

January 31, 2024

Mr. Graeme Reid
Office of the United Nations High Commissioner for Human Rights
CH 1211 Geneva 10
Switzerland

Submitted via hrc-ie-sogi@un.org

Dear Mr. Reid:

We are grateful for the opportunity to provide input to inform the Independent Expert’s forthcoming report on protection against violence and discrimination based on sexual orientation and gender identity (SOGI) concerning the human rights to freedom of expression, association, and assembly.

The undersigned are scholars affiliated with the Williams Institute at UCLA School of Law—an interdisciplinary research center dedicated to conducting rigorous and independent research on sexual orientation and gender identity, including on the lived experience and well-being of lesbian, gay, bisexual, transgender, and intersex (LGBTI) people around the world. Central to our research is analyzing the impact of global developments, such as rising authoritarianism and restrictions on civil society, on human rights and legal protections of LGBTI persons.

We are pleased to submit this comment answering your call for input on trends concerning laws, policies, and practices that unlawfully restrict, explicitly or implicitly, freedom of expression, association, and peaceful assembly based on SOGI. This comment draws on the findings of a recent report by the Williams Institute examining the association between democratic backsliding and social acceptance of LGBTI people.¹ Using data from the Varieties of Democracy (V-Dem) Institute and the LGBTI Global Acceptance Index, which measures changes in acceptance of LGBTI persons across 175 countries over 40 years, this report finds strong evidence that attacks on LGBTI people and their rights can signal a broader backsliding of democratic norms and institutions. Below, we highlight four country cases from the study—Indonesia, Brazil, Poland, and Ghana—to illuminate the complex dynamics at play when deploying anti-LGBTI rhetoric and policies in the context of democratic weakening, with clear impacts on the freedoms of expression, association, and peaceful assembly.

- 1. Does your country have any laws, policies, or practices that, explicitly or implicitly, ban, restrict or make more challenging the exercising of freedom of expression by civil society organizations or activists advocating for LGBT persons’ human rights?*

Williams Institute research found several examples of policies and practices at the country level that infringe on the freedom of expression of LGBT civil society organizations and activists. In Indonesia, the government revised the 2016 Electronic Information and Transactions Law and used it to block websites that the government considered “too radical,” including those with LGBT-related content.² The Ministry

¹ Andrew Flores, Miguel Fuentes, and Ari Shaw, “Democratic Backsliding and LGBTI Acceptance” (Los Angeles: The Williams Institute, September 2023), <https://williamsinstitute.law.ucla.edu/publications/dem-backsliding-gai/>.

² ICJR, “Response to the Revision of Information and Electronic Transaction Law (ITE Law): Five Crucial Issues in the ITE Law That Threaten Freedom of Expression in Indonesia,” *ICJR* (blog), October 28, 2016, <https://icjr.or.id/response-to-the-revision-of-information-and-electronic-transaction-law-ite-law-five-crucial-issues-in-the-ite-law-that-threaten-freedom-of-expression-in->

of Communication and Information blocked social networking applications used by the LGBT community, claiming they promoted “sexual deviance,”³ and the National Broadcasting Commission banned TV and radio programs portraying “LGBT behaviors.”⁴ In 2018, under government pressure, Google removed up to 80 mobile applications with LGBT-related content from its online store in the country.⁵

Poland similarly experienced a notable rise in practices and policies challenging the exercise of free expression by LGBT activists and civil society organizations. By 2020, nearly 100 local governments and municipalities had established “LGBT-free zones.”⁶ Though largely symbolic, these declarations nevertheless reinforced stigma and created hostile environments that led to a rise in anti-LGBT violence and severely hampered LGBT activism.⁷ State-run companies also funded campaigns that distributed “LGBT-free” stickers and state media broadcast stories portending a “rainbow invasion,” inciting fear and heightening the danger for LGBT advocates to be visible.⁸

In Brazil, under President Jair Bolsonaro’s administration, there were significant challenges to the freedom of expression for LGBT activists and organizations. First, the Minister of Family, Human Rights, and Women established the National Family Observatory that explicitly promoted a heterosexual, married model of “traditional” family structures.⁹ Second, the Minister changed the operation of the country’s Dial 100 line used to report human rights violations, by adding a new category of violation related to the promotion of “sexual orientation and gender ideology.”¹⁰ These actions discouraged open discussion related to LGBT themes, creating an environment of censorship and fear among LGBT activists.

2. *If there are no such laws or policies, have there been attempts or incentives in the last ten years (2013-2023) to introduce such explicit or implicit restrictions, either nationally or locally? If so, who were the actors/groups/individuals or organizations behind these attempts, and what is the current situation?*

Williams Institute research found other attempts to restrict freedom of expression in Brazil under President Jair Bolsonaro, including significant efforts to impose restrictions on school curricula and educational materials. In 2020, Minister of Education Milton Ribeiro initiated efforts to revise textbooks

indonesia/; Constance Johnson, “Indonesia: Revision of Electronic Information and Transactions Law Considered,” web page, Library of Congress, February 11, 2016, <https://www.loc.gov/item/global-legal-monitor/2016-02-11/indonesia-revision-of-electronic-information-and-transactions-law-considered/>.

³ Thomas Power, Eve Warburton, and ISEAS-Yusof Ishak Institute, eds., *Democracy in Indonesia: From Stagnation to Regression?*, Indonesia Update Series (Indonesia Update Conference, Singapore: ISEAS Yusof Ishak Institute, 2020), 260.

⁴ Kyle Knight, “Dispatches: Indonesia Censors LGBT Radio and TV,” Human Rights Watch (blog), February 16, 2016, <https://www.hrw.org/news/2016/02/16/dispatches-indonesia-censors-lgbt-radio-and-tv>.

⁵ Power, Warburton, and ISEAS-Yusof Ishak Institute, 260.

⁶ Monika Pronczuk, “Polish Towns That Declared Themselves ‘L.G.B.T. Free’ Are Denied E.U. Funds,” *The New York Times*, July 30, 2020, sec. World, <https://www.nytimes.com/2020/07/30/world/europe/LGBT-free-poland-EU-funds.html>.

⁷ Marc Santora and Joanna Berendt, “Anti-Gay Brutality in a Polish Town Blamed on Poisonous Propaganda,” *The New York Times*, July 27, 2019, <https://www.nytimes.com/2019/07/27/world/europe/gay-pride-march-poland-violence.html>; Adam Ploszka, “From Human Rights to Human Wrongs. How Local Government Can Negatively Influence the Situation of an Individual. The Case of Polish LGBT Ideology-Free Zones*,” *The International Journal of Human Rights* 27, no. 2 (February 7, 2023): 362–63, <https://doi.org/10.1080/13642987.2022.2121708>.

⁸ Anna Koper, “Polish State Firms Pouring Ad Cash into Media That Attack Gay Rights, Research Data Shows,” *Reuters*, August 5, 2019, <https://www.reuters.com/article/us-poland-media-idUSKCN1UV1OL>.

⁹ Isabela Kalil, “Políticas Antiderechos En Brasil: Neoliberalismo y Neoconservadurismo En El Gobierno de Bolsonaro,” *Derechos En Riesgo En América Latina* 11 (2020): 43–45.

¹⁰ Bruno Alfano, “Disque 100: Manual Criado Por Ministério de Damares Prevê Denúncias ‘Por Ideologia de Gênero,’” *O Globo*, December 7, 2021, <https://oglobo.globo.com/brasil/direitos-humanos/disque-100-manual-criado-por-ministerio-de-damares-preve-denuncias-por-ideologia-de-genero-25305729>.

in a manner that would eliminate references to feminism, homosexuality, and violence against women. This move was part of a broader anti-leftist campaign that extended to the educational system, aiming to reshape the curriculum to align with conservative values.¹¹

Ribeiro's proposed revisions faced significant opposition and were ultimately unsuccessful. However, his actions, along with public statements such as claiming that homosexuals come from "dysfunctional families," reflected government efforts to curtail open discussion and learning about LGBT issues and feminism in educational settings.¹² Although the textbook revision was not implemented nationally, these actions signaled support for conservative and anti-LGBT stances that, in turn, encouraged local authorities to impose bans on related educational materials.¹³

Bolsonaro also attempted to suspend funding for screenplays and films with LGBT themes.¹⁴ Although the courts blocked this attempt for being discriminatory, it signified an effort by the government to limit the representation and visibility of LGBT topics in mainstream media and culture.

3. *Does your country have any laws, policies, or practices that, explicitly or implicitly, ban, restrict or make more challenging the exercising of freedom of association and freedom of peaceful assembly by civil society organizations or activists advocating for LGBT persons' human rights?*

Williams Institute research identified multiple instances of laws, policies, and practices that explicitly ban, restrict, or make exercising freedom of association and peaceful assembly by civil society organizations more challenging in four case studies from our report. In Indonesia, the government and public institutions under Joko Widodo have taken a restrictive approach toward LGBT organizing. In 2016, the University of Indonesia rejected an official request by students to establish a Support Group and Resource Center on Sexuality Studies.¹⁵ Following critical media coverage of the decision, the Minister for Technology, Research, and Higher Education proposed to ban LGBT student organizations on Indonesian university campuses, stating that LGBT people ran afoul of the "morals of the nation."¹⁶ An ensuing "moral panic" led to police raids on private LGBT gatherings, including public health facilities, significantly impacting HIV outreach efforts aimed at supporting the LGBT community.¹⁷ Additionally, the Indonesian government exerted pressure on the United Nations Development Programme (UNDP) to end financial support for LGBT-related programming within the country, undermining efforts to promote and protect LGBT rights through international support for LGBT-focused organizations.¹⁸

¹¹ Diane Jeantet, "Brazil Education Overhaul Aims at Ousting 'Marxist Ideology,'" AP NEWS, June 4, 2021, <https://apnews.com/article/rio-de-janeiro-education-brazil-feminism-international-news-0fb07d84d14c4d948f7028907c60f23f>.

¹² Lucas Berti, "Brazil's Education Minister to Face Charges for Homophobia," The Brazilian Report, February 1, 2022, <https://brazilian.report/liveblog/2022/02/01/education-minister-homophobia/>.

¹³ Cristian González Cabrera, "'I Became Scared, This Was Their Goal,'" *Human Rights Watch*, May 12, 2022, <https://www.hrw.org/report/2022/05/12/i-became-scared-was-their-goal/efforts-ban-gender-and-sexuality-education-brazil>.

¹⁴ Exame, "Governo perde recurso, e Justiça mantém edital para produções LGBT," Exame, October 11, 2019, <https://exame.com/brasil/governo-perde-recurso-e-justica-mantem-edital-para-producoes-lgbt/>;

¹⁵ Rodríguez and Murtagh, 3; Rinaldi Ridwan and Joyce Wu, "'Being Young and LGBT, What Could Be Worse?' Analysis of Youth LGBT Activism in Indonesia: Challenges and Ways Forward," *Gender & Development* 26, no. 1 (January 2, 2018): 127, <https://doi.org/10.1080/13552074.2018.1429103>.

¹⁶ Diego García Rodríguez and Ben Murtagh, "Situating Anti-LGBT Moral Panics in Indonesia," *Indonesia and the Malay World* 50, no. 146 (January 2, 2022): 3, <https://doi.org/10.1080/13639811.2022.2038871>; Rinaldi Ridwan and Joyce Wu, "'Being Young and LGBT, What Could Be Worse?' Analysis of Youth LGBT Activism in Indonesia: Challenges and Ways Forward," *Gender & Development* 26, no. 1 (January 2, 2018): 127, <https://doi.org/10.1080/13552074.2018.1429103>.

¹⁷ Kyle Knight, "Scared in Public and Now No Privacy" (New York: Human Rights Watch, July 1, 2018), <https://www.hrw.org/report/2018/07/02/scared-public-and-now-no-privacy/human-rights-and-public-health-impacts>.

¹⁸ Haeril Halim, Hans Nicholas Jong, and Nurul Fitri Ramadhani, "Govt Demands UNDP Remove Funding for LGBT Programs," *The Jakarta Post* (blog), February 16, 2016, <https://www.thejakartapost.com/news/2016/02/16/govt-demands-undp-remove-funding-lgbt-programs.html>.

In Poland, as previously noted, local governments adopted resolutions establishing “LGBT-free zones” that created hostile environments and effectively discouraged public activities and organizing by LGBT groups.¹⁹ Several municipalities also passed “Family Rights Charters” that purported to promote “traditional” family values while further stigmatizing LGBT people, leading to a rise in hate crime attacks on pride marches in at least two cities.²⁰

In Brazil, President Jair Bolsonaro issued an executive order mandating that the office of the Government Secretary oversee the activities of both international and local nongovernmental organizations.²¹ This move was strategically used to attack human rights and environmental rights activism, including those advocating for marginalized groups like LGBT people.

In Ghana, a 2021 raid by police in the city of Ho resulted in the detention of 21 individuals for allegedly advocating for LGBT activities.²² The detainees faced considerable delays and legal hurdles before being released on bail. The Attorney General later claimed insufficient evidence to continue with prosecutions. Yet, he maintained that no rights had been violated in the process, implying that the accused were responsible for the delays in their release.

That same year, a new LGBT community center in Accra was raided by police and forced to close following threats of violence and demands from government officials and religious groups.²³ While the center was meant to provide a safe gathering space for LGBT people, misinformation had falsely reported that the center was recruiting students with pornography.²⁴

4. *If there are no such laws or policies, have there been attempts or incentives in the last ten years (2013-2023) to introduce such explicit or implicit restrictions, either nationally or locally? If so, who were the actors/groups/individuals or organizations behind these attempts and what is the current situation?*

In Ghana, the 2021 raid on the LGBT center in Accra led to further attempts by the Ghanaian Parliament to restrict LGBT organizations with the introduction of the “Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill.” This raid aimed to criminalize not only LGBT individuals but any advocacy or promotion of materials supporting LGBT activities.²⁵

The freedom of association and peaceful assembly for LGBT individuals has also been challenged by the actions of vigilante groups that have engaged in political violence targeting LGBT persons. Despite a

¹⁹ Reuters, “Polish ‘LGBT-Free’ Town Gets State Financing after EU Funds Cut,” *Reuters*, August 18, 2020, <https://www.reuters.com/article/us-poland-eu-lgbt-idUSKCN25E1QP>.

²⁰ Marc Santora and Joanna Berendt, “Anti-Gay Brutality in a Polish Town Blamed on Poisonous Propaganda,” *The New York Times*, July 27, 2019, <https://www.nytimes.com/2019/07/27/world/europe/gay-pride-march-poland-violence.html>.

²¹ Tainara Nagot, “One Thousand Days of the Bolsonaro Government: Ten Occasions Civil Society Prevented Setbacks,” *Conectas* (blog), September 29, 2021, <https://www.conectas.org/en/noticias/one-thousand-days-of-the-bolsonaro-government-ten-occasions-civil-society-prevented-setbacks/>.

²² Reuters, “Ghana Court Denies Bail for 21 Detained LGBT Activists,” *Reuters*, June 8, 2021, <https://www.reuters.com/world/africa/ghana-court-denies-bail-21-detained-lgbt-activists-2021-06-08/>.

²³ Emmanuel Akinwotu, “Ghanaian LGBTQ+ Centre Closes after Threats and Abuse,” *The Guardian*, February 25, 2021, sec. Global development, <https://www.theguardian.com/global-development/2021/feb/25/lgbtq-ghanaians-under-threat-after-backlash-against-new-support-centre>.

²⁴ Nimi Princewill, “Founder of LGBTQI Center Shut down in Ghana Says He Fears for His Safety,” *CNN*, February 25, 2021, <https://www.cnn.com/2021/02/25/africa/lgbt-ghana-office-raids-intl/index.html>;

²⁵ Samuel Nartey George et al., “Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill” (2021), <https://cdn.modernghana.com/files/722202192224-0h830n4ayt-lgbt-bill.pdf>.

2019 law criminalizing political vigilantism, these groups continue to operate and exert a significant threat to the safety and freedoms of LGBT people.²⁶ Prominent examples include the “Gay Killers,” a vigilante group that publicly threatened to lynch gay people in Accra in 2015.²⁷ In the same year, another group, “Safety Empire,” violently assaulted a man they suspected of being gay.²⁸

Given that consensual same-sex conduct remains criminalized in Ghana, fear of legal repercussions for being gay has likely led to underreporting of violence. In 2020, a man in a suburb of Accra was attacked for the second time by a vigilante group, and he refrained from reporting the assaults due to fears of arrest based on his sexual orientation.²⁹ Such an environment of intimidation and violence severely restricts the rights of association and peaceful assembly by the LGBT community in Ghana.

5. *Are there practices, procedures, groups or actors, societal and political trends, incentives, civil society and constituency mobilization, laws, bills or policies, which you have not mentioned above but that already affect or are likely to affect in the future, directly or indirectly, the exercising of the human rights to freedom of expression, association and/or peaceful assembly by LGBT people, activists and civil society organizations in your country, nationally or locally?*

Williams Institute research found that politicization of LGBT people and issues in the context of electoral processes can indirectly impact exercising the human rights to freedom of expression, association, and peaceful assembly. In advance of the 2019 elections in Indonesia, nationwide anti-LGBT protests and ensuing violence against LGBT people and organizations, under the guise of an “LGBT emergency,” were used to help mobilize voters at local and national levels.³⁰ Similarly, during Brazil’s 2019 presidential campaign, Jair Bolsonaro used rhetoric that promoted violence, attacked minorities, and supported military intervention to rescue what he considered traditional family values from the influence of so-called gender ideology.³¹ In Poland, the Law and Justice Party (PiS) employed homophobic and transphobic rhetoric as it broadcast dehumanizing anti-LGBT propaganda as a central pillar of the 2019 national and EU parliamentary elections as well as the 2020 presidential election.³² The context of anti-LGBT stigma produced through these political strategies led, in some cases, to direct violence targeting LGBT groups and, in others, restricted expression and assembly by increasing the risks of visible pro-LGBT advocacy.

6. *Given that laws and policies regulating internet use, access and content can have especially restrictive effects on the protection of the human rights of LGBT persons, are there laws, policies and practices which appear neutral or otherwise not specifically addressed to LGBT or SOGI*

²⁶ Franklin Oduro, Lisa-Marie Selvik, and Kendra Dupuy, “Ghana. A Stagnated Democratic Trajectory,” in *Democratic Backsliding in Africa?: Autocratization, Resilience, and Contentions*, ed. Leonardo R. Arriola, Lise Rakner, and Nicolas van de Walle, 1st ed. (Oxford University Press/Oxford, 2022), 112–37, <https://doi.org/10.1093/oso/9780192867322.001.0001>.

²⁷ Godfried Agyeman Asante, “Reproducing the Ghanaian/African Subject: Ideological Tensions and Queer Subjectivities in Postcolonial Ghana” (Albuquerque, University of New Mexico, 2017), https://digitalrepository.unm.edu/cgi/viewcontent.cgi?article=1107&context=cj_etds.

²⁸ Wendy Isaack, “‘No Choice but to Deny Who I Am,’” *Human Rights Watch*, January 8, 2018, <https://www.hrw.org/report/2018/01/08/no-choice-deny-who-i-am/violence-and-discrimination-against-lgbt-people-ghana>.

²⁹ Modern Ghana, “Businessman Brutalized For Being Gay,” *Modern Ghana*, March 11, 2020, <https://www.modernghana.com/news/988533/businessman-brutalized-for-being.html>.

³⁰ Kyle Knight, “These Political Games Ruin Our Lives” (New York: Human Rights Watch, August 10, 2016), <https://www.hrw.org/report/2016/08/11/these-political-games-ruin-our-lives/indonesias-lgbt-community-under-threat>.

³¹ Anthony Faiola and Marina Lopes, “LGBT Rights Threatened in Brazil under Bolsonaro,” *The Washington Post*, February 18, 2019, https://www.washingtonpost.com/world/the_americas/lgbt-rights-under-attack-in-brazil-under-new-far-right-president/2019/02/17/b24e1dcc-1b28-11e9-b8e6-567190c2fd08_story.html.

³² Anne Applebaum, “Poland’s Rulers Made Up a ‘Rainbow Plague,’” *The Atlantic*, July 13, 2020, <https://www.theatlantic.com/ideas/archive/2020/07/polands-rulers-manufactured-a-rainbow-plague/614113/>.

issues, which nonetheless have discriminatory effects on the exercising of the human rights to freedom of expression, association and/or peaceful assembly by LGBT people, activists and civil society organizations in your country, nationally or locally?

In Poland, the government has exerted significant control over the media, which has had indirect but profound discriminatory effects on the rights of LGBT people, activists, and civil society organizations. The Law and Justice Party (PiS) implemented measures to restrict freedom of the press, centralizing media control within the executive branch. In 2016, the legislative branch passed a law that allowed the Minister of the Treasury to appoint and remove public radio and television executives, effectively stripping this authority from the independent National Broadcasting Council.³³ The government further solidified its control over media in 2021 when the state-owned energy company PKN Orlen acquired Polska Press, gaining control over several regional newspapers, local weeklies, and online news portals.³⁴ These actions have facilitated the escalation and weaponization of anti-LGBT rhetoric and policies, particularly evident during the PiS campaigns for the 2019 and 2020 elections, as described above.

Conclusion

Democratic backsliding, characterized by the weakening of liberal democratic norms and institutions, including setbacks in protections for minority rights, is significantly impacting LGBT freedoms of expression, association, and assembly globally. This backsliding often involves the implementation of anti-LGBTI laws and policies. Research by the Williams Institute finds that limiting freedoms like association and expression can have harmful effects on the acceptance of LGBTI individuals. These freedoms are crucial for activists to organize and campaign for their causes effectively. When these rights are restricted, it not only hinders the push for broader inclusion but also makes it challenging to resist the weakening of existing rights. On the other hand, a strong and active civil society can provide an essential bulwark against such regression and help mitigate the impact of stigma against LGBTI people.

Thank you for the opportunity to provide input. If you have any questions, please contact Ari Shaw, PhD, Director of International Programs, at shaw@law.ucla.edu.

Respectfully submitted,

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³³ Euractiv, “Polish President Signs Controversial Media Law,” Euractiv, January 8, 2016, <https://www.euractiv.com/section/central-europe/news/polish-president-signs-controversial-media-law/>.

³⁴ Piotr Szostak, “Strategic Media Takeover. How Orlen’s Purchase of Polska Press Could Shape the 2023 Local Elections,” Wyborcza, January 8, 2021, <https://wyborcza.pl/7,173236,26670485,strategic-media-takeover-how-orklen-s-purchase-of-polska-press.html>.