**Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.**

***Topic: Protection against violence and discrimination based on sexual orientation and gender identity, in relation to the human rights to freedom of expression, association and assembly***

**CALL FOR INPUTS**

**Deadline: 31 January 2024**

**Introduction**

The Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IE SOGI), Mr. Graeme Reid, will dedicate his thematic report to the 56th session of the United Nations Human Rights Council to an exploration of the human rights to freedom of expression, freedom of assembly and freedom of association, as they relate to protection against violence and discrimination based on sexual orientation and gender identity (SOGI).

As an examination of the root causes of violence and discrimination, the IE SOGI’s report will focus on trends in relation to laws, policies, and practices that unlawfully restrict, explicitly or implicitly, freedom of expression, association, and peaceful assembly based on SOGI.

The report will also examine the impact of such restrictions on civil society, with a particular focus on civil society groups and individuals advocating for the enjoyment of those human rights free from discrimination based on SOGI.

The report will offer remedial recommendations to States and other relevant stakeholders to ensure their laws and policies conform – and their practices comply – with their obligations under international human rights law to respect, protect and fulfil the human rights of all persons to freedom from discrimination based on SOGI, including in the manifestation of their rights to freedom of expression, association, and peaceful assembly.

**Background context**

Laws restricting the human rights to freedom of expression, association and peaceful assembly based on sexual orientation and gender identity (SOGI) are not new. However, in recent years, there has been a proliferation of such restrictive laws with ever-expanding scope.

In 2023, at least 54 States had laws that restricted the right to freedom of expression, and at least 58 States had laws restricting the rights to freedom of association and peaceful assembly, based on SOGI.

*Freedom of expression*

Some UN Member States have restricted freedom of expression in ways that specifically prohibited speech that defends the human rights of lesbian, gay, bisexual, trans and other gender-diverse (LGBT) persons.

Such restrictions have included banning public expression – in schools, publications, art, peaceful assemblies, online, or other fora – that could be seen to “promote homosexuality” or perpetrate “LGBT ideology”, or include depictions same-sex families.

Some laws and policies have justified discriminatory restrictions as measures aimed at the “protection” of children, and the protection of “family values” from “denigration”. To justify discriminatory restrictions, censorship, and criminalization of speech as the “protection of children”, for instance, perpetrates a false and dangerous narrative that LGBT persons are a threat to children. Other laws and policies have criminalized speech defending the human rights of LGBT persons as “propaganda” and “promotion”.

Freedom of expression is curtailed through a wide range of legal and policy prohibitions. Even in countries that do not explicitly outlaw consensual same-sex conduct in private, vaguely worded morality laws are used to clamp down on the public expression of sexual and gender identities, and the expression of ideas that allow the construction of diverse gender and sexual identities. These laws are based on subjective notions of morality and are clearly discriminatory. In some jurisdictions, the public display of same-sex affection is outlawed overtly, whereas other States indirectly discourage and penalize the protection of LGBT rights through public policymaking, such as decisions in the funding of domestic and international organizations and institutions.

Visibility is an important component of reducing stigma against LGBT people, but laws that restrict content in print media, broadcasting and publications have the effect of stifling expression, and rendering LGBT experiences invisible. This could include a total ban on any LGBT content in public or online media, or restrictions on the depiction of diversity in gender expression or identities, or same-sex intimacy, on national television. Censorship of publications with LGBT content, or content which suggests a diversity of sexual and gender practices and expressions, is another way in which freedom of expression is curtailed.

Digital platforms have provided an invaluable tool for sexual and gender minorities to connect with each other within restrictive domestic environments, and to make regional and global connections essential to their work. Restrictions on electronic communications (such as banning certain terms, like “homosexuality” on social media platforms) inhibit not only freedom of expression, but also freedom of association. Laws against “pornography” and “prostitution” have also been repurposed to arrest LGBT persons accused of flaunting the law.

Some countries have clamped down on symbols associated with the LGBT rights movement, such as paraphernalia bearing rainbow insignia.

Education in schools is an important tool to promote diversity and combat bullying, and other forms of discrimination and violence based on SOGI. In contrast, several States have taken steps against comprehensive sexuality education, or effectively banned openly lesbian, gay, bisexual or transgender teachers. In some cases, university programs on gender studies have been prohibited.

*Freedom of association and freedom of peaceful assembly*

Civil society organizations are the bedrock of democratic societies, whose exercise of freedom of association and freedom of assembly is often linked to their freedom of expression. Legal registration is essential for the effective functioning of civil society organizations. Groups need to have legal standing to receive funds and conduct formal activities. Yet many States refuse to register organizations that work on sexual orientation or gender identity, or effectively prevent groups from registering by establishing artificial administrative or policy obstacles. This has the effect of undermining their rights to freedom of association and assembly, and to freedom of expression – setting the stage for a variety of penalties to punish individuals and associations for their political opinions, identities, or other status, and efforts to express divergent viewpoints.

Restrictions on registration often refer to vague and ill-defined concepts such as “good mores”, or against provoking “national or religious” enmity. Some groups are required to register as “foreign agents”, whereas others are prevented from receiving donor funds from abroad. Some organizations are outright banned for their expressed viewpoints or activities in defense of the human rights of LGBT persons. Others are prevented from registering in countries where same-sex conduct is criminalized on grounds that the organization is advocating for illegal activity, notwithstanding the fact that it is same-sex intimacy that is being banned, and not being LGBT, per se. This severely restricts the ability of groups to advocate for their basic rights. A most extreme version of this is the branding of LGBT groups or individuals supporting equal enjoyment of human rights by LGBT persons as “extremist organizations”.

Pride marches have been banned in several countries, preventing freedom of peaceful assembly. In some settings, government shirk their duty to protect individuals exercising their right to peaceful assembly when threatened or attacked by non-State actors. In other contexts, the threat of violence is used by States as a pretext to prevent peaceful assemblies. Gatherings aimed to promote understanding and inclusivity have been declared illegal gatherings. Security force raids on symbolic same-sex weddings, in countries where same-sex marriage is not legal, or restrictions on “gay parties” are further evidence of the increasingly restrictive spaces for social activity. In those and other such cases, both public and private gatherings of LGBT persons have been prosecuted under “morality”, “prostitution”, or other criminal laws to persecute individuals not for the nature of their conduct, but based on their identities and group characteristics.

While “public morality” can be a legitimate purpose to justify certain restrictions on individual freedoms, it can never be a mask for prejudice. The concept “morality” is often misused for political purpose, to manipulate public opinion and justify violation of rights of vulnerable and marginalized groups. The United Nations Human Rights Committee has consistently found that limitations on human rights must not violate guarantees of equality and non-discrimination.

**Purpose of this report**

The primary function of the mandate of the IE SOGI is to advance protection against violence and discrimination based on sexual orientation and gender identity, including by reinforcing State responsibility and facilitating dialogue with and among States on the implementation of their human rights obligations.

Civil society groups are indispensable for protecting the human rights of all persons without discrimination, promoting awareness of human rights abuses and violations, reducing social stigma, and advocating for an end to discriminatory laws, policies, and practices.

The fundamental human rights to freedom of expression, association and peaceful assembly are intertwined and essential components of pluralistic and democratic societies. These rights are essential to protecting all minority populations, and as a conduit for diverse perspectives that strengthen democratic societies. Human rights defenders need to exercise these rights to do their work, and individuals must be free to exercise these rights to fulfil their human potential.

In many instances, restrictions on groups defending the human rights of LGBT persons are a precursor to more widespread restrictions on civil society groups or vulnerable populations. Restrictive laws, policies and practices by States have a stifling effect on the activities of organizations, causing them to be afraid of falling foul of the law by offering specialized services benefitting LGBT people, or including LGBT issues within their purview. In some cases, overly broad laws may be used as a pretext to shut down civil society groups that are deemed undesirable by States.

This report will analyze the extent to which such laws, policies and practices infringe upon the human rights to freedom of expression, association, and peaceful assembly. It will seek to give an overview of the proliferation of such laws, the specific threats to groups advocating to protect persons from discrimination and violence based on sexual orientation and gender identity, and the corrosive impact of such restrictions on civil society writ large.

**Call for inputs**

The Independent Expert invites all interested States, civil society organizations, academics, international organizations, national human rights institutions, activists, corporations, and others, to provide written input for his thematic report.

Respondents are requested to limit their comments to a **maximum of 2,500 words**. Additional supporting materials, such as reports, academic studies, and other types of background materials may be annexed to or linked to within the submission. Below are some guiding questions that can be used as a prompt for the input, if needed. The input can also be submitted in a free form, and does not need to be structured around the suggested questions.

Inputs are preferred to be submitted in **English**, yet may also be submitted in Arabic, Chinese, French, Russian, or Spanish.

**Suggested questions:**

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?
	1. This could include, but is not limited to, laws on the so-called propaganda of homosexuality, morality policies or codes, censorship of media content, restrictions on school curriculum, censorship of any content or scenes, censorship of literature, printed materials, blocking of sites or social media platforms, persecution of artists and authors working with the topic, etc.

**No, the Netherlands does not currently have any such laws, policies or practices. Since 2012, comprehensive sex education forms a mandatory part of the school curriculum for primary and secondary education. This also includes attention for sexuality and sexual diversity. However, in recent years, the resistance against this mandatory comprehensive sexual education seems to be growing (see below).**

1. 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?

**There’s a growing sentiment within society that so-called “gender-ideology” or “LGBT propaganda” is being forced upon children in schools. A particularly low point came in March 2023, during the “Week of Spring Fever”. The Week of Spring Fever is a week in which children learn about resilience, relationships and sexuality. It is organized by Sexuality Expertise Center Rutgers and local public health services. In March 2023, employees Sexuality Expertise Center Rutgers were severely threatened and harassed (mostly online) to the extent that security measures had to be taken. It was a result of disinformation: study materials had purposefully been taken out of context and had been circulated on social media to spark outrage.**

**Various political parties in the Netherlands have also spoken out against so-called “gender-ideology”, “transgender propaganda” or “rainbow coercion”. In the lead up to the November 2023 elections, some political parties chose to dedicate entire sections of their party program to this topic. This includes Forum voor Democratie (Forum for Democracy and DENK.**

**Proposed measures by Forum voor Democratie include:**

* **A prohibition of “transgender propaganda” in schools and in youth television programs;**
* **No more government LGBT+ campaigns;**
* **Investigating and undoing “political influence” in school books;**
* **No more use of “activist” flags (including LGBTQIA+ flags) by public institutions;**
* **No more subsidies for organizations who want to “force” sexuality upon children, such as Rutgers;**
* **A prohibition of children’s participation in Pride Parades and Drag Queen shows.**

**See:** [**Woke & LHBT-propaganda - Forum voor Democratie (fvd.nl)**](https://fvd.nl/standpunten/woke-en-lhbt-propaganda)

**DENK also takes a stance against “rainbow coercion” in its party program. They call for an end to “rainbow coercion” and “sexualized study material” in schools.**

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 association and freedom of peaceful assembly by civil society organizations or activists advocating for LGBT persons’ human rights?
	1. Those can include – but are not limited to – explicit bans on registration of organizations working on LGBT persons’ human rights or related topics, procedures making the registration impossible or almost impossible, obstacles for applying for and receiving funding (foreign or otherwise), ignoring or indirectly encouraging attacks and threats on LGBT-related events and using such attacks as a justification for banning peaceful marches/protests, refusing to guarantee the protection of the peaceful protests by State security forces, etc.

**No, the Netherlands does not currently have such laws, policies or practices.**

1. 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 recent years, there has been an increasing number of incidents directed against places and events of lgbtqi+ people. Some recent examples:**

* **In March 2023 it was reported that in the municipality of Goeree-Overflakkee, an lgbtqi+ organization would be excluded from laying flowers during the National Remembrance Day (4th of May). The lgbtqi+ organization requested to lay flowers to commemorate all the queer victims of World War II, but this request was denied by the local organization in charge of the National Day of Remembrance because the village ‘was not ready for that’. Ultimately, the municipality of Goeree-Overflakkee stepped in and the lgbtqi+ organization was allowed to lay flowers after all.**
* [**Homostichting mag na ophef toch krans leggen bij dodenherdenking Goeree-Overflakkee | RTL Nieuws**](https://www.rtlnieuws.nl/nieuws/nederland/artikel/5373027/homogemeenschap-goeree-overflakkee-mag-geen-bloemen-leggen-tijdens)
* **There has been increasing tension surrounding events where drag queens read stories to children. These events are organized in response to recent drag bans in the USA and to increase acceptance. Conservative gay rights organizations and other conservative and/or extreme right forces have been organizing petitions and demonstrations against these events, claiming that it leads to the sexualization of children. The drag queens involved in these events, as well as the venues that host them, receive substantial threats, abuse and harassment. In April 2023, the threats were so intimidating that the venue decided to secretly change the time of the event, to guarantee the safety of the drag queen involved and shield the children from angry protesters.**
* [**Voorleesmiddag met dragqueens stilletjes vervroegd, dus al afgelopen tijdens demonstraties | Rotterdam | AD.nl**](https://www.ad.nl/rotterdam/voorleesmiddag-met-dragqueens-stilletjes-vervroegd-dus-al-afgelopen-tijdens-demonstraties~a86622d3/)
* [**Protests against reading afternoon for children with drag queen in Leiden library | NL Times**](https://nltimes.nl/2023/09/02/protests-reading-afternoon-children-drag-queen-leiden-library)
* [**Rotterdam: Over 200 people demonstrate against reading afternoon for children with drag queens | NL Times**](https://nltimes.nl/2023/04/16/rotterdam-200-people-demonstrate-reading-afternoon-children-drag-queens)
* [**Woman arrested for call to violence at successful drag queen reading event in Rotterdam | NL Times**](https://nltimes.nl/2023/04/17/woman-arrested-call-violence-successful-drag-queen-reading-event-rotterdam)
* **In April 2023, the office of COC (a national lgbtqi+ organization) was attacked in Eindhoven by a group of 20 angry adults. The assailants ripped the rainbow flag from the façade of the building and tried to set it on fire. When a COC staff member asked them to stop, he was punched in the face. The attack took place during ‘Young and Out’, a monthly event for lgbtqi+ children up to 18 years. The adults also verbally abused the children, using homophobic slurs. It is thought that the assailants were football supporters on their way to a match.**
* [**Football supporters attacked volunteers at LGBTQ+ organization's Eindhoven office | NL Times**](https://nltimes.nl/2023/04/10/football-supporters-attacked-volunteers-lgbtq-organizations-eindhoven-office)
* **In the past years, various buildings that house lgbtqi+ organizations and monuments dedicated to lgbtqi+ have been vandalized and smeared with homophobic slogans. Similarly, Pride Flags outside of buildings and houses have been on multiple occasions been set on fire.**
* [**Anti-gay graffiti found on Gay Monument in The Hague | NL Times**](https://nltimes.nl/2023/07/18/anti-gay-graffiti-found-gay-monument-hague)
* [**Rainbow flag set on fire at LGBTQIA+ association in Delft | NL Times**](https://nltimes.nl/2023/05/08/rainbow-flag-set-fire-lgbtqia-association-delft)
* [**Rainbow bench defaced in latest incident targeting LGBTQ+ community | NL Times**](https://nltimes.nl/2023/06/16/rainbow-bench-defaced-latest-incident-targeting-lgbtq-community)
* [**Anti-LGBTQ+ arson suspected in Amsterdam student flat fire; 4 hurt | NL Times**](https://nltimes.nl/2021/08/20/anti-lgbtq-arson-suspected-amsterdam-student-flat-fire-4-hurt)
* [**Firework bombings targeted Amsterdam home flying an LGBT flag | NL Times**](https://nltimes.nl/2020/09/14/firework-bombings-targeted-amsterdam-home-flying-lgbt-flag)
* [**Anti-LGBTQ attack on Rotterdam gym | NL Times**](https://nltimes.nl/2021/08/23/anti-lgbtq-attack-rotterdam-gym)
* **In the past years, there have been various reports of violence against drag queens and employees of drag venues.**
* [**Employees of Groningen drag bar attacked; Police investigating | NL Times**](https://nltimes.nl/2023/04/10/employees-groningen-drag-bar-attacked-police-investigating)
* [**Drag queens feeling increasingly unsafe in Netherlands | NL Times**](https://nltimes.nl/2023/04/12/drag-queens-feeling-increasingly-unsafe-netherlands)
* [**Amsterdam shocked by multiple incidents against drag queens during Pride | NL Times**](https://nltimes.nl/2023/08/10/amsterdam-shocked-multiple-incidents-drag-queens-pride)
* [**Drag queen attacked on Amsterdam bus | NL Times**](https://nltimes.nl/2023/07/12/drag-queen-attacked-amsterdam-bus)

**Unfortunately, there are many more examples.**

1. 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?

**Like in many places in the world, the anti-gender movement is growing in the Netherlands. There is a significant increase in anti-transgender rhetoric in the media and public and political debate, as well as an increasing resistance against ‘gender ideology’ more generally. The anti-gender movement in the Netherlands seems to consist mostly of the extreme right, conservative Christians and conservative feminists (trans exclusionary radical feminists). They seem to be well organized and well-funded.**

**See for example:** [**Far-right’s anti-LGBT rant causes tearful Arnhem city council breakdown | NL Times**](https://nltimes.nl/2023/02/16/far-rights-anti-lgbt-rant-causes-tearful-arnhem-city-council-breakdown)

1. 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 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?

**Not that I am aware of at this time.**

**If you wish your submissions to be kept confidential, you are kindly required to make an explicit request in your submission. Otherwise, information may be published online, and may be referenced in the report.**