



## **Submission to the Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity by the People's Matrix, the Seinoli Legal Centre and the International Commission of Jurists.**

This Joint Submission is responding to the "[Call for input to thematic report to HRC62: Violence and discrimination experienced by lesbian, bisexual, and queer \(LBQ\) women](#)", in preparation for the thematic report on violence and discrimination experienced by lesbian, bisexual, and queer (LBQ) women worldwide that the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity will present at the 62<sup>nd</sup> session of the Human Rights Council (June 2026).

### **Introduction**

The submission provides a snapshot of broad concerns about new laws and developments between 2023 and 2025 in Burkina Faso, Kenya, Mali, Niger, Tanzania and Uganda, as well as a substantive overview of the specific concerns around the treatment of LBQ women in Lesotho. The concerns outlined with respect to Lesotho are drawn from district-level consultations with LBQ women across the country and document systemic violence and discrimination experienced by LBQ women in a context where consensual same-sex sexual conduct is not criminalized and, yet protection remains absent.

#### **1. Burkina Faso**

On 1 September 2025, Burkina Faso's Transitional Legislative Assembly passed a law making consensual same-sex sexual conduct a criminal offence.<sup>1</sup> Under this new law, people found "guilty of homosexuality" could face sentences of two to five years in prison, as well as fines. This law was passed by an unelected military authority. Until this law was passed, Burkina Faso did not have a law criminalizing consensual same-sex sexual relations and, at independence, the country did not inherit a colonial penal code that made sodomy a criminal offence like many other former colonies.

#### **2. Lesotho**

This submission draws on a district-level consultation process conducted with LBQ women and gender-diverse people across multiple districts in Lesotho,

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<sup>1</sup> <https://www.hrw.org/news/2025/09/03/burkina-faso-criminalizes-same-sex-conduct>

documented in the attached report, Annex 1: LBQ Advocacy Priorities Report - Lesotho (2025). While this submission reflects patterns identified across districts, it does not claim to represent all LBQ women in Lesotho. Instead, it offers credible, situated insights into how violence and discrimination are produced and sustained in everyday life. This submission affirms that violence and discrimination against LBQ women are systemic, gendered, and deeply rooted in everyday institutions. LBQ women in Lesotho are not only surviving these conditions but actively articulating solutions grounded in lived experience.

In Lesotho consensual same-sex sexual conduct between women is not criminalized, yet LBQ women experience pervasive and often extreme forms of violence, discrimination, and institutional neglect. These harms are shaped by intersecting systems of patriarchy, religious conservatism, economic precarity, rural isolation, and weak accountability mechanisms. The experiences documented in this submission underscore that legal neutrality alone does not guarantee safety or dignity for LBQ women.

#### *Key Challenges, Barriers, and Forms of Violence Affecting LBQ Women*

##### *1. Violence Across Multiple Sites of Daily Life*

LBQ women in Lesotho experience violence and discrimination across interconnected institutional and social spaces, including:

- 1.1 Families, where LBQ women face rejection, eviction, coercion into heterosexual relationships, and threats of sexual violence.
- 1.2 Educational institutions, where participants reported verbal harassment, public humiliation, threats of expulsion, and abuse by teachers and school authorities.
- 1.3 Healthcare systems, where discrimination, denial of care, breaches of confidentiality, and degrading treatment discourage LBQ women from seeking medical services.
- 1.4 Religious institutions, which frequently function as sites of spiritual abuse, labelling LBQ identities as sinful, demonic, or in need of "correction".
- 1.5 Law enforcement, where mistrust and fear of secondary victimisation lead to widespread underreporting of violence.

These harms are not isolated incidents but patterned and systemic, reinforced by silence, impunity, and social normalisation.

##### *2. Forms of Violence Specific to LBQ Women*

The consultations highlighted forms of violence that are distinct from those experienced by heterosexual women or gay men, including:

- 2.1 Threats of corrective rape, including from male family members, particularly in rural districts.

- 2.2 Gendered moral policing, targeting LBQ women's bodies, clothing, and relationships.
- 2.3 "Spiritual violence", including forced prayer, exclusion from religious spaces, and framing LBQ identities as evidence of moral failure.
- 2.4 Invisibility in policy and protection frameworks, where LBQ women fall between women's rights and LGBT rights agendas.

Transgender women, who identify as lesbian or bisexual, reported heightened exposure to harassment, healthcare discrimination, and economic exclusion.

#### *Systemic and Structural Drivers of Violence and Discrimination*

##### *3. Economic Marginalization*

Economic precarity emerged as a central driver enhancing the risk of human rights violations or abuses. LBQ women reported:

- 3.1 High unemployment and workplace discrimination;
- 3.2 Exclusion linked to gender expression;
- 3.3 Dependence on hostile family or partner structures;
- 3.4 Inability to leave abusive environments due to lack of income;  
Economic insecurity increases exposure to violence and limits access to justice, healthcare, and housing.

##### *4. Religious and Cultural Norms*

Religious institutions play a powerful role in shaping social attitudes. Participants consistently identified churches as sources of stigma, moral condemnation, and "spiritual abuse". Narratives based on religious and cultural norms legitimize family rejection and community violence, while leaving LBQ women without spiritual or social support.

##### *5. Weak Accountability and Protection Mechanisms*

While Lesotho's Constitution guarantees the rights to dignity and equality, LBQ women experience little meaningful protection in practice. Gaps include:

- 5.1 5.1 A lack of SOGIESC-sensitive policies in schools and healthcare facilities;
- 5.2 Absence of safe reporting mechanisms for violence;
- 5.3 Limited access to legal remedies;
- 5.4 Minimal oversight of institutional abuse.

As a result, violence against LBQ women is rarely documented, challenged, or punished.

##### *6. Daily Life and Survival Strategies*

Daily life for LBQ women in Lesotho is shaped by constant negotiation between visibility and safety. Participants described undertaking the following steps for reasons of safety: concealing identity to avoid harm; modifying attire or behaviour in public spaces; avoiding healthcare unless in crisis; relying on

informal peer networks for survival. While these strategies demonstrate resilience, they also carry long-term emotional and physical costs.

## *7. Intersectional Experiences and Risks*

LBQ women's experiences are shaped by intersecting factors, including:

- 7.1 Geography: rural LBQ women face intensified stigma, isolation, and lack of services.
- 7.2 Age: younger LBQ women are particularly vulnerable within schools and family homes.
- 7.3 Gender identity: transgender women face heightened discrimination and violence.
- 7.4 Economic status: poverty amplifies exposure to abuse and limits exit options.
- 7.5 Bisexual women reported pressure to conform to heterosexual relationships as a survival strategy, leading to invisibility and erasure of their specific needs.

## **3. Kenya**

In Kenya, consensual same-sex sexual conduct is criminalized under the Penal Code. However, the Supreme Court has recently affirmed the right for LGTBIQ+ organizations to register.<sup>2</sup> Nonetheless, societal views remain conservative, and there are strong anti-LBQ sentiments that fuel discrimination, intolerance and violence.<sup>3</sup>

## **4. Mali**

Mali's Transitional National Council passed a law on 31 October 2024 that makes "homosexuality" a criminal offence.<sup>4</sup> The legislation will intensify the risk of stigma, discrimination and violence against LBQ people throughout the country. This law was passed by an unelected military authority.

## **5. Niger**

In Niger, consensual same-sex sexual conduct is not illegal. However, the ruling military junta is utilising a "public indecency" law to prosecute people on the grounds of their real or perceived same-sex sexual orientation.<sup>5</sup> In 2025, two women who were perceived to be lesbians were prosecuted for "public indecency".<sup>6</sup> The prosecutor requested their imprisonment for three years and to

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<sup>2</sup> [https://khrc.or.ke/press-release/supreme-court-reaffirms-lgbtqis-right-to-association/#:~:text=Kenya's%20apex%20court%20today%20reaffirmed,NGLHRC\)%20has%20the%20registration%20right](https://khrc.or.ke/press-release/supreme-court-reaffirms-lgbtqis-right-to-association/#:~:text=Kenya's%20apex%20court%20today%20reaffirmed,NGLHRC)%20has%20the%20registration%20right).

<sup>3</sup> <https://galck.org/>

<sup>4</sup> <https://www.human dignitytrust.org/country-profile/mali/>

<sup>5</sup> <https://www.equaldex.com/region/niger>

<sup>6</sup> <https://76crimes.com/2025/08/11/acquittal-of-2-lesbians-in-niger-leads-to-uproar-over-judicial-independence/>

have them fined. However, the judge sitting presiding over the case acquitted the women for lack of evidence. Soon after, the judge was demoted for this decision. The demotion was viewed by some as an attack on judicial independence and highlighted the tension judges face between following the law and responding to cultural sensitivities and public opinion.

## **6. Tanzania**

Tanzania criminalizes consensual same-sex sexual conduct under its Penal Code; the offence carries a maximum penalty of life imprisonment.<sup>7</sup> Both men and women are criminalized under the law. Tanzania has a history of strictly enforcing the criminalization of consensual same-sex sexual conduct.<sup>8</sup> In addition to the law being enforced, there are consistent reports of discrimination and violence being committed against LBQ people, including murder, assault, harassment and denial of basic rights and services.

## **8 Uganda**

The Ugandan authorities are responsible for widespread discrimination and violence against LBQ people, their families, and their supporters since the enactment of the Anti-Homosexuality Act (2023). The Anti-Homosexuality Act (AHA) is one of the most extreme anti-LGBTI laws in the world both in scope and penalties. Uganda's President, Yoweri Museveni, approved the Act on 30 May 2023.<sup>9</sup> Among other things, the AHA introduces an offence of "aggravated homosexuality", making those convicted liable to capital punishment. In December 2023, human rights groups filed a petition in the country's Constitutional Court to challenge the constitutionality of the Act. The petitioners argued that the law violates rights guaranteed by Uganda's Constitution, including freedom from discrimination and the rights to privacy, as well as to freedom of thought, conscience and belief. Uganda's Constitutional Court, however, largely dismissed the petitioners' challenge, refusing to strike down most of the Act<sup>10</sup>.

## **Recommendations for States and Other Stakeholders**

We refer to *The 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty*, and in particular to Principles 16 and 18, in respect of all of the concerns raised in this submission.<sup>11</sup>

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<sup>7</sup> <https://www.human dignitytrust.org/country-profile/tanzania/>

<sup>8</sup> <https://76crimes.com/2025/10/02/report-anti-lgbt-laws-tanzanians/>

<sup>9</sup> <https://www.icj.org/wp-content/uploads/2024/06/ICJ-EJK-Submission-Killing-of-LGBTI-persons.pdf>

<sup>10</sup> On 3 April 2024, the Court largely dismissed the petitioners' challenge to the AHA, albeit it did strike down certain provisions pertaining to: restricted access to housing and healthcare for "homosexual people" pursuant to the criminalization of renting premises to them (s 9 and 11(2)(d)); the creation of an obligation to report alleged "acts of homosexuality" (s 14) and the criminalization of transmission of a "terminal illness" as a result of a "homosexual act" (s 3(2)(c)).

<sup>11</sup> [https://www.icj.org/wp-content/uploads/2023/03/Principles-Report\\_English.pdf](https://www.icj.org/wp-content/uploads/2023/03/Principles-Report_English.pdf)

The Principles are based on general principles of criminal law and international human rights law and standards. They seek to offer a clear, accessible and workable legal framework – as well as practical legal guidance – on applying the criminal law to conduct associated with:

- sexual and reproductive health and rights, including termination of pregnancy; consensual sexual activities, including in contexts such as sex outside marriage, same-sex sexual relations, adolescent sexual activity and sex work;
- gender identity and gender expression;
- HIV non-disclosure, exposure or transmission;
- drug use and the possession of drugs for personal use; and
- homelessness and poverty.

These principles are useful in mitigating the detrimental human rights impact of misapplied criminal laws.

### **PRINCIPLE 16 – CONSENSUAL SEXUAL CONDUCT**

Consensual same-sex sexual conduct, irrespective of the type of sexual activity, the sex/gender, sexual orientation, gender identity or gender expression of the people involved or their marital status, may not be criminalized in any circumstances. Consensual same-sex, as well as consensual different-sex sexual relations, or consensual sexual relations with or between trans, non-binary and other gender- diverse people, or outside marriage – whether pre-marital or extramarital – may, therefore, never be criminalized.

With respect to the enforcement of criminal law, any prescribed minimum age of consent to sex must be applied in a non-discriminatory manner. Enforcement may not be linked to the sex/gender of participants or age of consent to marriage.

Moreover, sexual conduct involving persons below the domestically prescribed minimum age of consent to sex may be consensual in fact, if not in law. In this context, the enforcement of criminal law should reflect the rights and capacity of persons under 18 years of age to make decisions about engaging in consensual sexual conduct and their right to be heard in matters concerning them. Pursuant to their evolving capacities and progressive autonomy, persons under 18 years of age should participate in decisions affecting them, with due regard to their age, maturity and best interests, and with specific attention to non-discrimination guarantees.

### **PRINCIPLE 18 – SEXUAL ORIENTATION, GENDER IDENTITY AND GENDER EXPRESSION**

No one may be held criminally liable for conduct or status based on their gender identity or gender expression. This includes gender identities and forms of gender expression that are perceived not to conform to societal expectations or norms relating to gender roles, the sex assigned to a person at birth or a male-female binary, among others.

No one may be held criminally liable for consensual practices aiming to assist others with the exploration, free development and/or affirmation of sexual orientation or gender identity, unless there was force, coercion, fraud or medical negligence, or a lack of free and informed decision-making on the part of the person concerned.

Practices aiming to change or suppress a person's sexual orientation, gender identity or gender expression carried out without the concerned person's free and informed consent and decision-making, including through force, coercion or abuse of authority, may be addressed through other provisions in the criminal law.

## **For Burkina Faso**

To repeal the new law, as it relates to LBQ persons and to remove all laws seeking to criminalize consensual same-sex sexual activity.

## **For Kenya**

To create an enabling environment for LGBTIQ+ organizations to operate following the Supreme Court decision.

To repeal all laws seeking to criminalize consensual same-sex sexual activity.

## **For Lesotho**

1. Integrate LBQ women explicitly into laws, policies, and protection frameworks addressing gender-based violence.
2. Guarantee access to safe, affirming healthcare including SRHR and mental health services through institutional practices that address stigma, confidentiality breaches, and exclusion experienced by LBQ women in practice.
3. Strengthen accountability mechanisms within schools, healthcare systems, and law enforcement by establishing reporting, oversight, and remedies that are accessible and responsive to the realities of LBQ women.
4. Support and resource community-led initiatives, including grassroots LBQ organisations and informal collectives, as essential protection and survival mechanisms in contexts where state systems remain inaccessible or unsafe.
5. Address economic marginalization through inclusive employment and livelihood programs.
6. Engage faith institutions to challenge harmful narratives and support inclusion.

## **For Mali**

To repeal the new law,<sup>12</sup> as it relates to LBQ persons and to remove all laws seeking to criminalize consensual same-sex sexual activity.

## **For Niger**

To repeal all laws seeking to criminalize consensual same-sex sexual activity.

## **For Tanzania**

To repeal all laws seeking to criminalize consensual same-sex sexual activity.

## **For Uganda**

To repeal all laws seeking to criminalize consensual same-sex sexual activity and to immediately cease use of the death penalty for such offences.

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<sup>12</sup> The Personal and Family Code <https://www.amnesty.org/en/location/africa/west-and-central-africa/burkina-faso/report-burkina-faso/>

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