvia)*, 20 April 2023.

<sup>50</sup> "Il Liechtenstein ha esteso il diritto di adozione alle coppie gay" [Liechtenstein has extended the right to adopt to gay couples], *Gayburg*, 6 March 2023.

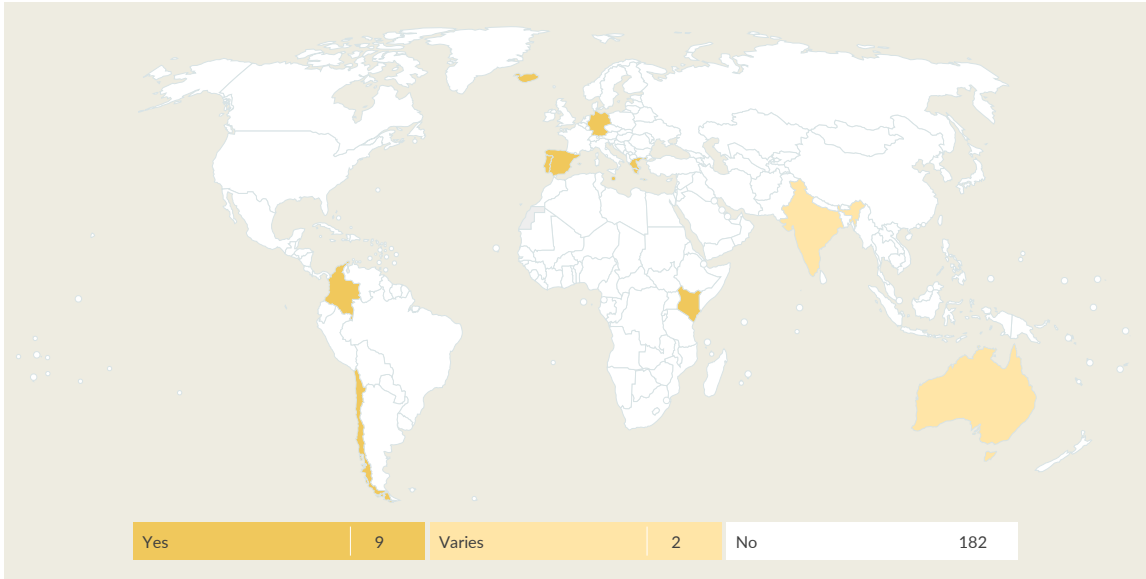
<sup>51</sup> "В Татарстане транс-персонам запретили усыновлять детей" [Trans banned from adopting children in Tatarstan], *SPiD Center*, 15 September 2023.

<sup>52</sup> The National Council of Justice (CNJ) is an institution established by the Constitution in 2004. It acts as the administrative and financial body of the Brazilian judiciary system, responsible for the regulation, supervision, and transparency of the judiciary's activities. It is composed of several members, including judges, lawyers, and citizens appointed by various bodies within the judiciary and the legal community. The CNJ plays a crucial role in overseeing the Brazilian judiciary and implementing reforms to enhance access to justice and uphold the rule of law.

<sup>53</sup> "TJRJ vai reforçar proibição de LGBTfobia em processos de adoção" [TJRJ will reinforce the prohibition of LGBTphobia in adoption processes], *O Povo*, 21 January 2024.

## Restrictions on Interventions on Intersex Minors

**Global Summary** – Modest legal progress is being made amidst an overwhelming silence of legal frameworks regarding interventions on intersex minors across UN Member States. However, there are grave concerns over backsliding in Russia and the United States of America.



### Top Legal Developments (January 2023 – April 2024)

- ▶ Two (2) UN Member States (**Chile** and **Spain**) and two (2) subnational jurisdictions (Australian Capital Territory, **Australia**; Balearic Islands, **Spain**) approved legal restrictions on interventions on intersex minors.
- ▶ In at least one (1) UN Member State (**Costa Rica**) a bill to enact these restrictions has been introduced.
- ▶ In one (1) UN Member State (**Russia**) and in multiple subnational jurisdictions in another one (**United States of America**), regressive prohibitions of gender-affirming care incorporated specific exceptions that promote interventions on intersex minors.

### Global Tallies (UN Member States) - April 2024

# 9

with nationwide  
restrictions

# 2

with restrictions at  
the subnational level

## Legal developments | January 2023 – April 2024

### Africa

#### African Commission on Human and Peoples' Rights

In March 2023, the African Commission on Human and Peoples' Rights (ACHPR) issued Resolution No. 552 (2023) titled "Resolution on the Promotion and Protection of the Rights of Intersex Persons in Africa".<sup>1</sup> In this momentous instrument, the Commission recognised "that non-consensual and unnecessary surgical and other genital normalisation procedures performed on intersex persons in a medical or another setting may cause them lifelong physical and psychological suffering, permanent sterility, incontinence, and loss of sexual pleasure" and that they have irreversible consequences "similar to genital mutilation and can be considered as such".<sup>2</sup>

The Commission thus urged all States Parties to the African Charter on Human and Peoples' Rights to—among other things—"stop non-consensual genital normalisation practices on intersex persons, such as surgical, hormonal and sterilisation procedures that alter the sexual characteristics of intersex persons and ensure respect for their rights to make their own decisions regarding their bodily integrity, physical autonomy and self-determination",<sup>3</sup> and to "ensure that any action concerning an intersex minor is carried out with the permission of the parents and after medical analysis, taking strict account of the best interests of the child".<sup>4</sup>

In a statement, the Intersex Community of Zimbabwe (ICoZ) welcomed the resolution while also urging the African Commission to rectify certain terminological inaccuracies and ambiguities within it.<sup>5</sup>



#### Kenya

In March 2023, MP George Peter Kaluma announced the draft [Family Protection Bill \(2023\)](#), which would ban gender-affirming care with at least ten years' imprisonment for medical practitioners.<sup>6</sup> This includes gender-affirming puberty blockers, hormone therapy and surgeries. Under Section 14(6)(a), this bill explicitly excludes surgeries performed on intersex individuals who "are born with a genetically or biochemically verifiable disorder of sex development, including, but not limited to, XX disorder of sex development or XY disorder of sex development, sex chromosome disorders, XX or XY sex reversal and ovo-testicular disorders". If enacted, this bill could clash with the Children Act ([Law No. 29](#)) (2022), which prohibits "organ change or removal in case of an intersex child" from being performed without "advice of a medical geneticist".<sup>7</sup>

In June 2023, the Intersex Persons Implementation Coordination Committee (IPICC) presented the draft Intersex Persons Bill (2023), as requested by Kenya's National Human Rights Commission in August 2019.<sup>8</sup> Under Article 11(1)(b), the bill ensures that intersex individuals are protected from "intrusive and involuntary medical testing, treatment, or procedures that may have long-term negative consequences". Additionally, Article 11(3) outlines guidelines for healthcare providers and the Cabinet Secretary of Health to develop "protocols on surgical and hormonal or other interventions that constitute medical emergencies necessary to avoid serious, urgent and irreparable harm to an intersex person", along with other programs and requirements for appropriate medical care for intersex persons.

<sup>1</sup> African Commission on Human and Peoples' Rights (ACHPR), Resolution on the Promotion and Protection of the Rights of Intersex Persons in Africa - ACHPR/Res.552 (LXXIV) 2023, 7 March 2023.

<sup>2</sup> *Id.*, preamble.

<sup>3</sup> *Id.*, operative clause 2.

<sup>4</sup> *Id.*, operative clause 3.

<sup>5</sup> "ACHPR calls on African governments to uphold rights of Intersex persons", *Cite*, 4 May 2023.

<sup>6</sup> For more details on the context surrounding the introduction of this bill, please refer to the chapter on Freedom of Association in this report.

<sup>7</sup> Law No. 29 (2022) defines "intersex child" as a "child with a congenital condition in which the biological sex characteristics cannot be exclusively categorized in the common binary of female or male due to inherent and mixed anatomical, hormonal, gonadal or chromosomal patterns, which could be apparent prior to, at birth, in childhood, puberty or adulthood" and provides some broad categories of protection for intersex children. For more information, see ILGA World, *ILGA World Database: Restrictions on interventions on intersex minors - Kenya*, retrieved on 12 October 2023.

<sup>8</sup> "Bill proposes 25% tax incentive for employing intersex individuals", *Kenya Moja*, 3 June 2023.

## Asia

### India

In 2023, the Kerala High Court issued *Judgement WP(C) No. 19610 (2022)* on a case where the parents of a child born with “ambiguous genitalia” sought “permission to conduct a genital reconstructive surgery for raising the child as a female”. The final decision consisted of three mandates. First, the Court ordered the government to constitute a State Level Multidisciplinary Committee consisting of experts, including a paediatrician or paediatric endocrinologist, a paediatric surgeon and a

child psychiatrist or psychologist. Second, that this Committee examine the petitioners’ child within two months and decide whether the child is facing any “life-threatening situation by reason of the ambiguous genitalia” and, if so, to grant permission for carrying out the surgery. Third, that the government issue an order regulating “sex selective surgeries” on infants and children within three months. The Court further determined that until such time, such surgeries shall be permitted “only based on the opinion of the State Level Multidisciplinary Committee that the surgery is essential to save the life of the child”.<sup>9</sup>

## Europe

### Belgium

On 7 February 2023, the Brussels Court of Appeals upheld a decision against the Queen Fabiola Children’s Hospital for performing an unjustified surgery on an intersex minor in 2010. The vaginoplasty the minor was subjected to at the age of 16 had no urgency and the patient was misinformed and ill-prepared, the court ruled.<sup>10</sup>

### Netherlands

In July 2023, the Minister of Health, Welfare, and Sport expressed concerns in a letter regarding non-medically necessary, non-consensual treatments for intersex children. The Minister announced an ongoing investigation, with a report expected by December 2023.<sup>12</sup> At the time of publication, the issue remained ongoing.

### Luxembourg

In June 2021 it was reported that an “inter-ministerial working group” had begun discussing the possibility of drafting legislation to ban medically unnecessary surgery on intersex minors. However, in August 2023, the Minister of Health stated that the task of drafting the legislation would have to fall to the next government, as the working group had not yet agreed on the scope of the ban.<sup>11</sup>

### Russia

In May 2023 a Duma representative introduced a bill titled “On Amendments to the Federal Law ‘On Acts of Civil Status’ and the Federal Law ‘On the Fundamentals of Protecting the Health of Citizens’” (Bill No. 369814-8) (2023) aiming to prohibit “any intervention aimed at changing the sex of a person” *except* in cases of “medical interventions related to the treatment of congenital physiological anomalies of sex formation in children”.<sup>13</sup>

<sup>9</sup> “Kerala HC refuses to permit ‘corrective’ surgery on intersex child”, *The News Minute*, 8 August 2023; “No Sex Selective Surgery On Intersex Child Except To Save Child’s Life: Kerala High Court”, *Verdictum News Desk (India)*, 8 August 2023.

<sup>10</sup> “Une personne intersexe opérée lorsqu’elle était mineure : l’hôpital a été condamné” [An intersex person operated on when she was a minor: the hospital was sentenced], *RTBF*, 29 March 2023.

<sup>11</sup> “Geschlechtsangleichende Operationen bei Kindern könnten verboten werden” [Gender reassignment surgeries on children could be banned], *Luxemburger Wort*, 10 August 2023.

<sup>12</sup> “Kamerbrief over voorkomen van niet-medisch noodzakelijke behandelingen intersexe kinderen” [Letter to parliament on preventing non-medically necessary treatments for intersex children], *Government of The Netherlands*, 7 July 2023.

<sup>13</sup> The bill also eliminates the possibility of amending the civil status record. For more information, please refer to the chapter on Legal Gender Recognition.

The bill received support from 400 MPs, who endorsed it upon its introduction, and by the end of July, it secured approval from both chambers of the Federal Assembly.<sup>14</sup>

This “exception”, among many other problematic elements, was denounced by the Association of Russian Speaking Intersex (ARSI). In their own words: “The law simultaneously prohibits medical interventions for transgender people when there is a person’s will and medical necessity but allows medical interventions on intersex children when both the person’s will and medical necessity may be absent. In both cases, a person’s will or medical necessity for intervention is less important than the definiteness and immutability of sex characteristics. Thus, the law protects not children but the sex homogeneity of society”. In their analysis of the law, they also highlight the problems that this law brings as a consequence of its problematic terminology and other issues related to the amendment of civil status documents, adoption, guardianship, and termination of marriages of intersex people.<sup>15</sup>



Between January 2023 and March 2024, Spain achieved advancements both nationally and subnationally.

In February 2023, both chambers of the national Parliament approved the Law for the Real and Effective Equality of Trans People and to Guarantee the Rights of LGBTI People (Law No. 4) (2023). Under Article 19(2), all “genital modification practices” on individuals under the age of 12 are prohibited, except in cases where medical indications are that such interventions are in the interest of safeguarding the person’s health. For children aged between 12 and 16 years, such practices may be permitted upon the request of the minor, provided that they demonstrate the necessary age and maturity to provide informed consent.<sup>16</sup>

In April 2023, the Government of the Balearic Islands issued the Protocol for the Comprehensive Care of Intersex People (2023), making it the first of its kind in Spain.<sup>17</sup> This initiative follows the approval in 2016 of Law No. 8 (2016), which included several provisions regarding intersex-specific healthcare and restrictions on non-consensual interventions on intersex minors. The main aim of the protocol is to address the needs of

intersex individuals, stressing bodily autonomy, mental well-being, and open communication about intersex realities. It requires respectful language in care, spanning medical, psychological, social, educational, and cultural aspects. The protocol also emphasises informed consent in capturing images of patients and discourages unnecessary genital displays. Moreover, the significance of sensitive diagnostic language is highlighted, prioritising “conditions” over “syndromes” for intersex traits.

Furthermore, in February 2024, the Basque Parliament passed the Law on Non-Discrimination on Grounds of Gender Identity and on the Recognition of the Rights of Trans People (Law No. 4) (2024). Article 18 of this law bans “any genital modification or cosmetic surgery not medically necessary, as well as any other harmful medical procedure, both for adults and newborns, when the sexual or gender identity of the person has not been identified”. Exceptions are allowed if these interventions are essential to prevent a genuine risk to the person’s life or health, and when they are unavoidable for verifiable, demonstrable, and clinically justified reasons. In addition, Article 18(6) envisages a review of past medical treatment of intersex persons to provide redress and assistance in cases where such interventions have caused physical or psychological harm.



In November 2023, the Council of States adopted a motion aimed at improving the treatment of children born “with variations in sexual development”. The motion emphasises the need to protect these children from unnecessary or harmful interventions and aligns with the view of the Legal Affairs Committee of the Council of States (CAJ-E), which asserts that this objective can be achieved not through criminal prohibition but by ensuring competent and specialised treatment. Upon implementation, the motion states that the Swiss Academy of Medical Sciences should not solely adhere to position statement no. 20/2012 (November 2012) of the National Ethics Commission in the field of human medicine regarding attitudes towards variations in sex development. Instead, consideration should be given to advancements in medicine and the healthcare system over the past decade.<sup>18</sup>

<sup>14</sup> “В Госдуму внесли законопроект о полном запрете смены пола” [A bill on a ban on gender reassignment was submitted to the State Duma], *Radio Svoboda*, 31 May 2023; “Russia put back years’: intersex people fear fallout from sex change curbs”, *South China Morning Post*, 12 November 2023;

<sup>15</sup> For a comprehensive analysis of the law, please consult: “Intersex and Legal Ban on Gender Transition in Russia: Lawyer’s Comment” and “Analysis of the Problems and Dangers of the Draft Law No. 369814-8 for intersex people in Russia”, *Association of Russian Speaking Intersex* (retrieved 1 April 2024).

<sup>16</sup> See, among others: “Las claves de la ley trans: autodeterminación de género desde los 16 años” [The keys to the trans law: gender self-determination from the age of 16], *Voz Pópuli*, 17 February 2023. Note: In April 2023, right-wing and far-right parliamentarians challenged this law before the Constitutional Court. However, lodging this appeal does not entail suspending the law. For more information, refer to: “Vox recurrirá esta semana la ley trans ante el Tribunal Constitucional” [Vox will appeal this week the trans law before the Constitutional Court], *LaSexta*, 30 March 2023.

<sup>17</sup> “Les Balears ja disposen del primer protocol d’atenció integral a persones intersexuals de l’Estat” [The Balearic Islands already have the first comprehensive care protocol for intersex people in the State], *Diari de Balears*, 3 April 2023.

<sup>18</sup> “Motion 23.3967: Amélioration du traitement des enfants nés avec une variation du développement sexuel (VDS)”, *L’Assemblée Federale Suisse* (retrieved 1 April 2024).

## Latin America & the Caribbean

### Chile

In December 2023, the Ministry of Health issued the Circular on Necessary Measures to Guarantee the Best Interests of Children and Adolescents with Variations in Sex Characteristics ([Circular No. 15](#)) (2023) prohibiting the performance of “surgeries and treatments whose sole purpose is to modify [the child’s body] to meet social and/or aesthetic expectations” without the child’s consent. The Circular stipulates that in the event of detecting a “variation in sexual characteristics,” comprehensive information regarding the variation must be provided to the patient, their family, and/or legal representatives. In cases where there is disagreement within the medical team regarding the necessity of an intervention, the Circular outlines a procedure involving a team from another medical centre and the Healthcare Ethics Committee in the decision-making process. If a disagreement arises with the patient, their family, or legal representatives, the case is to be jointly analysed with the Committee, with legal action considered if necessary to uphold the best interests of the child. Additionally, if the medical team

deems an intervention unnecessary but the patient’s legal representatives demand it, the Circular mandates the provision of necessary measures to inform them about why the intervention should not be performed.<sup>19</sup>

### Costa Rica

In June 2023, the Frente Amplio party presented a Bill for the Recognition of Trans, Non-Binary, Gender Diverse and Intersex Identities ([File No. 23,809](#)) (2023), with multiple provisions relevant to intersex people. Article 27 incorporates two specific provisions relevant to the right to self-determination and the right to health of intersex people. While Article 27(a) prohibits medical interventions that are not deemed medically necessary and without the informed consent of the individual, Article 27(b) bans engaging in any form of photography, filming, or exhibition that is not explicitly consented to by the individual in question. The prohibitions contained in subsections (a) and (b) are absolute in the case of minors, even with the consent of the parents or legal representatives.<sup>20</sup>

## North America

### United States of America

On the occasion of Trans Day of Visibility in March 2023, and against a concerning trend of regressive legislation being proposed at the state level, the Democratic Party introduced [House Resolution No. 269](#) (2023) and [Senate Resolution No. 144](#) (2023) in the US Congress with the aim of affirming the obligation of the US Federal Government to formulate and enforce a “Transgender Bill of Rights”. Both resolutions call for the banning of “forced surgery that violates medical ethics and human rights on intersex children and infants”. However, these initiatives primarily serve a

symbolic purpose, as they do not entail any immediate alterations to federal laws or regulations. The directives outlined in them are not binding on lawmakers, even in the event of overwhelming support. Resolutions, being non-binding instruments, neither necessitate the endorsement of the opposing legislative chamber nor the approval of the President, and they lack the force of law.<sup>21</sup>

Between January 2023 and March 2024, the significant surge of “anti-trans” bills continued across numerous US states, aiming—among many other things—to restrict transgender youths’ access to gender-affirming healthcare. These regressive legislative efforts not only undermine trans rights but also impact intersex children, making them “anti-intersex” as well.

<sup>19</sup> “Hito: Chile vuelve a prohibir las cirugías a niños, niñas y adolescentes intersex” [Milestone: Chile once again prohibits surgeries for intersex boys, girls and adolescents], *MOVILH*, 28 November 2023.

<sup>20</sup> “Diputada propone que instituciones reserven plazas a personas trans” [Deputy proposes that institutions reserve places for trans people], *CRHoy.com*, 25 June 2023.

<sup>21</sup> “Exclusive: Democrats reintroduce federal Trans Bill of Rights as GOP tries to advance restrictions”, *19th News (USA)*, 4 April 2023.

In effect, as highlighted in October 2022 by interACT Advocates for Intersex Youth, the SOGIESC Human Rights Initiative of the University of North Carolina Human Rights Law Program, and Human Rights Watch, many of these bills contain explicit exemptions for interventions performed on intersex children. These procedures are typically referred to in the legislation as “children with a medically verifiable disorder of sex development” or “DSD”, terms that are increasingly viewed as pejorative. These provisions ostensibly protect doctors conducting genital and other surgeries on infants and young children with intersex traits from facing legal and professional consequences. Of particular concern is that these exemptions are included within the same laws that seek to penalise identical procedures when performed on older transgender youth who actively seek such medical interventions.<sup>22</sup>

In 2023, the list of US states enacting such bills included Arizona, Florida, Georgia, Idaho, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, and West Virginia.

## Facing the Tide: Monitoring the Assault on Sexual and Gender Diversity Through Regressive Bills in the United States of America

Due to resource constraints, ILGA World’s Research Programme has regrettably ceased its monitoring of the extensive and rapidly evolving legal developments at the subnational level in the United States of America, effective from January 2024.

For current and detailed information on developments in individual US states, please consult:

- Movement Advancement Project: [Snapshot LGBTQ Equality by State](#).
- Human Rights Campaign: [Attacks on Gender Affirming Care by State](#).
- ACLU: [Mapping Attacks on LGBTQ Rights in U.S. State Legislatures in 2024](#).
- Equality Federation: [State Legislation Tracker](#).
- The Trevor Project: [LGBTQ+ Legislation Heatmap by State](#).
- Track Trans Legislation: [2023 Anti-Trans Legislation](#).
- Trans Legislation Tracker Project: [2024 Anti-Trans Bills Tracker](#).
- For specific information on progressive legislative efforts, please refer to GLSEN: [State Legislative Tracker 2024: Pro-LGBTQI+ Legislation Affecting Schools](#).

## Oceania



### Australia

In June 2023, the [Variation in Sex Characteristics \(Restricted Medical Treatment\) Bill \(2023\)](#)—passed in the Australian Capital Territory with bipartisan support—was successfully enacted. Initially introduced in March 2023, the law aims at safeguarding the human rights of people with innate variations of sex characteristics in medical settings. This legislation is designed to introduce mechanisms for the regulation of non-urgent medical care, fostering child involvement in medical decisions, establishing pioneering oversight mechanisms, and enhancing transparency in medical

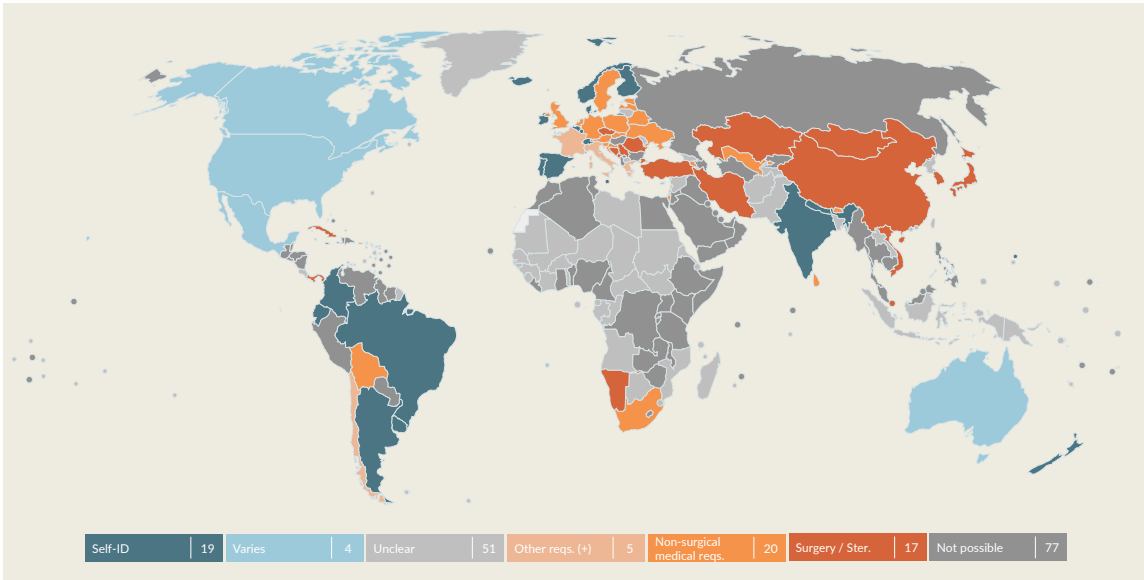
practices and decision-making processes. It specifically provides for the creation of an independent assessment board with committees comprised of people with lived experience and experts in medicine, human rights, ethics and psychosocial support and criminalises specific deferrable procedures that permanently alter the sex characteristics of children. Notably, as explained by Intersex Human Rights Australia (IHRA), accompanying this legislative framework is the allocation of funding to provide essential psychosocial support services for affected families and children. Numerous local organisations expressed their satisfaction with the outcome of this legislative process.<sup>23</sup>

<sup>22</sup> “Mapping the Intersex Exceptions: Anti-Trans Legislation Across the United States Permits Rights Violations Against Intersex Children”, *Human Rights Watch* (retrieved 1 April 2024). This research is a joint effort of interACT Advocates for Intersex Youth, the SOGIESC Human Rights Initiative of the UNC Human Rights Law Program, and Human Rights Watch. Contributors include: Holning Lau, Willie Person Mangum Distinguished Professor of Law at UNC School of Law; Erika Lorschough, Executive Director of interACT; Sylvan Fraser, Legal and Policy Director at interACT; Yasemin Smallens, LGBT rights coordinator at Human Rights Watch; and Kyle Knight, senior researcher on health and LGBT rights at Human Rights Watch.

<sup>23</sup> “Legislation to protect intersex human rights in the ACT passed!”, *Intersex Human Rights Australia (IHRA)*, 8 June 2023; “ACT Passes First Laws Protecting Intersex People From Unwanted Surgeries”, *Star Observer*, 8 June 2023.

# Legal Gender Recognition

**Global Summary** – Several additional UN Member States have adopted legal gender recognition based on the principle of self-identification, alongside notable successes in challenging surgical requirements within diverse court systems, particularly in East Asia. However, these advancements are unfolding amidst an escalating and well-financed global anti-gender movement that is also attaining legal victories.



## Top Legal Developments (January 2023 – April 2024)

- ▶ Five (5) UN Member States (**Ecuador, Finland, Germany, New Zealand,<sup>1</sup> Spain**) and one (1) subnational jurisdiction (Yucatán, **Mexico**) enacted laws on legal gender recognition based on the principle of self-identification.
- ▶ One (1) UN Member State (**Sweden**) and one (1) subnational jurisdiction (Queensland, **Australia**) adopted laws to simplify and streamline existing legal gender recognition procedures.
- ▶ In at least four (4) UN Member States (**Japan, Peru, Romania, and South Korea**) and two (2) non-UN members (Hong Kong and Taiwan, **China**), surgical requirements were successfully challenged before the courts. In one (1) additional subnational jurisdiction (New South Wales, **Australia**) a bill was introduced to eliminate this requirement.
- ▶ At least seven (7) UN Member states (**Costa Rica, Czechia, Montenegro, Namibia, South Korea, Thailand, and Vietnam**) and one (1) subnational jurisdiction (New South Wales, **Australia**) considered bills to establish or amend procedures for legal gender recognition, with varying requirements, markers and procedures.
- ▶ Progress towards the introduction of non-binary markers was observed in at least eight (8) UN Member States (**Austria, Belgium, Brazil, Colombia, Italy, Mexico, the Netherlands, and South Africa**) and in at least six (6) subnational jurisdictions (Quebec, **Canada**; Jalisco, Mexico City, Quintana Roo, Tabasco, and Tamaulipas, **Mexico**).
- ▶ Regressive developments were observed in at least ten (10) UN Member States (**Bahrain, Bulgaria, Czechia, Georgia, Hungary, Pakistan, Paraguay, Russia, Tunisia, and the United Kingdom**).

<sup>1</sup> Passed in 2021, enacted in 2023.



## Global Tallies (UN Member States) – April 2024

23<sup>(2)</sup>

LGR Based on Self-ID

18<sup>(3)</sup>

where non-binary gender markers are available

AT LEAST

18

where surgery or sterilisation is required

AT LEAST

23

where a diagnosis is required

## Legal developments | January 2023 – April 2024

## Africa

 Namibia

In June 2023, the [Civil Registration and Identification Bill \(2023\)](#) was introduced. Clauses 21(2)(g) and 21(8) of this bill initially allowed for the Registrar-General to amend an applicant's registered sex marker with evidence of "medical procedure or medical treatment undertaken to modify sexual characteristics". However, the Ministry of Justice published Amendments to the Civil Registration and Identification Bill (2023) the following month, deleting the above clauses.

 South Africa

In April 2023 the Department of Home Affairs published a draft [National Identification and Registration Bill \(2023\)](#) for public comment. The bill seeks, among other things, to "empower the Director-General to issue a gender-neutral identity number to [a] non-binary person", and to issue non-gender specific identity numbers to newborns whose sex "status" could

not be determined. Some local activists have critiqued the bill for retaining the medical and procedural requirements of [Act No. 49 \(2003\)](#), and have expressed concern that a national biometric database proposed by the bill could risk the safety and privacy of trans and gender-diverse citizens.<sup>4</sup>

 Tunisia

It was reported in May 2023 that a trans man applied for legal gender recognition with the Tunis Court of First Instance, requesting to change his gender marker from female to male and his name from Sarah to Ahmed. The court denied his request, basing their decision on the "lack of a medical reason for gender reassignment" and the lack of a suitable legal framework in Tunisia. Moreover, the judge told him that what he was trying to do was "*Haram*" (religiously forbidden in Islam). Subsequently, he reportedly appeared on a local news segment talking about his experience, including his being subjected to online and physical threats, along with the threat of eviction.<sup>5</sup>

<sup>2</sup> Breakdown: LGR based on Self-ID at the national level (17); LGR based on Self-ID for Non-Binary Markers Only (2); LGR based on Self-ID at the subnational level only (4).

<sup>3</sup> Breakdown: Non-Binary Markers available at the national level (10); Non-Binary Markers for Intersex People only (4); Non-Binary Markers available at the national level (4).

<sup>4</sup> "New Legislation Aims to Create More Inclusive Identity Processes", *Public Sector Leaders (South Africa)*, 29 June 2023; "South Africans get their chance to comment on national ID bill", *Biometric Update*, 1 June 2023.

<sup>5</sup> "Transgender chiede cambio stato civile, scoppia il caso in Tunisia" [Transgender asks for marital status change, the case breaks out in Tunisia], *Agenzia ANSA*, 29 May 2023.

## Asia

### Bahrain

In May 2023, it was reported that a Bahraini lower court rejected a trans man's application to amend his gender marker and access gender-affirming healthcare. Without an established procedure, the plaintiff submitted medical documentation from Bahrain and abroad to the court indicating a diagnosis and consistent social presentation as a male. During the proceedings, the court emphasised that in the absence of a positive law regarding “sex change”, it was obliged to rely on principles derived from judgements from the Court of Cassation (Bahrain's highest court) and Islamic Sharia. The court reportedly explained that Islamic Sharia—as interpreted by the Court of Cassation—prohibits “sex change” without necessity, as established in past interpretations from the Sunni school of thought (as opposed to Shia) that distinguish between “mental conditions” (i.e. “gender identity disorder”) and “biological conditions” (i.e. intersex status). While intersex individuals are encouraged to seek gender-affirming treatment to align with binary sex and gender norms, transgender individuals are not allowed to undergo such procedures under Islamic law. The court determined that the plaintiff, despite identifying as male, is biologically female and, therefore, did not qualify for legal gender recognition or gender-affirming care, as it contradicts both Islamic Sharia and the legal principles established by the Bahrain Court of Cassation.<sup>6</sup>

### Bangladesh

In Bangladesh, despite some recognition of *hijra* identities, uncertainty remains regarding gender marker changes on official documents.<sup>7</sup>

Home Minister, Asaduzzaman Khan Kamal, announced in January 2024 that the government would not pass laws deemed “anti-Islamic”, explicitly rejecting legal

gender recognition for trans individuals.<sup>8</sup> This declaration coincided with discussions on the unreleased “Protection of Rights of Transgender Persons Act” (2023), aimed at addressing gaps in trans and gender-diverse people's rights. In this line, Deputy Director of the Ministry of Social Welfare, Shah Jahan, stated that the law—still in the drafting stage—would provide more certainty to transgender rights, including with regard to education, healthcare, and land ownership. However, Islamist groups, including Hefazat e-Islam, launched a campaign against the proposed law, urging the government to abandon it. Additionally, the National Fatwa Board reportedly planned to disseminate anti-trans messages through literature, leaflets, seminars, and press conferences, branding transgender individuals as “cursed” and advocating for their exclusion.<sup>9</sup>

Such negative sentiments against trans people have been echoed by other prominent government figures. ILGA World was informed by JusticeMakers Bangladesh in France (JMBF) that in April 2023, the Assistant Secretary of the Health Service Department under the Health and Family Planning Department likened “gender dysphoria” to a “disease” while advocating for so-called “conversion practices” to these groups through extensive psychological treatment. He further stated that Bangladesh has not enacted any laws allowing for legal gender recognition, and that allowing it would be “contrary to social norms and religious teachings in the country”. He made such comments following news that an application for sex reassignment surgery was denied.

### Hong Kong (China)

In February 2023, the Hong Kong Court of Final Appeal ruled in *Tse Henry Edward v. Commissioner of Registration* (2023) that it was unconstitutional for the government to require a person to complete “full sex reassignment surgery” (or “full SRS”) before the “sex entry” on their

<sup>6</sup> “المحكمة ترفض دعوى أنثى طالبت بالتحول إلى ذكر” [The court rejects the lawsuit of a female who requested to transform into a male], *Akhbar Al Khaleej*, 21 May 2023; “Bahrain: Continued Denial of Legal Gender Recognition and Gender-affirming Healthcare for Transgender People in the Name of Islamic Sharia”, *Cairo 52*, retrieved on 22 March 2024.

<sup>7</sup> In late 2013 and early 2014, authorities announced that the *hijra* status would be legally recognised. However, no procedures for gender marker change have been put in place. National Identity Cards have a *hijra* category, passports have an “other” category, while other government forms have a “third gender” category. Despite this, it remains unclear who has access to these gender marker options and what measures individuals must undergo to legally change their gender on official documents. For more information, see ILGA World, *ILGA World Database: Legal gender recognition - Bangladesh*, retrieved on 22 March 2024.

<sup>8</sup> “ট্রান্সজেন্ডার হারাম, এ নিয়ে কোনো আইন পাস হবে না: স্বরাষ্ট্রমন্ত্রী” [Transgender haram, no law will be passed on it: Home Minister], *Shomoyer Alo*, 26 January 2024; “ট্রান্সজেন্ডারকে কোনো আইনে বৈধতা দেওয়া হয়নি: স্বরাষ্ট্রমন্ত্রী” [Transgender not legalized under any law: Home Minister], *Ittefaq*, 26 January 2024; “ট্রান্সজেন্ডারের স্বীকৃতি নিয়ে সরকারের অবস্থান জানালেন স্বরাষ্ট্রমন্ত্রী” [The Home Minister stated the government's position on the recognition of transgenders], *BD 24 Live*, 27 January 2024.

<sup>9</sup> “ট্রান্সজেন্ডার অধিকার আইন প্রণয়নে বিরত থাকুক: হেফাজতে ইসলাম” [Refrain from enacting transgender rights law: Hefazat-e-Islam], *Shomoyer Alo*, 5 January 2024.

identity card could be changed. The decision came after several years of legal challenges against the [Guidelines on Sex Change on the Identity Cards \(2012\)](#), which stipulate that only people who undergo full SRS can change their gender marker on ID cards.<sup>10</sup>

The applicants—who had not undergone full SRS—challenged the guidelines and the decision of the Commissioner who refused to amend their IDs, though the Court of First Instance ruled against them in *Q, R and Tse Henry Edward v. Commissioner of Registration* (2019) and again in January 2022 when they appealed against the 2019 decision in *Q and Tse Henry Edward v. Commissioner of Registration* (2022). Despite this, the Hong Kong Court of Final Appeal declared in February 2023 that the 2012 Guidelines and the decision of the Commissioner were unconstitutional.<sup>11</sup> Following this, the Immigration Department clarified that it was in the process of reviewing its policy concerning the amendment of sex entry on Hong Kong identity cards and would seek legal advice on follow-up actions to comply with the judgment of the Court of Final Appeal.

In April 2023, it was reported that in the absence of the enforcement of the judicial decision, up to one thousand transgender people were waiting to change their ID cards.<sup>12</sup>

On 15 March 2024, Henry Tse, the plaintiff in the HKID gender marker lawsuit, filed a judicial review over the delay in changing the gender marker on his ID card despite a landmark court win in 2023.<sup>13</sup> About two weeks after this court filing, in April 2024, the Hong Kong government issued a revised [Policy on Change of Sex Entry on Hong Kong Identity Card \(2024\)](#). The updated regulations stipulate that alongside individuals who have undergone “full sex reassignment surgery” (SRS), applicants who have undergone other specific surgical procedures to modify sexual characteristics (and meet the revised criteria and requirements) may also seek to amend their sex entry on their Hong Kong identity cards. According to the new policy, applicants would need to undergo bilateral mastectomy (breast removal) for a change of gender from female to male, and removal of the penis and testes for a change of

gender from male to female. Furthermore, applicants would need to demonstrate a history of gender dysphoria, having lived as the opposite sex for at least two years before application (“real-life” test), committing to lifelong gender alignment, undergoing continuous hormone therapy for at least two years before application, and consenting to random hormonal profile checks by the Commissioner. If the applicant is unable to meet certain medical requirements, such as surgery and hormone replacement therapy (HRT), the commissioner would consider the application “on an exceptional basis, taking into account all relevant facts and circumstances of the case”. On 29 April 2024, applicant Henry Tse successfully obtained his new Hong Kong ID card reflecting his male gender.<sup>14</sup>

In response to the revised policy, lawyer Wong Hiu-chong, representing trans activist Henry Tse, expressed ongoing concerns about the persistent surgical requirement, citing life-threatening risks. Wong criticised additional criteria, deeming them discriminatory, particularly the blood tests, which are not mandated for other Hong Kong ID card holders, and conveyed clients’ frustration over the prolonged wait for policy revision.<sup>15</sup> Local activists joined in expressing their frustration. Zephyrus Tsang and Christine Chu, affiliated with Quarks, a local organisation supporting trans youth, expressed that the surgical prerequisites constituted a breach of transgender individuals’ rights to bodily integrity and highlighted the inequity of the new requirements, particularly for trans women, describing them as a form of compelled sterilization due to the demand for genitalia removal.<sup>16</sup>

## ● Japan

Japan’s [Law No. 111 \(2003\)](#) allows Family Courts to approve gender registration modification but requires mandatory sterilisation and surgical procedures.<sup>17</sup> In September 2023, however, the Supreme Court convened to assess the constitutionality of the requirement mandating the “removal of reproductive

<sup>10</sup> Additional prerequisites have been established by Hong Kong for the approval of applications seeking modifications to gender markers. For more information, see: ILGA World, *ILGA World Database: Legal gender recognition - Hong Kong (China)*, retrieved on 18 July 2023.

<sup>11</sup> “Hong Kong trans men win appeal against gov’t ID card amendment policy in landmark ruling”, *Hong Kong Free Press*, 9 February 2023.

<sup>12</sup> “跨性別身份證案 | 原訴人換證兩個月未果或告入境處藐視法庭限一周內交代安排” [Transgender identity case | The plaintiff failed to renew the identity card for two months or sued the Immigration Department for contempt of court and was given a week to explain the arrangement], *Yahoo News (Hong Kong)*, 20 April 2023.

<sup>13</sup> “跨性別平權 | 終極勝訴逾年 改身份證性別不果 跨男再提覆核：點解仲要咁焦慮？- 集誌社” [Transgender equality | It took more than a year to finally win the lawsuit, but the gender change on the ID card failed. Trans men filed for review again: Why are you so anxious? - Jizhishe], *The Collective HK*, 19 March 2024; “HK trans activist challenges delay to changing gender marker on ID card”, *HKFP*, 20 March 2024.

<sup>14</sup> “Hong Kong: Transgender activist gets ID card reflecting gender change after yearslong legal battle”, *AP News*, 29 April 2024.

<sup>15</sup> “Hong Kong Amends Its Surgery Requirements to Change Gender Markers on ID”, *Time*, 3 April 2024; “After ‘painful’ wait since landmark ruling, Hong Kong revises policy on changing gender marker on ID card”, *Hong Kong Free Press*, 3 April 2024; “Completing gender reassignment surgery no longer a must for change of sex on HKID”, *The Standard (Hong Kong)*, 3 April 2024.

<sup>16</sup> “Hong Kong LGBTQ activists upset at revised ID card gender rules”, *Reuters*, 3 April 2024.

<sup>17</sup> Other requirements for legal gender recognition include official diagnoses of “gender identity disorder”, being at least 20 years old, being unmarried, and having no children. For more information, see ILGA World, *ILGA World Database: Legal gender recognition - Japan*, retrieved on 17 January 2024.

functions” as a prerequisite for legal gender recognition. The case involved a trans woman who petitioned a family court for a legal gender marker change without undergoing surgery. Both the Family Court and the High Court rejected her requests in 2018 and 2020, respectively.<sup>18</sup> On 25 October 2023, in a landmark ruling, the Supreme Court ruled that requiring mandatory sterilisation surgery was unconstitutional. The 15 justices ruled unanimously that forced sterilisation constitutes a “significant constraint on freedom from invasive procedures” in violation of Japan’s Constitution.<sup>19</sup>

Following this ruling, the Ministry of Justice announced plans to amend Law No. 111 (2003) to remove the mandatory sterilisation requirements from the law.<sup>20</sup> Subsequently, in December 2023, the Ministry of Health, Labour, and Welfare as well as the Ministry of Justice reportedly sent notifications to local governments and relevant academic societies regarding this ruling, officially suspending the practice of requiring doctor’s certificates to state whether an applicant for legal gender recognition has reproductive capacity or not.<sup>21</sup>

At the same time, in October 2023, while the Supreme Court case was still pending, the Shizuoka Family Court also ruled, this time regarding a trans man’s petition, that the requirement of surgery to remove reproductive capacities to access legal gender recognition was unconstitutional.<sup>22</sup>

Additionally, in December 2023, following the Supreme Court decision, a trans man filed an application for legal gender recognition with the Okayama Family Court.<sup>23</sup> In February 2024, the Court ruled in his favour, allowing his petition to legally change his gender without undergoing sterilisation surgery.<sup>24</sup> This was the second time this applicant was litigating with this aim, as the Supreme Court had initially ruled against him in 2019.

## Pakistan

Throughout 2023, Pakistan witnessed a series of regressive developments, reversing strides in transgender rights within a nation that had previously demonstrated progress in acknowledging the “third gender”, or *Khawaja sira*. Pakistan had been among the pioneering South Asian countries to recognise transgender rights, notably by introducing a “third gender” option to the National Database and Registration Authority (NADRA) in 2009 and, more recently, the enactment of the [Transgender Persons \(Protection of Rights\) Act \(2018\)](#).<sup>25</sup>

In recent years, detractors have raised challenges against Pakistan’s Transgender Persons (Protection of Rights) Act (2018), which provided for some forms of legal gender recognition based on self-determination. Critics argued that the law “contradicts Islamic law”, contending that it not only grants legal recognition to transgender individuals but also extends to gay and lesbian individuals, thereby allegedly “legitimising homosexuality”. In 2022, three identical bills were introduced in an attempt to restrict the 2018 Act. These bills aimed to eliminate references to “self-perceived gender identity” and replace it with a requirement determined by “Medical Certificate[s]”.<sup>26</sup> Following this, in February 2023, the Senate Standing Committee on Human Rights discussed six different proposed amendments relating to the Act and unanimously decided to replace the word “transgender” with “Khunsa (Intersex)”, defining the term as “a person who has a mixture of male and female genital features or congenital ambiguities” and could be classified as *khunsa male*, *khunsa female*, and *khunsa muskhil*, thereby considerably limiting the application of the 2018 Act.<sup>27</sup> This was followed by that same Senate Committee passing the [Khunsa \(Intersex\) Person \(Protection of](#)

<sup>18</sup> “Supreme Court may adjust requirements for gender status change”, *The Japan Times*, 27 September 2023

<sup>19</sup> “「社会的状況が変化」 19年「合憲」判断の裁判長—性別変更の家事審判” [“Social circumstances have changed” Presiding judge ruled on “constitutionality” in 2019 - Domestic relations trial for gender change], *Jiji*, 27 October 2023.

<sup>20</sup> “性同一性障害特例法、法務省が改正検討 最高裁決定受け” [Ministry of Justice considers revision of Gender Identity Disorder Special Cases Act following Supreme Court decision], *Nikkei*, 26 October 2023.

<sup>21</sup> “生殖能力の診断記載を不要に 性別変更要件で通知 最高裁決定受け” [No need to record fertility diagnosis due to gender change requirement, following Supreme Court decision], *Mainichi*, 12 December 2023.

<sup>22</sup> “Court rules it’s unconstitutional to require surgery for change of gender on documents”, *Japan Today*, 13 October 2023.

<sup>23</sup> “性別変更を求める審判、2度目の申し立て 今回は「希望を持って」” [Second appeal for gender change, this time “with hope”], *Asahi*, 16 December 2023.

<sup>24</sup> “手術なしの戸籍上性別変更認める 最高裁の違憲決定受け” [Allowing change of gender on family register without surgery after Supreme Court ruling unconstitutional], *Shimotsuke*, 8 February 2024; “岡山家裁が手術なしでトランスジェンダー男性の性別変更を認めたけれど” [Okayama family court allows transgender man to change gender without surgery], *LGBTER (Japan)*, 16 February 2024.

<sup>25</sup> For more information, see ILGA World, [ILGA World Database: Legal gender recognition - Pakistan](#), retrieved on 1 April 2024.

<sup>26</sup> Additionally, the Balochistan Assembly adopted a resolution unanimously calling upon the provincial government to plead with Islamabad to declare the Act “null and void” in deference to the religious parties. For its part, the Council of Islamic Ideology declared several provisions of the Act to be against Sharia law and decided to form a high-level committee to review it. For more information, see ILGA World, [ILGA World Database: Legal gender recognition - Pakistan](#), retrieved on 23 January 2024.

<sup>27</sup> “Legislators defer transgender persons protection of rights act”, *Pakistan Observer*, 14 February 2023.

Rights) Bill (2023) in March, which still awaits approval by the lower chamber. The draft bill would provide full protection, relief and rehabilitation for intersex persons and cater for their rights in line with the Shariah and the Constitution.<sup>28</sup> However, it would also mean that the same protections would not be afforded to transgender people as the objective of the bill states that numerous provisions of the 2018 Act are “repugnant to the injunctions of Islam as laid down in the Holy Quran and Sunnah”. It goes on to state that the scope of the Act of 2018 needs to be narrowed down, to only include the “sub-set of transgender persons as is recognised under Islamic law as *khunsa* (i.e., ‘intersex’), which is the bill’s main object”.

At the same time, the Federal Shariat Court (FSC) was hearing a challenge to the 2018 Act initiated by the right-wing JUI-F party in September 2022.<sup>29</sup> In May 2023, the FSC issued a ruling on this in *Shariat Petition No. 5* (2023), declaring that individuals lack the autonomy to alter their gender and adjudging certain provisions of the Transgender Persons (Protection of Rights) Act (2018) to be incongruent with Shariah. The Court held that an individual’s gender must be preserved as originally designated at birth, underscoring the Islamic prohibition against “gender reassignment”. Nevertheless, the Court reportedly recognised the fundamental rights Islam bestows upon transgender persons—rights safeguarded by the Constitution, thereby imposing an obligation on the government to secure the basic rights of transgender individuals.<sup>30</sup> In July 2023, the Federal Shariat Court’s decision was appealed to the Supreme Court.<sup>31</sup>

Despite the appeal, as a consequence of the Federal Shariat Court ruling, the National Database and Registration Authority (NADRA) suspended the registration of transgender individuals, specifically the issuance of ID cards bearing an “X” gender marker, prompting the National Commission for Human Rights (NCHR) to convene a consultation in September 2023.<sup>32</sup> In October 2023, the Sindh Human Rights Commission (SHRC) demanded that the NADRA issue identity cards to transgender persons without any discrimination.<sup>33</sup>

## South Korea

In February 2023, Judge Woo In-seong of the Second and Third Civil Divisions of the Seoul Western District Court issued a decision allowing for the change of gender markers for a transgender woman who had not undergone any surgical procedures.<sup>34</sup> This decision reversed a lower court’s ruling, which initially denied the application. The appellate court reaffirmed that “gender reassignment surgery” is not a prerequisite for legal gender recognition and emphasised that compelling a transgender person to undergo surgery against their will would constitute a violation of their human rights.<sup>35</sup>

Additionally, in an effort to advocate for the formal removal of surgical requirements to access legal gender recognition in South Korea, the National Human Rights Commission *recommended* (2023) that the Supreme Court revise the Guidelines for Handling Gender Recognition (2020) and the National Assembly to enact a special act related to legal gender recognition.<sup>36</sup>

Following this, in November 2023, the National Assembly announced the Legal Gender Recognition Bill (2023), signalling a potential policy shift by removing mandatory medical treatment—including gender-affirming surgery—for applicants. Additionally, the bill expands legal gender recognition rights regardless of marital or parental status.<sup>37</sup> The introduction of this bill, however, came with backlash from detractors and religious-based organisations. The Korean Christian Public Policy Council issued a statement in strong opposition to this bill, calling it “unconstitutional” and warning that the institutions of marriage and the family would be destroyed.<sup>38</sup>

Amidst these legislative discussions, according to media outlets, in January 2024, the Supreme Court began deliberations on abolishing the existing surgery requirements in the guidelines for legal gender recognition. This change would allow individuals to alter their gender marker without needing to prove they have undergone gender affirmation surgery.<sup>39</sup>

<sup>28</sup> “Senate body presents special report on Transgender Persons’ Rights Bill”, *Daily Times (Pakistan)*, 6 April 2023.

<sup>29</sup> “JUI-F moves Shariat court against transgender act”, *The Express Tribune (Pakistan)*, 30 September 2022.

<sup>30</sup> “A person can’t change gender at will, rules FSC”, *The Nation (Pakistan)*, 20 May 2023.

<sup>31</sup> “SC to review Federal Shariat Court’s decision on Transgender Act”, *Dunya News*, 17 July 2023.

<sup>32</sup> “Decision to halt registration processes for transgenders rendered them helpless”, *The News International*, 5 September 2023.

<sup>33</sup> “SHRC demands CNICs for transgender persons”, *The News International*, 31 October 2023.

<sup>34</sup> Requirements for gender marker change were set by the Supreme Court’s *en banc Order 2004-Seu-42* (2006) in 2006, which include mandatory sterilisation, “gender reassignment surgery”, alongside other medical and pathological requirements. Though the surgical requirements were relaxed in 2020 through the Supreme Court’s *Guidelines for Handling Gender Recognition* (2020), many courts still regard surgery as a significant criterion and reject legal gender recognition applications on that basis. For more information, refer to: ILGA World, *ILGA World Database: Legal gender recognition - South Korea* (retrieved: 1 April 2024).

<sup>35</sup> “법원 ‘성전환수술 안 해도 성별정정 가능’ [Court ‘can correct gender without gender reassignment surgery’], *YTN*, 17 March 2023.

<sup>36</sup> “인권침해 트랜스젠더 ‘성별정정 요건’... 인권위 ‘특별법 제정하라’” [Human Rights Violation Transgender ‘requirements for gender correction’... Human Rights Commission ‘Establish a special law’], *EDaily*, 27 May 2023.

<sup>37</sup> “성별정정 때 정확성 수술 요구하지 않는 법안 발의 예고” [Announcement of bill to not require gender confirmation surgery when correcting gender], *The Hankyoreh*, 21 November 2023.

<sup>38</sup> “기공협, ‘성별인정법안’은 ‘반헌법적’이자 ‘비과학적’” [Qigonghyup, ‘Gender Recognition Bill’ is unconstitutional and unscientific], *News Power (South Korea)*, 27 November 2023.

<sup>39</sup> “트랜스젠더 성별정정에 수술 확인서 사라지나” [Will the surgery confirmation disappear for transgender gender confirmation?], *Women News*, 27 January 2024.


Taiwan (China)

In February 2023, Taiwan's highest judicial organ, the Judicial Yuan, dismissed the Taipei High Administrative Court's application for constitutional interpretation regarding a lacuna on legal gender recognition in the country's laws.<sup>40</sup> The Judicial Yuan found that their application was "procedurally inadmissible", as they deemed the Taipei High Administrative Court to have the capacity to directly judge whether the lacunae in the relevant Acts are unconstitutional without a ruling from the Judicial Yuan.<sup>41</sup> This is an update from the 2021 court case of *Wu Yuxuan v. Taipei City Zhongzheng District Household Registration Office* (2021), where the court ruled that the gaps in the *Household Registration Act* (2015) and the *Enforcement Rules of the Household Registration Act* (2015) regarding gender marker changes were unconstitutional.<sup>42</sup> The case has since returned to the Taipei High Administrative Court to continue its trial.

In a separate case in September 2023, the Supreme Administrative Court of Second Instance issued its decision in *Case No. 558* (2023), affirming that the Household Registration Act (2015) does not mandate surgery as a prerequisite for amending an applicant's legal gender marker. The case arose in 2018 when a transgender woman applied to the Household Registration Office to change her gender markers without undergoing surgery. However, the Office rejected her application, citing the absence of evidence of genital intervention. Following an appeal and subsequent litigation, the Kaohsiung High Administrative Court upheld the requirement for such proof of surgery as stipulated by law, thereby denying her request for a gender marker change. Subsequently, the Supreme Administrative Court of Second Instance overturned the initial decision.<sup>43</sup>


Thailand

On 28 September 2023, representatives of human rights groups presented three bills to Deputy House Speaker Padipat Suntiphada, among them the *Draft Act on Gender Recognition* (2023).<sup>44</sup> The bill provided for legal gender recognition based on self-identification. Applicants would only need to submit a request for a "gender certification" to the Registrar and subsequently sign a "Gender Identity Declaration of Intent", which would have allowed them to identify as either male, female or non-binary. The bill also permitted legal gender recognition for people under 18, with parental consent and psychiatric confirmation. Additionally, it outlined rights afforded to transgender people, including healthcare, employment, education, and the provision of goods and services. The deputy House Speaker stated that parliament would publish the draft law for review and receive signatures from the public while setting up a committee to specifically consider the initiative.<sup>45</sup>

However, in February 2024, the bill was rejected by 254 votes against 157 in favour. Detractor MPs resorted to arguments related to "deception or harassment", alleging that people would change their gender markers "to deceive or harass others".<sup>46</sup>


Vietnam

In April 2023, it was reported that a proposal was presented to the National Assembly Standing Committee to draft a law on legal gender recognition, which would also create procedures for gender affirmation, including surgeries and legal gender recognition. Another bill, the *Draft Law on Gender*

<sup>40</sup> Nota bene: A "lacuna" refers to a gap or deficiency in the law where existing statutes or regulations fail to address a specific issue adequately. These gaps can arise due to societal changes or advancements that outpace the current legal framework. Legal scholars and policymakers often work to propose new legislation or interpretations to fill these gaps, ensuring that the law remains relevant and capable of addressing evolving societal needs. The goal is to adapt the legal system to changes and promote justice in situations not explicitly covered by existing laws.

<sup>41</sup> "跨性別免術換證吳宇萱案件盟眾觀期待結果" [Legal gender recognition without the need for surgeries: Taiwan Alliance to Promote Civil Partnership Rights is optimistic about the outcome of Wu Yuxuan's case], *Central News Agency*, 12 February 2023.

<sup>42</sup> For more detailed information regarding the facts and rulings of the court case, see: ILGA World, *ILGA World Database: Legal gender recognition - Taiwan (China)*, retrieved on 26 July 2023.

<sup>43</sup> "高雄男赴戶政求性別變更為女遭拒二審廢棄發回" [A Kaohsiung man went to the Household Registration System to request a gender change to female but was rejected. During the second instance the case was sent back to the Kaohsiung High Administrative Court.], *Yahoo News Taiwan*, 22 September 2023; "施行變性手術始得申請性別變更登記最高行政法院：違反法律保留與比例原則" [Gender Affirming Surgery Required Before Applying for Gender Change Registration to Be Implemented. Highest Administrative Court: Violates the Law's Presumption and Proportionality Principles], *Lex Data Information*, 17 October 2023.

<sup>44</sup> "Parliament accepts public draft bills on same-sex marriage, gender identity", *The Nation (Thailand)*, 28 September 2023.

<sup>45</sup> "ภาค ปชช.ยื่น 3 ร่างกฎหมาย 'สมรสเท่าเทียม-รองรับเพศสภาพ-เลิกค้าประเวณี'" [People's Party submits 3 draft laws 'equal marriage - gender accommodating - abolition of prostitution'], *Bangkok Biz News*, 28 September 2023.

<sup>46</sup> "MPs say 'no' to gender recognition bill", *The Nation (Thailand)*, 22 February 2024; "Thai Cabinet rejects gender recognition bill, citing crime concerns", *Thaiger*, 22 February 2024.

[Change \(2023\)](#), which the Ministry of Health began studying in 2016, was finally published online in December 2023 for public comment.<sup>47</sup> This version of the proposed legislation was drafted by the Drafting Committee, headed by National Assembly Representative Dr. Nguyen Anh Tri, as informed by local activists.

The Committee of the Draft Law on Gender Change held a public consultation with members of the transgender community, allowing them to comment on the current state of the draft law. The draft law outlines the processes and procedures for people who seek to obtain legal gender recognition, including a detailed list of the conditions, documents, and procedures required. The bill requires medical interventions, such as

hormone therapy and surgery, and is only available for those aged 18 years or older. Those over the age of 16 may also do so if they have “excessive gender dysphoria” and the consent of their guardian. The bill would also require applicants to obtain “psychological, medical, and legal advice” before being able to amend their gender marker. It also contains provisions related to the right to study, work, and integrate into society. In January 2024, the drafting committee of the bill organised a consultation seminar aimed at garnering expert insights for the formulation of the legislation. The majority of the committee endorsed the idea that legal guidance must be mandatory throughout the process and that this service should be provided without any associated costs.<sup>48</sup>

## Europe

### Austria

In 2023, several judicial decisions were made regarding legal gender recognition and the introduction of non-binary markers. Vienna’s Regional Administrative Court ruled in four cases that non-binary gender markers should be accessible to individuals who are not intersex.<sup>49</sup> Moreover, in one instance, it determined that the individual’s self-declaration sufficed to alter the gender marker.<sup>50</sup> However, the Ministry of Interior appealed against all four decisions to the Supreme Administrative Court. The appeal reportedly contended that immediate enforcement of gender entry modifications in the Central Civil Status Register (ZPR) is not feasible, as it would necessitate an overhaul of the entire ZPR system, requiring public authorisation and incurring costs that were allegedly “unquantifiable”.<sup>51</sup>

### Belgium

In March 2023 it was reported that the federal government of Belgium was preparing a bill to streamline the process of name and gender marker changes and also introduce a non-binary option for gender markers.<sup>52</sup> The process is currently established by the Law Amending Transgender Legal Matters ([Law of 25 June](#)) (2017), which removed the previous surgical and medical requirements for the purposes of legal gender recognition.<sup>53</sup> Subsequently, in May 2023, the Minister of Justice and Secretary of State for Gender Equality proposed [Bill Doc 55 3356/001](#) (2023). This new bill was prompted by the Constitutional Court’s [Judgement No. 99](#) (2019), which found the 2017 law insufficient in safeguarding the rights of non-binary and gender-fluid individuals. Moreover, if the bill is enacted, it would allow multiple changes of gender and first name.<sup>54</sup>

<sup>47</sup> “Tiếp tục hoàn thiện các quy định, các chính sách trong dự án luật chuyển đổi giới tính” [Continue to improve regulations and policies in the gender transition law project], *National Assembly (Vietnam)*, 25 December 2023.

<sup>48</sup> “tham vấn ý kiến chuyên gia phục vụ soạn thảo dự án luật chuyển đổi giới tính” [Consult experts to draft a gender transition law project], *National Assembly (Vietnam)*, 28 January 2024.

<sup>49</sup> “Verwaltungsgericht Wien ermöglicht Geschlechtseintrag «nicht-binär» [Vienna Administrative Court allows gender entry “non-binary”], *Mannschaft Magazin*, 5 February 2023; “Österreich weitet dritten Geschlechtseintrag aus” [Austria expands third gender entry], *Queer.de*, 5 February 2023.

<sup>50</sup> In 2019, local organisation TransX.at informed ILGA World that, according to local administrative proceedings, to amend their gender markers, applicants need to present one statement (in some provinces, two) by a psychologist, a psychiatrist or a psychotherapist attesting for the following facts: (1) a permanent feeling of belonging to the other gender; (2) that it is irreversible in all foresight; and (3) that measures have been taken that lead to convergence to the outer appearance of the other gender. Gender affirmation surgeries were no longer required after a Constitutional Court judgement from 2009. For more information, see ILGA World, [ILGA World Database: Legal gender recognition - Austria](#), retrieved on 30 September 2023.

<sup>51</sup> For more information on these cases, refer to: “Keine aufschiebende Wirkung – nicht-binärer Geschlechtseintrag muss sofort im ZPR eingetragen werden” [No suspensive effect – non-binary gender entry must be entered immediately in the ZPR], *Genderklage Blog*, 17 April 2023.

<sup>52</sup> “Van geslacht veranderen kan binnenkort ” [Changing gender will soon be possible], *Het Nieuwsblad*, 27 March 2023.

<sup>53</sup> Since that date, a trans person no longer has to meet medical conditions to have their gender and first name officially changed on civil status records and in the population register. However, the law still provides for a three-month period where the public prosecutor can refuse the application for public order reasons. For more information about the specific requirements for LGR in Belgium see ILGA World, [ILGA World Database: Legal gender recognition - Belgium](#), retrieved on 30 January 2024.

<sup>54</sup> “Il sera désormais possible de changer plusieurs fois de sexe et de prénom sans restriction” [It will now be possible to change gender and first name several times without restriction], *DH Net*, 15 June 2023.



## Bulgaria

In February 2023, the Bulgarian Supreme Court of Cassation, through its *Interpretative Decision No. 2/2020* (2023), ruled that Bulgarian law does not permit Courts to change the sex marker on civil registration for transgender individuals. The decision reads: “The objective material law [...] does not provide for the possibility for the court to allow [...] a change of data on the gender, name [...] of an applicant who claims to be transgender”. The court ruled that allowing such gender marker changes could have other legal consequences that could be “contrary to public interest”. This decision effectively ended the sporadic practice of certain Courts that had previously allowed such changes.<sup>55</sup> Subsequently, the Court clarified that appealing this decision would not be possible.

However, in June 2023, the Supreme Court of Cassation did admit an appeal against the rejection of two gender marker change applications of a trans woman. The argument presented was that the interpretative decision and the subsequent denials could go against the case law of the Court of Justice of the European Union.<sup>56</sup>

Following this, in January 2024, three justices from the Supreme Court of Cassation filed a formal request (*Request No. 50005*) (2024) with the Court of Justice of the European Union to provide a ruling in the absence of a legislative framework governing legal gender recognition. This appeal was based on the Constitutional Court’s 2021 decision, which interpreted the concept of “sex” strictly in biological terms. The three justices opine that this decision may not have been in line with EU law, as the practice of the European Court of Human Rights is that the possibility of gender reassignment falls within the scope of the right to private and family life, which requires the State to ensure this is respected.<sup>57</sup>



## Czechia

In March 2023, the Ministry of Justice and the Government Commissioner for Human Rights, Klára Šimáčková Laurenčíková, presented a bill aimed at abolishing the mandatory sterilisation requirement for purposes of legal gender recognition.<sup>58</sup> This move came after the Council of Europe criticised the country for its practice of sterilisation. Laurenčíková also referenced, during the press conference for the announcement of this bill, the different UN human rights conventions considering “the enforcement of sterilisation as torture and inhumane” as a reason behind the proposed legislation. Under the draft law, a personal statement and a medical recommendation would be sufficient for an official gender marker change, and individuals 15 years of age and older would be able to make a personal declaration independently.<sup>59</sup> Until this law is passed, legal gender recognition still requires sterilisation and gender affirmation surgery, along with other pathologising and administrative requirements.<sup>60</sup>

Additionally, judicial proceedings aimed at challenging some of the restrictive laws have largely been unsuccessful in the Czech Republic. One such case was decided in August 2023, whereby the Supreme Administrative Court refused to refer to the Constitutional Court the case of a trans man challenging the requirement of surgery and forced sterilisation for access to legal gender recognition.<sup>61</sup> The judges relied upon a 2022 decision by the Plenum of the Constitutional Court, which dismissed the applicant’s motion to challenge the *Civil Code* (2014) and ruled that legislators should decide on such matters.<sup>62</sup> The judges’ refusal was also based on the fact that the 2022 decision has the authority of *res judicata*<sup>63</sup> and could not be re-litigated.

<sup>55</sup> “ВКС: Полът не може да се променя в документите, за закона той има само биологичен смисъл” [VKS: Gender cannot be changed in documents, for the law it has only biological meaning], *24 Chasa*, 21 February 2023; “Върховният касационен съд реши първо искане за смяна на пола, след като я изключи” [The Supreme Court of Cassation decided the first request for gender reassignment after ruling her out], *Dvenik (Bulgaria)*, 11 March 2023.

<sup>56</sup> “ВКС допусна жалба срещу отказ за юридическа промяна на пола” [The Supreme Court allowed an appeal against the refusal of a legal gender change], *Lex.bg News*, 7 July 2023.

<sup>57</sup> “Трима съдии сезираха Европейския съд заради невъзможната смяна на пола у нас” [Three judges appealed to the European Court because of the impossible sex change in our country], *Mediapool*, 19 January 2024; “Върховни съдии сезираха съда в Люксембург в опит да „обърнат“ тълкувателните решения на КС и ВКС за смяната на пола” [Supreme judges have appealed to the court in Luxembourg in an attempt to “overturn” the interpretation decisions of the CC and the Supreme Court on gender reassignment], *Lex.bg News*, 19 January 2024.

<sup>58</sup> “V Česku skončí povinnost kastrací pro uznání trans lidí. Je proti mezinárodním závazkům” [In the Czech Republic, the obligation to castrate to recognize trans people will end. He is against international obligations], *Alarm*, 3 April 2023.

<sup>59</sup> “Apolena Rychlíková: ČR vykročila k řešení jedné ze svých lidskoprávních ostud. Nuceně kastrace trans\* lidí mají skončit” [Apolena Rychlíková: The Czech Republic has taken steps to solve one of its human rights shames. Forced castrations of trans\* people must end], *Český rozhlas*, 11 April 2023.

<sup>60</sup> For more information, refer to ILGA World, *ILGA World Database: Legal gender recognition - Czechia*, retrieved on 31 January 2024.

<sup>61</sup> “Český soud: Změna pohlí v dokumentech tylko po operaci” [Czech court: Gender change on papers only after surgery], *Do Rzeczy*, 19 August 2023.

<sup>62</sup> Whilst this decision was dismissed by the Plenum, the Senate continued the proceedings on the constitutional complaint itself and concluded that it was unfounded, according to *TZ 47-2022* (2022) from the Chamber of the Constitutional Court. For more information about this judicial decision, see ILGA World, *ILGA World Database: Legal gender recognition - Czechia*, retrieved on 31 January 2024.

<sup>63</sup> *Nota Bene: Res judicata*, a Latin term translating to “a matter judged” in English, denotes a fundamental legal principle. While the specific nuances of its application may vary from one jurisdiction to another, its essence remains consistent: once a court has rendered a final judgment on a case, that same matter cannot be re-litigated between the same parties. In essence, *res judicata* signifies the irrevocable resolution and conclusion of a legal dispute by a competent court. This principle serves to prevent the repetitive litigation of identical issues, thereby fostering certainty and conclusiveness within the legal system.



## Finland

In April 2023, Finland enacted legal gender recognition legislation based on the principle of self-identification. The [Act on Legal Recognition of Gender \(2023\)](#) was passed with strong parliamentary support in February and was signed into law in March by the Finnish President.<sup>64</sup> The law officially entered into force on 3 April 2023. With the passage of this law, transgender people aged 18 and above may now change their legal gender marker at their request simply by filing a written application. Media reports indicated that discussions are also underway to allow such amendments for children aged 15 and above. Previously, as per [Law No. 562 \(2002\)](#), to amend a gender marker, applicants were required to go through a lengthy medical process, including diagnosis, mandatory sterilisation, and gender affirmation surgeries, among other requirements.<sup>65</sup>

## France

In March 2024 it was reported that STOP homophobie, Mousse, and AcceptessT, along with 11 applicants, filed a petition before the Council of State to request the annulment of the 2017 circulars that currently regulate changes to first names and gender markers on civil records, demanding legal gender recognition procedures based on self-determination.<sup>66</sup>

Local experts Étienne Deshoulières and Nathan Kuentz, explained that “in practice, these circulars replaced the sterilisation requirement with a ‘passing’ requirement, meaning individuals must present themselves in court as the gender opposite to that originally stated on their birth certificate”. Trans individuals are thus compelled by this requirement to undergo hormonal treatments to be able to change their gender markers on civil records. The suit emphasised infringements on the right to privacy—which includes the right to self-identify—as well as discrimination based on physical appearance because individuals whose physical appearance does not conform to gender stereotypes are still denied a change in their gender marker by the courts, which

constitutes discrimination against non-binary individuals.<sup>67</sup>

## Georgia

On 25 March 2024, Mamuka Mdinardze, the leader of the Georgian Dream parliamentary majority, announced two draft constitutional laws aimed at amending Article 30 of the Constitution to include provisions for the “protection of family values and minors”. Additionally, Mdinardze indicated that the party would introduce more specific amendments to existing legislation, which are anticipated to impact numerous laws. This includes proposals to outlaw legal gender recognition.<sup>68</sup>

## Germany

In early April 2024, Germany joined the roster of nations offering the legal framework to modify gender markers in the civil registry based on the principle of self-determination. This law was passed by the Bundestag on 12 April, marking a historic triumph for the German transgender community. It is anticipated that the law will come into force in August 2024.<sup>69</sup>

The bill was initially introduced in May 2023 as the [Bill on Self-Determination \(2023\)](#). The initiative aimed to replace the outdated [Law on Transsexuality \(1981\)](#), which imposed restrictive requirements for legal gender recognition.<sup>70</sup> In particular, the bill that has now been approved allows for gender markers to be changed by means of an affidavit, without the need for expert reports or other pathologising and stigmatising requirements. In addition, the bill establishes specific rules for children under the age of 18, depending on whether or not they have reached the age of 14.<sup>71</sup>

- *Due to the timing of the law's approval, subsequent to the cut-off date of this report, ILGA World was unable to obtain access to the final approved version of the law's text. We kindly request that our readers consult the ILGA World Database for updates shortly.*

<sup>64</sup> “Eduskunta on hyväksynyt uuden translain – katso miten kansanedustajasi äänesti” [Parliament has approved the new trans law - see how your MP voted], *Yle*, 3 February 2023.

<sup>65</sup> “Translakiin liittyvillä uhkakuville ei ole juuri pohjaa, sanovat asiantuntijat – kävimme läpi, kuinka laki muuttuu” [Threats related to the Trans Act have little basis, experts say - we went through how the law will change], *Yle*, 19 January 2023. For more information, see also ILGA World, [ILGA World Database: Legal gender recognition - Finland](#), retrieved on 23 January 2024.

<sup>66</sup> “Recours devant le Conseil d'Etat pour l'autodétermination des personnes transgenres” [Appeal to the State Council for the Self-Determination of Transgender Persons], *STOP homophobie*, 12 March 2024. For more information refer to: ILGA World, [ILGA World Database: Legal gender recognition - France](#) (retrieved: 1 April 2024).

<sup>67</sup> “Le Conseil d'État saisi d'un recours pour l'autodétermination des personnes transgenres”, *Deshoulières Avocats Associés*, 12 March 2024.

<sup>68</sup> “GD Pushes for Anti-LGBT Constitutional Law”, *Civil Georgia*, 25 March 2024; “Georgia wants to ban changing gender in sweeping new anti-LGBTQ+ law”, *Politico*, 25 March 2024.

<sup>69</sup> “Selbstbestimmungsgesetz: Bundestag beschließt neues Gesetz” [Self-determination law: Bundestag passes new law], *Der Spiegel*, 13 April 2024; “Selbstbestimmungsgesetz - Was steht im finalen Gesetzestext?” [Self-Determination Act - What does the final text of the law say?], *Schwilissimo*, 11 April 2024; “Selbstbestimmungsgesetz in Stuttgart: „Wir sind jetzt in der Normalität angekommen“” [Self-determination law in Stuttgart: “We have now returned to normality”], *Stuttgarter Nachrichten*, 14 April 2024.

<sup>70</sup> “Geplantes Selbstbestimmungsgesetz enttäuscht Hoffnungen” [Planned self-determination law disappoints hopes], *Queer*, 30 June 2022; For more information about the TSG (1981), see ILGA World, [ILGA World Database: Legal gender recognition - Germany](#), retrieved on 1 February 2024.

<sup>71</sup> “Selbstbestimmungsgesetz geht in Ressortabstimmung” [Self-determination law goes to departmental vote], *Queer*, 29 April 2023.



## Hungary

In 2023, the right to legal gender recognition encountered further restrictions following the significant impact of [Law No. 9,934 \(2020\)](#), enacted in 2020, which effectively outlawed this procedure.<sup>72</sup> In February 2023, the Constitutional Court issued [Judgment No. 3,058 \(2023\)](#), reaffirming the constitutionality of the provisions amended in 2020, which prohibit new requests for changes to gender markers in government registry records. The Court justified this decision by asserting that an individual's sex assigned at birth is deemed necessary data relevant for "health care" and "criminal policy" purposes, thereby determining that the measure was neither unnecessary nor disproportionate. Nevertheless, the local Hättér Society criticised this decision, contending that it contradicted a 2018 Constitutional Court ruling that recognised the right to legal gender recognition.<sup>73</sup>

In June 2023 the European Court of Human Rights issued a ruling in *R.K. v. Hungary (2023)*, finding that Hungary had infringed upon the human right to the private life of a Hungarian trans man by dismissing his petition for legal recognition of his gender. Specifically, the Court determined that the prevailing legal framework failed to offer "prompt, transparent, and accessible procedures" for reviewing requests to amend the registered gender of transgender individuals on birth certificates. This deficiency, the Court noted, resulted in "considerable uncertainty for the applicant regarding his private life and the acknowledgement of his identity". The judgment drew upon both the jurisprudence of the Constitutional Court and extant legislation that prohibits legal gender recognition.<sup>74</sup> Further ECHR rulings on this matter can be expected, as the Hättér Society announced it had filed complaints on behalf of 61 trans persons against the complete ban on legal gender recognition and the Constitutional Court's February 2023 decision that upheld it.<sup>75</sup>

Amidst these judicial proceedings, the Budapest District Court also initiated a preliminary ruling procedure in April 2023 before the Court of Justice of the European Union (CJEU). This was brought to the courts to essentially restore legal gender recognition in Hungary.

The Court is to determine if Article 16 of the European Union's [General Data Protection Regulation \(2016\)](#) provides for the rectification of registered gender and under what conditions, including if gender affirmation procedures are necessary.<sup>76</sup> A favourable outcome of this proceeding would require the Hungarian legislature to reassess the existing prohibition on legal gender recognition and subsequently align local legislation with European Union standards.



## Iceland

In September 2023 [Bill No. 103 \(2023\)](#) was introduced with the purpose of enhancing the [Law on Gender Autonomy \(2019\)](#). The 2019 Law enables legal gender recognition based on self-identification. Bill No. 103 aims to authorise the issuance of an additional passport to individuals recognised in the national registry as "gender neutral", thereby possessing two passports. This proposed legislation aims to afford applicants the opportunity to obtain legal gender recognition without fear of the potential risks associated with travelling to countries where their amended passports could jeopardise their safety. Bill No. 103 (2023) represents a reiteration of [Bill No. 293 \(2022\)](#), which had previously failed to pass.<sup>77</sup>



## Italy

In 2023 Italian media reported on at least two instances where individuals were granted legal authorisation to change their gender markers without the necessity of surgical interventions. In July 2023, a landmark decision by a court in Trapani, Sicily, affirmed an individual's right to modify both their name and gender marker without the prerequisite of surgery or hormone therapy. Furthermore, in October of the same year, a court in Campobasso, Molise, authorised a legal gender change without mandating affirmative surgery. According to the online media outlet *Gay.it*, these two cases represent pioneering legal precedents in Italy, as they built upon the foundation set by the Court of Cassation's [Judgment No. 15138 \(2015\)](#).<sup>78</sup>

<sup>72</sup> Legal gender recognition was initially regulated in 2018 with [Decree 429/2017\(XII.20\) \(2017\)](#) outlining the processes for registering and amending various personal details in the birth registry but was later outlawed in May 2020. The law was purportedly created "to tackle the spread of the COVID-19 virus during the global pandemic", but Article 33 of the law amends civil status legislation. According to this provision, the category "sex" has been replaced in Civil Registry documents by "sex at birth", defined as the "primary or chromosomal sex". For more information, refer to ILGA World, [ILGA World Database: Legal gender recognition - Hungary](#), retrieved 1 April 2024.

<sup>73</sup> "Döntött az Alkotmánybíróság a transzneműek nem- és névváltásáról" [The Constitutional Court has decided on the gender and name change of transgender people], *Index*, 4 February 2023.

<sup>74</sup> "Elmarasztalták Magyarországot, mert elutasította egy transznemű ember nem- és névváltoztatását" [Hungary was condemned for refusing to change the gender and name of a transgender person], *RTL (Hungary)*, 23 June 2023.

<sup>75</sup> "Több mint 60 magyar transznemű fordult a strasbourgi bírósághoz" [More than 60 Hungarian transgenders appealed to the court in Strasbourg], *Humen Online*, 19 November 2023.

<sup>76</sup> "Az Európai Bíróság dönthet a transz emberek nemének jogi elismeréséről" [The European Court of Justice can decide on the legal recognition of the gender of trans people], *Humen Online*, 7 April 2023.

<sup>77</sup> "103/154 frumvarp: breyting á ýmsum lögum til að bæta stöðu kynsegin fólks" [103/154 bill: amendment of various laws to improve the status of transgender people], *Alþingi [Althingi]*, 19 September 2023.

<sup>78</sup> "Sentenza storica del Tribunale di Trapani: ok a cambio nome e identità di genere anche senza operazione. Primo caso in Italia" [Historical sentence of the Court of Trapani: ok to change name and gender identity even without an operation. First case in Italy], *Il Fatto Quotidiano*, 16 July 2023; "Affermazione

As for the legal gender recognition of trans youth, in January 2023 the Court of Rovigo issued *Judgment No. 68* (2023), ruling in favour of allowing a legal change of gender for a minor without the requirement of surgery. Furthermore, Italian media outlets have reported that, in February 2023, the Court of Trento also rendered a judgment in favour of a legal gender change for a minor.<sup>79</sup>

Local sources also reported that in February 2024, the Bolzano Court, South Tyrol, recognised in *Order No. 11* (2024) the right of a non-binary trans person to opt for a non-binary marker in their documents. As a result, the Bolzano Court referred the case to the Constitutional Court to address the possible unconstitutionality related to the impossibility, according to Italian law, of assigning a non-binary option to those who do not identify with either the male or female gender.<sup>80</sup>

## Montenegro

Presently, Montenegro operates a gendered ID number system governed by the Law on Registry Books (*Law No. 01-382/13*) (2008). Article 27 allows for a change in that number with an amended birth certificate.<sup>81</sup>

In May 2022, the Government declared that in accordance with their *Strategy for Improving the Life of LGBTI persons* (2019), a Working Group would draft a bill to enable the change of gender and identification number in personal documents without any obligation to undergo medical procedures. In February 2024, the Draft Law on Legal Recognition of Gender Identity Based on Self-Determination (2024) was published. The Bill, as espoused in its title, would allow for gender marker changes based on self-identification, with the removal of invasive pathological and surgical requirements. It would also allow children over the age

of 15 to change their gender markers with the consent of their parents, as opposed to the previous minimum age requirement of 16.<sup>82</sup> According to the civil society organisation, LGBT Forum Progress, as of March 2024 the bill was being internally discussed by a working group after a public consultation process.<sup>83</sup> It was reported that the introduction of the draft law faced backlash, with detractors claiming that the law “protects paedophiles” and that it is “directed against the family” institution.<sup>84</sup>

## Netherlands

In October 2023, the District Court in The Hague supported a non-binary person's plea for a gender registration change, highlighting the need to create a legal framework for non-binary identities. According to the court: “complex considerations must be made”, and this requires “further debate and decision-making”.<sup>85</sup> The attorney of the non-binary plaintiff, when explaining the implications of this ruling to the press, said that it establishes that the Netherlands “must recognise and implement a third gender option”. The court is reportedly expected to give the government a definitive amount of time to make these adjustments to the local laws.<sup>86</sup>

## Poland

In January 2024, it was reported that the Grand Chamber of the Supreme Court had started to review a judicial appeal against the legal gender recognition procedure in force in Poland at the request of the former Ministry of Justice.<sup>87</sup> According to statements by his successor, the previous Minister filed this appeal to obtain a ruling that would make the process even

di genere sui documenti senza chirurgia, seconda storica sentenza in Molise” [Gender affirmation on documents without surgery, second historic ruling in Molise], *Gay.it*, 7 October 2023. Judgment no. 15138 stated that “the public interest that the clear determination of genders holds, even taking into account its implications on family and filial relationships, does not require the sacrifice of the right to psycho-physical integrity through the obligation to undergo a surgical intervention”. It therefore concluded that neither surgical intervention nor sterilization can be imposed as a requirement for the legal recognition of gender.

<sup>79</sup> “Ora anche il trans minorenne a cambiare sesso sui documenti: la decisione del tribunale” [Now also the trans minor to change sex on the documents: the court decision], *Il Primato Nazionale*, 17 February 2023.

<sup>80</sup> “Il Tribunale di Bolzano chiede alla Corte costituzionale se l'assenza del «terzo genere»” [The Court of Bolzano asks the Constitutional Court whether the absence of the “third gender”, *Gayburg*, 18 February 2024.

<sup>81</sup> The procedure is regulated by the Ordinance on Determining Medical Reasons for Sex Change (*Ordinance No. 47*) (2014). Under Article 3 of the ordinance, applicants must comply with the following requirements: (1) examination by a primary care physician; (2) examination and diagnosis by a specialist in internal medicine (general internal medicine, endocrinology); (3) examination and diagnosis by a specialist surgeon (general surgery, plastic and reconstructive surgery, urology and gynaecology); (4) examination and diagnosis, as needed, by other doctors or medical specialists; (5) a report by a psychiatrist and psychologist, and (6) a report on “social history” by a social worker. As per Article 4, a final decision will then be made on the basis of these reports and clinical records by a medical doctor of an appropriate specialty from the Clinical Centre of Montenegro. For more information, see ILGA World, *ILGA World Database: Legal gender recognition - Montenegro*, retrieved on 18 April 2024.

<sup>82</sup> “Rodni identitet i šta se sve (ne) uređuje Zakonom” [Gender identity and what is (not) regulated by law], CDM, 08 April 2024; “Rodni identitet i šta se sve (ne) uređuje Zakonom” [Gender identity and what is (not) regulated by law], *Analitika*, 08 April 2024.

<sup>83</sup> “Đeka: U pripremi novi zakon oko unapređenja kvaliteta života LGBT zajednice” [Đeka: A new law on improving the quality of life of the LGBT community is being prepared], CDM, 19 January 2024.

<sup>84</sup> “Rodni identitet i šta se sve (ne) uređuje Zakonom” [Gender identity and what is (not) regulated by law], CDM, 08 April 2024.

<sup>85</sup> “Court: Politicians must decide how to handle non-binary gender registration”, *NL Times*, 18 October 2023.

<sup>86</sup> “Besluit over registratie non-binaire identiteit is volgens rechter aan de politiek” [According to the judge, the decision on registration of non-binary identity is up to politicians], *NU*, 19 October 2023.

<sup>87</sup> “Tryb zmiany płci ustali cała Izba Cywilna” [The procedure for changing gender will be determined by the entire Civil Chamber], *Rzeczpospolita*, 20 January 2024. For more information, please refer to ILGA World, *ILGA World Database: Legal gender recognition - Poland*, retrieved on 1 April 2024.

more difficult. Therefore, the Ministry decided to withdraw it.<sup>88</sup>

In March 2024, the Ministry of Justice announced a proposal to improve and streamline the court proceedings for legal gender recognition. The director of the Campaign Against Homophobia, Mirosława Makuchowska, reportedly welcomed this proposal.<sup>89</sup>

- *Due to the timing of the proposal's publication, ILGA World was unable to obtain and include further details on this development. We kindly request that our readers consult the ILGA World Database for updates shortly.*

## Portugal

In May 2023, several bills were introduced to strengthen Portugal's existing laws and policies governing legal gender recognition to recognise and affirm the right to choose a neutral name and remove the requirement for third-party consent for changes to birth and marriage records.<sup>90</sup> These included Bill No. 762 (2023), Bill No. 765 (2023), Bill No. 767 (2023), and Bill No. 783 (2023), which were consolidated into the "Law to modify the system for the attribution of first names and annotations to birth and marriage certificates" (Decree No. 132/XV) (2024). This Decree was adopted in January 2024 but was vetoed by the President of Portugal shortly after.

## Romania

As of January 2024, the Court of Justice of the European Union has been deliberating on the case of Arian Mirzarafie-Ahi, a transgender man with dual Romanian and British citizenship. Arian, who has been legally recognised as male in Great Britain, alleges that

Romanian authorities have refused to amend his civil status documents to reflect his gender identity.<sup>91</sup>

In February 2024 Bucharest's District Court 6 reportedly ruled in favour of a trans man from Brăila, allowing for the amendment of his gender marker in civil status records and the issuance of a new birth certificate. The decision exempted the applicant from undergoing surgery as a prerequisite for the change.<sup>92</sup>

## Russia

Before 2023 it was legally possible for applicants to change their civil gender status as per Article 70 of the Law on Acts of Civil Status (Law No. 143-FZ) (1997) by providing the Civil Registry Office with a "change of sex/gender document" [«документ об изменении пола»] issued by a medical organisation in compliance with standards which were to be established by a relevant federal authority responsible for public health policies.<sup>93</sup>

However, in April 2023, the Ministry of Justice and the Speaker of Parliament began discussions to introduce legislation to amend the Law on Acts of Civil Status (1997) in order to ban any form of legal gender recognition.<sup>94</sup> In May, a Duma representative introduced a Bill to amend the Federal Law on Acts of Civil Status and the Federal Law on the Fundamentals of Protecting Citizens' Health (Bill No. 369814-8) (2023) in order to repeal Article 70 of the Law on Civil Status Acts and thus prohibit any change in gender markers. The text, supported by 400 representatives of the Duma, also bans "any intervention aimed at changing the sex of a person".<sup>95</sup> In late July 2023, the bill was approved by both chambers of the Federal Assembly and signed into law by Russia's President Vladimir Putin.<sup>96</sup> This effectively marked the end of the practice that, to some extent and with inconsistencies

<sup>88</sup> "Sprawami o korekcie płci sądy zajmą się poza kolejną? RPO pisze do Bodnar" [Will the courts deal with gender reassignment cases out of turn? The Commissioner for Human Rights writes to Bodnar], Rzeczpospolita, 23 March 2024.

<sup>89</sup> "Zmiana płci w sądzie będzie szybsza. Bodnar planuje zmianę regulaminu sądów" [Gender change in court will be faster. Bodnar plans to change the court regulations], Rzeczpospolita, 30 March 2024.

<sup>90</sup> Portugal's current legal framework provides for LGR based on self-ID under Law No. 38 (2018) by means of a procedure before the Civil Registry. Article 9 expressly bans any requirements to prove that a person has undergone medical procedures, including gender-affirming surgery, sterilisation, or hormone therapy, as well as psychological and/or psychiatric treatment. For more information, see ILGA World, *ILGA World Database: Legal gender recognition - Portugal*, retrieved on 29 February 2024.

<sup>91</sup> "Curtea de Justiție a UE dezbate cazul unui român care este și cetățean britanic, recunoscut ca bărbat în Marea Britanie după schimbarea de gen și care acuză refuzul autorităților române de a-i modifica" [The EU Court of Justice is debating the case of a Romanian who is also a British citizen, recognized as a man in Great Britain after the gender change and who accuses the refusal of the Romanian authorities to change them], G4Media.ro, 25 January 2024.

<sup>92</sup> "O nouă identitate pentru românii care-și schimbă sexul. Cererea unei persoane, admisă de instanță. Psiholog: „Modernism fără limite”" [A new identity for Romanians who change their sex. A person's request, admitted by the court. Psychologist: "Modernism without limits"], Adevarul, 21 March 2024.

<sup>93</sup> Because no law specified what exactly was understood by "change of sex/gender" before 2018, applications were largely subject to the varying practices of regional courts and civil registry offices. Documented instances showed that in different regions, different standards were applied, ranging from only proof of a diagnosis of "transsexualism" (using code F64.0 of the International Classification of Diseases-10) to hormone therapy, gender-affirming surgery or multiple requirements at the same time. For more information, see ILGA World, *ILGA World Database: Legal Gender Recognition - Russia*, retrieved on 2 February 2024.

<sup>94</sup> "В Госдуме готовят решения по регулированию процедуры смены пола" [The State Duma will prepare decisions on regulating the procedure for changing sex], The Red Spring, 29 April 2023.

<sup>95</sup> "В Госдуму внесли законопроект о полном запрете смены пола" [A bill on a complete ban on gender reassignment was submitted to the State Duma], Radio Svoboda, 31 May 2023.

<sup>96</sup> "Putin Signs Gender Reassignment Ban Into Law", Moscow Times, 24 July 2023.

and varying requirements, had allowed trans applicants to amend their gender markers.

After advocacy by the Association of Russian-Speaking Intersex (ARSI), NFP+ and Intersex.Ru, deputies allowed legal gender recognition for intersex individuals, contingent upon medical commission approval and limited to binary markers.<sup>97</sup> Tragically, following the ban on legal gender recognition, at least six trans people, including a minor, committed suicide, as reported by local CSOs.<sup>98</sup>

## Slovakia

In February 2023, [Bill No. 1486 \(2023\)](#) was proposed. This bill mandated a “genetic test” for rectifying birth registration errors in cases of gender marker change, thereby imposing restrictions on legal gender recognition for transgender people. The draft legislation stipulated that altering one’s gender marker would only be permissible in instances of an “incorrect” entry.<sup>99</sup>

Nevertheless, a noteworthy development occurred within the Ministry of Health in March, when the departing Health Minister approved a new [Public Health Standard \(2023\)](#) eliminating the forced surgical requirement or sterilisation for changing one’s gender marker in the Registry Office. Instead, the new standard allowed gender change through hormone replacement therapy and living in an “opposite-sex role” for at least one year.<sup>100</sup> However, the implementation of the new guidance was rescinded by the incoming Health Minister in November 2023, purportedly as a way to “declare the stability of the governing coalition”, raising concerns that the forced sterilisation requirement could be reinstated.<sup>101</sup>

## Spain

In 2023, Spain joined the list of UN Member States to enact legislation on legal gender recognition based on the principle of self-identification. In February 2023, both chambers of the Spanish Parliament endorsed the

Law for the Real and Effective Equality of Trans People and to Guarantee the Rights of LGBTI People ([Law No. 4](#)) (2023). This legislative measure abrogated the previous Law on the Rectification of the Sex Marker ([Law No. 3](#)) (2007) and instituted an overhauled legal gender recognition process grounded in self-identification,<sup>102</sup> with children aged 12 and above having access to legal gender recognition through diverse procedures contingent upon their age.<sup>103</sup> The enactment of this law has been widely regarded as a momentous achievement for the Spanish LGBTI movement, notably in the realms of legal gender recognition and broader protections for LGBTI individuals.

However, despite this stride forward, the newly enacted law encountered opposition before the Constitutional Court in March 2023, initiated by parliamentarians from right-wing factions. The lodging of this appeal does not automatically trigger the suspension of the law, so notwithstanding the legal challenge, the law remains in force.<sup>104</sup>

Furthermore, with non-binary gender markers unavailable at the national level, the High Court of Justice of Andalusia issued a directive in May 2023 mandating the Ministry of the Interior of Spain to register a non-binary individual from Germany as possessing an “undetermined” gender in an administrative register.<sup>105</sup>

In terms of additional progress achieved at the subnational level, in February 2024 the Basque Country enacted the Law on Non-Discrimination based on Gender Identity and on the Recognition of the Rights of Trans Persons ([Law No. 4](#)) (2024), superseding Law No. 14 (2012). Of particular significance is Article 4 of this law, which underscores the fundamental principle of free self-determination for trans people and notably eliminates the requirement for psychiatric evaluations, psychological diagnoses, or medical interventions as prerequisites for accessing legal gender recognition. Moreover, Article 9 of the law delineates provisions for transgender individuals to access appropriate administrative documentation while awaiting the formal alteration of their official records. It specifies that the regional government will institute an administrative

<sup>97</sup> “Appeals in connection with Bill No. 369814-8”, *Association of Russian-Speaking Intersex* (retrieved 1 April 2024).

<sup>98</sup> ILGA Europe, *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia* (2024), 126.

<sup>99</sup> “Anna Záborská je späť. Transgender ľuďom chce znemožniť tranzíciu” [Anna Záborská is back. She wants to make it impossible for transgender people to transition], *Refresher (Slovakia)*, 28 February 2023.

<sup>100</sup> “Už žiadna povinná sterilizácia. Lengvarský podpísal nový štandard pre transrodových ľudí, uľahčí im zapísanie zmeny pohlavia” [No more mandatory sterilization. Lengvarský signed a new standard for transgender people, it will make it easier for them to register their gender change], *Refresher (Slovakia)*, 5 March 2023.

<sup>101</sup> “Slovakia revokes gender reassignment guidelines”, *Euractiv*, 23 November 2023.

<sup>102</sup> “El Congreso aprueba definitivamente la Ley del aborto y la Ley trans” [Congress definitively approves the Abortion Law and the Trans Law], *Antena 3*, 19 February 2023.

<sup>103</sup> There are different rules for children under the age of 16. While applications filed by persons between 14 and 16 years of age follow the same procedure, they must be assisted by their legal representatives. In the case of minors older than 12 but younger than 14, their applications must be authorised by a judge, who can take any evidence needed to prove the applicant is mature enough and that their will to modify their gender markers is stable. For more information, see: ILGA World, *ILGA World Database: Legal gender recognition - Spain*, retrieved on 27 July 2023.

<sup>104</sup> “Vox recurre al Tribunal Constitucional la ‘ley trans’ por estimar que anula derechos de padres y menores” [Vox appeals to the Constitutional Court against the trans law’ because it considers that it nullifies the rights of parents and minors], *El País*, 12 April 2023.

<sup>105</sup> “Aleman que inscribirán con género indeterminado pide no ser caso excepcional” [German who will register with indeterminate gender asks not to be an exceptional case], *La Vanguardia*, 4 May 2023. Note that some autonomous communities in Spain offer non-binary gender markers.

procedure facilitating the amendment of all pertinent documents, save for confidential medical records.

In January 2024, the Government of Catalonia unveiled a [Draft Bill for an Integral Law to recognise the right to gender identity and expression](#) (2023). [Law No. 11](#) (2014) currently refers to the obligation of the Catalanian administration to recognise the “chosen name” of trans and intersex persons, without mentioning the possibility of modifying the legal gender marker. This new bill expressly recognises the right to the “free self-determination of gender identity and expression” (Article 1) and to the “recognition of the gender freely manifested gender identity without any medical or psychological report to prove it” (Article 4). This bill is based on the “principle of non-pathologisation of trans people” (Article 5), banning any medical or psychological requirements. Moreover, if approved, this bill would order every public administration in Catalonia to incorporate a non-binary option into every public form, document or electronic system.<sup>106</sup>

Despite these strides, October 2023 marked a significant setback in the Autonomous Community of Madrid, as the conservative People’s Party, holding an absolute majority in Madrid’s Parliamentary Assembly and controlling the regional government, introduced [Bill No. 6 \(XIII\)](#) (2023) aimed at overhauling [Law No. 2](#) (2016). A few months later, in December 2023, the bill passed largely unchanged as [Law No. 17](#) (2023).<sup>107</sup> Regarded as the first regression on the legal protections of LGBT people in Spain, this bill sought to strip away all legal gender recognition procedures outlined in [Law No. 2](#) (2016), effectively nullifying the right to self-determination of gender identity as enshrined in Articles 3 and 4. This move is poised to significantly impact trans youth and children, potentially depriving them of vital legal gender recognition procedures. It should be noted, however, that [Law No. 17](#) (2023) cannot alter national-level legislation on legal gender recognition, which, as of February 2023, is based on self-determination and allows for name and gender marker changes in documents like birth certificates and national IDs. Furthermore, while State-level legislation mandates Autonomous Communities like Madrid to establish legal gender recognition procedures for relevant documents within their jurisdiction, the

removal of such procedures from Madrid’s legislation raises legal uncertainties regarding the feasibility of modifying one’s name or gender in practice. In April 2024 it was reported that the Spanish Ombudsman had filed a lawsuit against [Law No. 17](#) (2023) before the Constitutional Court. If successful, this could potentially revert the changes made to [Law No. 2](#) (2016).<sup>108</sup>

## Sweden

In April 2024, RFSL reported that the Swedish Parliament passed the “Law on Improved Opportunities to Change Gender” (2024) after almost 17 years of exhaustive public inquiries and varied legislative proposals. The legislation replaces the previous legal framework established in 1972. While not fully embracing the principle of self-identification, the law introduces key reforms aimed at expediting the process and enhancing the safety and security of transgender people. Crucially, the legislation eliminates the need for a diagnostic assessment, requiring only a certificate from a medical professional. Additionally, it lowers the age threshold for legal gender alteration to 16 years, contingent upon guardian consent.

According to RFSL, this reform is anticipated to substantially reduce the arduous waiting period—currently spanning five to eight years—for transgender individuals seeking legal gender recognition, alleviate administrative burdens, and shorten waiting times.<sup>109</sup>

- *Due to the timing of the law’s approval, subsequent to the cut-off date of this report, ILGA World was unable to obtain access to the final approved version of the law’s text. As a result, detailed information regarding the newly adopted law is not included in this report. We kindly request that our readers consult the ILGA World Database for updates shortly.*

## Switzerland

Since 2022, Switzerland has provided for legal gender recognition based on self-identification. However, non-binary markers are not legally available. Despite several

<sup>106</sup> “Cataluña será la primera comunidad en reconocer el ‘tercer sexo’ en la documentación oficial” [Catalonia will be the first community to recognize the ‘third sex’ in official documentation], *ABC (Spain)*, 24 January 2024; “Catalunya somete a audiència pública su futura ley trans para “proteger” los derechos del colectivo” [Catalonia submits its future trans law to a public hearing to “protect” the rights of the group], *Europa Press*, 20 January 2024.

<sup>107</sup> “En España hay 15 CCAA con leyes trans o LGTBI, pero Madrid es la primera en ‘recortar’ las suyas” [In Spain there are 15 CCAA with trans or LGTBI laws, but Madrid is the first to ‘cut’ its own], *Newtral*, 23 December 2023.

<sup>108</sup> “El Defensor del Pueblo recurre ante el Constitucional la ley trans de Madrid por vulnerar derechos de los menores” [The Ombudsman appeals to the Constitutional Court against Madrid’s trans law for violating the rights of minors], *20minutos*, 02 April 2024; “El Defensor del Pueblo lleva al Constitucional la reforma de la ‘ley trans’ de Ayuso por ‘patologizar a los menores’” [The Ombudsman takes the reform of Ayuso’s ‘trans law’ to the Constitutional Court for “pathologizing minors”], *eldiario.es*, 1 April 2024.

<sup>109</sup> “Ny lag om könstillhörighet: välkommet steg i rätt riktning” [New gender recognition act: a step in the right direction], *RFSL*, 17 April 2024.

legislative attempts in recent years to introduce such markers on identity documents, progress in passing such legislation has been limited.<sup>110</sup>

In May 2023, the Commission on Legal Affairs of the National Council heard from various experts on the recognition of non-binary individuals. The Transgender Network Switzerland and Ekivock (Association non-binaires Suisse romande) explained the lived experience as non-binary people in Switzerland and the legal needs of local non-binary communities. Following the hearing, the Committee submitted a commission request to the Federal Council, tasking it with proposing "measures to improve the situation of non-binary individuals without legally abandoning the binary gender model".<sup>111</sup>

Non-binary markers have also been the subject of discussion within the Swiss judiciary. In June 2023, the Swiss Federal Supreme Court overturned a ruling from Aargau and mandated that Swiss citizens must officially identify "as either female or male" in their documents. In March 2021, the Cantonal Court of Appeal in Aargau had issued *Decision 21-03-29 (2021) ruling* in favour of a non-binary individual who had successfully removed their gender marker from their German identification documents and sought a similar change for their Swiss documents.<sup>112</sup>

## United Kingdom

Legal gender recognition in the United Kingdom, including all its four constituent countries is regulated by the *Gender Recognition Act* (2004; in effect 2005), which imposes intrusive medical and restrictive administrative requirements. Even with the enactment of this Act, the constituent countries of the UK may enact their own legislation regarding gender recognition and name change if they choose to do so.<sup>113</sup>

In January 2023, the government of the United Kingdom took the unprecedented step of invoking Section 35 of the *Scotland Act* (1998), which allows the Secretary of State to make an order prohibiting the Presiding Officer of the Scottish Parliament from submitting a bill for Royal Assent. This was done to prevent the *Gender Recognition Reform (Scotland) Bill* (2022) from coming into force.<sup>114</sup> The bill was meant to enact legal gender recognition procedures based on the principle of self-identification, reducing the minimum age for application from 18 to 16 years, removing the Gender Recognition Panel from the process, and reducing the period for which an applicant must have lived "in their acquired gender" from two years to three months.<sup>115</sup>

Among other civil society organisations, Stonewall reacted by highlighting that the Gender Recognition Reform (Scotland) Bill (2022) received strong bipartisan support from MSPs and underwent a comprehensive review. Stonewall also asserted that the bill was in harmony with the national *Equality Act* (2010) and offered greater safeguards than the Gender Recognition Act (2004). Additionally, the organisation expressed concern over the unprecedented use of Section 35 of the Scotland Act, which it viewed as a threat to the devolution settlement and a potential source of constitutional and diplomatic conflicts.<sup>116</sup>

In April 2023 the Scottish Government took legal action against the UK Government in response to the latter's use of Section 35 of the Scotland Act. In June 2023 the Scottish Courts confirmed the hearing would take place at the Court of Session in Edinburgh in September 2023.<sup>117</sup>

Finally, in December 2023, the Court of Session, as part of Scotland's highest court, ruled in the *Opinion of Lady Haldane* (2023) that the UK government had acted lawfully in blocking the enactment of the Scottish

<sup>110</sup> The National Council voted in favour of an "X" gender marker on identity documents in 2018 and 2022. However, in December 2022, the federal Executive of the Swiss Confederation declared that Switzerland "was not prepared" for the implementation of non-binary markers. It indicated that introducing such markers would necessitate extensive changes to the country's constitution and laws at the national and cantonal levels. For more information, see ILGA World, *ILGA World Database: Legal gender recognition - Switzerland*, retrieved on 5 February 2024.

<sup>111</sup> "Rechtskommission Des Nationalrates Hörte TGNS An" [Legal Affairs Committee Of The National Council Heard TGNS], *Transgender Network Switzerland*, 28 April 2023; "Postulate CAJ-N. Améliorer la situation des personnes non binaires" [Improvement of the situation of non-binary people], *Swiss Federal Assembly*, 27 September 2023.

<sup>112</sup> "Genre et administration: Un troisième sexe officiel? Berne franchit une étape" [Gender and Administration: An Official Third Gender? Bern takes a step], *La Tribune de Geneve*, 16 May 2023.

<sup>113</sup> For more information on the Gender Recognition Act and its requirements for LGR, see ILGA World, *ILGA World Database: Legal gender recognition - United Kingdom*, retrieved on 5 February 2024.

<sup>114</sup> "Gender Recognition Reform (Scotland) Bill: statement from Alister Jack", *Department for International Development DFID*, 16 January 2023; "Trans people protest against UK government blocking Scottish gender bill", *Gay Times*, 20 January 2023; "We are people, not hurdles to get past" say region's trans community following recent political turmoil", *Liverpool Echo*, 24 January 2023.

<sup>115</sup> For more information, see: Gender Recognition Reform (Scotland) Bill: consideration prior to Stage 3 (2022)

<sup>116</sup> "Statement on the UK Government's decision to block Scotland's Gender Recognition Reform Bill", *Stonewall Equality*, 17 January 2023.

<sup>117</sup> "Court date set for challenge to UK veto over gender reform bill", *Herald Scotland*, 27 June 2023.

government's Gender Recognition Reform Scotland) Bill (2022).<sup>118</sup> For its part, the Scottish government confirmed that it would not appeal the judgement.<sup>119</sup>

In Wales, the [LGBTQ Action Plan for Wales \(2023\)](#) was released in February 2023 to initiate discussions with

the UK Government to facilitate the inclusion of non-binary markers on passports and driver licenses. Additionally, the plan seeks to engage in negotiations to request the devolution of powers pertaining to legal gender recognition.<sup>120</sup>

## Latin America & the Caribbean

### Argentina

In the Autonomous City of Buenos Aires, the Civil Registry issued Disposition DI-2023-05089072 (2023), which established that adolescents aged 16 to 18 should be considered as adults, allowing them to access gender marker changes according to their self-perceived gender identity. The initiative aligns with the Argentine Civil Code, which, while stating that individuals under 18 exercise their rights through their legal representatives, also recognises their age and sufficient level of maturity and evolving capacities to exercise rights independently. The measure also recognises legal assistance as a right in cases of conflicts of interest with their legal representatives. Local organisations received the support of the Public Defender's Office of the City.<sup>121</sup>

### Brazil

In 2023, Public Defender Offices in Rio de Janeiro and Pernambuco achieved notable success in granting individuals the option of listing "non-binary" as their gender marker on birth certificates.<sup>122</sup> This followed earlier progress regarding non-binary gender markers in Sao Paulo and Brazil's Federal District in 2021 and 2022.<sup>123</sup>

In May 2023, the media reported that the Ministry of Justice was considering modifying passport forms to accommodate non-binary gender markers. Currently, passport forms offer "male", "female", or "unspecified" gender options. The proposal aimed to align with the International Civil Aviation Organization standard, replacing "unspecified" with "X" for non-binary individuals.<sup>124</sup>

Furthermore, Brazilians residing abroad were also afforded rights to legal gender recognition in October 2023 when the National Authority of Justice ("Corregedoria") approved [Disposition No. 152 \(2023\)](#). This regulation now, among other administrative adjustments, allows Brazilian trans persons residing abroad to access legal gender recognition through Brazilian consulates.<sup>125</sup>

### Chile

Legal gender recognition has been available in Chile since 2018 through the enactment of the Law that Recognises and Protects the Right to Gender Identity ([Law No. 21,120](#)) (2018). The Law does not require the applicant to undergo any type of intervention or appearance-modifying treatment but does necessitate a hearing in which the applicant must be supported by two witnesses to declare under promise or oath that the applicant is aware of all the legal effects implied by

<sup>118</sup> "Scottish government loses first court battle over gender recognition bill", *Scottish Legal News*, 8 December 2023.

<sup>119</sup> "Scottish government abandons court case over gender law veto", *BBC News*, 22 December 2023.

<sup>120</sup> "Wales joins Scotland in defying Westminster on trans rights", *Dazed*, 8 February 2023.

<sup>121</sup> "Adolescentes de 16 a 18 años serán considerados adultos para acceder al cambio de DNI por la Ley de Identidad de Género" [Adolescents from 16 to 18 years old will be considered adults to access the DNI change through the Gender Identity Ley], *Asociación Familias Diversas de Argentina*, 11 May 2023.

<sup>122</sup> "Não-Binários: pessoa consegue na Justiça alterar registro civil" [Non-binary: person manages to change civil registration in court], *TV Brasil*, 24 February 2023; "Pernambuco aprova identidade "não binária" no registro civil" [Pernambuco approves "non-binary" identity in the civil registry], *Pleno News (Brazil)*, 16 February 2023.

<sup>123</sup> For further information please refer to ILGA World, *ILGA World Database: Legal gender recognition - Brazil*, retrieved on 8 April 2024.

<sup>124</sup> "Justiça estuda incluir gênero não binário em documentos para emitir passaporte" [Justice considers including non-binary gender in passport documents], *O Globo*, 05 May 2023.

<sup>125</sup> "Pessoas trans brasileiras no exterior poderão retificar documentos" [Brazilian trans people abroad will be able to rectify documents], *TV Brasil*, 19 November 2023.



accepting the request for rectification of your birth certificate regarding your gender and name.<sup>126</sup>

In November 2023, the head judge of the Second Family Court of Santiago set a precedent in *Decision RIT R-23-2023* (2023) by recognising the right of a ten-year-old trans girl to rectify her name and gender marker under the Law that Recognises and Protects the Right to Gender Identity (2018). The judge concluded that denying trans children and adolescents access to this procedure would constitute a violation of their fundamental rights and an obstacle to their comprehensive development.<sup>127</sup>

## Colombia

The right to legal gender recognition based on self-ID has been available in Colombia since 2015.<sup>128</sup> However, it was not until February 2022 that the right to “non-binary” gender markers was officially recognised by the Constitutional Court in its *Judgement T-33* (2022). In this decision, the Court required both the Civil Registry and the Federal Government to include a non-binary category and to provide “everything necessary for the implementation of this identification scheme”. In response, the Foreign Affairs Ministry announced in August 2023 its intention to include the “X” category in the gender marker field of Colombian passports, thereby enabling non-binary identification.<sup>129</sup> Furthermore, in March 2024, the Government revealed plans to extend the “non-binary” category to other official documents. Colombian media reported that this process would be based on the principle of gender self-determination, requiring only a statement from the applicant, or their legal representatives in the case of minors.<sup>130</sup>

Furthermore, in *Judgement T-236* (2023), the Constitutional Court determined that trans people have the right to be recognised and addressed by their name without the need to change their legal documents. The decision highlighted the need to prevent workplace discrimination against transgender individuals, mandating training for judges and judicial officers on gender-based violence and human rights.

## Costa Rica

Costa Rica lacks a standardised procedure for gender marker changes, with sporadic advancements observed through executive and judicial actions in recent years. However, it remains unclear how consistently this can be accessed by those who wish to obtain legal gender recognition.<sup>131</sup>

On 22 June 2023, the Frente Amplio party introduced a new bill, *File 23,809* (2023), aimed at recognising trans, non-binary, gender diverse, and intersex identities. The bill provides the possibility of changing names and genders registered at birth, including for minors. Co-drafted with local civil society organisations, it also outlines affirmative action measures for the LGBTQI+ community in public employment and education.<sup>132</sup>

Simultaneously, local activists have indicated that three petitions have been filed with the Inter-American Commission on Human Rights against Costa Rica as of September 2023. These petitions address issues such as the right to name and sex marker changes, gender identity considerations in electoral parity, and sex registration rectification for non-binary individuals.<sup>133</sup>

<sup>126</sup> The law also allows children over 14 to request rectification of the gender marker through their legal representatives. In such a case, the request will be judicial and must be founded, clearly and precisely stating the factual background and the legal grounds on which it is based. In addition, the court may request psychological reports that show that the child and their family environment have received professional support for at least one year before the request, as well as to rule out the determining influence of third parties. The law currently lacks provisions for non-binary markers, yet local organisations informed ILGA that nearly 30 individuals have accessed such markers. However, they encounter obstacles in accessing public services. For more information on current regulations in force please refer to ILGA World, *ILGA World Database: Legal gender recognition - Chile*, retrieved on 23 April 2024.

<sup>127</sup> “*Jueza ordena cambio de sexo y nombre de niña trans de 10 años*” [Judge orders change of sex and name of 10-year-old trans girl], *Accion Gay*, 12 January 2024.

<sup>128</sup> In 2015 the Constitutional Court issued rulings T-63-2015 (2015) and T-99-2015 (2015) which recognised the right to legal gender recognition and prompted the Ministry of Interior and the Ministry of Justice to draft Decree No. 1.227 (2015), which is the legal basis that allows the modification of the gender marker in identification documents. The gender marker can be modified again only 10 years after the first modification and a maximum of twice in a lifetime. For more information, see ILGA World, *ILGA World Database: Legal gender recognition - Colombia*, retrieved on 30 January 2024.

<sup>129</sup> “*Pasaporte de Colombia incluirá la opción no binaria en variable sexo/género*” [Colombian passport will include a non-binary option in the sex/gender variable], *Orgullo LGBT*, 27 August 2023; “*Cancillería agrega la categoría 'X' en el pasaporte para personas no binarias*” [Foreign Ministry adds category 'X' in the passport for non-binary people], *El Tiempo (Colombia)*, 26 August 2023.

<sup>130</sup> “*Gobierno permitirá incluir categoría “no binario” en el documento de identidad*” [Government will allow the “non-binary” category to be included in the identity document], *El Universal (Colombia)*, 09 March 2024; “*El Gobierno Nacional permitirá bajo decreto que se tenga la categoría no binario en los documentos de identidad*” [The National Government would allow under decree that the non-binary category be included in identity documents], *El País (Colombia)*, 09 March 2024.

<sup>131</sup> In June 2018 the President signed Executive Decree No. 41.173 (2018) and the Presidential Instruction 15-P (2018) requiring all state institutions to modify documents, procedures and records for trans persons who wish to change their name, photograph, or gender marker. Additionally, on 30 July 2021, the Constitutional Chamber of the Supreme Court of Justice issued Resolution No. 16,542 (2021) by which it ordered the General Directorate of Migration and Foreigners (DGME) to issue a new passport to a trans woman with a sex marker per her identity. For more information, see ILGA World, *ILGA World Database: Legal gender recognition - Costa Rica*, retrieved on 30 January 2024.

<sup>132</sup> “*Diputada propone que instituciones reserven plazas a personas trans*” [Deputy proposes that institutions reserve places for trans people], *CRHoy.com*, 25 June 2023.

<sup>133</sup> “*Demandan a Costa Rica por negarse a modificar el sexo de personas trans en el registro civil*” [They sue Costa Rica for refusing to change the sex of trans people in the civil registry], *La República (Costa Rica)*, 19 January 2023.

## Dominican Republic

In January 2023, the [Organic Law on Civil Status Acts \(2023\)](#) was passed to replace the Law on Acts of Civil Status (Law No. 659) (1994).<sup>134</sup> The Law introduced a simplified name change procedure in charge of the Superior Electoral Court, which decides on the merits of the request and then entrusts the Central Electoral Board with its registration, without the need for a decree from the executive branch.<sup>135</sup> The law, however, does not allow for legal gender recognition.

## Ecuador

In early 2024, Ecuador finalised the regulation of legal gender recognition under the principle of self-determination, following a long series of legal developments that commenced in 2016.

Initially, under the [Organic Law on Identity Management and Civil Data \(2016\)](#), adult applicants who wanted to amend their markers were able to do so only by means of requesting the substitution of their “sex marker” with a “gender marker” that could be amended, requiring endorsement by two witnesses. However, the individual’s “registered sex” remained immutable. In 2017, the Constitutional Court granted the National Assembly one year to regulate changes to “sex markers” rather than “gender markers”.

After years of inaction, the Court issued a non-compliance action in May 2022, mandating that the Civil Registry process all requests for modification of “registered sex”. Finally, in December 2023, the National Assembly passed amendments to establish a procedure to rectify registry data pertaining to “sex”. However, on 11 January 2024, President Daniel Noboa issued a partial veto to include the mention of “gender” among the elements amendable by applicants, citing the freedom of self-determination.

Ultimately, in January 2024, the Ecuadorian National Assembly ratified the [Amendment to the Organic Law on Civil Identity and Data Management \(2024\)](#), allowing any individual over 18 years old to change their “sex” or “gender” markers on identity documents based on self-identification.<sup>136</sup>

## El Salvador

In February 2022 the Constitutional Court of El Salvador issued [Decision No. 33-2016/195-2016 \(2022\)](#), mandating that transgender individuals be permitted to change their names and directing legislative modification accordingly. The court granted the legislature one year to enact this procedure. However, by February 2023, NGOs like Human Rights Watch and Comunicando y Capacitando Trans (COMCAVIS Trans) reported that this deadline had not been met, attributing the failure to a broader pattern of eroding democratic institutions and judicial autonomy in El Salvador.<sup>137</sup> These organisations noted that proposed but unpassed legislation from 2021 would have aligned with the court’s decision.<sup>138</sup> Subsequently, in response to the missed deadline, local civil society organisations announced intentions to request a hearing before the Inter-American Commission of Human Rights (IACHR) to hold El Salvador accountable for its non-compliance with the Constitutional Court’s ruling.<sup>139</sup>

## Mexico

In February 2023 reports emerged stating that the General Council of the National Electoral Institute (INE) approved the inclusion of a non-binary “X” marker, in line with decisions made by the Electoral Tribunal, to be made available on the basis of applicant self-identification. The President of the Federal Voter Registry Commission clarified that while sex assigned at

<sup>134</sup> The Law on Civil Status Acts (Law No. 659) (1944) regulated the requirements for a name change, which was carried out via an administrative process before the Attorney General’s Office and the Executive. Pursuant to this regulation, in 2014, the President issued the first decree (Decree No. 76) (2014) authorising a trans woman to change her name, along with 35 other cisgender persons. For more information regarding this law, see ILGA World, [ILGA World Database: Legal gender recognition - Dominican Republic](#), retrieved on 27 July 2023.

<sup>135</sup> “Nueva Ley de Registro Civil no garantiza derecho a la identidad a las personas LGTBIQ+” [New Civil Registry Law does not guarantee the right to identity for LGTBIQ+ people], *Acento*, 27 January 2023.

<sup>136</sup> “Ecuatorianos ahora pueden cambiarse de sexo y género en documentos de identidad” [Ecuadorians can now change sex and gender on identity documents], *El Imparcial (Mexico)*, 28 January 2024; “Ecuatorianos pueden cambiarse de sexo y género en el documento de identidad” [Ecuadorians can change their sex and gender on their identity document], *Primicia (Venezuela)*, 28 January 2024; “Los ecuatorianos ahora pueden cambiarse el sexo, además del género, en el documento de identidad” [Ecuadorians can now change their sex, in addition to their gender, on their identity document], *Associated Press*, 29 January 2024.

<sup>137</sup> “El Salvador no cumple plazo para legislar sobre identidad trans, dicen ONG” [El Salvador does not meet the deadline to legislate on trans identity, say NGOs], *La Prensa Gráfica (El Salvador)*, 23 February 2023.

<sup>138</sup> In May 2021 a Bill for a Gender Identity Law was dropped by the Parliament. A group of civil society organisations presented to the Legislative Assembly an updated proposal for this law that seeks that transgender people have their documents in accordance with their gender identity and expression, but it has not seen legislative progress. For more information, see ILGA World, [ILGA World Database: Legal gender recognition - El Salvador](#), retrieved on 30 January 2024.

<sup>139</sup> “Pedirán audiencia a la CIDH por ley del nombre” [They will request a hearing from the IACHR by law of the name], *La Prensa Gráfica*, 1 February 2023.

birth will remain on birth certificates, applicants will have the option to be registered with the non-binary marker upon identification.<sup>140</sup>

On 17 May 2023 Mexico's Minister of Foreign Affairs, Marcelo Ebrard, confirmed that the Mexican government had issued the first passport with a non-binary gender marker. Carlos Alfonso Candelaria López, General Director of Passport Offices in Mexico, noted that efforts had been made since 2008 to ensure the country offered documents supporting individuals with non-binary gender identities.<sup>141</sup>

Additionally, throughout 2023, ILGA World noted steady progress towards improving the legal frameworks for legal gender recognition at the subnational level in Mexico. In particular, bills to provide for the amendment of gender markers based on self-ID were introduced in Chiapas,<sup>142</sup> Veracruz,<sup>143</sup> and Yucatán.<sup>144</sup> Age restrictions were challenged, eased, or removed in Baja California Sur,<sup>145</sup> Jalisco,<sup>146</sup> Oaxaca,<sup>147</sup> the state of Mexico ("Edomex"),<sup>148</sup> and Sonora.<sup>149</sup> Finally, progress with regard to allowing for non-binary markers was noted in Jalisco,<sup>150</sup> Mexico City,<sup>151</sup> Quintana Roo,<sup>152</sup> Tabasco,<sup>153</sup> and Tamaulipas.<sup>154</sup>



In September 2023, the Appellate Court issued *Judgment No. 47* (2023), which reversed a decision that

had authorised the name change requested by a trans applicant (no amendment of gender marker involved). In so doing, the Court determined that Article 56 of the Civil Registry Law (*Law No. 1,266*) (1987)—which prohibits the registration of names that “could lead to confusion regarding the person's sex”—did not violate the Constitution.<sup>155</sup> The court argued that transgender individuals already had sufficient legal protection, as they were allowed to use their chosen names “as pseudonyms” in their social circles. The Appellate Court did not refer to the applicant by her chosen name at any point in their judgment. Local organisations informed ILGA World that the case was brought before the Human Rights Committee, where it is currently pending resolution.<sup>156</sup>



According to PROMSEX, one of the main local organisations in Peru, the lack of a specific law regulating the legal recognition of gender means that “transgender people seeking recognition of their social name and gender have to resort to a judicial process in civil proceedings”. Generally, court proceedings for legal gender recognition require a person to undergo gender-affirming surgery and other pathologising requirements.<sup>157</sup>

In May 2023, a judge in a civil court in Cusco reportedly permitted a change in name and gender marker without

<sup>140</sup> “Aprueba INE credenciales no binarias” [INE approves non-binary credentials], 24-horas, 1 March 2023; “Así se puede solicitar el INE con reconocimiento de identidad no binaria” [This is how you can apply for the INE with non-binary identity recognition], TV Azteca Noticias, 1 March 2023.

<sup>141</sup> “SRE emite el primer pasaporte a una persona con género no binario” [SRE issues the first passport to a person with a non-binary gender], *Forbes Mexico*, 17 May 2023. “México presenta el nuevo pasaporte no binario” [Mexico presents the new non-binary passport], *Cromosoma X*, 22 May 2023.

<sup>142</sup> “Se hará justicia a la comunidad trans en Chiapas tras reforma propuesta en el Congreso” [Justice will be done to the trans community in Chiapas after a reform proposed in Congress], *El Heraldo de Chiapas*, 25 June 2023.

<sup>143</sup> “Veracruz: personas trans podrían cambiar género en acta” [Veracruz: trans people could change gender in minutes], *Imagen del Golfo*, 27 April 2023.

<sup>144</sup> “Congreso de Yucatán: Garanticen el derecho a la identidad de las personas trans” [Yucatan Congress: Guarantee the right to identity of trans people], *All Out (Action)*, 22 April 2023.

<sup>145</sup> “Congreso de Baja California Sur analiza ley para que menores puedan elegir su género” [Congress of Baja California Sur analyzes a law so that minors can choose their gender], *El Universal (Mexico)*, 13 May 2023.

<sup>146</sup> “Menores de 8 estados pueden pedir cambio de género en actas de nacimiento” [Minors from 8 states can request a change of gender on birth certificates], *El Sol de México*, 25 June 2023.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> “Emiten primer acta de nacimiento con género no binario en Jalisco” [They issue the first birth certificate with a non-binary gender in Jalisco], *El Debate*, 15 January 2023.

<sup>151</sup> “Plantean reconocer identidades no binarias en CDMX” [They propose recognizing non-binary identities in CDMX], *Excélsior*, 07 September 2023.

<sup>152</sup> “Registro civil de Q Roo realiza primer trámite de identidad no binaria” [QRoo's civil registry carries out the first non-binary identity process], *La Jornada*, 15 February 2023.

<sup>153</sup> “Estado reconoce a primera persona no binaria” [State recognizes first non-binary person], *El Universal (Mexico)*, 13 January 2023.

<sup>154</sup> “Se expide primer acta de nacimiento a persona no binaria en Tamaulipas” [First birth certificate is issued to a non-binary person in Tamaulipas], *Milenio*, 21 October 2023.

<sup>155</sup> “Tribunal resuelve que trans no puede cambiar su nombre” [Court resolves that trans cannot change their name], *Extra (Paraguay)*, 9 September 2023.

<sup>156</sup> We are grateful for the information provided by Mirta Moragas.

<sup>157</sup> The process has also been described as “cumbersome, long and often full of stereotypes (...) [which] contains more steps and longer deadlines, leading to a longer time for the resolution of the case”. For more information, see ILGA World, *ILGA World Database: Legal gender recognition - Peru*, retrieved on 23 April 2024.

requiring surgical intervention, perhaps marking one of the first instances of legal gender recognition without surgery documented in Peru.<sup>158</sup> In his decision, the judge cited the fundamental rights to dignity guaranteed by the Peruvian Constitution and the right of equality established by the Inter-American Court of Human Rights. However, this decision does not create a binding precedent automatically applicable to other cases.

## Puerto Rico (USA)

In December 2023, a lawsuit was reportedly filed in the Federal Court of San Juan against the government of Puerto Rico. The plaintiffs demanded that the Demographic Registry of Puerto Rico include a non-binary “X” option in their birth certificates to reflect the gender identity of non-binary and intersex people.<sup>159</sup>

## North America

### Canada

All of Canada's ten provinces and three territories currently allow for the amendment of sex markers through the amendment of applicants' birth certificates, as long as the applicants were born within that jurisdiction. Specific regulations and requirements governing these amendments vary between jurisdictions, as do the processes for amending other documents, such as driver's licences.<sup>160</sup>

One recent development has been noted at the sub-national level, when the government of Quebec announced plans in March 2024 to allow a non-binary “X” marker on health cards and driving licences.<sup>161</sup>

### United States of America

On the occasion of Trans Day of Visibility in March 2023, and against a concerning trend of regressive legislation being proposed at the state level, the Democratic Party introduced [House Resolution No. 269 \(2023\)](#) and [Senate Resolution No. 144 \(2023\)](#) in the US Congress with the aim of affirming the obligation of the US Federal Government to formulate and enforce a Transgender Bill of Rights. These resolutions represent a call to safeguard and enshrine the rights of transgender and non-binary individuals within the legal framework in order to ensure their access to essential

resources such as medical care, housing, security, and financial stability.

However, these initiatives primarily serve a symbolic purpose, as they do not entail any immediate alterations to federal laws or regulations. The directives outlined in them are not binding on lawmakers, even in the event of overwhelming support. Resolutions, being non-binding instruments, neither necessitate the endorsement of the opposing legislative chamber nor the president's approval, and they lack the force of law.

The proposed protections encompass various measures, including streamlining administrative procedures by eliminating unnecessary gender identification requirements on government-issued documents and facilitating the process of updating names and gender markers. This also includes the proposal for the inclusion of a non-binary “X” marker on federal identification records, passports, and Social Security cards. Furthermore, the resolutions advocate for the adoption of “self-attestation” policies wherever feasible, granting individuals the autonomy to effect changes based on their own affirmation.<sup>162</sup>

At the sub-national level, individual states maintain a diverse range of legal and procedural requirements for residents to attain legal gender recognition. 2023 saw continued attempts to undermine access to legal gender recognition in some jurisdictions, alongside attacks against discrimination protections, freedom of expression, and gender-affirming care for trans and gender-diverse Americans.

<sup>158</sup> “Cusco: Poder Judicial autorizó cambio de sexo de joven en su partida de nacimiento y DNI” [Cusco: Judiciary authorized a change of sex of a young man in his birth certificate and DNI], *La República (Peru)*, 21 May 2023.

<sup>159</sup> “Demanda federal busca incluir opción de identidad de género neutral en los certificados de nacimiento” [Federal lawsuit seeks to include gender-neutral identity option on birth certificates], *El Nuevo Día*, 26 December 2023.

<sup>160</sup> Legal gender recognition on the basis of self-identification in several sub-national jurisdictions, including Alberta, British Columbia, Newfoundland and Labrador, Northwest Territories, Quebec, and Yukon. For more information, see ILGA World, *ILGA World Database: Legal gender recognition - Canada*, retrieved on 4 April 2024.

<sup>161</sup> “Le gouvernement offrira des «marqueurs X» pour les cartes de la RAMQ et de la SAAQ” [The government will offer “X markers” for RAMQ and SAAQ cards], *La Voix de l'est*, 06 March 2024; “Quebec to offer ‘X’ gender option for health cards, driver’s licences”, *Global News*, 05 March 2024.

<sup>162</sup> “Exclusive: Democrats reintroduce federal Trans Bill of Rights as GOP tries to advance restrictions”, *19th News (USA)*, 04 April 2023.

## Facing the Tide: Monitoring the Assault on Sexual and Gender Diversity Through Regressive Bills in the United States of America

Due to resource constraints, ILGA World's Research Programme has regrettably ceased its monitoring of the extensive and rapidly evolving legal developments at the subnational level in the United States of America, effective from January 2024.

For current and detailed information on developments in individual US states, please consult:

- Movement Advancement Project: [Snapshot LGBTQ Equality by State](#).
- Human Rights Campaign: [Attacks on Gender Affirming Care by State](#).
- ACLU: [Mapping Attacks on LGBTQ Rights in U.S. State Legislatures in 2024](#).
- Equality Federation: [State Legislation Tracker](#).
- The Trevor Project: [LGBTQ+ Legislation Heatmap by State](#).
- Track Trans Legislation: [2023 Anti-Trans Legislation](#).
- Trans Legislation Tracker Project: [2024 Anti-Trans Bills Tracker](#).
- For specific information on progressive legislative efforts, please refer to GLSEN: [State Legislative Tracker 2024: Pro-LGBTQ+ Legislation Affecting Schools](#).

## Oceania



### Australia

As of 2023, New South Wales (NSW) remains the only sub-national jurisdiction in Australia which requires surgery for legal gender recognition. However, in August 2023, the [Equality Legislation Amendment \(LGBTIQA+\) Bill \(2023\)](#) was introduced in the local legislative assembly to amend more than 20 laws. One of these laws is the [Births, Deaths and Marriages Registration Act \(1999\)](#), which outlines the surgical requirement under Article 32.<sup>163</sup> If the bill passes, it would allow people over the age of 16 to change their gender on identity documents without surgery, requiring only a statutory declaration.<sup>164</sup> Those under the age of 16 may also alter the record of their gender marker with their parents' consent, and approval from the NSW Civil and Administrative Tribunal (NCAT).<sup>165</sup>

In December 2022 the Queensland Parliament introduced the [Births, Deaths and Marriages Registration Bill \(2022\)](#), which was subsequently passed in June 2023, becoming the [Births, Deaths and Marriages Registration Act \(2023\)](#). Importantly, this law grants individuals aged 16 or older the right to request a change in their registered gender without the previous requirement of gender-affirming surgery. Such a request should include a statement affirming their gender identity and intention to live accordingly. Furthermore, it must be accompanied by a "supporting statement" from an individual aged 18 or older who has known the applicant for at least 12 months and supports the request. The law also permits the adoption of "any sex descriptor," including male, female, or any other descriptor, including non-binary markers, as long as it does not qualify as offensive, absurd, or overly

complex, laden with unpronounceable symbols, or against the public's best interest. For applicants under 16, the child's parents have the authority to apply for a change in the child's registered gender. In some cases, the child may seek the change with court approval. Equality Australia representative and ILGA World Co-Secretary General, Ymania Brown, said that this was a "life-changing moment" for trans and gender-diverse people in Queensland. "What most people in Australia take for granted as a simple piece of paper is for trans and gender-diverse people the right to exist and be seen for who we are", she said in a statement.<sup>166</sup>



### New Zealand

New Zealand joined the list of UN Member States that enacted legislation granting legal gender recognition based on self-identification in June 2023. Before 2023, applicants seeking to obtain legal gender recognition in New Zealand were required to undergo *irreversible* medical intervention, such as surgery (up to 2008), as well as other medical interventions, such as hormone replacement therapy (up to 2021). These requirements were significantly eased with the passing of the [Births, Deaths, Marriages and Relationships Registration Act \(2021\)](#), which came into force in June 2023. Since then, people over 18 have been able to modify their gender markers through self-identification, selecting between male, female, or non-binary gender markers. Persons under 18 may also alter their gender marker on official documentation, but the specifics thereof vary depending on whether they are below or above 16 years of age.<sup>167</sup>

<sup>163</sup> For more information, see ILGA World, [ILGA World Database: Legal gender recognition - New South Wales \(Australia\)](#), retrieved on 15 January 2024.

<sup>164</sup> "Sydney MP Alex Greenwich introduced LGBTIQA+ equality bill, moves to ban gay conversion therapy", [Daily Telegraph](#), 24 August 2023.

<sup>165</sup> "NSW equality bill and conversion practice bill explainers", [Equality Australia](#), 18 September 2023.

<sup>166</sup> "Queensland passes gender fix for birth certificates", [The Border Mail](#), 15 June 2023.

<sup>167</sup> For more information, see ILGA World, [ILGA World Database: Legal gender recognition - New Zealand](#), retrieved on 25 January 2024.

