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#WeBelongAfrica



Promoting Legal Gender Recognition for Transgender and Intersex Persons: A Focus on Policy and Law Reform in the Sub-Saharan Africa Region

18-21 June 2024

Johannesburg, South Africa

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Executive Summary

The #WeBelongAfrica project under the UNDP together with Gender Dynamix brought together Civil Society Organizations (CSOs) and government officials and leadership from the SADC region and hosted a meeting on *Promoting Legal Gender Recognition (LGR) for Transgender and Intersex Persons: A Focus on Policy and Law Reform in the Sub-Saharan Africa Region*. The overall objective of the meeting was to bring attention to and catalyse positive change amongst policy makers in advancing the fundamental rights and well-being of transgender (trans) and intersex persons in the region, particularly on legal gender recognition, and ensure inclusion of the community in law and policy reform including development processes.

The four-day workshop consisted of various themes: The first day was centred around sensitizing participants on the work of #WeBelongAfrica and Gender Dynamix as well as conceptualising LGR for transgender (trans) and intersex persons and the issues related to it. The day also focused on international and regional human rights frameworks including Resolution 552 and 275 as well as a panel discussion focusing on the lived experiences of trans and intersex persons.

The second day consisted of a presentation on Gender Affirming Health Care: The presentation was aimed at providing an in-depth understanding to why correct health care is important for trans and intersex persons and how LGR enables access to Sexual and Reproductive Health and Rights (SRHR). The program of the day also highlighted lessons learned from other regions. Presentations were made from UNDP Bangkok Regional Hub on the experience from a UNDP country office on supporting Pakistan, Thailand, and Vietnam; LGR reform processes developments from Malta; and regional countries Botswana and Lesotho. The day was concluded with a panel discussion led by government officials on the current legal and policy framework existing in African countries. The main question asked was what laws exist and what has worked and what opportunities exist for legal reform?

The third day had a focus on strategy development and presentations from countries: Country groups reflected on the two days and identified emerging issues from discussions, and challenges. They identified opportunities around legal and policy reform (enacting, amending, or repealing existing laws if any etc. and other policy initiatives) including support required from the Region.

The pre-meeting (Annexure 1) with CSOs highlighted the lived experiences and barriers that trans and intersex people face in their respective countries. It gave an opportunity to the CSOs to express themselves freely and to capture and highlight all the themes they want addressed at the main meeting. The main discussions from the CSO pre-meeting were the contextual analysis of the legal and policy environment in their countries; the approach(s) they have used with engaging their government and how relevant is it in the region to advance LGR of trans and intersex persons; mapping a vision of the future and the strategies for change they wish to see.

The four-day meeting concluded with CSOs feeling confident that government leadership has understood their perspectives, lived experiences and their suggestions to make their existence better. This has been highlighted in the strategy developments that the various countries provided.

Background

Legal recognition relates to the right of everyone to be recognised everywhere as a person before the law.¹ In practice, it is connected to entitlements in relation to health, education, housing, access to social security, employment and other socio-economic benefits.² Entitlements to these is depended on the identification of the individual.³ In the absence of adequate legal identification, all persons including transgender (trans) and intersex persons experience denial of their rights and freedoms associated with bodily autonomy and agency.

The right to legal gender recognition (LGR) is defined as a persons' ability to acquire legal recognition (legal identity and its entitlements) based on their lived gender identity. The right to LGR extends to the right to change names and amend gender markers on official identity documents beyond the binaries of 'male' and 'female,' based on dignity, equality, and freedom. This process is implemented through putting into place easy civil administrative processes to amend names and gender markers on legal identity documents. While intersex persons can assert their right to legal recognition based on sex assigned at birth, they also have a right to claim LGR based on their lived gender identity.

In most African countries, trans and intersex persons are excluded and experience lack of legal recognition on the basis that legal identification has been historically accorded based only on the binary system of sex assigned at birth (male/female). In countries like South Africa which legally recognise transgender and intersex persons, law and policy provisions are not adequate as laws require pathologizing bio-medical proof of gender identity. Trans and intersex persons also face challenges in changing their names and gender markers. Trans and intersex persons who do not have legal identity, who cannot prove who they are, are likely to end up accused of fraud, without opportunities and very vulnerable in society.⁴

These human rights violations occur despite the existence of international human rights law protecting trans and intersex persons. Laws and policies in many African countries fail to adequately safeguard the human rights of trans and intersex persons in the region, as they face legal barriers to having their identity legally recognised. The independent expert on protection against violence and discrimination based on sexual orientation and gender identity in their report stated that there is a well-established international legal framework prescribing respect for gender identity and most importantly legal basis for state recognition of gender identity.⁵ The right is recognised in the Universal Declaration for Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR) and other international human rights instruments.⁶ Additionally the right to legal recognition for intersex persons is provided for in the Convention

¹ Article 6 of the Universal Declaration for Human Rights (UDHR), Article 24(2) of the ICCPR.

² Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. Para 22 Available on <https://documents.un.org/doc/undoc/gen/n18/220/41/pdf/n1822041.pdf?token=AIMk3TgQuobF3j0GQU&fe=true> (accessed March 2024).

³ As above Para 23.

⁴ 'Having a legal identity is fundamental to human rights' <https://www.undp.org/africa/blog/having-legal-identity-fundamental-human-rights> (accessed February 2024)

⁵ Report of the UN IE SOGIE (2018)

<https://documents.un.org/doc/undoc/gen/n18/220/41/pdf/n1822041.pdf?token=3FwGBDctKxasFSMxg0&fe=true> (accessed February 2024).

⁶ See Footnote 1 Above.

on the Rights of the Child (CRC).⁷ The CRC obligates states in their national laws to take measures to ensure that ‘children are registered immediately after birth and they have a right to a name, nationality.’⁸ Moreover, the Yogyakarta Principles address a broad range of human rights standards and their application to issues of sexual orientation and gender identity, making specific mention to legal gender recognition.⁹

On the regional level, the African Charter on Human and Peoples’ Rights (African Charter) provides that all persons are equal before the law. The African Charter on the Rights and Welfare of the Child (ACRWC) provides that every child must be registered at birth.¹⁰ The resulting obligation of states is to provide access to gender recognition in a manner consistent with the rights to freedom from discrimination, equal protection of the law, privacy, identity, and freedom of expression.¹¹

The denial of the right to LGR for trans and intersex persons has many negative impacts and negates efforts to achieve the Sustainable Development Goals (SDGs). SDG Target 16.9 (By 2030, provide legal identity for all, including birth registration) is key to advancing the 2030 Agenda commitment to leave no one behind. Sustainable development goals ‘*Leaving no-one behind*’ fosters inclusivity, equality, and upholding human rights without discrimination or exclusion regardless of gender identity. Ensuring that trans and intersex persons acquire LGR fosters inclusive societies by promoting respect for diversity and ensuring that legal systems protect the rights of all individuals or citizens (SDG 16).

Trans and intersex persons will often face discrimination in employment, housing, and access to basic social services, leading to economic marginalization. Trans and intersex persons also encounter barriers to accessing comprehensive gender-affirming healthcare services, healthcare that is gender affirming, and sexual reproductive health rights (SRHR) services, which are essential for their physical and mental well-being due to discrimination and lack of LGR. The lack of LGR also exacerbates mental health concerns for trans and intersex persons. They experience heightened levels of psychological distress and dysfunction resulting in anxiety and depression due to social exclusion, stigma, and increased violence from community, family, schoolmates, and workplace¹².

LGR is therefore crucial and a lifeline for trans and intersex persons to access their basic human rights and benefits in society, including healthcare, education, employment, gender equality, justice, and peace. The right to LGR affirms their rights to autonomy, dignity, and self-determination contributing to the broader goal of gender equality and empowerment of all individuals; it also reduces gendered inequalities ensuring equality before the law, and equal rights for all without distinction. It is against this backdrop that UNDP in partnership with Gender Dynamix (GDx) organised a regional meeting to discuss the significance of addressing issues related to LGR and gender identity rights in the region.

⁷ Article 7.

⁸ As above.

⁹ O’Flaherty, M. and Fisher, J., 2008. Sexual orientation, gender identity and international human rights law: contextualising the Yogyakarta Principles. *Human Rights Law Review*, 8(2), pp.207-248 (accessed March 2024).

¹⁰ Article 6(2).

¹¹ See para 21.

¹² Megan M, Campbell et al (2018): Experiences of gender incongruence and the relationship between social exclusion, psychological distress, and dysfunction among South African transgender adults: A field-study for ICD-11

Structure of the Meeting

The meeting was conducted in two parts: a pre-CSO meeting held on June 18, 2024, and the main meeting with government officials from June 19 to June 21, 2024.

The purpose of the CSO pre-meeting was to:

- Identify cross-cutting issues affecting both trans and intersex persons and build synergies around them.
- Discuss key policy and legal issues to be raised with government officials on LGR.
- Reach consensus on the intended outputs of the meeting.
- Explore ways to collaborate with UNDP at both the country and regional levels to advance LGR initiatives.

The regional meeting spanned two and a half days and utilized participatory methods to facilitate technical input into the regional strategy for achieving LGR across participating countries. This approach also fostered the exchange of information and experiences among countries. Open and honest conversations on policy issues with government officials and policymakers created a conducive environment for effective engagement and productive deliberations with the community. The facilitators included representatives from CSOs, UNDP personnel from Pretoria and Bangkok, and intersex experts.

Participants

The meeting brought together thirty-two participants, including government officials, directors from civic registration departments, representatives from national human rights institutions, activists, and members of national CSOs from the #WeBelong Africa countries¹³, including Lesotho, South Africa, and Tanzania. DRC participants got their Visa on the last day of the meeting, despite initiating the process timeously.

Meeting Objectives

The overall objective of the meeting was to bring attention to and catalyse positive change amongst policy makers in advancing the fundamental rights and well-being of trans and intersex persons in the region and ensure inclusion of the community in law and policy reform including development processes.

Specific Objective

- a. To collectively review existing laws and policies related to legal gender recognition in the project countries.
- b. To streamline the process of removing structural barriers to accessing legal gender recognition in the region, and ensuring that it is accessible, non-discriminatory, and respectful of individuals' self-affirmed gender identities.

¹³ WBA Countries: Angola, Cote d' Ivoire, Democratic Republic of Congo, eSwatini, Kenya, Mozambique Namibia, Zambia, and Zimbabwe.

- c. To share experiences and lessons learned from countries within the region and beyond highlighting successful strategies for advancing legal gender recognition and addressing shared challenges.
- d. To identify areas where capacity-building initiatives are needed to support countries in the implementation of legal gender recognition and develop concrete recommendations for policy makers and legislators aimed at fully recognising and protecting the rights of trans and intersex persons in the region.

Meeting Outputs

- Capacity for policy makers on the urgency for LGR in the project countries strengthened.
- Regional strategy for achieving LGR is defined.
- Capacity gaps on LGR and recommendations for country support identified.
- Action plans for country activities developed.
- CSOs and human rights activists have increased capacity to engage decision-makers and other stakeholders in their countries.



Group photo of participants at the meeting on Promoting Legal Gender Recognition (LGR) for Transgender and Intersex Persons: A Focus on Policy and Law Reform in the Sub-Saharan Africa Region. Photo: Madzhie L. Muthevuli | UNDP.

Day 1: 19 June 2024

Session 1: Opening Session



Gender Dynamix Board Member, Ms Patsy Alley, opened the meeting on 19 June 2024. Photo: Madzhie L. Muthevuli | UNDP.

The meeting was officially opened, by a GDY Board member Ms Patsy Alley who highlighted the challenges faced by the trans and intersex communities, emphasizing the importance of empathy, compassion, and understanding. She also stressed the need for personal safety and security, and the importance of regional collaboration on gender and trans health advocacy. The Programme Manager Mr Mesfin Getahun from UNDP introduced, the #WeBelongAfrica regional programme as an initiative that integrates two UNDP-led projects, namely the Inclusive Governance Initiative and the Southern Africa Young Key Populations Inclusion Initiative. The programme is designed to support state entities in sub-Saharan Africa to become increasingly accountable and responsive to, and inclusive of, lesbian, gay, bisexual, transgender and intersex (LGBTI+) people and young key populations (YKP), which in turn will contribute to better laws, more responsive public sector services, and social norms that affirm these populations' perspectives, needs and rights. WBA intends to contribute to the strengthened commitment and capacity of African decision makers, at country level as well as in regional institutions, to be responsive and accountable to, and inclusive of, sexual and gender

minorities and YKPs; to understand and support their rights and perspectives; and to promote equitable sexual and reproductive health and rights (SRHR) and HIV outcomes. He highlighted on the progress to-date achieved in the different countries and emphasized the importance of collaboration between various actors in promoting the rights of intersex and transgender communities.

The Executive Director for Gender Dynamix Ms Liberty Matthias introduced the organisation as the first registered Africa-based public benefit organisation to focus solely on the trans and broader gender diverse community. She stated that GDX is fundamental to the development of the trans and gender diverse movement(s) in South Africa and across Africa. Over the past 19 years, GDX has built a strong track record in understanding the diverse nature of the work and the diverse needs of trans and gender diverse persons both in South Africa and its surrounding regions. Based on its organisational values, GDX work in ways that uphold ideals of self-identification, self-determination, respect for diversity, inclusivity, meaningful participation, transparency, and accountability; whilst seeking to position trans and gender diverse persons through the realisation of their (our) autonomy and potential for nation-building. GDX has contributed extensively to the body of knowledge on trans and gender diverse experiences, needs and rights – and has raised visibility locally, regionally, and globally. To date, GDX has focused on issues related to legal reform, inclusive education and access to gender affirming healthcare as its primary objectives. The organisation also invests in and supports the emergence of nascent trans-led and trans-specific organisations whilst also supporting diverse lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) organisations and stakeholders in the Southern African Development Community (SADC) region through ‘Trans 101’ sensitisation training and education workshops in the context of sexual orientation, gender identity and expression (SOGIE). GDX has also been entrusted to fulfil a regional training programme to work with in-country Southern Africa-based partners. The organisational objectives and priorities were shared with the participants.

Participants were latter requested to introduce themselves sharing their role in government departments, pronouns and involvement in any form of advocacy work for trans and intersex rights.

Session 2: Setting the Scene: Context, Law, and Policy Issues

The session focused on introducing participants to the fundamentals of LGR for trans and intersex individuals, and key concepts on gender identity. It also explored international and regional human rights frameworks, including Resolutions 552 and 275 and how such frameworks can be used for accessing legal and policy reforms for legal gender recognition.

Conceptualizing LGR for trans and intersex persons

The session explored the definitions of trans and intersex:

- Transgender: refers to individuals whose gender identity does not match the sex they were assigned at birth. They may identify as male, female, trans man, trans woman, non-binary, or other terms. Some take medical, social, or legal steps to align their gender identity with their presentation.

- Gender Identity: defined as a deeply felt, internal sense of one's gender.
- Intersex: refers to individuals born with biological or physical characteristics that do not fit typical male or female definitions. These traits may be visible at birth, during puberty, or not at all, with over 40 known variations.

Key concepts discussed include: Biological Sex Assigned at Birth Male/Female/Variations of Sex Characteristics (Intersex) - Birth Certificates issued on the basis of a binary legal system (M/F): Gender Identity formation - Social construct dependent on a number of social, religious, cultural and traditional factors etc.; Gender Identity Male/Female (Cisgender), Trans (Gender identity not aligning with sex assigned at birth), intersex male/female, gender non-conforming.

This session also explored the definition of LGR as a person's ability to obtain legal recognition based on their lived gender identity and the basic rights connected to entitlements, including the right to change names and amend gender markers on official documents beyond male and female binaries. LGR is crucial for accessing health, education, housing, social security, and employment rights and that it should be based on self-determination without requiring invasive medical or psychological certifications, as such requirements violates the human rights of individuals. While the WHO has de-pathologized transgender identities in the International Classification of Diseases (ICD), intersex identities remain pathologized in ICD-11. LGR is protected under international and regional human rights treaties and may also be supported by constitutional provisions in various countries.

Essentials for Legal Gender Recognition include:

Respect for self-identification: Gender identity is deeply personal and subjective, and it is essential to respect an individual's self-identified gender. LGR therefore affirms identity, promotes inclusivity and reduce discrimination.

Mental health and well-being: Appropriate name and gender marker reduces mental health related problems and improves overall well-being. Lack of access to LGR or misgendering individuals can increase stress, anxiety, depression and even suicidal ideation.

Access to rights and services: Accurate identification documents are necessary to legally recognize an individual's affirmed gender in various aspects of life

Safety considerations: Mismatched or outdated markers can expose trans individuals to harassment or violence due to misunderstanding or prejudice from others.

International law and standards: Progressive policies in line with international standards enable easier gender marker changes, ensuring access to rights and services while affirming individual identities.

Violations on trans and intersex persons include:

- Violence, including sexual violence and killings.
- Torture and cruel, inhuman, and degrading treatment, such as forced sterilization, and abuse in detention settings.
- Criminalization, for example through "cross-dressing" prohibitions or the use of loitering laws to target trans people – and many trans persons are also targeted by laws criminalizing consensual same-sex conduct.

- Pathologization of trans identities.
- Discrimination in health, housing, education, sport, employment, and other services.

What needs to be done:

- Collectively review existing laws and policies related to legal gender recognition in countries.
- Streamline the process of removing structural barriers to accessing legal gender recognition in the region, and ensuring that it is accessible, non-discriminatory, and respectful of individuals' self-affirmed gender identities.
- Share experiences and lessons learned from countries within the region and beyond highlighting successful strategies for advancing legal gender recognition and addressing common challenges
- Identify areas where capacity-building initiatives are needed to support countries in the implementation of legal gender recognition.

International and Regional Human rights framework on the protection and promotion of the human rights of transgender and intersex persons

This session focused on raising awareness on the application of International Human Rights Law in the context of LGR for trans and intersex persons. International human rights law obligates states to respect, protect, and fulfil human rights, including the right to LGR for trans and intersex persons. By ratifying international treaties, states commit to refraining from interfering with rights, protecting individuals from abuses, and taking positive actions to ensure basic human rights are enjoyed by all. The under-pinning human rights principles on LGR for trans and intersex persons include universality, equality, non-discrimination, autonomy, self-determination.

Legal protections on LGR under international human rights law and regional instruments can be found in the following instruments:

- Universal Declaration for Human Rights (UDHR): Trans and intersex persons may claim LGR through Article 6 which states that 'Everyone has the right to recognition everywhere as a person before the law.'
- International Covenant on Civil and Political Rights (ICCPR): Trans and intersex persons may claim the right to LGR through Art 16 which states that 'Everyone shall have the right to recognition everywhere as a person before the law.' Intersex minors may claim the right to legal recognition at birth through Art 24(2) which provides that every child must be registered.
- Yogyakarta +10 principles: Principle 3 'Everyone has the right to recognition everywhere as a person before the law...No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity'.
- African Charter on Human and Peoples' Rights: Trans and Intersex persons may claim LGR through Article 3(1) which states that 'All persons are equal before the law.'
- African Charter on the Rights and Welfare of the Child: Intersex minors may claim the right to legal recognition at birth through Art 6(2) which provides that every child must be registered at birth.

UN Treaty Bodies and Special Mechanisms that have made specific recommendations on legal gender recognitions include the following:

- UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity - Report of UN IE SOGIE (2018)
- UN Committee on the Rights of the Child (intersex minors)
- Human Rights Council Resolution 55
- African Human Rights System-Treaty Bodies (African Commission on Human and Peoples Rights
 - Resolution 275
 - Resolution 552

It is imperative for states to implement measures that protect trans and intersex individuals. This includes enacting legislation and administrative procedures that allow for the change of names and gender markers on official documents and domesticating international human rights law provisions through parliamentary or legislative processes.

Session 3: Legal and Policy Environment in the Region

This session provided a regional overview on structural barriers to accessing LGR in the region and sharing of best practices. The continent has legal restrictions that are outdated not aligned to international and regional law, or non-existent and preventing legal recognition of gender identities. Where legal provisions exist, there is mandatory medical interventions, diagnoses, or sterilization as prerequisites for LGR. Further, administrative complexity such as cumbersome processes, lack of clear guidance, or excessive bureaucracy and high costs and accessibility with most services centralised in urban settings. There is also resistance from institutions or individuals due to societal biases against trans and non-binary individuals perpetuated by cultural and social stigma. The meeting discussed legal and policy environment from southern Africa – Angola, Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, South Africa, Zambia and Zimbabwe.

GDX presented a research findings on Transgender persons Social Position in South Africa *Botshelo Ba Trans Study reveals (2019)*: Intersectionality and GATE (2023)– Impact of Anti – Gender opposition on transgender and LGBTI movements. These reports show damning results on status of trans persons in several areas such as access to HRT, unemployment, matriculation rate, HIV prevalence, legal gender marker and un-documentation.

Current legal status in the WBA and Southern African Countries

Angola

Legal Framework: There is no specific law that allows transgender persons in Angola to change the gender marker in their identity documents or passports. Section 78 of the Código do Registo Civil 2015 indicates that, in general, there should be no alteration of details entered into the registration records kept by the Civil Registrar. However, section 87 gives the Civil Registrar general authority to make changes.

Barriers: There is lack of explicit legal recognition of Intersex and transgender persons contributing to heightened violations and abuse of the community. There is limited productive economic opportunities due to stigma and discrimination. There is no specific legislation that allows the change of gender markers on identity documents. Additionally, there is no access to comprehensive gender affirming care, transgender persons often must travel out of the country to get the appropriate care which makes the process expensive and inaccessible.

Botswana

Legal Framework: There is no specific law that allows transgender persons in Botswana to change the gender marker in their identity documents or passports. However, there are provisions in the National Registration Act 26 of 1986, that could be used by transgender persons to change the sex description in their identity document: Section 16 deals with a material change in a person's particulars.

Barriers: Challenges in Document Changes: Difficulty in obtaining official documents that reflect true gender identity; No explicit legal framework for changing gender markers; Provisions in the National Registration Act can be interpreted to allow changes but lack clarity and consistency in application; Healthcare providers often lack sensitivity and understanding of trans-specific health needs; Bureaucratic hurdles and societal stigma remain significant obstacles.

Eswatini

Legal Framework: There is no law in Eswatini that specifically allows trans persons to change the gender marker in legal documents; Provisions of the Births, Marriages, and Deaths Registration Act 5 of 1983 could be used to bring an application. However, it is not explicit if trans persons could use this provision, or if any have used this provision to change the gender marker in their birth certificates.

Barriers: Legal provisions for change of name and protections exist, but practical access is hindered by societal and bureaucratic barriers; Traditional norms and lack of awareness impact LGR access. Elevated levels of social stigma and discrimination; Limited Legal Provisions: No laws explicitly provide for gender recognition in country.

Lesotho

Legal Framework: There is no law in Lesotho that makes provision for a trans persons to change the gender marker on their identity document. The Lesotho Passports and Travel Documents Act 15 of 1998, does not make provision for changes to a person's sex description. A trans person who uses a passport that does not reflect their gender expression could be charged with committing an offence.

Barriers: Lack of Specific Policies: No dedicated policies to support the needs of trans and intersex individuals; Despite legal provisions, societal discrimination and lack of awareness among officials hinder access; Legal provisions for gender marker changes are ambiguous; National Identity Cards Act and Registration of Births and Deaths Act does not specifically address trans and intersex issues.

Malawi

Legal Framework: Malawi does not have a law that allows a trans persons to change the gender marker in their identity document. However, there are provisions in the National Registration Act

13 of 2010 that could possibly be used by transgender persons to change the sex description in their identity document: Section 20(1)

Barriers: High levels of discrimination and limited access to supportive healthcare services; National Registration Act allows for changes in particulars but is not specific to gender identity; Societal attitudes and lack of awareness.

Mozambique

Legal Framework: There is no specific law that allows transgender persons in Mozambique to change the gender marker in their identity documents or passports. Section 77 of the Código do Registo Civil 2004 indicates that, in general, there should be no alteration of details entered into the registration records kept by the Civil Registrar.

Barriers: Lack of specific laws for gender marker changes and societal stigma; limited healthcare services for gender reassignment and hormone therapy; societal lack of awareness and negative attitudes hinder LGR progress and access.

Namibia

Legal Framework: Transgender persons in Namibia can apply to change their sex description in the birth register in terms of section 7B of the Births, Marriages and Deaths Registration Act 81 of 1963.

Barriers: Legal provisions under the Births, Marriages, and Deaths Registration Act allow for changes but are inaccessible, cumbersome and inconsistent; healthcare services are limited and not well-equipped for gender-affirming treatments; societal attitudes are often hostile Sodomy Laws – Criminalization e.g. Combating of Immoral Practices Act 21 of 1980; intricate legal system with no clear procedures for gender recognition; gender identity is not well-protected under existing laws in-country.

South Africa

Legal Framework: Transgender people can apply to change their sex description in the birth register in terms of the Alteration of Sex Description and Sex Status Act 49 of 2003. Section 2(1). Not only does the law now allow trans persons to change their names and gender markers, but South Africa is one of the first countries to allow persons to change their names and gender markers on legal identity without surgery.

Barriers: While the Constitution guarantees trans persons the right to equality and the right not to be discriminated against based on their gender identity, the reality is that trans persons also face violence and harassment from officials and private citizens. South Africa has been identified as a “hot spot” for hate crimes against LGBT people. Relatively robust legal framework under the Alteration of Sex Description and Sex Status Act; Practical barriers include bureaucratic systems, the requirement to provide medical certification to prove that you are trans or intersex, admin delays and lack of awareness among officials.

Zambia

Legal Framework: There is no law in Zambia that specifically allows trans persons to change their gender markers on their birth documents. Section 9(2) of the National Registration Act 19 of 1964 could be used to change a person's sex description.

Barriers: Despite legal mechanisms, discrimination and lack of supportive infrastructure pose significant challenges; limited availability of gender-affirming healthcare services: legal system lacks specific provisions for gender recognition and protection.

Zimbabwe

Legal Framework: Zimbabwe does not have a specific law that allows trans persons to change the gender marker on their birth documents, or other official documents. Trans people should rely on their fundamental human rights that are guaranteed under the Constitution. Section 18(2) of the Births and Deaths Registration Act 11 of 1986 allows a person to change their forename. Section 18(3) provides for the change of a surname, but the Registrar-General must be satisfied that it is for a "lawful purpose". It appears unlikely that these provisions could be useful when trying to change a gender marker.

Barriers: Significant societal stigma and lack of support services.: societal attitudes heavily affect LGR access; a few legal obstacles to changing gender markers exist.

Session 4: Voices from the community – Panel Discussion

This panel discussion highlighted the lived experiences of trans and intersex individuals, with panellists from Angola, Namibia, and Zimbabwe sharing insights into the human rights situation in their countries. They discussed how LGR is accessed, and the impact of its absence on their communities' ability to exercise rights and freedoms. This session also provided an opportunity to inform government officials, openly discuss, and brainstorm strategies for reform or commit to raising awareness amongst their colleagues on how these barriers impact people's lives, in terms of social, economic, or psychological outcomes.

Namibia: Many trans individuals do not feel safe or supported in their country, either due to a lack of support from bilateral partners, the government, or law enforcement. Punitive laws communicate that trans people do not have the right to exist, further marginalizing and endangering them. This underscores the urgent need for legal and societal reforms to protect and affirm the rights and existence of trans individuals.

Trans and intersex individuals frequently encounter numerous 'small' yet impactful challenges in their daily lives. For instance, using an identity document for services often results in misidentification because the information on the document does not match their identity. This leads to being constantly referred to by incorrect pronouns, causing "everyday trauma and depression" as they are forced to navigate these misrecognitions and invalidations continuously. Such experiences underscore the persistent emotional and psychological strain faced by these communities, highlighting the urgent need for systemic changes to ensure proper recognition and respect for their identities.

Zimbabwe, intersex individuals face significant challenges due to the lack of legal recognition, leaving them without legal protection. The rigid two-sex binary system leads doctors to assign a

sex at birth for intersex individuals, which often results in identity documents that do not align with the person's gender identity. Corrective surgeries are frequently performed on minors, which is viewed as unethical by many advocates. There is a push to delay these surgeries until puberty, allowing individuals the autonomy to choose their gender. This highlights the need for reforms to ensure intersex people are recognized and protected under the law, and that medical practices respect their rights to self-determination. Trans and intersex individuals often feel as though their rights are robbed. The constant need to explain their gender and identity because they look different from how they appear on their documentation is exhausting and demoralizing. This discrepancy between their identity and legal recognition creates significant psychological trauma. This ongoing struggle highlights the need for legal reforms and societal education to support and validate the identities of trans and intersex people.



Photo: Madzhie L. Muthevuli | UNDP.

Angola, although the mortality rate specifically for trans individuals may not be high, there is a significant level of death due to poverty. This economic hardship often forces young people into sex work on the streets, exposing them to violence from the police. Additionally, there are high levels of domestic violence against LGBTI individuals. Law enforcement is generally ill-equipped to handle these situations, and activists face challenges in intervening because they lack the legal rights to enter homes and may also face violence or prejudice themselves. There is a significant gap in education about trans and intersex issues: many people mistakenly believe that a trans man is seeking attention or that a trans person is simply a gay man who likes to dress like a woman. This lack of understanding leads to further stigma and discrimination. Legal support is

also lacking, as there are few lawyers willing to work with CSOs on these issues due to the complexity and risks involved. Intersex issues are rarely discussed, and many intersex individuals struggle with the gender assigned to them at birth by families and doctors.

Growing up in a binary system can create internal conflict and confusion, making it difficult for them to embrace their identity. An intersex person who grows up as a man due to surgery and family decisions but then develops breasts can experience profound confusion and distress. The medical sector often lacks compassion and inadequate information for intersex individuals, compromising their human rights to health. Overall, these issues highlight the urgent need for better education, legal support, and healthcare for trans and intersex people. Trans individuals are consistently denied opportunities simply because of their gender identity. In Angola, there is a notable lack of statistics and studies on trans and intersex issues, which is often perceived as a deliberate act to avoid pressuring the government to become more inclusive. This lack of data hinders advocacy efforts and perpetuates the marginalization of trans and intersex communities, highlighting the urgent need for comprehensive research and data collection to inform policies and promote inclusivity.

The prevailing concept of gender is very distorted, with many people adhering to the narrow notion that gender is strictly male or female. This binary thinking fails to recognize the complexity and diversity of gender identities. Intersexuality adds another layer of complexity, as intersex individuals often cannot be identified by appearance alone. This limited understanding contributes to the marginalization and misunderstanding of intersex and other non-binary individuals, underscoring the need for broader education and awareness about the spectrum of gender identities. To realize human rights fully, we must uphold these rights for everyone, including minorities. The inclusion of minorities in conversations is essential for fostering a more inclusive and equitable society. By ensuring their voices are heard and their perspectives are considered, we can create policies and practices that protect and promote the rights and well-being of all individuals, regardless of their gender identity, sexual orientation, or other characteristics. This inclusive approach is crucial for advancing human rights and social justice.

Day 2: 20 June 2024

Session 5: Gender Affirming Health Care and SRHR

This session aimed at introducing participants to the different models of gender affirming health care and why its essential for the wellbeing of trans and intersex persons. Access to gender affirming care ensures that trans and intersex persons receive comprehensive support such as medical, psychological and social support relevant to their gender identity. The session highlighted the importance of sexual reproductive health policy reforms for the inclusion of GAHC for trans and intersex persons and how LGR enables access to comprehensive services.

The concept of ‘gender affirming’ refers to to an interpersonal, interactive process whereby a person receives social recognition and support for their gender identity and expression.” – Researcher Jae Sebelius. The need for gender affirmation is universal, but people who conform to societal gender norms receive affirmation as a matter of course (although many cisgender people also experience discomfort with very rigid and narrow norms of masculinity and

femininity). For trans and gender diverse people, a lack of gender affirmation intersects with other areas of discrimination. Access to gender affirming care therefore results in improved quality of life, improved mental health and reduced substance use.

Domains of gender affirming healthcare:

- Social: name, pronoun, gender presentation
- Psychological: self-identity comfort, access to counselling, sensitised practitioners
- Medical: Hormones, Surgery. Reproduction options, access to guidelines
- Legal: gender markers, anti-discrimination legislation

The speaker highlighted that access to legal gender recognition is directly tied to access to gender affirming care. The absence of legal documentation that reflects their gender identity directly impacts accessing basic services such as health care, education, employment and social security. The session also covered the importance of affirming LGR in laws and policies. South Africa is the only country in the region that has constitutional provisions that protect against discrimination based on sex, gender and sexual orientation. It also has the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA), which protects the right to equality and the right not to be discriminated against based on your gender, sex and sexual orientation. The Alteration of Sex Description and Sex Status (Act 49) provides for trans and intersex persons to apply for change of their sex description in the birth register (lessons from South Africa).

The speaker also highlighted on the lived experiences of sexual and gender diverse persons; intersectionality's of gender identity, sexual orientation, race, disability and sexuality; and ethical principles that govern health professionals and service providers. The presentation emphasised the importance of medical ethics and the need for healthcare providers to treat patients with respect, informed choices, and competent care. It discussed the complexities of treating young patients and those requesting hormone treatments, as well as the importance of respecting bodily integrity and autonomy, particularly for trans, intersex, and under the age of 18 transitioning individuals. The speaker urged that medical practitioners need to meet their patients with empathy and should provide the patients with medical education especially relating to the use of puberty blockers and hormone replacement therapies; medical practitioners should be advocates for a more inclusive and compassionate approach to patient care. Doctors have a responsibility and obligation to provide key populations (KP) with all the necessary information to make informed choices.

Session 6a: Lessons learned from other regions Pakistan and Malta

This session explored best practices on LGR from other regions such as Pakistan and Malta and discussed strategies for leveraging UNDP country offices to advance LGR, capacity building of the state and community led strategies for advocating for inclusive and rights-based frameworks. The session was also aimed at influencing policy makers and activists to adapt best practices to their own national context and expose them to the different options for attaining legal gender recognition.

Experience and lessons learned on law and policy reform from South and Southeast Asia

The presentation highlighted that the Southeast Asia region has vast socio-cultural, religious, and linguistic diversity and concepts of sexual orientation and gender identity vary across the region. Historically, there has been recognition by local cultures and experience varying degrees of acceptance by contemporary society. Hijras (India and Bangladesh) and khwaja siras (Pakistan) who have been a part of South Asian cultures for centuries have recently been recognized by law. UNDP has therefore continued to support almost thirty countries to address legal and policy barriers since 2012. Amongst the knowledge products produced to inform policy reforms include:

- Legal Gender Recognition, A Multi-Country Legal and Policy Review in Asia.
- Legal and Policy Trends Impacting People Living with HIV and Key Populations in Asia and the Pacific 2014-2019 Advancing the Human Rights and Inclusion of LGBTI People:
- A Handbook for Parliamentarians, and Young People and the Law:
- Laws and Policies Impacting Young People's Sexual and Reproductive Health and Rights in the Asia-Pacific Region.

The session then examined the state's efforts to advance transgender rights in Pakistan, beginning with Constitutional Petition No. 43 of 2009 and continuing through 2018.

- **Constitutional Petition No. 43 of 2009:** Legal challenge for the recognition and protection of the rights of trans persons in Pakistan, especially the constitutionally guaranteed right to security (Art 9 of the Constitution), right to human dignity (Art 14), right to property (Art 24 (1)) and right to equality (Art 25).
- **Constitutional Order No.2 2009:** Prepare a framework for Federal and Provincial governments to recognise trans individuals and to take steps to ensure that trans individuals can enjoy the right to security, right to dignity and property rights like any other citizen of Pakistan.
- **Constitutional Order No.3 2009:** Ordered the Government to devise a special policy for the benefit of transgender people. To ensure that transgender people have access to educational and vocational opportunities.
- **Constitutional Order No.4 2011:** Ordered the police departments to undertake greater efforts to improve the treatment of transgender people and ordered the Social Welfare departments to ensure better protection for their inheritance rights.
- **Constitutional Order No.5 2012:** Court expressed satisfaction with the level of progress made at both the provincial and the federal level. Challenges remained with misunderstanding of trans identity and reliance on the colonial language of “disorder” and “disability.”
- **Draft Bill 2012:** Pakistan's National Council for Social Welfare (NCSW) began to draft a bill called “The Protection and Welfare of Khawaja Saras (She-males) Rights bill 2012” with the plan to introduce it as a government bill in the National Assembly.
 - Ordered the Provincial and Federal governments to appoint a focal person to bridge the communication gap between transgender people and government departments.
- **Private Members Bill 2012:** National Assembly member Qudsia Arshad (PML-N) introduced a private member bill called “The Protection and Welfare of Khawaja Saras Rights Bill, 2012” in the National Assembly where it subsequently lapsed.

- **Private Members Bill 2017:** Senator Babar Awan (then PPP) submitted a private member bill called the “Transgender Persons (Protection of Rights) Act 2017” to the Senate, which was referred to the Senate's Human Rights Committee where it subsequently lapsed.
- **NHCR Process 2017:** In April 2017, the Senate's Human Rights Committee turned to Pakistan's National Human Rights Commission (NCHR) with a request to improve the existing draft legislation (the Babar Awan bill). Supported by UNDP, the NCHR conducted a series of consultations with the transgender community across all provinces and came up with a comprehensive new draft bill.
- **National Task Force, 2017:** Comprising of Senators, National Assembly Members, NCHR, the Federal Ombudsperson, national and provincial government representatives, CSOs and members of the transgender community to review the existing drafts.
 - This Task Force developed two new bills: 1) The "Transgender Persons (Protection of Rights) Act, 2017" – which took up approx. 80% of the draft bill the NCHR had presented; and 2) the "Criminal Law (Amendment) (Protection of Rights of Transgender Persons) Act, 2017.
- **Draft Bills Tabled 2017:** Both bills were tabled as private member bills in the NA and the Senate. Two bills were referred to the Senate's Committee for Human Rights, while the Criminal Law (Amendment) (Protection of Rights of Transgender Persons) Act, 2017 was referred to the Senate's Interior Committee.
- **Council on Islamic Ideology Meeting, 2018:** Like the process in 2012, the CII reviewed the proposed legislation and provided feedback on the draft laws.
- **Transgender Persons Protection of Rights Act, 2018:** The “Transgender Persons (Protection of Rights) Bill, 2018” was passed on 7 March 2018. This bill was subsequently passed by the National Assembly and signed into law by the President on 22 May 2018.

The Transgender Persons (Protection of Rights) Act, 2018:

- Provides legal recognition to trans persons and prohibits discrimination and harassment. It also places an obligation on the government to provide for the welfare of the community.
- The definition of “transgender persons” in the Act includes intersex persons “assigned male at birth, but who have undergone genital excision or castration”, and a transgender man, transgender woman, or any other person whose gender identity or gender expression differs from the social norms and cultural expectations based on the sex they were assigned at the time of their birth.
- Everyone is permitted to self-identify their gender without external authorization. The Act requires that transgender persons be registered with all government departments, including the National Database and Registration Authority

In summary the Transgender Act recognises the rights of trans and intersex persons and allows for individuals to self-identify their gender without medical intervention (self-determination). The law allows for name and gender marker change in all legal national documents (national ID, passports etc). The Pakistan process was government and parliament led, with both federal and provincial governments recognising trans persons. The legislation has enabled the government to provide comprehensive health care that's inclusive and established programmes for the community to access education. Its important to note that legal reform is not an end but a means to enable inclusion and for the community to enjoy the right to security, dignity, and property rights like other citizens in Pakistan. Stigma and discrimination, changing practices, attitudes and social acceptance beyond certain constituencies remains.

Protective Legislation for sexual & gender minorities – Malta

Malta has a strong religious belief system influenced by Catholicism which is deeply ingrained in its culture and the constitution. Its one of the countries with high density of UNESCO world heritage sites. Despite this strong value system, Malta is considered one of the most progressive countries, with best practice on LGR. The enactment of a comprehensive legislation titled *Gender Identity, Gender Expression and Sex Characteristics (GIGESC) Act of 2015* provides for the recognition and registration of the gender individuals identify with without requiring medical and psychiatric approval (self-determination). The law bans non-consensual medical procedures for intersex persons and legally protects transgender and intersex persons against discrimination.

The positive outcomes of these changes in Malta include improved legal recognition, a reduction in discrimination and increased visibility and acceptability of trans persons and trans issues. The implementation strategies for the Act include establishing a legal framework to support the GIGESC Act; developed a national strategy and action plan for its implementation; established intersex medical protocol working group and developed a protocol; health Act amended to pathologies gender identity and an interdisciplinary team established to provided holistic care to intersex and their families; developed programmes for government officials, healthcare professionals, and other stakeholders being essential to ensure effective implementation. Additionally, put in-place public awareness strategies, crucial for public education and promoting understanding of the law.

There is greater acceptance of trans individuals in Malta, along with increased awareness about intersex people. The X marker is available for those who do not want to select M or F, but there is not a specific marker solely for intersex individuals. Parents have the option to leave the gender marker blank on their child's birth certificate, as assigning a marker can pressure doctors to treat the child in a specific way and perform surgeries. Additionally, there is now no time limit on when parents can add these markers to birth certificates.

Session 6b: Lessons learned from other countries in the SADC Region

This session highlighted the various strategies employed by civil society organizations and individuals to advance legal gender recognition through alternative approaches. The purpose was to sensitize government officials on alternative measures individuals use to secure legal gender recognition in the absence of protective legislation. It also provided a platform for activists to exchange experiences and explore additional options if state protections are denied. The discussion focused on cases from Botswana, Lesotho, and Zimbabwe.

Botswana: Kgositau v Attorney General and Registrar of National Registration (2017), In this case, Tshepo Ricki Kgositau, a trans woman, successfully sued the government of Botswana to have her gender marker changed from male to female on her national identity document. Ms Kgositau, a Botswana-born trans woman, challenged the refusal of Botswana's Registrar of National Registration to change her gender marker. She argued that the refusal violated her constitutional rights, including her rights to dignity, privacy, freedom from inhuman and degrading treatment, and equality before the law. She provided medical and psychological evidence to support her identity as a woman. In December 2017, the High Court of Botswana ruled in favour of Kgositau, ordering the government to change her gender marker to female. The court

recognized that gender identity is a fundamental aspect of a person's dignity and personal autonomy. The ruling was seen as a significant victory for trans rights in Botswana and set an important legal precedent for the recognition of gender identity in the country.

Zimbabwe: Ricky Nathanson v Farai Mteliso, The Officer in Charge Bulawayo Central Police Station, Commissioner of Police, and the Minister of Home Affairs Case no. HB 176/19 HB 1873/14 [2019] ZWBHC 135 Zimbabwe, High Court. The plaintiff, a trans woman, was unlawfully arrested and detained by the police in Bulawayo. During her detention, she was subjected to inhumane and degrading treatment, violating her constitutional rights, including her right to dignity, freedom from torture, and protection from cruel, inhuman, and degrading treatment. She sued the Zimbabwean authorities, seeking damages for the unlawful and malicious arrest and the harm she suffered during detention. The court awarded her damages of 400,000 ZWD for unlawful and malicious arrest and violation of her fundamental and constitutional rights.

Both cases were a landmark victory for the transgender communities in Botswana and Zimbabwe as they highlighted the importance of protecting LGBTI persons from discrimination, police brutality and abuse of human rights.

Lesotho: The presentation focused on the interpretation of laws, such as the recognition of sex versus gender and the legal and social landscape for trans and LGBTI rights in Lesotho. It challenged the state to ensure clarity and accuracy on the interpretation of sex and gender. The Lesotho legal framework does not explicitly define or distinguish between "sex" and "gender" in many statutes. Lesotho legal framework does not recognize sex, rather recognizes gender hence its essential to verify whether legal interpretation truly excludes "sex" entirely. This discrepancy has led to questions about why sex markers appear on official documents when only gender is recognised. CSOs have engaged with the relevant Ministry through their human rights desk to protect and promote trans and LGBTI rights in the country and further, consulted with the ministry for the protection of these KPs. The government has also been challenged regarding the language used in censuses to ensure inclusivity of KPs and LGBTI. Schools have been urged to allow children to wear the uniform they are most comfortable with, i.e. tunic, skirt or pants. The Ministry of Health has been confronted about service delivery in both the private and public sectors, with private providers being more open to offering hormonal treatment and other services. Additionally, efforts have been made to engage with chiefs and other community leaders as agents of change to help reintegrate trans people into the community.

Session 7: Reflections from Government and National Institutions

This was a panel discussion session led by Government officials. The session was designed for government officials to reflect on the current legal and policy environment in their countries, how it effectively and efficiently enables name, gender and sex marker change for transgender and intersex persons. Discuss potential opportunities and strategies for engagement in policy, legal reform processes, as well as the necessary technical support required. This session did not yield the results envisaged during the design of the agenda. Government officials were not prepared for this session despite being advised on what was expected and outcome of the session. They could not reflect or discuss any opportunities that exists within the law, identify possible gaps or share current practices on how they deal with name and gender marker change. However, the session did provide an opportunity for government officials to reflect on what they had learned and appreciated how the information can assist with further lobbying internally.

Session 8: Mental health Awareness

This session was aimed at introducing participants to the importance of mental health, why it's essential for trans and intersex persons, and the importance of seeking professional help when faced with unique challenges that impact their well-being. Trans and intersex persons often face stigma, discrimination, medical barriers, lack of social support, and gender dysphoria which can lead to mental health issues, isolation, trauma, severe depression, anxiety and post-traumatic stress. Raising awareness on the need for mental health care helps create a more inclusive, supportive, and understanding society, leading to better mental health outcomes. The session discussed the impact of discrimination, lack of family support and how individuals respond to traumatic situations (fight, flight, freeze and fawn).

It also explored the high-risk factors for mental health struggles such as higher risk of anxiety, depression, PTSD, and suicidal ideation due to social stigma and discrimination, lack of acceptance from family, peers, and society. Many trans persons suffer from gender dysphoria which is the distress of the mismatch between their gender identity and assigned sex, this can deeply affect mental health. Access to gender-affirming care (such as hormone therapy or surgeries) can improve mental well-being.

The interventions include educating society about trans and intersex identities fosters acceptance and reduces discrimination; encourages supportive policies, awareness leads to better legal protections, healthcare access, and anti-discrimination laws. Promotes self-acceptance when people see positive representation and advocacy, they feel less alone and more confident in seeking help and improve mental health services, training mental health professionals to understand transgender and intersex experiences leads to better outcomes.

Addressing mental health awareness for trans and intersex individuals is lifesaving. By fostering understanding, promoting inclusive healthcare, and creating supportive communities, all individuals, regardless of their gender identity or intersex variations, can live with dignity, mental well-being, and equality.

Day 3: 21 June 2024

Session 9: Strategy Development: Country Groups Reflections

Country groups reflected on the two days and identified emerging issues from discussions, gaps, and challenges. Identify opportunities around legal and policy reform (enacting, amending, or repealing existing laws if any etc. and other policy initiatives) including support required from the Region.

Côte d'Ivoire: It is encouraging to hear that the National Commission of Human Rights is interested in strengthening their work on LGBTI issues and is open to collaborating with organizations like the UNDP to foster better advocacy and support. Awareness that trans people exist within the country is a crucial first step, and their commitment to advocating for public education on these issues is commendable. It is understandable that sometimes governments may not be fully aware of what is happening within communities, which can lead to gaps in

addressing their needs. Open dialogue and collaboration between the government, civil society organizations, and international bodies like the UNDP can help bridge these gaps and ensure that policies and initiatives are informed by the realities and needs of LGBTI individuals. This approach can lead to more effective advocacy, education, and policy implementation to support the rights and well-being of all citizens.

Eswatini: To foster a way forward, the Eswatini government aims to initiate conversations between LGBTI CSOs and the Ministry of Home Affairs. This collaboration will be essential in addressing the needs and concerns of the LGBTI community, developing inclusive policies, and ensuring that the rights of all individuals are recognized and protected. By working together, we can create a more supportive and equitable environment for everyone. She also indicated the importance of capacity building for government officials.

Namibia: Having a law in place for the amendment of gender markers presents a significant opportunity for strategic litigation in this area of work. Strategic litigation can help challenge discriminatory practices and push for broader legal recognition and protections for gender diverse individuals. Additionally, as an institution, it is crucial to collaborate with diverse communities to gain a deeper understanding of their needs and the work required for progress. This collaborative approach ensures that policies and initiatives are inclusive and effectively address the challenges faced by LGBTI individuals. By working together, institutions can foster meaningful change and advance the rights and well-being of all members of society.

Mozambique: It is understandable to be shocked upon hearing first-hand experiences from intersex people, as their stories often highlight significant challenges and discrimination that are not widely understood or addressed. The role of the General Commander of police in protecting and promoting the rights of KPs, including LGBTI individuals, is commendable. Engaging with the government to train and capacitate officials on LGR is crucial, as it is indeed a fundamental human right. By increasing awareness and understanding among government officials, we can work towards creating a more inclusive and supportive environment where the rights of all individuals, regardless of gender identity or sexual orientation, are respected and upheld. This collaborative effort is essential for promoting equality and ensuring that everyone can live free from discrimination.

South Africa: Acting is crucial to bring about meaningful change and accountability. They questioned the ways the UN makes countries accountable to the promotion and protection of KPs regarding LGR related issues.

Country Priorities

| Country | Priority interventions | Responsible CSO/Government | Risk | Mitigation |
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| ANGOLA | | | | |

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| <p>Priorities in Laws and Policy</p> | <p>Legal reform to recognise gender identity: Develop and implement laws that recognise and protect the gender identity of intersex and trans persons, allowing the legal alteration of documents according to self-identification.</p> <p>Review legal provisions criminalising any discriminatory act based on "gender identity and expression"</p> | <p>LGBTI+ CSOS</p> <p>Ministries of Justice and Human Right</p> <p>National Assembly</p> | <p>Political resistance</p> <p>Cultural conservation</p> <p>Lack of political will for legislative reforms</p> | <p>Intensive advocacy by CSOs and international support</p> <p>Public education on human rights and gender equality</p> <p>Involvement of community and religious leaders in the dialogue</p> |
| <p>Priorities in Capacity Development, Awareness raising and Training</p> | <p>Human rights capacity building; strengthen CSO's capacities for effective advocacy and monitoring of human rights, especially LGBTQI+ rights.</p> <p>Training of health professionals, police, government officials in the justice sector on sexual and gender diversity and the rights of intersex and transgender.</p> | <p>OSC LGBTIQ+</p> <p>GDX</p> <p>UNDP</p> <p>Government:</p> <p>Ministry of Gender</p> <p>Ministry of Interior</p> <p>Ministry of Health and Ministry of Justice</p> | <p>Government restrictions on the activities of CSOs</p> <p>Lack of funding for training</p> | <p>Gradual reduction of stigma and discrimination in the various public sectors</p> <p>The development of international partnerships for funding and technical support</p> |
| <p>Priorities in Evidence and Data</p> | <p>Strengthen data collection for intersex and transgender persons disaggregated by gender identity to inform policy and law reforms processes.</p> <p>Conduct studies and research (Registration of intersex children in maternity wards and paediatricians).</p> <p>Advocate for gender identity register for intersex people (adolescents and adults)</p> | <p>OSCL, PNUD, GDX, BTIQ+</p> <p>National Provincials</p> <p>National Statistic</p> <p>Ministry of gender provincial Government</p> <p>Ministry of justice-human rights department</p> <p>Ministry of Health</p> | <p>Cultural resistance to inclusion in the diversity category</p> <p>Ministry of Justice and Human Rights</p> | <p>Public awareness of the importance of inclusive data collection.</p> <p>Specialised training for civil servants on identifying and dealing with trans and intersex people.</p> <p>Lack of technical training to collect sensitive data.</p> |
| <p>COTE d' IVOIRE</p> | | | | |
| <p>Priorities in Laws and Policy</p> | <p>Advocate for the alignment of national laws with international laws.</p> | <p>CSO</p> <p>NHRI</p> | | |

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| | <p>Advocate and lobby Parliament to enact laws that will protect transgender and intersex persons.</p> <p>Ensure legal provisions for change of name but not of sex or implementation of the laws.</p> | | | |
| Priorities in Capacity Development, Awareness raising and Training | <p>The NHRI engaged to build capacity and exchange sessions between transgender and intersex associations and government bodies;</p> <p>Strengthen capacity of intersex and transgender community to lobby for legal reform and parliament to enact legislation in favour of transgender and intersex people;</p> | <p>CSO</p> <p>NRHI</p> | | |
| ESWATINI | | | | |
| Priorities in Laws and Policy | <p>Engage the Ministry of Home Affairs on legal gender recognition.</p> <p>Engage Parliament – MHA Portfolio Committee on intersex and transgender rights and legal gender recognition.</p> <p>Advocate for the review and amendment of the Civic registration Act to have progressive provisions on name and gender marker in line with International Norms or advocate for the enactment of a legal Gender recognition Act.</p> | <p>Civil Society Organisations</p> <p>UNDP</p> | <p>Tradition, religion and culture used as barrier for change.</p> <p>Trans and intersex issues being politicised due to lack of awareness</p> <p>Decision makers lack of understanding and personal values</p> | <p>Sensitise, educate government officials on the rights of intersex and transgender persons.</p> |
| Priorities in Capacity Development, Awareness raising and Training | <p>Capacitate government official on legal gender recognition, best practices and international norms</p> <p>Strengthen capacity of Parliament on international human rights, ACHPR resolutions</p> | <p>CSO, Ministry of Home Affairs.</p> <p>NHRI</p> <p>UNDP</p> <p>AIM</p> | <p>Community readiness to disclose and lead advocacy</p> <p>Lack of political will to address T&I issues.</p> | <p>CSO empowerment to understand issues and clearly articulate their ASK from the government.</p> |

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| | <p>Develop guidance note (SOP) on the name, sex and gender marker change processes.</p> <p>Strengthen capacity of the community to advocate for change and broker relationships with AIM</p> | GDX | | |
| <p>Priorities in Evidence and Data</p> | <p>Document and test efficacy of the system on name and gender marker change - assessing efficiency of the system; accessibility; practice – attitude and acceptability.</p> <p>Document the intersex and transgender experiences in accessing legal gender recognition.</p> | <p>CSOs</p> <p>UNDP</p> | | |
| <p>KENYA</p> | | | | |

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| <p>Priorities in Laws and Policy</p> | <p>Conduct High level advocacy and communication for stakeholder engagement on Civil registration and Vital (CRV) statistics systems improvement at National and Sub-national levels.</p> <p>Support the documentation of core civil registration and vital statistics business processes for improvement, developing key performance indicators and developing an orientation framework at National and Sub-national levels.</p> <p>Support the department of civil registration to develop a Strategic plan of action for the civil registration and vital statistics system at National level.</p> <p>Implementation, monitoring and evaluation, mobilizing resources and developing change management of civil registration and vital statistics systems performance over time.</p> | <p>Key stakeholders: Civil Registration Service (CRS); County Statistical Offices (KNBS,NCPD), County Commissioners offices; County Government offices; Kenya Ministry of Health (MOH); Ministry of Education Science and Technology (MoEST); Department of Children’s Services;</p> <p>Civil Society Organizations, Development Partners - UNICEF, UNHCR, UNFPA, WHO, UNLIA; County police departments, and religious leaders.</p> <p>Beneficiaries: NTAN Partners, Trans*Alliance, Jinsiangu, TGDI Coalitions/Networks in Kenya.</p> | <p>Restrictive legal and policy frameworks, Compliance risks, risks posed by Manual User Access</p> <p>Management, Risk of Irregular Audit/Access Reviews, insufficient data access controls, improper identity lifecycle management, identity misconfigurations, and privilege abuse can lead to compliance violations, customer privacy breaches, and total business disruption.</p> | <p>Alignment with National CRS Improvement Efforts Strategy.</p> <p>Evidence-based-Strategic Planning.</p> <p>Strategic Litigation to strengthen Legal Identity Jurisprudence.</p> |
| <p>Priorities in Capacity Development, Awareness raising and Training</p> | <p>Support and facilitate intergovernmental working group forums, ensuring inclusive, participatory and representative decision making on UN Legal Identity Agenda and the nexus with TDGI Kenyans.</p> <p>Support capacity development programs for state and non-state actors on governance accountability on UN Legal Identity Agenda and the nexus with TGDI Kenyans</p> <p>Strengthen multi-stakeholder cooperation to enforce non-discriminatory laws and policies on UN Legal Identity Agenda and the nexus with TGD I Kenyans.</p> | <p>Key stakeholders: Civil Registration Service (CRS), County Commissioners’ offices, County Statistical Offices (KNBS, NCPD), County Government offices, Kenya Ministry of Health (MOH), Ministry of Education Science and Technology (MoEST), Department of Children’s Services, Civil Society Organizations, Development Partners, UN organizations (UNICEF, UNHCR, UNFPA, WHO, UNLIA), county police departments, and religious leaders.</p> | <p>Restrictive legal and policy frameworks, Compliance risks, risks posed by Manual User Access Management, Risk Of Irregular Audit/Access Reviews, insufficient data access controls, improper identity lifecycle management, identity misconfigurations, and privilege abuse can lead to</p> | <p>Evidence-based-Strategic Planning.</p> <p>Alignment with National CRS Improvement Efforts Strategy.</p> <p>Strategic Litigation to strengthen Legal Identity Jurisprudence.</p> |

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| | Developing and supporting National and County policies strategies and government reforms on Legal Identity Agenda. | Beneficiaries: NTAN Partners, Trans*Alliance, Jinsiangu, TGDI Coalitions/Networks in Kenya. | compliance violations, customer privacy breaches, and total business disruption. | |
| Priorities in Evidence and Data | <p>Support and Facilitate provision of Legal Identity documentation services and issuance processes,</p> <p>Focusing specifically on the needs of TGDI Kenyans, including access to proof of nationality and/or travel documentation, or other services that may require access to documentation.</p> <p>Strengthening National and County Civil Registration Systems (Integrated Populations Registration Systems) aligning with UNLIA in recognizing the importance of a non-discriminatory life cycle approach to legal identity in recording vital events (civil registration) and identity management (civil identification) for TGDI Kenyans to conform with international standards.</p> <p>Conduct the UN Common Country Analysis (UN CCA) an integrated, forward-looking, and evidence-based analysis of the country context for sustainable development on issues Legal Identity.</p> | <p>Key stakeholders: Civil Registration Service (CRS), County Commissioners' offices, County Statistical Offices (KNBS, NCPD), County Government offices, Kenya Ministry of Health (MOH), Ministry of Education Science and Technology (MoEST), Department of Children's Services, Civil Society Organizations, Development Partner – UN Partners</p> <p>(UNICEF, UNHCR, UNFPA, WHO, UNLIA), county police departments, and religious leaders.</p> <p>Beneficiaries: NTAN Partners, Trans*Alliance, Jinsiangu, TGDI Coalitions/Networks in Kenya.</p> | <p>Restrictive legal and policy frameworks,</p> <p>Compliance risks, risks posed by Manual User Access Management, Risk of Irregular Audit/Access Reviews, insufficient data access controls, improper identity lifecycle management, identity misconfigurations, and privilege abuse can lead to compliance violations, customer privacy breaches, and total business disruption.</p> | <p>Alignment with National CRS Improvement Efforts Strategy.</p> <p>Evidence-based-Strategic Planning.</p> <p>Strategic Litigation to strengthen Legal Identity Jurisprudence.</p> |
| MOZAMBIQUE | | | | |

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| <p>Priorities in Laws and Policy</p> | <p>Hold a national advocacy meeting on legal gender recognition.</p> <p>Carry out an assessment to identify and address the political, legal and structural barriers that limit legal gender recognition.</p> <p>Advocate with parliament to strengthen efforts for legal gender recognition.</p> | <p>Civil Society Organisations - Transformer</p> <p>Government Officials - MGCAS; MJCR; & MINT</p> <p>NHRI</p> | <p>Lack of financial resources; Change of government (Focal Points)</p> <p>Political and legislative gaps to strengthen legal gender recognition</p> <p>Change of Government and Members of Parliament</p> | <p>Strengthened multisectoral technical group and civil society; Strengthened financial resources and Guaranteed continuity or permanence of Focal Points</p> <p>Strengthen the political and legislative approach, through inclusive participation of gender and transsexual and intersex groups</p> <p>Ensure the start of debates to strengthen efforts for legal gender recognition in the parliament of the day.</p> |
| <p>Priorities in Capacity Development, Awareness raising and Training</p> | <p>Offer training on gender identity and sexual orientation for civil servants in order to promote understanding and respect for the rights of the LGBT and intersex population.</p> <p>Hold engagement meetings with community and religious leaders to strengthen understanding and respect for gender diversity.</p> <p>Involving the government in celebrating important dates, such as the International Day against Homophobia, Transphobia</p> | <p>Government</p> <p>Civil Society Organisations</p> <p>NHRI</p> | <p>Linguistic limitations in the local approach to gender diversity</p> <p>Difficulties in identifying important dates on Homophobia, Transphobia to celebrate</p> | <p>Strengthen awareness-raising talks on gender identity and sexual orientation in communities</p> <p>Encourage the use of local languages, with the possibility of using translators with a thorough command of local languages.</p> <p>A survey of all the important dates for celebrating the international day on gender identity and sexual orientation (homophobia, transphobia, etc.).</p> |

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| <p>Priorities in Evidence and Data</p> | <p>Carry out quantitative and qualitative research to collect data on the experiences of the LGBT population in relation to discrimination, violence and access to services. This can include questionnaire surveys and online interviews.</p> <p>Document cases of violation of the rights of the LGBT population and produce a report.</p> <p>Monitor media coverage of LGBT issues and identify cases of hate speech, discrimination and misinformation. This can be done using media analysis and online monitoring tools.</p> | | <p>Difficulty in accessing coherent and accurate answers from the LGBT population on discrimination, violence and access to services, due to poor mastery of these issues</p> <p>Difficulty in collecting accurate and reliable data on the situation of the LGBT population, especially from bodies that receive complaints, claims and petitions</p> <p>Lack of media collaboration in covering LGBT issues</p> | <p>Identify LGBT population with mastery of data to be collected on discrimination, violence and access to services</p> <p>Sensitise the bodies that receive denunciations, complaints and petitions to the need for them to be involved in providing information on cases of violations of the rights of the LGBT population.</p> <p>Call for greater media engagement in coverage of issues related to the LGBT population, namely cases of hate speech, discrimination and misinformation.</p> |
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NAMIBIA

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| <p>Priorities in Laws and Policy</p> | <p>Engage Parliamentary standing committee on Constitutional and Legal affairs on LGR.</p> <p>Engage Ministry of Home Affairs, Immigration, Safety and Security on the Civil Registration & Identification Bill 2023</p> <p>Draft a request / submission to the Law Reform and Development Commission (LRDC) on LGR & enquire about status of the Combating of Discrimination, discriminatory Harassment & Hate speech Bill.</p> | <p>CSO- Positive Vibes; Equal Namibia; Community of Action. Ombudsman Development partners - UNDP</p> | <p>Non-receptiveness to issues raised. Lack of interest & political will Exclusion of transgender narratives in the drafting of the Bill Election year</p> | <p>Ombudsman involvement Approach standing committee on inclusion of LGR in the Bill Ombudsman buy-in since he is an ex officio member of LRDC</p> |
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| <p>Priorities in Capacity Development, Awareness and Training</p> | <p>Sensitizing Parliamentarians on LGR</p> <p>Sensitising department of civil registration on LGR and implementation of existing legal provisions</p> <p>Advocate for /offer training programs for civil registration staff</p> | <p>CSO with UNDP support</p> <p>CSO with Ombudsman support</p> <p>CSO with Ombudsman</p> | <p>Lack of Understanding of the complexities of LGR.</p> <p>Resistance to change due to cultural or personal beliefs.</p> <p>Political Backlash</p> <p>Bureaucratic resistance.</p> <p>Insufficient training for staff on procedures related to LGR.</p> | <p>Educate parliamentarians on the importance and impact of LGR.</p> <p>Involve legal and human rights experts to provide credible information and answer questions.</p> <p>Share personal stories from individuals affected by lack of LGR to humanize the issue.</p> <p>Advocate for /offer training programs for civil registration staff.</p> |
| <p>Priorities in Evidence and Data</p> | <p>Ministry of Health & Social Services data collection on intersex people.</p> <p>Data collection in the Health sector /general population data does not include/reflect gender diverse persons</p> <p>Tracking of human rights violations involving gender diverse persons</p> | <p>Ministry of Health and Social services</p> <p>Civil Society Organisation</p> <p>National Statistics Agency & National Planning Commission</p> <p>Ombudsman Office</p> | <p>May refuse to share information.</p> <p>Lack of/limited financial resources.</p> <p>Lack of coordination and involvement of the trans & intersex community</p> | <p>Use access to information Act/Ombudsman</p> <p>Mobilise from available donors.</p> <p>Campaign to motivate trans/intersex persons to participate</p> |
| <p>SOUTH AFRICA</p> | | | | |
| <p>Priorities in Laws and Policy</p> | <p>Policy brief development including a model Bill based on aspirations and reality. This will include a policy risk assessment grounded in research to establish a baseline</p> <p>Development of in country position papers to support the development of the regional position</p> <p>Setting of minimum standards or package inclusive of diverse areas</p> | <p>National informing regional brief</p> <p>Organizations with National focus.</p> <p>Regional-GDX and UNDP in consultation with SATF, ATN and AIM</p> <p>In country Regional-UNDP and GDX</p> | <p>Anti-gender movement has more funding</p> | <p>Lobby for financial resources</p> |

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| | <p>such as education, health among others</p> <p>Fundraising and donor support</p> | | | |
| <p>Priorities in Capacity Development, Awareness raising and Training</p> | <p>Increasing understanding of officials by way of developing a LGR capacitation strengthening tool including aspects such as: Sensitisation, M&E and measuring success, Inter alia</p> <p>This includes the following: Ministries of Justice, Home affairs, Health, Labour, monitoring and evaluation</p> <p>Focus on Ministers, Deputy Ministers, Personal secretaries, DDG's, judicial officers, legal and policy developers, attorney general/ state advocate, two houses of parliament (i.e. National council of provinces), head of state, state advisors, chapter 9 institutions, human rights institutions (in certain instances these institutions can table legislation directly to parliament), professional bodies and unions, political parties (not limited to)</p> <p>Increasing capacity of Civil Society to engage with government to understand the system in relation to LGR grounded in developing a LGR training and consultation package. This to include digital tools for ACSM i.e.. Resource hub for ease of access to</p> <p>There is a need for coalition networking support at regional and National level</p> | <p>Regional-UNDP, GDX, SATF, ATN and AIM</p> <p>2. National-National based NGO's working with UNDP and GDX</p> | | |
| <p>Priorities in Evidence and Data</p> | <p>Conduct research to develop the language on LGR that reflects the regional dynamics</p> | | | |

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| | Explore to connect African ideas, innovation, research to address gaps connecting LGR to African ideas and innovation i.e. decoloniality Application and system i.e. REACT | | | |
| ZAMBIA | | | | |
| Priorities in Laws and Policy | <p>Engage Zambia Law Development Commission on Guidelines, policies, laws on the change of Sex and Gender markers on Identity Documents for Trans and Intersex to be drafted or amended based on the Case precedence of Hellen Sibanda (intersex case) and the case of Hatch Brill (Transgender case)</p> <p>Engage Government officials on recognition and protection of intersex persons using resolution 552 ACHPR and HRC L9</p> <p>Map and document policies and laws that need to be leveraged for review, reform/ amendment, or repealed.</p> | <p>CSOs, Human Rights Lawyers, Human Rights Commission and UNDP AIM</p> | <p>Public and religious uproar (Misunderstanding from the public and state actors). Limited resources Traditional, cultural and religious beliefs</p> | <p>Sensitization on trans and intersex issues including the impact of social exclusion from not having legal recognition. Source for funding Sensitization of state actors on Intersex issues</p> |
| Priorities in Capacity Development, Awareness raising and Training | <p>Conduct sensitization and awareness raising sessions on trans and intersex rights</p> <p>for Judges, MoHA (Registrar of Births and Deaths, Department of national registration, passport and citizenship, the police and VSU), MoH, Zambia Medical Association, Nursing and Midwifery Council of Zambia, Health Professional Council of Zambia, Zambia Paediatric Association),</p> <p>Ministry of Justice, Gender Division office of the President, Human Rights Commission, Zambia Law Development Commission, Ministry of General Education, Law Association</p> | CSOs and UNDP | <p>Stakeholders not being able to honour the invitations from CSOs Lack of resources Taking the opportunity as a money-making venture rather than building the capacity to support their children Misunderstandings and sensitisation of</p> | <p>CSOs need partnerships with Institutions that government can easily honour their invitation. Build rapport with the different institutions we need to engage. Source for funding Ensure that Media Editors are part of the trainings. Ensure a give and take by providing human interest stories.</p> |

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| | <p>of Zambia, Road Traffic and Safety Agency.</p> <p>Capacity building programmes for parents and guardians</p> <p>Capacity building for Media Houses (print, television, radio and online platforms)</p> | | community issues | |
| Priorities in Evidence and Data | <p>Publishing of Human interest stories and other media publications.</p> <p>Documentation of lived experiences of Trans and Intersex persons</p> | CSOs | <p>Trauma</p> <p>Stigma & Discrimination</p> <p>Community not opening up.</p> | Psychosocial counselling |
| ZIMBABWE | | | | |
| Priorities in Laws and Policy | <p>Intersex position paper on registration interpretation meeting with HRC , Registry and relevant Government departments for the inclusion of transgender stakeholders.</p> <p>UPR recommendation 140.58 follow up on intersex genital mutilation with HRC, MPs and Ministry of Health via constitutional provisions section 52</p> <p>Identification and training of possible litigants for LGR from Intersex persons.</p> | CSO with UNDP support | <p>Exclusion of transgender narratives in terms of understanding the registration needs</p> <p>Total lack of knowledge of the UPR recommendation</p> <p>Fear of litigation / process fatigue of potential litigants</p> | <p>Reference to intersection of trans and intersex identities</p> <p>Unpacking the UPR recommendation to the MPs and Ministry of Health</p> <p>CSO accompaniment and support</p> |
| Priorities in Capacity Development, Awareness raising and Training | <p>Registrar Officials capacity development on Trans and Intersex definition and lived realities as well as other relevant models of LGR from the global south</p> <p>MP Awareness raising on trans and intersex issues and capacity development of SADC MP committees on possible actions towards models of LGR.</p> | | <p>Provision of lower level registration employees for the capacity develop</p> <p>Poor attendance and commitment to the engagement</p> | <p>Specification of participants with decision powers</p> <p>Preparatory engagement with the participants</p> |

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| | Birth and death registration department follow up on supporting name change procedures for trans and intersex persons as per provisions of the act. | | Negative attitude towards name change | Highlighting challenges relating to dead names |
| Priorities in Evidence and Data | <p>Analyse document on birth and death registration acts in the region and documentation of name and gender/sex marker change attempts.</p> <p>Human rights violations of trans and intersex persons highlighting how they are compounded by the state of documentation</p> <p>Data collection on migration and mobility experiences of trans and intersex persons including travel, refugees, and other relevant legal status in foreign countries that still requires national documentation in their country of origin</p> | | <p>Information gaps in counties without specific data</p> <p>Follow up needs of survivors of violations</p> <p>Reluctance of participants to share their experiences</p> | <p>Sampling from similar contexts</p> <p>Utilization of referral systems and drawing largely on already existing data</p> <p>Using trusted institutions and safe spaces for data collection</p> |

Countries are at different levels of appreciating the urgency for legal and policy reform to enable legal gender recognition for intersex and transgender persons. One of the limitations with the development of specific country priority actions was the lack of commitment in addressing specific legislative provisions that are a barrier to accessing legal gender recognition. Participants expressed that there is a need for extensive advocacy and education on intersex and transgender rights especially to the legislature and decision makers, health professionals, census authorities and ministries of home affairs. They also emphasised on the need for data generation and inclusion in the census in order to inform policy and legal reform.

Closing Remarks



Photo: Madzhie L. Muthevuli | UNDP.

The meeting was officially closed by the Honourable Member of Parliament Steve Letsike (Deputy Minister of Women, Youth and Persons with Disabilities) on the 21st June 2024. In her closing she apologised for missing the opening session, which coincided with the work commitments in Cape town.

- She welcomed participants to South Africa and to this first regional meeting that brought together diverse countries to discuss important policy and legal issues that relate to advancing the human rights of trans and intersex persons in Africa, particularly their right to LGR.
- She reflected on her role as the founder and Executive Director of Access Chapter 2 and how as a Member of Parliament in-waiting of the parliament of South Africa, will continue to advocate for gender and sexually minority groups including those in the margins to be prioritised and included in policy making processes.
- She appreciated the presence of government representatives from different countries and community members from the trans and intersex communities coming together to collectively develop interventions that protect the human rights of trans and intersex persons.

- Highlighted that this initiative comes at a crucial time when regional human rights bodies in the region and globally have adopted interventions and recommendations for governments to protect the human rights of trans and intersex persons.
- In March 2023, the African Commission on Human and Peoples' Rights adopted resolution 552 on the protection and promotion of the human rights of intersex persons in Africa. One of the recommendations is for states to provide legal recognition to intersex persons. Recently, in April 2024, the United Nations Human Rights Council adopted a resolution on combating discrimination, violence and harmful practices against intersex persons. The resolution recognises that intersex persons face restrictions in exercising their legal capacity. The African Commission has adopted resolution 275 on the protection against violence and other human rights violations against persons on the basis of their real or imputed sexual orientation or gender
- All these fundamental human rights standards are grounded in international and regional human rights law.
- She highlighted that it is important to provide LGR to trans and intersex persons. Without legal recognition trans and intersex persons do not have legal identity. With no legal identity trans and intersex persons face discrimination and exclusion from accessing their socio-economic human rights. They are denied their right to health, employment, education, housing, social security etc. There is also lack of civil administrative process which allow trans and intersex persons to change their names and gender markers.
- Government officials were reminded that it is their duty and state obligation to ensure that measures are put in place to protect, promote and fulfil these human rights at a national level. *"It is your duty to provide legal gender recognition"*. However, communities also play a central role in collaborative efforts to ensure that the measures you develop are responsive to their needs.
- She hoped that the past few days have been fruitful and participants were able to learn from one another and shared different perspectives and approaches on advancing legal gender recognition for trans and intersex persons. The platform provided by UNDP and GDX has enable cross pollination of ideas, explored challenges and gaps from the different country contexts present at the meeting .
- In closing she emphasized that the concrete outcomes from this meeting have assisted in developing and shaping regional strategies and country action plans that will advance the right to legal gender recognition within the region. She committed to also use the new role that has been entrusted in her in the legislature to continue to champion the human rights of trans and intersex persons in SA and across the region.

Annexure 1: CSO Pre-Meeting Outcomes

The civil society organisation pre-meeting was held on 18 June ahead of the main meeting. The pre-meeting provided an opportunity to the CSOs to express themselves freely and to capture and highlight all the themes they want addressed at the main meeting. The pre-meeting was opened, and participants were welcomed by Senelisiwe Ntshangase from UNDP's #WeBelongAfrica programme and Liberty Matthyse from Gender Dynamix.

Participants were placed in working groups according to the language they speak in to foster better discussions and engagements.

Brief contextual analysis of the legal and policy environment in countries:

Presenters from the various groups provided a brief contextual analysis of the legal and policy environment in their countries. They also highlighted on the approach(s) they have used to engage their government and how relevant is it in the region to advance LGR of trans and intersex persons.

Angola and Mozambique:

In Angola and Mozambique, there is a significant lack of information and knowledge on LGR issues, leading to elevated levels of police violence, particularly against trans and sex workers. This lack of awareness infringes on the rights of KPs. Additionally, the laws in these countries do not specifically address trans and intersex issues which is often used against trans individuals under the guise of ignorance. The lack of education perpetuates a harmful cycle. Service providers often conflate being trans with being gay, resulting in discrimination and stigma, with some accusing trans individuals of seeking attention. Resultingly, trans people do not have access to public services.

Laws regulating name changes are not specific to trans or intersex people, making the process tough. Individuals must write a letter to the relevant minister, who may accept or deny the request. In Mozambique, female trans individuals cannot choose female names; instead, they must select gender-neutral names.

There are no resources or rights for gender reconstructive surgeries in Angola: intersex individuals are encouraged to undergo surgeries at an early age as it is considered "easier" to change their bodies then. Furthermore, there are no mental health facilities for KPs and no statistics on LGBTI-related issues are available.

Namibia and Eswatini:

The trans community faces significant challenges due to various legal and societal issues and the presence of sodomy laws affects this community, creating a major issue. Additionally, immoral laws falsely accuse trans individuals of impersonation, further marginalizing them. Non-discrimination is not explicitly stated in the constitution, allowing people to exploit this loophole for discrimination and stigma. Additionally, there is a lack of facilities to address LGR issues, such as removing one's old name when changing their sex on legal documents, leading to confusion and inadequate support. The absence of facilities to assist with transitioning further exacerbates these difficulties. Trans people, along with gay and lesbian individuals, are the most affected,

often targeted for attacks due to the lack of explicit legal protections. Allies also face risks and feel unsupported.

Despite paying taxes, trans individuals are told that there is no budget for their issues within the government. Moreover, gender-based violence (GBV) cases are on the rise because education on this topic does not extend to the LGBTI community, which is not recognized within the law, limiting the assistance they receive. Healthcare presents a significant barrier to LGR-related issues, despite existing gender-affirming laws. The question arises: why should individuals contribute to the GDP of a country that neglects their needs?

Zambia, Zimbabwe, and Côte d'Ivoire:

In Côte d'Ivoire, there are no laws addressing trans and intersex issues. The legal framework currently focuses on cultural diversity but lacks explicit provisions for gender and sexual diversity leading to significant silencing of these topics. However, there is considerable information available regarding HIV and same-sex marriage. In Zambia, some laws and policies provide for non-discrimination, but they are specific to sex rather than gender and anti-sodomy laws still exist. In Zimbabwe, a protocol for gender-affirming healthcare was shut down as it was not deemed a priority. As Mphatso Sakala from Zambia pointed out, "we can't talk about LGR while intersex issues are not addressed."

The Gender and Equity Act focuses on SRHR issues, and there are HIV programs addressing KPs. Additionally, provisions exist within the GBV Act, and there has been progress in terms of Universal Periodic Review participation. Opportunities arise from HIV programs to combat these issues. There is a pressing need to use local African languages when addressing these topics to ensure better understanding and engagement.

South Africa, Lesotho, and Tanzania:

From medical, social, and legal perspectives, trans and intersex people face significant challenges due to a lack of evidence, data, and adequate legal support. In Tanzania, the penal code still exists, and the pathologization of identities leads to the denial of services for trans and intersex individuals, severely limiting medical support. Strong bureaucratic systems within many countries hinder the implementation of human rights for these KPs. Accessibility issues arise when trying to obtain policy documents and resources meant to advance their health and rights. Additionally, there is inconsistency and unfairness in the treatment of trans people across the different countries, with limited information available from each nation. When individuals attempt to change their gender markers, their mental capacity is often unfairly questioned, posing further challenges to their mental well-being.

Vision of the future and strategies for change:

This session allowed the participants to focus and highlight the vision of the future and the strategies for change they wish to see.

Angola and Mozambique:

- It is important for the state to socially recognize trans people through accurate and comprehensive statistics.

- Implementing specialized health services for trans and intersex individuals is crucial, including access to various health professionals like psychologists to help them navigate their transition.
- Financing these initiatives is essential, and governments should collaborate with partners to ensure accountability and to fulfil their promises.

Namibia and Eswatini:

- It is crucial to implement the correct legal mechanisms which will ensure that trans and intersex individuals receive proper recognition and services. This includes creating more employment opportunities for trans and intersex people.
- There is a need for law reform and new policies that explicitly allow for self-determination. Sensitization of various sectors such as health, banking, and others through education and engagement is critical and this can be done by engagement with other African countries that have such policies in place.
- Collaborate with UN agencies to leverage their powerful voice and better relations with the government to advocate for the rights of trans and intersex individuals.
- Engage parents of trans and intersex children, as they can be vital advocates for change and help drive the movement forward.
- Working with national and regional human rights organizations to strengthen the advocacy efforts and ensure that trans and intersex individuals are protected under the law.

Zambia, Zimbabwe, and Côte d'Ivoire:

- Self-determination should be supported with clear guidelines to ensure that trans and intersex individuals can make informed decisions about their identities.
- Gender and sex markers on documentation are unnecessary and non-functional, except in certain medical contexts. There is a proposal for the development of a document designed to facilitate easier travel for trans and intersex people. However, until this is reached, it is important to understand that having documentation that does not match the person gender creates real life issues.
- Excluding the "T" from LGBTI undermines the identity, issues, and importance of the trans community within the broader LGBTQI+ spectrum.
- It is important to recognize that KPs are part of the economy and therefore should fully enjoy the services they pay for.
- In the education system and voting processes, many trans and intersex people face barriers due to discrepancies between their appearance and the gender markers on their IDs, often leading to discrimination which discourages them from exercising their right education and to vote.
- Collaborations with national and international human rights commissions, as well as other civil societies are crucial for amplifying the voices and concerns of these communities.
- Positive visibility at the community level is essential, with an emphasis on documenting and sharing success stories of trans and intersex individuals to counterbalance the negative narratives often prevalent. Ground mobilization is vital, involving not only trans and intersex individuals but also their parents and guardians, who can serve as powerful allies in advocating for their rights and well-being.

South Africa, Lesotho, and Tanzania:

- Promoting self-determination as a model is essential for empowering trans and intersex individuals.
- It is important to question the necessity of gender markers on legal documents and consider whether they are truly needed.
- Establishing *Standard Operating Procedures* can guide various governments in developing more inclusive laws. The school curriculum should be inclusive of the trans and intersex community to foster understanding and acceptance from an early age.
- Community work is vital for strengthening the community voice and highlighting the lived experiences of trans and intersex individuals. Efforts should include collaboration with rural chiefs, to ensure broader support. Intersectionality in the work done is crucial to ensure it is more inclusive and addresses the diverse needs of the trans and intersex community.

Annex 2: Programme Agenda

Promoting Legal Gender Recognition for Transgender and for Intersex Persons: A Focus on Policy and Law Reform in the Sub-Saharan Africa Region. 19-21 June 2024

Venue: Capital on the Park Sandton, Johannesburg South Africa

| Time | Activity | Presenter | |
|-----------------------------------|--|--|---|
| Day one – 19 June 2024 | | | |
| Session 1: Opening Session | | Session Moderator: Sneli Ntshangase | |
| 08:30–09:00 | Registration | UNDP | Nolo and Lesego. |
| 09:00-10.30 | Welcome | | UNDP |
| | Security briefing | UNDSS | UNDSS |
| | Welcome Remarks (Moved to closing) | | |
| | Remarks from GDY – Regional LGR Initiative | GDY - ED - Liberty Matthyse | Presentation: Contextualizing LGR approaches and advances within GDY and lessons learned informing regional strategies |
| | Meeting Objectives | UNDP | Presentation: What the meeting expects to achieve by the end of 2.5 days. |
| | Introduction of Participants | UNDP | In pairs participants will introduce each other's name; share one thing they should know about you; two expectations on post it notes or cards. |
| | Introduction to WeBelongAfrica Programme | UNDP (<i>Mesfin Getahun</i>) | Presentation: Contextualizing LGR within the WBA work |
| 10:30 – 10:45 Health Break | | | |

| Session 2: Setting the Scene: International Frameworks Protecting the Rights of Intersex and Transgender Persons | | | |
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| 10:45- 13:00 | Conceptualizing Legal Gender Recognition for Transgender and intersex persons | UNDP Tapiwa Mamhare | Presentation: will cover concepts; what LGR is and how it impacts the community? |
| | International and Regional Human Rights Frameworks including Resolution 552 and 275 | UNDP Monica Tabengwa | Presentation: What is the place of LGR in international human rights law? Treaties, Conventions, Soft Law Standards, Work of Human Rights Mechanisms etc. |
| | Discussions | | |
| 12:30 – 13:30 Lunch Break | | | |
| Session 3: Legal and Policy environment in the Region | | | |
| Moderator: Liberty Matthyse | | | |
| 3:30 – 14:30 | Legal and Policy Landscape – Structural barriers to accessing LGR in the region and sharing of best practices (Regional Overview). | Gender DynamiX Khanyisile Philips | Presentation: will cover structural barriers for trans and intersex persons on accessing LGR in the region. |
| Session 4: Voices from the Community – Panel Discussion | | | |
| 14:30 - 15:30 | Experiences from the Community – Transgender and Intersex experiences. | CSOs - Country Led | Panel Discussion. What is the human rights situation and lived experience of your community in your country? What does LGR mean to you in your country? What is the impact of lack of LGR on accessing rights and freedoms for your community? |
| 15:30 – 15:45 Health Break | | | |
| Voices from the Community – Regional Perspective - Panel Discussion | | | |

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| 15:45 – 17:00 | Regional LGR Advocacy and CSO led Interventions and Opportunities. | Gender DynamiX | Facilitated panel discussion focused on lessons learned from regional advocacy interventions focusing on issues of (i) navigating safety and security (ii) accountability mechanisms and strategies to monitor progress (iii) the role of cross-movement dialogues for furthering LGR and GAHC |
| | South African Transgender Forum (SATF), African Transgender Network (ATN) Inclusive and Affirming Ministries (IAM) African Intersex Movement (AIM) | Sam Ndhlovu Bronnie Ivy Mphatso Sakala | |
| | Reflections and Discussions | | |

End of day one

Day Two: 20 June 2024

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| 9:00 – 09:30 | Reflections on Day One | Moderator: Tapiwa Mamhare |
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Session 5: Gender Affirming Health Care and SRHR

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| 09:30 – 10:30 | Introduction to Gender Affirming Health Care: A Policy Matter. Why it's important for transgender and intersex persons & How LGR enables access to SRHR. Discussions | GDX- Dr Mmamontsheng D Rakumakoe | Presentation: What is gender affirming healthcare? Why is it important for trans and intersex persons? What is the importance of protecting and promoting the right to LGR for trans and intersex persons? |
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10:30- 10:45 Health break

Session 6a: Lessons Learned from Other Regions

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| 10:45 - 11:05 | Legal Gender Recognition – Experiences and Lessons Learned on Law and Policy Reform from South and South - East Asia | UNDP Regional Office Bangkok - Kathryn Johnson | Presentation: Experience from a UNDP country office on supporting Pakistan, Thailand, and Vietnam on LGR reform processes. What can we learn from other regions |
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| 11:05 - 11:30 | <i>Protective Legislation for Sexual and Gender Minorities - Malta Experience</i> | Ruth Baldacchino Gender Justice Expert & Independent Consultant | Presentation: Focus on the GIGESC Act. In what way does this law provide act as a best practice on protection and promotion of the right to LGR? |
| 11:30 -11:45 | Discussions | | |
| Session 6b: Lessons Learned from Other Countries in <i>the</i> SADC Region | | | |
| 11:45- 13:00 | Legal Gender Recognition through Courts – | | Panel discussion Background on litigation in this case. What key issues were raised in the case? What does it mean for the region in terms of legislative and administrative pathways for protecting the right to LGR? |
| | Botswana Case Study | UNDP- Monica Tabengwa | |
| | Zimbabwe Case Study | TREAT ED Sam Ndhlovu | |
| | Advocacy for LGR using Policy Briefs lessons from Lesotho + law case. | Matrix ED - Tampose Mothopeng | |
| | Discussions | | |
| 13:00 – 14:00 Lunch Break | | | |
| Session 7: Country Reflections Panel discussion – led by Government Official: Presentations on current Legal and Policy framework. What exists; Opportunities & Successes – what has worked? | | | |
| Moderator: Johanne Kehler | | | |
| 14:00 –15:00 | Angola, Mozambique Cote d' Ivoire Democratic Republic of Congo Discussions | Government Officials | Panel discussion – led by Government Officials. Each presentation will focus on current Legal and Policy framework. What exists; Opportunities & Successes – what has worked? |
| 15:00 – 15:15 Health Break | | | |

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| 15:15 -16:30 | Eswatini Kenya Namibia Zambia Zimbabwe Discussions | Government Officials | Panel discussion – led by Government Officials: Presentation on current Legal and Policy framework. What exists; Opportunities & Successes – what has worked? |
| 16:30 - 17:00 | Reflections on Country Presentations– Emerging themes: opportunities. Group Work | Technical Summary by TM/LM | Presentation and discussions |
| Close of Day | | | |
| Organizers review of Day 1 & 2 | | | |

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| Day Three - 21 June 2024 | | | |
| 9:00 – 09:30 - | Reflections over the Day Two | Session Moderator Sneli Ntshangase | |
| Session 8: Strategy Development | | | |
| 09:30 – 10:30 | Country groups discuss and present opportunities for policy and Legal reform; Country support required to advance LGR. | UNDP | Discussion and presentations: Country groups reflect on the two days and identify emerging issues from discussions, gaps, and challenges. Identify opportunities around legal and policy reform (enacting, amending, or repealing existing laws if any etc. and other policy initiatives) including support required from the Region |
| 10:30 – 10:45 Health Break | | | |
| 10:45 – 11-45 | Country Presentations | Country | Presentations: Country groups identify emerging themes from day two. Groups to identify any gaps, challenges. Identify opportunities around legal and policy reform (enacting, amending, or repealing |

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| | | | existing laws if any etc.) policy initiatives. |
| 11:30 - 12:30 | Consensus Building on Regional Strategy for engaging on LGR as a collective and next step. | UNDP | Discussion |
| 12:30- 13:00 | Evaluation | UNDP | Reflections over the 3 days. |
| | Official closing by the Hon Steve Lestike: - Deputy Minister in the Presidency for Women, Youth and Persons with Disabilities. | | |
| 13:00 - Lunch and Departure | | | |