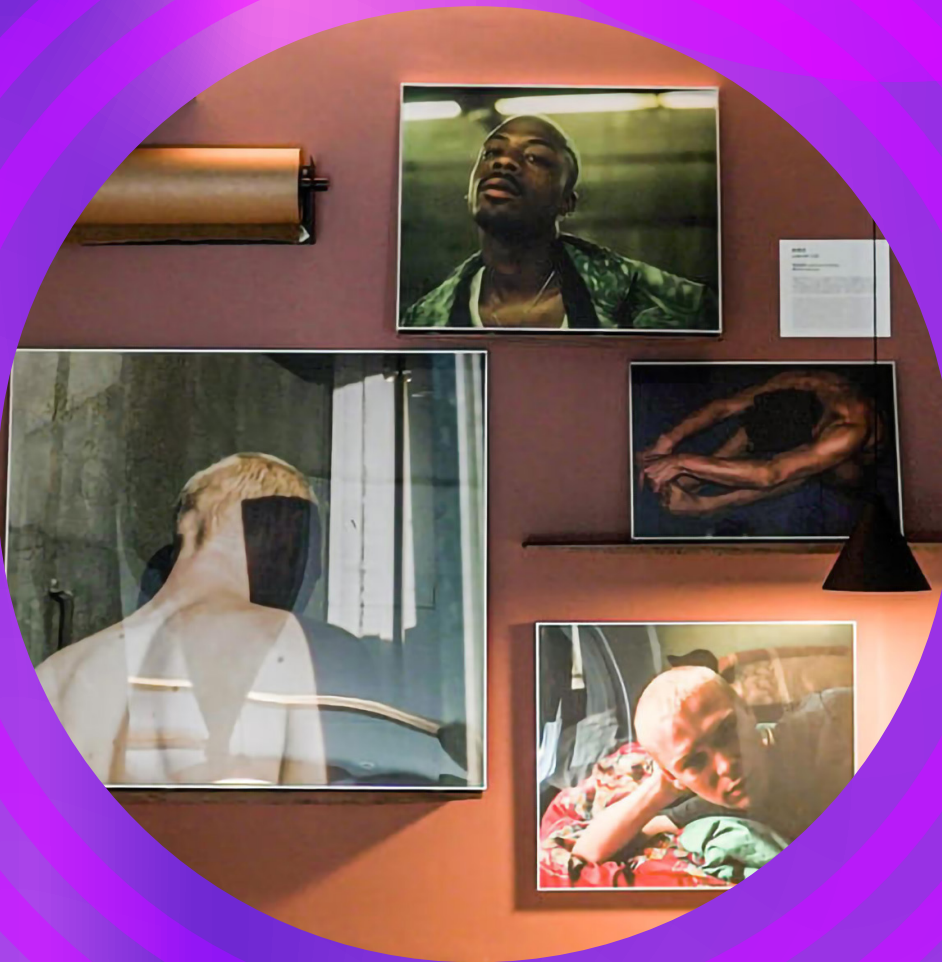


THE GLOBAL STATE OF LGBTIQ ORGANIZING

The Right to Register and the
Freedom to Operate, 2023

September 2023



OUTRIGHT
INTERNATIONAL



Outright International works together for better LGBTIQ lives. Outright is dedicated to working with partners around the globe to strengthen the capacity of the LGBTIQ human rights movement, document and amplify human rights violations against LGBTIQ people, and advocate for inclusion and equality. Founded in 1990, with staff in over a dozen countries, Outright works with the United Nations, regional human rights monitoring bodies, and civil society partners. Outright holds consultative status at the United Nations, where it serves as the secretariat of the UN LGBTI Core Group.

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Cover photo: ShanghaiPRIDE, a Chinese organization that hosted Pride events, including LGBTIQ art exhibits, for 11 years, suspended all its activities in 2020 under pressure from the Chinese government. (ShanghaiPRIDE/2020)

Glossary

Bisexual: The sexual orientation of a person whose primary sexual and romantic attractions are toward people of the same sex and people of a different sex.

CSO: Civil society organization.

Cisgender: Denoting or relating to a person whose sense of personal identity and gender correspond with their sex assigned at birth.

Cisheteronormativity: A pervasive belief system that centers and naturalizes heterosexuality and the binary female-male sexes to the extent that the only two normal ways of being are cisgender heterosexual masculine men and cisgender heterosexual feminine women.

Comprehensive sexuality education: A curriculum-based rights- and gender-focused approach to sexuality education, whether in school or out of school, that aims to equip children and young people with the knowledge, skills, attitudes, and values that will enable them to develop a positive view of their sexuality, in the context of their emotional and social development.

Conversion practices: A term used to describe a process of cisgender, heteronormative indoctrination; that is, attempting to change, suppress, or divert one's sexual orientation, gender identity, or gender expression, conducted by medical or mental health professionals, religious personnel, traditional or spiritual healers or practitioners, or other entities such as social or self-help groups. Outright and other LGBTIQ human rights organizations also use terms including "conversion therapy practices" and "sexual orientation and gender identity change efforts." Conversion practices have more often been referred to as "conversion therapy," a term that incorrectly suggests that treatment is needed for a disorder and that people can be converted to cisgender heterosexuality through such "treatment."

Gender nonconforming: Behaving or appearing in ways that do not fully conform to socially prescribed gender roles and norms.

Homophobia: Fear of, contempt of, and/or discrimination against homosexuals or homosexuality, usually based on negative stereotypes of homosexuality.

Homosexual: The sexual orientation of a person whose primary sexual and romantic attractions are toward people of the same sex.

ICCPR: The International Covenant on Civil and Political Rights.

Interphobia or Intersexphobia: Fear of, contempt of, or discrimination against persons with biological traits and sex characteristics that are regarded as not within the typical notions of female and male bodies. It is usually carried out through violence and discrimination, including through intersex genital mutilation.

Intersex: An umbrella term that refers to a range of biological traits and conditions that cause individuals to be born with chromosomes, gonads, and/or genitals that vary from what is considered typical for female or male bodies. Being intersex is a naturally occurring trait in humans; it is not pathological. Being intersex is not linked to sexual orientation or gender identity; intersex people can have different sexual orientations and gender identities and expressions.

Intersex genital mutilation: Medically unnecessary and invasive surgeries and treatments carried out on young intersex people, including babies, to achieve conformity with typical female or male bodies.

LGBTIQ: Lesbian, gay bisexual, transgender, intersex, and queer; an inclusive term for groups and identities sometimes also grouped as “sexual and gender minorities.” This acronym is inclusive of a broad range of people; however, it is not exhaustive, nor is it universally accepted or used. We also use LGBTQ (lesbian, gay, bisexual, transgender, and queer), LGBT (lesbian, gay, bisexual, and transgender), LGBTQIA+ (lesbian, gay, bisexual, transgender, queer, intersex, asexual, and others), and LGBT+ (lesbian, gay, bisexual, transgender and others) as needed and based on how groups self-identify. When discussing specific women’s issues, we use acronyms such as LBQ (lesbian, bisexual, and queer), or LBQI (lesbian, bisexual, queer, and intersex), or LBQT (lesbian, bisexual, queer, and transgender), as appropriate, based on the groups being discussed.

NGO: Non-governmental organization.

Sharia: Islamic religious law that lays down rules and principles to govern the lives of Muslims.

Transgender: An identity term for a person whose sex assigned at birth does not conform to their identified or lived gender. A transgender person usually adopts, or would prefer to adopt, a gender expression in tandem with their gender identity but may or may not desire to permanently alter their physical characteristics to conform to their gender identity.

Transgender men: Persons designated female at birth but who identify and may present themselves as men. Transgender men are generally referred to with male pronouns.

Transgender women: Persons designated male at birth but who identify and may present themselves as women. Transgender women are generally referred to with female pronouns.

Transphobia: Fear of, contempt of and/or discrimination against transgender persons and gender diverse and gender nonbinary persons, based on binary notions of gender identity

Summary

Advancing the rights of lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) people worldwide depends on LGBTIQ people's ability to organize themselves and build movements. When LGBTIQ people can form organizations and legally register those organizations, they can better articulate demands, raise and disburse funds, and implement activities. But clampdowns on civic activism generally, and on the rights of LGBTIQ persons specifically, threaten the ability of LGBTIQ organizations to register and operate as legal entities.

Outright International first examined the effect of laws and policies on LGBTIQ organizing within the civic space in a 2018 report.¹ This new report, *The Global State of LGBTIQ Organizing: The Right to Register and the Freedom to Operate, 2023*, continues that work and examines changes that have occurred in the last five years that affect LGBTIQ organizations institutionalizing, forming sustainable local and national movements, and promoting the human rights of LGBTIQ persons everywhere. We examine how activists have built LGBTIQ civil society organizations (CSOs) from the ground up and engaged with state authorities in seeking registration, whether successful or not. Specifically, this research aims to:

- 1. Assess where organizations openly advocating for or serving LGBTIQ people can legally register and operate in 2023, compared to Outright's 2018 findings.**
- 2. Characterize the key challenges faced by LGBTIQ organizations in countries where legal registration is prohibited or hindered.**
- 3. Document how organizations that have been able to register in the last five years have benefited from registration.**
- 4. Recommend legal and policy changes that will facilitate enabling environments for LGBTIQ organizations to operate, as required under international human rights law.**

For this report, Outright collected information on the right to register in 196 countries, all 193 UN member states as well as Kosovo, the Occupied Palestinian Territories, and Taiwan. We dove deeper into the ability of organizations to register in Sub-Saharan Africa, the Middle East and Northern Africa, Asia and the Pacific, the Caribbean, Eastern Europe, and Latin America, with less focus on Western Europe and North America because in most countries in these regions, LGBTIQ organizations have long been able to legally register and operate freely, with this right rarely being contested. Of the 196 countries surveyed through desk research, questionnaires, and interviews, we found that LGBTIQ organizations exist and have been able to register openly in about 94 of them—though in several of these countries, registration is difficult for LGBTIQ groups and cannot be taken for granted—whereas in about 74 countries, LGBTIQ organizations exist, but cannot register and operate freely. In some instances, these groups have been

¹ Outright International, *The Global State of LGBTIQ Organizing: The Right to Register*, 7 April 2018, <https://outrightinternational.org/our-work/human-rights-research/global-state-lgbtqi-organising-right-register> (accessed 23 May 2023).

able to legally register, though without specificity about their work with or on behalf of LGBTIQ people. In two countries, Micronesia and Palau, we identified nascent LGBTIQ groups but it remains unclear whether registration as openly LGBTIQ organizations is possible. In at least 26 countries in the abovementioned regions of focus, as well as Monaco in Western Europe, Outright was not able to identify any LGBTIQ organizations operating at all. In 19 of those 26 countries, laws exist that criminalize same-sex intimacy or gender diversity, which likely pose obstacles to the formation of organizations. In the seven other countries in which we did not identify LGBTIQ organizations, there are no laws that criminalize LGBTIQ people, and the apparent absence of LGBTIQ organizing may stem from factors such as the country's small population or the presence of social stigma.²

This report presents key regional findings as well as nine country case studies that discuss challenges LGBTIQ organizations experience in various climates.

Outright found, as in the 2018 report, that legal registration benefits civil society organizations' sustainability and their ability to advance equality and human rights for LGBTIQ people. Many organizations view donors' requirements for beneficiaries to be legally registered as the single most vital reason to seek and sustain registration, without which they would have no access to funding. However, a small number of funders find ways to fund non-registered organizations, including through fiscal sponsors, discussed below.

Generally, LGBTIQ organizations view the lack of legal status as an impediment to organizational growth and the development of national LGBTIQ rights movements, as it can foster the invisibility of LGBTIQ organizations in the eyes of state bodies and the general public. This invisibility increases the difficulties of advancing inclusive and non-discriminatory policies to benefit LGBTIQ people. In countries where LGBTIQ organizations cannot operate or register freely, there is usually the accompanying trend of widespread human rights violations against sexual and gender minorities, ironically increasing the need for such organizations to cater to their needs.

Certain governments actively work to undermine all civic activism, particularly targeting criticism of government policies, pro-democracy activism, and human rights advocacy. In these countries, freedom of association is curtailed through the use of repressive laws, including laws that require organizations receiving any foreign funding to register as "foreign agents" and laws that allow for the surveillance of human rights activists. Security sector officials, often at politicians' bidding, use criminal charges and violence to crush civic space and silence critical voices. Where civic space is under attack generally, LGBTIQ groups often face compounded challenges: their activism may fail to galvanize the public support that can amass around other victims of state repression; LGBTIQ activists may face increased challenges in temporarily or permanently relocating in a safe place outside their city or country if they are targeted; if arrested, they are more likely to experience gender-based violence during arrests and in custody. Because domestic funding sources may be unavailable for LGBTIQ organizations operating in spaces that are generally hostile to LGBTIQ people's human rights, LGBTIQ organizations are among the sectors of civil society most impacted by "foreign agent" laws.

² These seven countries are the Central African Republic, Djibouti, Gabon, the Marshall Islands, Monaco, Nauru, and São Tomé and Príncipe. None of these countries criminalize same-sex intimacy or explicitly ban organizations working on LGBTIQ issues. In several of them, however, social stigma is intense enough that it is difficult to imagine organizations being permitted to register legally. In others, a small population size combined with a recent history of criminalization may slow the development of LGBTIQ civil society, but organizations may be more likely to emerge and register in the near future.

In other countries, civic space is specifically limited for LGBTIQ organizations as a result of institutionalized discrimination. There is significant overlap between countries that criminalize same-sex intimacy and those in which LGBTIQ organizations cannot openly register, although the latter set of countries is much broader. Institutionalized discrimination occasionally takes shape in official laws or policies that attack the freedom of association, such as Nigeria's Same-Sex Marriage Prohibition Act 2013, which explicitly prohibits "registration of gay clubs, societies and organizations, their sustenance, processions and meetings," and Uganda's Anti-Homosexuality Act 2023, assented to by President Yoweri Museveni on 29 May 2023, which prohibits non-governmental organizations from "promoting" or even "normalizing" homosexuality.³ In other countries, laws on the registration of organizations include vague language prohibiting organizations from working on issues termed contrary to public morality. Often, even in the absence of restrictive laws that deny freedom of association, unspoken barriers shaped by criminalization and LGBTIQ-phobia result in LGBTIQ organizations being denied access to registration.

Some organizations get around restrictions or impediments by seeking registration without being open about their work on LGBTIQ rights. Some LGBTIQ organizations do not attempt to register at all, either because they know the attempt will be futile, because they fear state surveillance, or as a result of burdensome and expensive bureaucratic requirements. Lengthy bureaucratic processes result in many organizations remaining unregistered and impede freedom of association even when this is not the result of official bias.

This report demonstrates the many positive outcomes of LGBTIQ organizations existing freely and openly, and highlights the pressing challenges LGBTIQ organizations experience in countries where their legal registration and freedom to operate is hindered by laws or social norms. This report also lays out the benefits of registration, particularly improved access to funding, as well as possible negative consequences, such as increased state surveillance.

LGBTIQ people's equality, dignity, and well-being are invariably linked to the freedom to form associations and publicly advocate for the causes that matter to them and their communities. Outright urges governments and other stakeholders worldwide to recognize and advance LGBTIQ people's rights to freedom of association, assembly, and expression, exemplified through the ability of LGBTIQ organizations to register as legal entities, carry out public advocacy, and operate freely without legally or socially imposed restrictions.

³Federal Republic of Nigeria, Same Sex Marriage (Prohibition) Act, 2013, <https://www.refworld.org/pdfid/52f4d9cc4.pdf>; Uganda: Samuel Okiror, "Ugandan President Signs Anti-LGBTQ+ Law With Death Penalty for Same-Sex Acts," *The Guardian*, 29 May 2023, <https://www.theguardian.com/global-development/2023/may/29/ugandan-president-yoweri-museveni-anti-lgbtq-bill-death-penalty> (accessed 29 May 2023).

Recommendations

To National Legislatures Around the World:⁴

- Repeal laws criminalizing same-sex acts between consenting adults.
- Repeal laws criminalizing gender diversity.
- Repeal laws mandating the registration of civil society organizations as so-called foreign agents and requiring disclosure of their sources of funds and foreign donors.
- Repeal all laws that prohibit public support and advocacy for LGBTIQ people's rights and that limit LGBTIQ people's freedom of expression, assembly, and association.
- Repeal all laws that prohibit civil society organizations from operating without being registered. Registration should be a tool to facilitate tax status, certain financial transactions, and access to certain platforms for government engagement: not a requirement for any group of people engaged in grassroots mobilization, advocacy or civic engagement.
- Enact laws specifically allowing the registration of civil society organizations, with exceptions only in cases provided for under international human rights law.
- Develop simple, streamlined processes that allow organizations to register without undue bureaucratic requirements.
- Enact laws that protect against discrimination, including on the grounds of sexual orientation, gender identity and expression, and sex characteristics.

To the Executive Arms of Governments Around the World:

- Enact policies and regulations that ensure that all civil society organizations, including LGBTIQ organizations, can register and operate freely.
- Enact policies that effectively prevent and punish violence on the grounds of sexual orientation, gender identity and expression, and sex characteristics.
- Publicly condemn hate speech and human rights violations of LGBTIQ persons including the violation of rights to freedom of assembly, expression, association, and right to equality before the law.
- Refrain from assenting to laws that infringe upon the right to freedom of association, as well as laws that criminalize same-sex sexual conduct between adults, gender diversity, or advocacy and public support for the rights of LGBTIQ people.

⁴ This set of recommendations applies particularly in the 100 countries where LGBTIQ civil society organizations exist but cannot openly register nor operate freely, and the countries where LGBTIQ organizations do not exist at all due in part to criminalization same-sex intimacy or gender diversity or due to unchecked social stigma.

To Funders of Civil Society Organizations:

- Provide increased, flexible, and sustainable funding to LGBTIQ organizations, including those unregistered and unable to register and those working in hostile or unfriendly legal contexts.
- Provide targeted funding to assist LGBTIQ organizations in attaining legal registration.
- Provide increased funding for strategic litigation to enable LGBTIQ organizations to challenge laws that violate human rights guaranteed by national constitutions or under international human rights law.
- Provide emergency funds for organizations facing challenges to their existence and operations by state bodies.

Methodology

This report is an update to Outright's 2018 report, *The Global State of LGBTIQ Organizing: The Right to Register*.⁵ Outright relied on a combination of one-on-one interviews, surveys, and desk research in order to determine in which countries LGBTIQ organizations could register openly and operate freely, and to learn about the obstacles that impeded registration or operations in countries where LGBTIQ organizations could not do so. Outright interviewed 18 LGBTIQ activists, both remotely and in person, between January 2022 and March 2023. We circulated a questionnaire to 211 targeted respondents, in 35 countries of particular interest for this research, who are part of LGBTIQ organizations or otherwise work with LGBTIQ persons. The survey yielded 71 responses. We also conducted internet research on the existence of LGBTIQ organizations and their ability to operate in different countries, relying on news articles, human rights reports, organizations' own websites and social media pages, and texts of laws. Interviewees and survey respondents included lawyers, activists, academics, and others with knowledge of how LGBTIQ organizations work in their countries. The questionnaire included 21 questions regarding whether respondents' organizations are registered, whether they can register and operate openly, how registration was achieved, and how operations are carried out.

All interviewees and participants provided informed consent. The consent form explained the purpose of the research, how the information given would be used, and that respondents could end the interview at any time, ask questions, decline to participate, and choose whether their names or the names of their organizations would be disclosed in this publication. In some cases, the names of respondents or organizations have been withheld for security reasons.

For the data on sub-Saharan Africa, Outright obtained additional information on organizations' registration statuses through grant application forms submitted to Outright's 2020 COVID-19 emergency fund.

Most interviews were conducted in English. In three cases, we conducted interviews in Arabic, French, and Russian with English language translations provided. The questionnaire could be completed in Arabic, Chinese, French, Bahasa Indonesia, Portuguese, Russian, or Spanish. Professional translators, volunteers, and Outright staff members provided translations for questionnaires and responses. In certain limited instances, Outright used Google Translate to aid understanding and communication.

Outright chose the countries and regions to survey based primarily on where Outright presently works. Organizations in Australia, North America, and most parts of Western Europe were not included in the survey.

⁵ Outright International, *The Global State of LGBTIQ Organizing: The Right to Register*, 2018, <https://outrightinternational.org/sites/default/files/2022-10/RighttoRegister.pdf>.

This research faced some limitations. First, we could not reach activists in some countries due to security risks. In these instances, we relied on activists who had left the country and had extensive relevant expertise. Among the 35 targeted countries in our research, we received limited responses from Georgia, Turkey, Uzbekistan, and Yemen. We sought to verify the information these sources provided via reliable online resources and other contacts.

It is difficult to draw direct comparisons between Outright's quantitative findings in 2018 and those in 2023. The 2018 research reported that 109 countries permitted the legal registration of LGBTIQ organizations, while in 55 countries, LGBTIQ organizations that existed did so without being able to register legally, and in 30 countries, no LGBTIQ organizations were identified. Outright's 2023 research found that LGBTIQ organizations exist and can register openly, as LGBTIQ organizations, in 94 countries. LGBTIQ organizations exist but cannot register and operate freely in 74 of them. In two countries, nascent groups exist but it is unclear if registration as openly LGBTIQ organizations is possible. In 26 countries, we did not identify any LGBTIQ organizations, although this did not necessarily mean there were legal barriers to registration. The larger number of countries identified in 2023, compared to 2018, in which organizations exist but cannot legally register does not reflect a drastic deterioration in freedom of association, although in a few countries, such freedoms have indeed declined. Rather, these differences stem primarily from the more distinct metrics adopted for this research, including confirmation with activists on the ground as to whether they were able to register openly as LGBTIQ organizations, as well as whether government policies made it extremely challenging for civil society organizations to register at all, regardless of their areas of focus.

In March 2023, the International Lesbian, Gay, Bisexual, Trans, and Intersex Organization (ILGA) published a database analyzing laws, international human rights instruments, and UN initiatives as they impact LGBTIQ people's rights. Its legal framework examines legal barriers to freedom of association, among others, finding that there are at least 57 countries with legal barriers impacting the rights of LGBTIQ people to freedom of association. Outright's research examines the legal frameworks, sociocultural barriers, and activists' experiences working in countries worldwide, finding that in many countries, despite the lack of formal legal barriers, registration is not possible. The two sets of results can be viewed as complementary, reflecting the legal, socio-political, and cultural situations that impact LGBTIQ organizations' ability to register and operate.

I. Introduction

I. Introduction

Context and Background

In 2018, Outright sought to examine the ability of lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) organizations to operate around the world, the risks that threatened their operations, and the strategies they deployed to protect their growing movements. Outright found that in many countries, access to legal registration for LGBTIQ organizations was severely restricted. As a result, LGBTIQ human rights defenders worked with fewer resources than mainstream civil society organizations and faced more danger.⁶

This new report on the right to register presents findings gathered in 2022 and 2023 on the extent and ability of LGBTIQ organizations to register and operate, the legal and social impediments to registration, and what factors have arisen over the last four years that influence LGBTIQ movement building across the world.

Many countries continue to restrict the registration of LGBTIQ organizations, whether through laws restricting the operations of non-governmental organizations (NGOs)—including so-called foreign agent laws—or through discriminatory practices that specifically target organizations working on gender and sexuality. Where LGBTIQ organizations cannot register openly, they often devise other strategies such as registering under general human rights, women's rights, health, youth, or development themes. In some cases, civil society organizations register as for profit or not-for-profit companies, which may require less bureaucratic obstacles than NGO registration.

Legal status provides salient benefits for an organization. Registration means that CSOs are legitimately connected to the state and are recognized by institutional and individual stakeholders. Registration can be pivotal in the implementation of activities to meet set organizational and movement objectives. In some climates, registration can provide protection for staff and volunteers as they implement their activities. Legal registration can lead to better access to funding streams, opportunities to collaborate with other civic actors, and engagement with political leaders regarding legal and policy reform. The registration of LGBTIQ organizations can also provide important public acknowledgement of state recognition of human and LGBTIQ rights movements. It facilitates CSOs' engagement and collaboration with international, academic, and public institutions. Many organizations view donors' requirements for beneficiaries to be registered as the most important reason and benefit of registration, without which they would have limited or no access to funding. Registration also allows organizations to operate bank accounts, own and rent property, enter into contracts, and even create job opportunities for LGBTIQ and other marginalized persons. Some organizations that are not registered are able to receive funds through fiscal sponsors

⁶ Outright International, *The Global State of LGBTIQ Organizing: The Right to Register*, 2018, <https://outrightinternational.org/sites/default/files/2022-10/RighttoRegister.pdf>, p.7.

and accrue some of these benefits, but even identifying supportive fiscal sponsors can be a challenge in some countries in which the legal, political and social environment is hostile to LGBTIQ human rights or to civil society more generally.

Fiscal Sponsorship

Fiscal sponsors are not-for-profit organizations who provide administrative and financial management, through receiving, managing and disbursing or otherwise managing tax-exempt funds, to newer and growing organizations. Many organizations that are unregistered seek and access funding using fiscal sponsors.

In some cases, organizations may choose not to register, despite these benefits, so as not to risk deregistration, monitoring or surveillance by state authorities, or even just to sidestep burdensome and expensive administrative and legal requirements. Nonetheless, lack of legal status for LGBTIQ organizations is generally viewed as an impediment to organizational growth and the development of national LGBTIQ rights movements. Being unregistered fosters the invisibility of LGBTIQ organizations and people with state bodies, impeding efforts to contribute to inclusive and non-discriminatory policies to benefit LGBTIQ persons.

Outright undertook this research project to document the challenges and successes in LGBTIQ rights movement building globally, and to expose the levels of discrimination against LGBTIQ people and organizations, including in accessing the human right to freedom of association. We found that national laws regulating the non-profit sector have differing consequences for mainstream human rights NGOs and LGBTIQ NGOs. Nigeria stands out for its explicit prohibition on “gay clubs, societies and organizations,” and Uganda’s Anti-Homosexuality Act, enacted in May 2023, prohibits any organization from “promoting” or even “normalizing” same-sex intimacy or LGBTIQ equality.⁷ In other countries, including Ghana and Kenya, members of parliament have introduced such laws or have stated the intention to do so.⁸ Abusive governments have cracked down on human and LGBTIQ peoples’ rights, as in China, and conflicts, coups, and humanitarian crises have impacted LGBTIQ movement building, as in Afghanistan, Myanmar, Sudan, and Ukraine.⁹ Compared to our findings in 2018, there are few indications that states are making progress in facilitating LGBTIQ movement building, and some signs that more states are seeking to impede it. These include attempts to criminalize LGBTIQ organizing and restrict so-called gender ideology and the continued clampdown on LGBTIQ visibility events, such as Pride.

⁷ Federal Republic of Nigeria, Same Sex Marriage (Prohibition) Act, 2013, <https://www.refworld.org/pdfid/52f4d9cc4.pdf> (accessed 23 May 2023); Samuel Okiror, “Ugandan President Signs Anti-LGBTQ+ Law With Death Penalty for Same-Sex Acts,” *The Guardian*, 29 May 2023, <https://www.theguardian.com/global-development/2023/may/29/ugandan-president-yoweri-museveni-anti-lgbtq-bill-death-penalty> (accessed 29 May 2023).

⁸ Outright International, “We Deserve Protection”: Anti-LGBTIQ Legislation and Violence in Ghana, 29 August 2022, <https://outrightinternational.org/our-work/human-rights-research/we-deserve-protection-anti-lgbtq-legislation-and-violence-ghana> (accessed 23 May 2023).

⁹ Outright International and Human Rights Watch, “Even If You Go to the Skies We’ll Find You”: LGBT People in Afghanistan After the Taliban Takeover, 25 January 2022, <https://outrightinternational.org/our-work/human-rights-research/lgbt-people-afghanistan-after-taliban-takeover> (accessed 23 May 2023); Outright, *Fading Rainbow: A Q&A on LGBTQ Equality in China*, 7 February 2022, <https://outrightinternational.org/our-work/human-rights-research/fading-rainbow-qa-lgbtq-equality-china> (accessed 23 May 2023); J. Lester Feder, “It’s Important to Fight Every Single Day: Kyiv Pride Comes to Warsaw,” Outright International, 2022, <https://outrightinternational.org/insights/its-important-fight-every-single-day-kyiv-pride-comes-warsaw> (accessed 23 May 2023).

LGBTIQ and human rights civil society movement building are particularly relevant in international human rights law, under which the rights to freedom of association and assembly are well established, especially through article 22 of the International Covenant on Civil and Political Rights (ICCPR).¹⁰ Restrictions on this right must serve legitimate purposes and aim to protect other human rights, in accordance with human rights principles.

List of Countries Where Outright Identified No LGBTIQ Organizations

The following table lists countries in which Outright identified no LGBTIQ organizations in 2018 and 2023.

Identifying countries in which LGBTIQ organizations exist is not an exact science. Many organizations are deeply underground. In some countries, small collectives and informal groups of friends united around their diverse sexual orientations and gender identities may exist, and whether they are considered “organizations” may depend on participants’ or other stakeholders’ perspectives. While this table is based on extensive research, Outright found in 2023 that we had missed organizations in 2018 that already existed in the Republic of the Congo, Equatorial Guinea, and Uzbekistan. It is feasible that our 2023 list equally includes omissions. The presence of a country on this list does not necessarily mean that the environment is too hostile for LGBTIQ organizations to register and operate. In some very small countries, especially island states that have decriminalized same-sex intimacy in the last decade, such as São Tomé and Príncipe or Nauru, LGBTIQ civil society may be slow to emerge and to connect with international movements.

	Country	Region	LGBTIQ CSO Identified in 2018 ¹¹	LGBTIQ CSO Identified in 2023
1.	Afghanistan	Asia	No	No
2.	Bahrain	MENA	No	No
3.	Brunei Darussalam	Asia	No	No
4.	Central African Republic	Sub-Saharan Africa	No	No
5.	Chad	Sub-Saharan Africa	No	Yes
6.	Comoros	Sub-Saharan Africa	No	No
7.	Djibouti	Sub-Saharan Africa	No	No
8.	Eritrea	Sub-Saharan Africa	No	No
9.	Gabon	Sub-Saharan Africa	No	No
10.	The Gambia	Sub-Saharan Africa	No	No

¹⁰ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, arts. 19, 22.

¹¹ The 2018 list has been updated based on findings after the publication of Outright’s 2018 report. That did not include Brunei Darussalam, Libya, São Tomé and Príncipe, Tuvalu, and the United Arab Emirates on its list of 30 countries in which no LGBTIQ organizations existed, but Outright later determined there were likely not LGBTIQ organizations operating in those countries at that time. In addition, after publishing the 2018 report, Outright identified LGBTIQ organizations that had already existed in the Republic of Congo, Equatorial Guinea, and Uzbekistan.

	Country	Region	LGBTIQ CSO Identified in 2018	LGBTIQ CSO Identified in 2023
11.	Democratic People's Republic of Korea/North Korea	Asia	No	No
12.	Kuwait	MENA	No	No
13.	Libya	MENA	No	Yes
14.	Madagascar	Sub-Saharan Africa	No	Yes
15.	Marshall Islands	Asia	No	No
16.	Micronesia	Asia	No	Yes
17.	Monaco	Europe	No	No
18.	Nauru	Asia	No	No
19.	Palau	Asia	No	Yes
20.	Oman	MENA	No	No
21.	Qatar	MENA	No	No
22.	San Marino	Europe	No	Yes
23.	São Tomé and Príncipe	Sub-Saharan Africa	No	No
24.	Saudi Arabia	MENA	No	No
25.	Solomon Islands	Asia	No	No
26.	Somalia	Sub-Saharan Africa	No	Yes
27.	South Sudan	MENA	No	No
28.	Syrian Arab Republic	MENA	No	No
29.	Turkmenistan	Asia	No	No
30.	Tuvalu	Asia	No	No
31.	United Arab Emirates	MENA	No	No
32.	Yemen	MENA	No	No
Total number of countries with no known LGBTIQ CSOs		2018: 32	2023: 26	

II.

Overview of Regional Trends

II. Overview of Regional Trends

In the six regions surveyed, we note that the situation in all countries can be categorized into cases where registration as an openly LGBTIQ organization is generally possible, and where it is generally not possible or expressly prohibited. The table represents the data on the ability of LGBTIQ organizations to register openly across six regions.

	Sub-Saharan Africa	Asia and the Pacific	Latin America	The Caribbean	Middle East and North Africa	Europe	Other (Australia, Canada, New Zealand and the United States)
Number of countries surveyed	48	42	17	16	20	49	4
Countries where LGBTIQ CSOs exist and can generally register openly	5	14	16	9	1	45	4
Countries where LGBTIQ CSOs exist, but registration as openly LGBTIQ is prohibited or generally not possible ¹²	35	17	1	7	11	3	0
Countries where no known LGBTIQ organizations exist, but there are no clear legal barriers to registration same-sex intimacy and LGBTIQ organizing are not legally prohibited	4	2	0	0	0	1	0
Countries where no known LGBTIQ organizations exist, and there are likely barriers to registration	4	7	0	0	8	0	0
Nascent LGBTIQ organizations exist but unclear whether registration as openly LGBTIQ organizations is possible	0	2	0	0	0	0	0

¹² In the regional sections that follow, this category is broken up into two tiers: “prohibited or generally impossible” and “challenging and often not possible.”

Among our regions of focus, Latin America is the region that most consistently facilitates the open registration and operation of LGBTIQ organizations, although this does not mean that LGBTIQ movements in these countries operate without challenges.¹³ In comparison, the Middle East and North Africa (MENA) and sub-Saharan Africa regions present extremely challenging environments for LGBTIQ organizations to register and operate, and in Asia, challenges also persist.

The MENA region had the largest proportion of countries where we could not identify any operating LGBTIQ organizations. Even in more challenging regions however, many organizations operate under the radar, and the number of countries with at least one LGBTIQ organization has increased since 2018. The countries with an apparently new presence of LGBTIQ organizations—with the caveats noted above—were in diverse regions, such as MENA (Libya), sub-Saharan Africa (Chad, Madagascar, and Somalia), the Pacific (Micronesia and Palau), and Europe (San Marino).

Sub-Saharan Africa

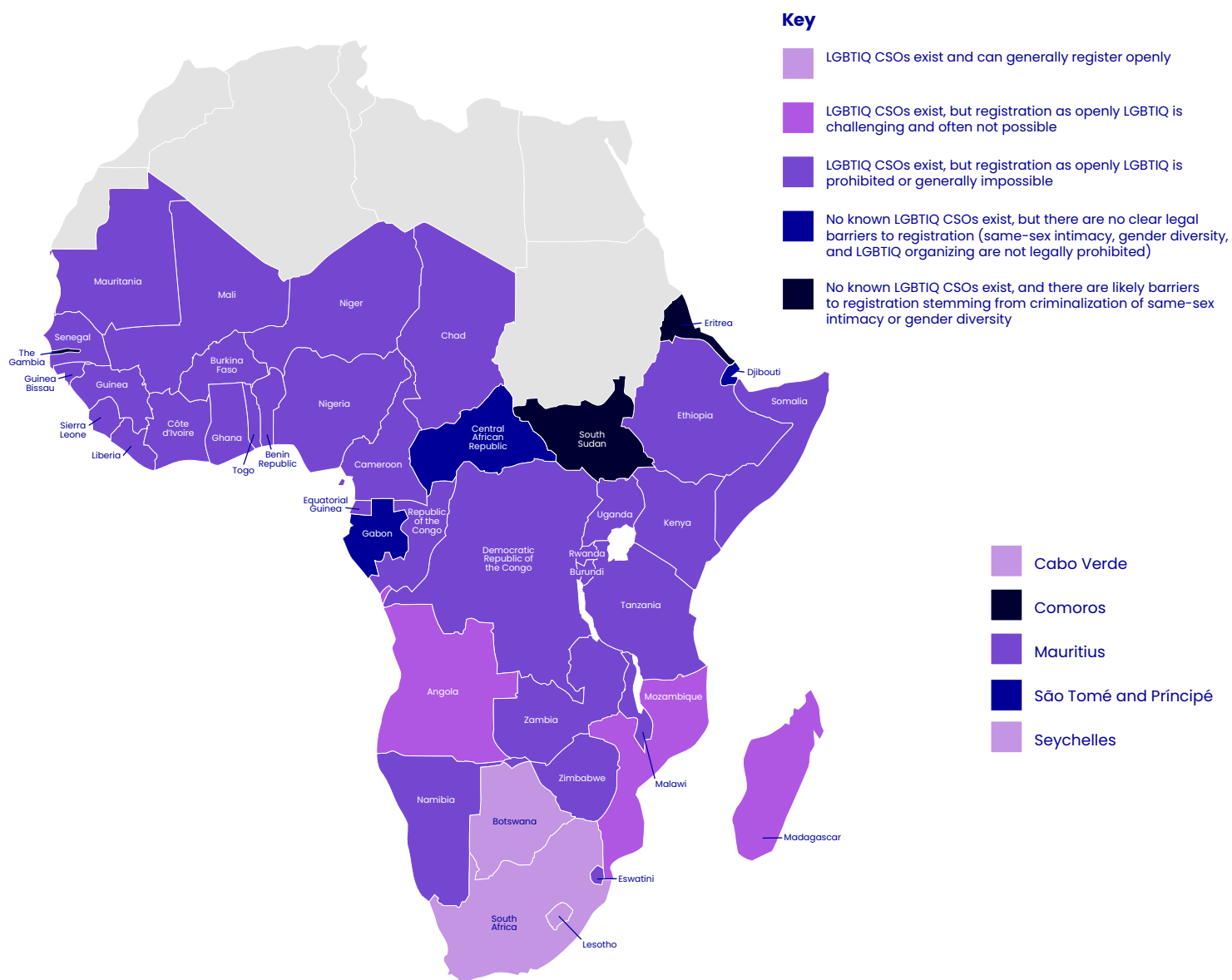
In sub-Saharan Africa, civil society organizations face challenges in openly registering as LGBTIQ organizations in many of the countries surveyed. The widespread institutionalization of homophobia, transphobia and, more overtly recently, intersexphobia, combine to create hostile climates for LGBTIQ organizations to exist and operate.

As a result, a strategy which works for many is to register as organizations working on health, women's rights, youth, or development, allowing LGBTIQ activists platforms for building movements working for the advancement of LGBTIQ people's human rights. In other cases, LGBTIQ activists join forces with existing, registered civil society organizations that focus on a wide range of human rights or other social issues, and establish and run LGBTIQ-specific programs that are sheltered and protected within a broader NGO umbrella.

Civil society organizations in Botswana, Cabo Verde, Lesotho, Seychelles, and South Africa reported that they can legally register even where they clearly identify themselves as working with LGBTIQ populations. In Angola and Mozambique, while registration as an LGBTIQ organization has been achieved by some organizations, respondents reported that it is often not possible. In the 35 other sub-Saharan African countries where Outright identified LGBTIQ organizations, as indicated on the map below, registration as LGBTIQ organizations is prohibited or is almost entirely impossible. In eight sub-Saharan African countries—Central African Republic, Comoros, Djibouti, Eritrea, Gabon, The Gambia, São Tomé and Príncipe, and South Sudan—Outright did not identify any LGBTIQ organizations in 2023.

¹³ FIDH, NICARAGUA: National Assembly should not approve the legislative proposal for the Law for Regulation of Foreign Agents, 28 September 2020, <https://www.fidh.org/en/issues/human-rights-defenders/nicaragua-national-assembly-should-not-approve-the-legislative> (accessed 1 June 2023).

Findings on LGBTIQ Organizations' Registration in Sub-Saharan African Countries¹⁴



¹⁴ This map reflects responses from activists and Outright's desk research about laws, policies, and norms in these countries. It also includes data obtained from applicants to Outright's 2022 COVID-19 Fund. The categories reflect general perceptions, but some organizations may have different experiences than others. Although in this map we used the umbrella LGBTIQ term, we are aware that the experiences of organizations may differ depending on whether they are working primarily on issues impacting lesbian, gay, bisexual, transgender, intersex, or queer people.

The prevalence of laws in Africa criminalizing same-sex sexual conduct and identities thwarts the ability of LGBTIQ advocacy groups to demand rights protections and build movements. Twenty-five of sub-Saharan Africa's 48 countries expressly criminalize consensual same-sex acts between adults, whether as legal relics of colonialism or through laws introduced by post-colonial legislation.¹⁵ In most African countries where homosexuality is not criminalized, LGBTIQ persons and organizations nevertheless face various forms of persecution and explicit discrimination.¹⁶

Many LGBTIQ organizations in Africa therefore seek registration through focusing on what is known as "key populations" work, referring to populations disproportionately impacted by the HIV pandemic including men who have sex with men, transgender women, people who inject drugs, sex workers, and people in prisons.¹⁷ Other organizations describe themselves as working with youth or young persons in skills acquisition, capacity development, sexuality education and human rights training, or they register as human rights or women's rights groups. Ultimately, in many African countries, LGBTIQ groups increasingly find strategic ways to register as legal entities, despite restrictive laws, even where open registration is impossible or improbable. However, some continue to work almost entirely underground, as in Senegal, where an activist told Outright that frequent arrests of individuals on charges of same-sex conduct impede movement-building and "affect the morale of LGBTIQ persons, it makes us feel like second-class citizens."¹⁸ The situation has "rendered us illegal entities in a country that is supposed to be a free country, making us look clandestine."¹⁹

LGBTIQ activists and organizations have gone to the courts to challenge restrictions on their registration or operation, with varying degrees of success. In Eswatini, which criminalizes same-sex intimacy under common law, in 2022 the Eswatini Sexual and Gender Minorities organization challenged the refusal of the Registrar of Companies to allow its registration. The High Court in Eswatini upheld the registrar's decision disallowing the group from registering on the basis that all rights are subject to laws prevailing in the country, including the law criminalizing sodomy.²⁰ In June 2023, the Supreme Court in Eswatini ruled in favor of the LGBTIQ group, setting aside the refusal of the Registrar of Companies to register Eswatini Sexual and

¹⁵ Lars Kamer, "Criminalization of Homosexual Relations in Africa 2020," Statista, 1 February 2022, <https://www.statista.com/statistics/1269999/criminalization-of-same-sex-relations-in-africa/> (accessed 23 May 2023).

¹⁶ For instance, on Rwanda: Martina Schwikowski, "Africa: Being LGBT in Africa Draws Stigma, Violence and Criminal Charges," *AllAfrica*, 3 June 2022, <https://allafrica.com/stories/202206050124.html>, accessed 23 May 2023; on Côte d'Ivoire: Human Rights Watch, "World Report 2020: Côte d'Ivoire," 2020, <https://www.hrw.org/world-report/2020/country-chapters/cote-divoire> (accessed 23 May 2023).

¹⁷ UNAIDS, "Key Populations," <https://www.unaids.org/en/topic/key-populations> (accessed 23 May 2023).

¹⁸ Responses by Adama N. (pseudonym) to Outright questionnaire, March 2022

¹⁹ Ibid. See also Human Rights Watch, "Quash Conviction of 7 for 'Acts Against Nature:' Case Highlights Persecution of LGBT People," 28 August 2015, <https://www.hrw.org/news/2015/08/28/senegal-quash-conviction-7-acts-against-nature> (accessed 23 May 2023).

²⁰ Daniel Itai, "Eswatini High Court Acknowledges LGBTQ Rights: April 29 Ruling Upheld Decision Not to Allow Group to Register," *Washington Blade*, 2 May 2022, <https://www.washingtonblade.com/2022/05/02/eswatini-high-court-acknowledges-lgbtq-rights/>, (accessed 23 May 2023). The ruling acknowledges that all human beings have the freedom of association and expression but states that the rights are "subject to the laws as prevailing in the kingdom and which have not been challenged anywhere." In particular, the High Court upheld the decision disallowing the group's registration on the following grounds: the applicants were not challenging the criminalization of same-sex sexual acts and registration would allow a contravention of the law; the organization's actions are contrary to cultural values and morality, among others. Southern Africa Litigation Centre, "Eswatini: Challenging the Refusal to Register an Advocacy Group," 22 June 2020, <https://www.southernafricalitigationcentre.org/2020/06/22/eswatini-challenging-the-refusal-to-register-an-advocacy-group/> (accessed 23 May 2023).

Gender Minorities as a non-profit.²¹ In Uganda, where consensual same-sex intimacy is also criminalized, the Uganda Registration Services Bureau (URSB) in 2016 rejected the registration of Sexual Minorities Uganda (SMUG) on grounds that its name was “undesirable.”²² In 2018, SMUG filed a High Court case charging the URSB with violations of freedom of association. The court ruled in URSB’s favor, claiming the name would encourage the commission of criminal acts.²³ SMUG’s appeal against the ruling is currently pending. As part of a crackdown on LGBTIQ human rights activism in 2022, the government forcibly shut down SMUG for operating without being registered.²⁴ SMUG described this shutdown and the Ugandan Government’s “refusal to legalize SMUG’s operations” as an indicator of the treatment of “Ugandan gender and sexual minorities as second-class citizens.”²⁵ The UN Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity issued a communication to the Government of Uganda condemning the closure of SMUG and asking the government to explain how this action was consistent with Uganda’s treaty obligations under the International Covenant on Civil and Political Rights.²⁶

Activists in Uganda had hoped they might be vindicated in the courts because of positive precedents in other Southern and Eastern African countries. In 2016 the Botswana Court of Appeal had ordered the registration of an organization called the Lesbians, Gays and Bisexuals of Botswana (LEGABIBO) on the basis that refusal of registration was unlawful and a violation of the right to freedom of association.²⁷ Two Kenyan organizations, Transgender Education and Advocacy and the National Gay and Lesbian Human Rights Commission (NGLHRC), won cases regarding their right to register in 2014 and 2015 respectively, with the NGLHRC ruling upheld by the Supreme Court in February 2023.

The Kenya cases, and NGLHRC’s legal battle in particular, illustrate the possible benefits of strategic litigation on the right to register in countries like Kenya where non-discrimination provisions are open-ended, and the judiciary is relatively independent. The 2023 Supreme Court of Kenya ruling on NGLHRC and its aftermath also illustrate the risks of backlash.

²¹ Roberto Igual, “Victory as Eswatini Supreme Court rules in favour of LGBTIQ+ Rights Group,” Mamba Online, 16 June 2023, <https://www.mambaonline.com/2023/06/16/victory-as-eswatini-supreme-court-rules-in-favour-of-lgbtqi-rights-group/> (accessed 20 June 2023).

²² The National Bureau for Non-Governmental Organizations, “Statement on Halting the Operations of Sexual Minorities Uganda,” 5 August 2022, <https://www.ngobureau.go.ug/en/news-and-notice/statement-on-halting-the-operations-of-sexual-minorities-uganda> (accessed 23 May 2023).

²³ Ibid; “SMUG Holds Advocacy Strategy Meeting – SMUG Vs URSB Civil Appeal, CA,” SMUG International Blog, 26 October 2019, <https://smuginternational.org/smug-intl-blog/t/smug-holds-advacy-strategy-meeting---smug-vs-ursb-civil-appeal-ca> (accessed 23 May 2023).

²⁴ “Statement on Halting the Operations of Sexual Minorities Uganda,” the National Bureau for Non-Governmental Organizations press release, <https://www.ngobureau.go.ug/en/news-and-notice/statement-on-halting-the-operations-of-sexual-minorities-uganda>.

²⁵ “Statement on the Shutdown of Operations of Sexual Minorities Uganda,” SMUG International Blog, 5 August 2022, <https://smuginternational.org/smug-intl-blog/t/statement-on-the-shutdown-of-the-operations-of-sexual-minorities> (accessed 23 May 2023).

²⁶ UN Human Rights Special Procedures, “Uganda: Forced Closure of LGBTIQ+ Organisation ‘SMUG’ (Joint Communication),” 16 December 2022, <https://srdefenders.org/uganda-forced-closure-of-lgbtqi-organisation-smug-joint-communication/> (accessed 23 May 2023).

²⁷ Southern Africa Litigation Centre, “A Victory for the Right to Freedom of Association: The LEGABIBO Case,” August 2017, <https://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/SALC-Legabibo-Booklet-1.pdf> (accessed 23 May 2023).

The case dates to 2013, when NGLHRC initially sought to reserve a name with the regulatory body Non-Governmental Organizations Coordination Board (NGO Board) for purposes of registration as an NGO. It proposed five names: Gay and Lesbian Human Rights Council, Gay and Lesbian Human Rights Observatory, Gay and Lesbian Human Rights Organisation, Gay and Lesbian Human Rights Commission, and Gay and Lesbian Human Rights Collective. The NGO Board declined to approve all suggested names, relying on the authority that it could do so in situations where the names, in the opinion of the Executive Director were “repugnant to or inconsistent with any law” or “otherwise undesirable.”²⁸ In response, Eric Gitari on behalf of the Commission instituted Petition No. 440 of 2013 at the Constitutional and Human Rights Division of the High Court, seeking declaratory relief on the argument that the Board violated the constitutionally guaranteed right to associate and assemble.²⁹

The High Court found in favor of Gitari. It also noted that although the right to the freedom of association could be restricted under very limited circumstances according to article 24 the Constitution, it could not be restricted on the basis of sections 162, 163, or 165 of the Penal Code, which criminalize “gross indecency” and “carnal knowledge against the order of nature.”³⁰ Furthermore, the Court ruled that the said provisions did not “criminalize homosexuality or the state of being homosexual.”³¹

The decision prompted an appeal by the Board to the Court of Appeal through Civil Appeal No. 145 of 2015.³² The Court of Appeal affirmed the decision of the High Court, which prompted Petition No. 16 of 2019 before the Supreme Court of Kenya.³³ On 24 February 2023, the apex court affirmed the decisions of the two lower superior courts, thus concluding a decade-old fight for the right to register as an LGBTIQ organization.

However, the ruling has caused nationwide debate and negative backlash against LGBTIQ persons, communities, and organizations.³⁴ In February 2023, a Kenyan member of Parliament proposed a new law that would criminalize the so-called “promotion of homosexuality,” including operating an organization “which promotes or encourages homosexuality” or normalizes prohibited conduct.

²⁸ National Gay and Lesbian Human Rights Commission, “Case Brief: Republic of Kenya, in the Court of Appeal at Nairobi,” Civil Appeal No. 145 of 2015, <https://nglhrc.com/wp-content/uploads/2022/08/FOAJudgementCaseBrief.pdf> (accessed 23 May 2023).

²⁹ Republic of Kenya, Constitution & Judicial Review Division, Petition No. 440 of 2013, <http://kenyalaw.org/caselaw/cases/view/108412/> (accessed 23 May 2023).

³⁰ Republic of Kenya, Penal Code, <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%2063>.

³¹ Republic of Kenya, Civil Appeal No. 145 of 2015, <http://kenyalaw.org/caselaw/cases/view/170057/> (accessed 23 May 2023).

³² Republic of Kenya, Civil Appeal No. 145 of 2015, <http://kenyalaw.org/caselaw/cases/view/170057/> (accessed 23 May 2023).

³³ Republic of Kenya, Petition No. 16 of 2019, <https://nglhrc.com/wp-content/uploads/2023/02/PETITION-NO.-16-OF-2019-NGOs-CO-ORDINATION-BOARD-vs-ERIC-GITARI-5-OTHERS-1.pdf> (accessed 23 May 2023).

³⁴ Amnesty International Kenya, “Press Statement on the Supreme Court Judgement on the Freedom of Association of LGBTIQ+,” 2 March 2023, <https://www.amnestykenya.org/statement-on-supreme-court-judgement-on-the-freedom-of-association/> (accessed 23 May 2023).

The proposed Kenyan law is among several new laws in sub-Saharan Africa that explicitly seek to prohibit various approaches to advocacy around LGBTIQ rights. In addition to criminalizing homosexuality and “unnatural offences” under Sharia law and its Penal and Criminal Codes, Nigeria’s Same Sex Marriage (Prohibition) Act (SSMPA), passed in 2013, was the first law on the books in Africa and around the world to explicitly outlaw “gay clubs, societies and organizations.”³⁵ The Nigerian model is gaining popularity. In Ghana, as discussed in greater detail in the case studies below, a proposed anti-LGBTIQ bill would prohibit LGBTIQ “propaganda, advocacy, support and other promotional activities.”³⁶ In Uganda, in March 2023, Parliament in Uganda passed a draconian Anti-Homosexuality Bill which would criminalize promotion of homosexuality; specifically, operating an organization “which promotes or encourages homosexuality” or “normalizes” prohibited conduct.³⁷ The Bill, which also shockingly calls for the death penalty for some forms of consensual same-sex conduct, has now received the president’s assent.³⁸

Asia and the Pacific³⁹

LGBTIQ activism in Asia and the Pacific is robust, but, as also found in 2018, legal, social, and bureaucratic realities impede registration.⁴⁰ The diversity rife in this region makes identifying broad regional trends challenging. Among the 42 Asian and Pacific countries Outright surveyed, activists stated that it is possible for LGBTIQ organizations to register openly in 14. In nine Asian and Pacific countries, Outright could not identify any LGBTIQ organizations in 2023. Many Asian and Pacific LGBTIQ groups register as general human rights organizations where laws and negative social perceptions impede their ability to register and operate openly.

Much of the following analysis applies primarily to Asian countries, and the information on Pacific countries is limited. Outright recognizes that different regional dynamics impact LGBTIQ organizing in the Pacific as compared to Asia and will seek to draw out these differences further in future reporting.

³⁵ Nigeria, Same Sex Marriage (Prohibition) Act, <https://www.refworld.org/pdfid/52f4d9cc4.pdf>.

³⁶ Republic of Ghana, “Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill, 2021,” Memorandum, <https://cdn.modernghana.com/files/722202192224-0h830n4ayt-lgbt-bill.pdf> (accessed 23 May 2023), clauses 12–16.

³⁷ The NGO Act of 2016 already states that no organization is permitted to “engage in any act, which is prejudicial to the interests of Uganda and the dignity of the people of Uganda:” a provision that could be used prejudicially against LGBTIQ organizations given the institutionalized nature of anti-LGBTIQ bias in Uganda.

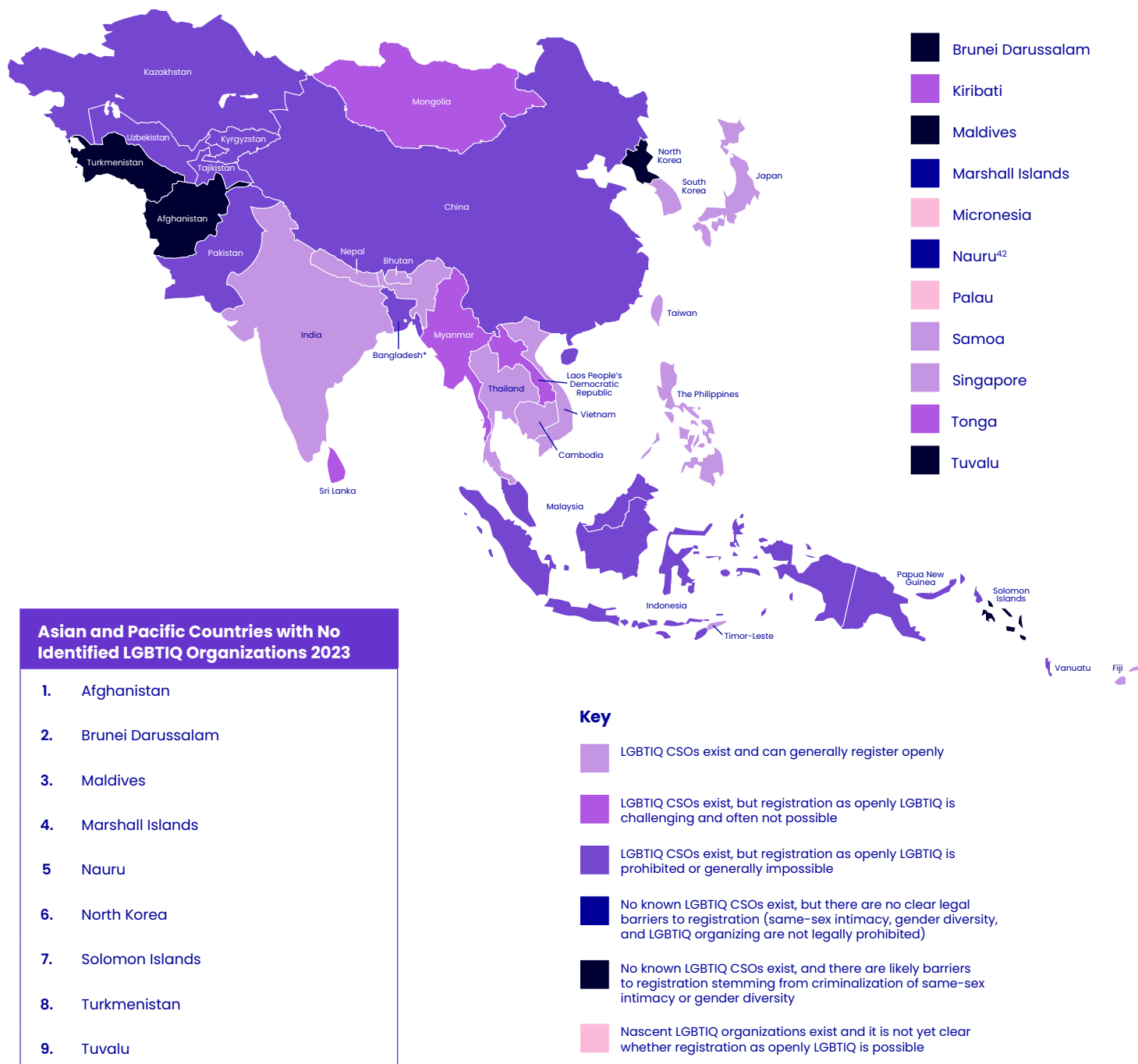
³⁸ Samuel Okiror, “Ugandan President Signs Anti-LGBTQ+ Law With Death Penalty for Same-Sex Acts,” *The Guardian*, 29 May 2023, <https://www.theguardian.com/global-development/2023/may/29/ugandan-president-yoweri-museveni-anti-lgbtq-bill-death-penalty>, (accessed 29 May 2023).

³⁹ Note: countries in the Middle East region that are located in Asia are addressed in the section on the Middle East and North Africa, below.

⁴⁰ Outright International, *The Global State of LGBTIQ Organizing: The Right to Register*, <https://outrightinternational.org/our-work/human-rights-research/global-state-lgbtq-organising-right-register>, p. 18.

Findings on LGBTIQ Organizations' Registration in Asia and the Pacific⁴¹

**Countries where organizations working with transgender or Hijra populations can register and operate openly, but organizations focused on sexual orientation cannot.*



⁴¹ This map reflects responses from activists and Outright's desk research about laws, policies and norms in these countries. It also includes data obtained from applicants to Outright's 2022 COVID-19 Grant. The categories reflect general perceptions, but some organizations may have different experiences than others. Although in this map we used the umbrella LGBTIQ term, we are aware that the experiences of organizations may differ depending on whether they are working primarily on issues impacting lesbian, gay, bisexual, transgender, intersex, or queer people.

⁴² Here, LGBTIQ organizations likely do not exist as a result of the size of the country.

Certain recent developments in Asia are likely to contribute to advances in the right to freedom of association for LGBTIQ people. In February 2023, the Sri Lankan government expressed support for a bill seeking to decriminalize consensual same-sex acts in the country.⁴³ The Singaporean parliament decriminalized same-sex acts between men in November 2022, although it amended the constitution to prevent court challenges regarding definitions of marriage and the family in an attempt to forestall the legalization of same-sex marriage.⁴⁴ Bhutan decriminalized same-sex acts in 2021, based on the King's assent.⁴⁵ In South Korea, legislators proposed an amendment to the National Human Rights Commission Act to remove sexual orientation as a protected ground against discrimination and restrict definitions of gender.⁴⁶ While there are no updates regarding a decision on this, four bills containing inclusive anti-discrimination provisions have been introduced before the National Assembly of South Korea and remain pending.⁴⁷ Meanwhile, a court in South Korea held in February 2023 that same-sex couples are entitled to the same health benefits as different-sex couples.⁴⁸

There have also been negative developments. In China, LGBTIQ organizing has become almost impossible, as detailed in the China case study below. In the most recent blow to LGBTIQ organizing in China, the Beijing LGBT Center closed its doors in May 2023 for reasons not made public.

In certain countries across Asia, although LGBTIQ organizations can openly register and operate, LGBTIQ rights activism is sometimes met with institutional and public resistance. LGBTIQ activists in the Philippines opposed a controversial anti-terrorism bill during the 2020 Pride march. In response, riot police infiltrated the protest and arrested and detained participants.⁴⁹ Meanwhile, a proposed bill seeking to penalize discrimination based on sexual orientation and gender identity has been in Congress for over 20 years.⁵⁰

Some LGBTQ organizations prefer not to register: an activist in Taiwan said that some groups avoid registering to "skip [heavy] administrative work."⁵¹ In Pakistan, where same-sex intimacy is criminalized, organizations focused on rights of transgender persons/hijras can openly

⁴³ Michael K. Lavers, "Sri Lanka Government Announces Support for Decriminalization Bill," *Washington Blade*, 10 February 2023, <https://www.washingtonblade.com/2023/02/10/sri-lanka-government-announces-support-for-decriminalization-bill/> (accessed 23 May 2023).

⁴⁴ Reuters, "Singapore Repeals Gay Sex Ban But Limits Prospect of Legalizing Same-sex Marriage," *CNN*, 29 November 2022, <https://edition.cnn.com/2022/11/29/asia/singapore-gay-sex-ban-intl-wellness/index.html> (accessed 23 May 2023).

⁴⁵ Human Dignity Trust, "King's Assent Leads Himalayan Nation of Bhutan to Become Latest Country to Decriminalise Same-Sex Activity," 18 March 2021, <https://www.humandignitytrust.org/news/kings-assent-leads-himalayan-nation-of-bhutan-to-become-latest-country-to-decriminalise-same-sex-activity/> (accessed 23 May 2023); Tanika Godbole, "Are LGBTQ Rights Blossoming in Bhutan?" *Deutsche Welle (DW)*, 7 August 2022, <https://www.dw.com/en/are-lgbtq-rights-blossoming-in-bhutan/a-62394405> (accessed 23 May 2023).

⁴⁶ Amnesty International, "South Korea: Lawmakers Should Reject Shameful Anti-LGBTI Amendment," 21 November 2019, <https://www.amnesty.org/en/latest/press-release/2019/11/south-korea-lawmakers-should-reject-shameful-anti-lgbti-amendment/> (accessed 23 May 2023).

⁴⁷ Amnesty International, "National Assembly of South Korea Should Act Swiftly to Enact Anti-Discrimination Legislation," 11 November 2021, <https://www.amnesty.org/en/documents/asa25/4957/2021/en/> (accessed 23 May 2023).

⁴⁸ Lina Yoon, "South Korea Court Recognizes Equal Benefits for Same-Sex Couple: Ruling Finds Discrimination Based on Sexual Orientation," *Human Rights Watch*, 22 February 2023, <https://www.hrw.org/news/2023/02/22/south-korea-court-recognizes-equal-benefits-same-sex-couple> (accessed 23 May 2023).

⁴⁹ Michael Beltran, "Philippine LGBT Activists Fight Duterte's Machismo with Solidarity," *The New Lens*, 1 July 2020, <https://international.thenewslens.com/article/137151> (accessed 23 May 2023).

⁵⁰ Jove Moya, "SOGIE Equality Bill: Everything You Need To Know – Supporters, Origins, and More," *Tatler*, 24 June 2022, <https://www.tatlerasia.com/culture/arts/pride-month-2021-sogie-equality-bill-timeline> (accessed 23 May 2023).

⁵¹ Response to Outright questionnaire, Jennifer Lu, then-Executive Director of Taiwan Equality Campaign, an LGBTIQ organization, August 2022.

register, but those that work on issues related to sexual orientation are only able to register by describing their mandates as related to health, youth, development, or women's issues.⁵² One respondent said that even if organizations working on sexual orientation were permitted to register, they would be unlikely to do so—despite limitations to their fundraising and project implementation as unregistered organizations—because it would put them on the government's radar.⁵³

Outright obtained only limited information from the Pacific region for this report. In Micronesia, where Outright identified a small LGBTIQ organization operating for the first time, the Congress amended the country's anti-discrimination framework to include sexual orientation as a protected ground in 2018, which may facilitate LGBTIQ organizing.⁵⁴

The Caribbean

In the Caribbean, many LGBTIQ organizations operate publicly even though they experience legal restrictions, institutional impediments, and social biases fueled by religious norms. The region stands out as one in which criminalization of same-sex relations has not, at least in the last decade, held back the development of an outspoken movement. The positive momentum in LGBTIQ organizing in the Caribbean, identified in Outright's 2018 report, continues.⁵⁵ LGBTIQ organizations and activists continue to challenge repressive laws, lobby for more inclusive laws, and work towards changing negative social perceptions about sexual and gender diversity.

Outright found that organizations could generally register openly as LGBTIQ organizations in nine out of 16 Caribbean countries, while in one country, registration was not prohibited but was challenging and often not possible. In the other six countries, registration as open LGBTIQ organizations was prohibited or virtually impossible. Nonetheless, LGBTIQ organizations exist in every country in the Caribbean.

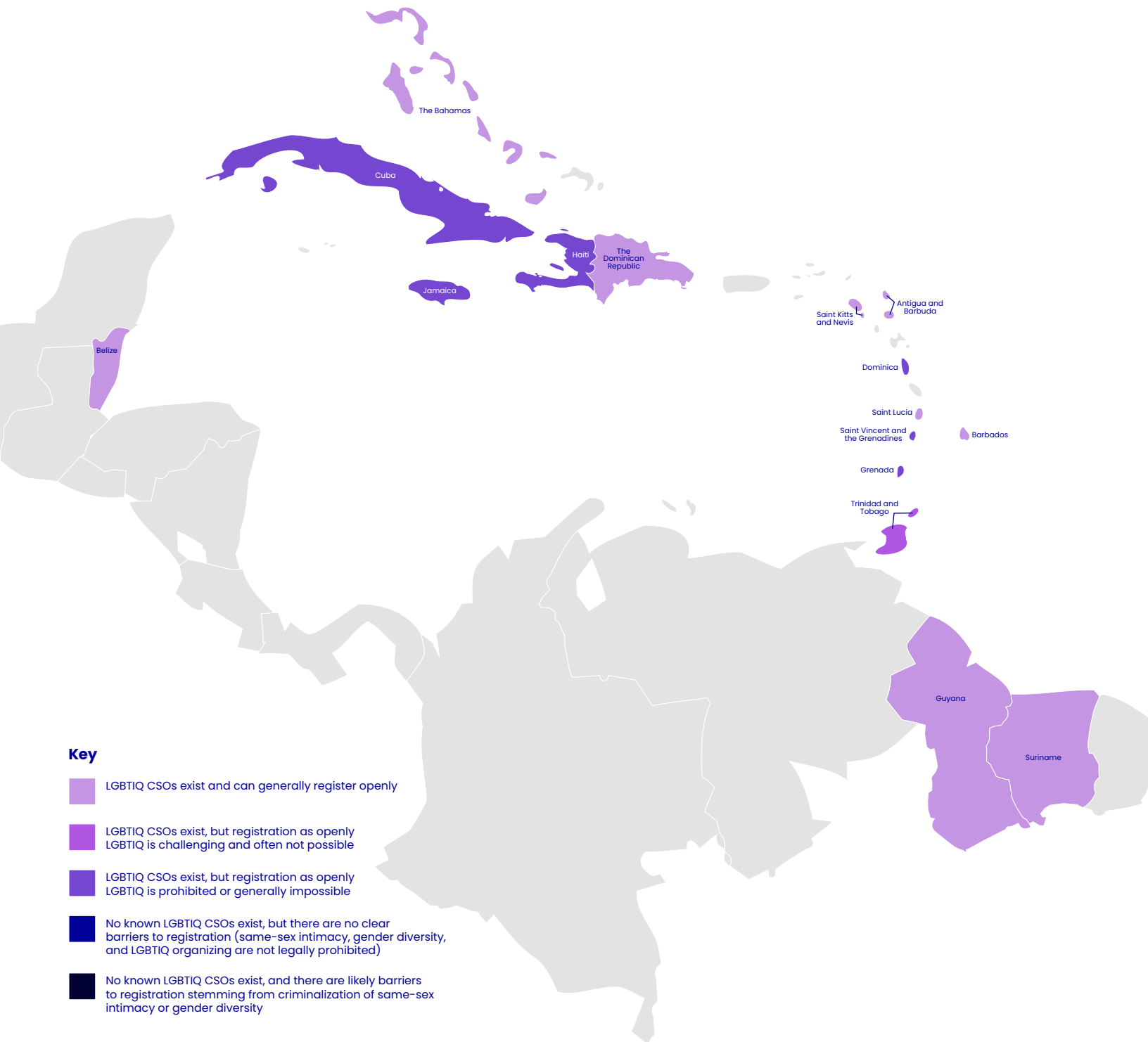
⁵² Response to Outright questionnaire, Pakistani LBQ Organization Candid (pseudonym), March 2022.

⁵³ Response to Outright questionnaire, by The Initiative for Social Wellbeing (pseudonym), February 2022.

⁵⁴ Federated States of Micronesia, Section 107, Chapter 1, https://www.cfsm.gov.fm/iframe/Presidential%20Communications/PL__No__20-153.pdf (accessed 23 May 2023).

⁵⁵ Outright International, *The Global State of LGBTIQ Organizing: The Right to Register*, <https://outrightinternational.org/our-work/human-rights-research/global-state-lgbtqi-organising-right-register>, p. 18.

Findings on LGBTIQ Organizations' Registration in The Caribbean⁵⁶



⁵⁶ This map reflects responses from activists and Outright's desk research about laws, policies and norms in these countries. It also includes data obtained from applicants to Outright's 2022 COVID-19 Grant. The categories reflect general perceptions, but some organizations may have different experiences than others. Although in this map we used the umbrella LGBTIQ term, we are aware that the experiences of organizations may differ depending on whether they are working primarily on issues impacting lesbian, gay, bisexual, transgender, intersex, or queer people.

In this region several developments have advanced LGBTIQ organizational sustainability and movement building. Courts in Antigua and Barbuda, Barbados, and Saint Kitts and Nevis decriminalized sexual acts between same-sex consenting adults in 2022 in cases brought through the efforts of a regional organization, the Eastern Caribbean Alliance for Diversity and Equality (ECADE), in partnership with national groups.⁵⁷ These cases followed Trinidad and Tobago's decriminalization of same-sex acts in 2018 in a landmark case, which the government is now appealing.⁵⁸ Furthermore, the Belize Appeal Court in 2019 upheld a judgment decriminalizing same-sex relationships and found that constitutional non-discrimination provisions include the ground of sexual orientation.⁵⁹ The wave of decriminalization in this region is a result of years of LGBTIQ rights advocacy and movement building, including engagement with state authorities, by local, national, and regional LGBTIQ human rights organizations.

The decriminalization of same-sex conduct between adults in Caribbean countries has created room for LGBTIQ activists to engage more with public institutions while working towards increased social acceptance, including among other human rights groups. Even so, widespread social perceptions about LGBTIQ rights are still negative, largely influenced by culture and religion. This means that LGBTIQ organizations in the region operate in a context of institutionalized homophobia, biphobia, and transphobia, and public advocacy can place activists and organizations at risk.



Right: The Eastern Caribbean Alliance for Diversity and Equality (ECADE) at Outright International Celebration of Courage. (Outright International/2023)

⁵⁷ UNAIDS, "The Communities Behind Antigua and Barbuda's Decriminalization Win," 12 July 2022, https://www.unaids.org/en/resources/presscentre/featurestories/2022/july/20220712_communities-behind-antigua-barbuda-decriminalization-win (accessed 23 May 2023); UNAIDS, "St Kitts and Nevis Becomes the Latest Country to Declare that Laws that have Criminalized LGBT People are Unconstitutional," Press Statement, 30 August 2022, https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2022/august/20220830_decriminalize-gay-st-kitts-and-nevis, (accessed 23 May 2023).

⁵⁸ Frontline Aids, "Alliance Salutes Landmark LGBT Rights Case Against Trinidad & Tobago," 20 April 2018, <https://frontlineaids.org/alliance-salutes-landmark-lgbt-rights-case-against-trinidad-tobago/> (accessed 23 May 2023).

⁵⁹ Belize, Court of Appeal, Civil Appeal No. 32 of 2016, The Attorney General v. Caleb Orozco and others, https://www.blackstonechambers.com/documents/Attorney_General_v_Caleb_Orozco_and_Others.pdf (accessed 23 May 2023).

The Middle East and North Africa (MENA)

LGBTIQ organizations are unable to register and operate openly in most of the Middle East and North Africa due to pervasive criminalization, religiously motivated LGBTIQ-phobia, and a general hostility toward civil society emanating from many authoritarian-leaning regimes across the region.

Despite severe challenges, including arrests, detentions, killings, and the risk of imprisonment or other punishment, LGBTIQ organizations and activists strive to operate and provide access to care for the dangerously marginalized sexual and gender minority populations.⁶⁰

Of countries in the MENA region, only Israel generally allows LGBTIQ organizations to register, though Palestinian-led or focused LGBTIQ organizations in Israel have faced challenges doing so, resulting from obstruction of Palestinian freedom of movement and association. In Tunisia, activists indicated that open registration of LGBTIQ organizations was not prohibited, but challenging and often not possible. In the ten other countries in the region in which LGBTIQ organizations exist, registration is prohibited or almost entirely impossible, and in eight countries in the MENA region—Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, Syrian Arab Republic, United Arab Emirates, and Yemen—Outright could not identify any LGBTIQ organizations at all. In some of these countries, small informal groupings of LGBTIQ people have existed at times, mostly consisting of queer men, providing social activities, moral support, and networks that support access to HIV services and other health services.⁶¹

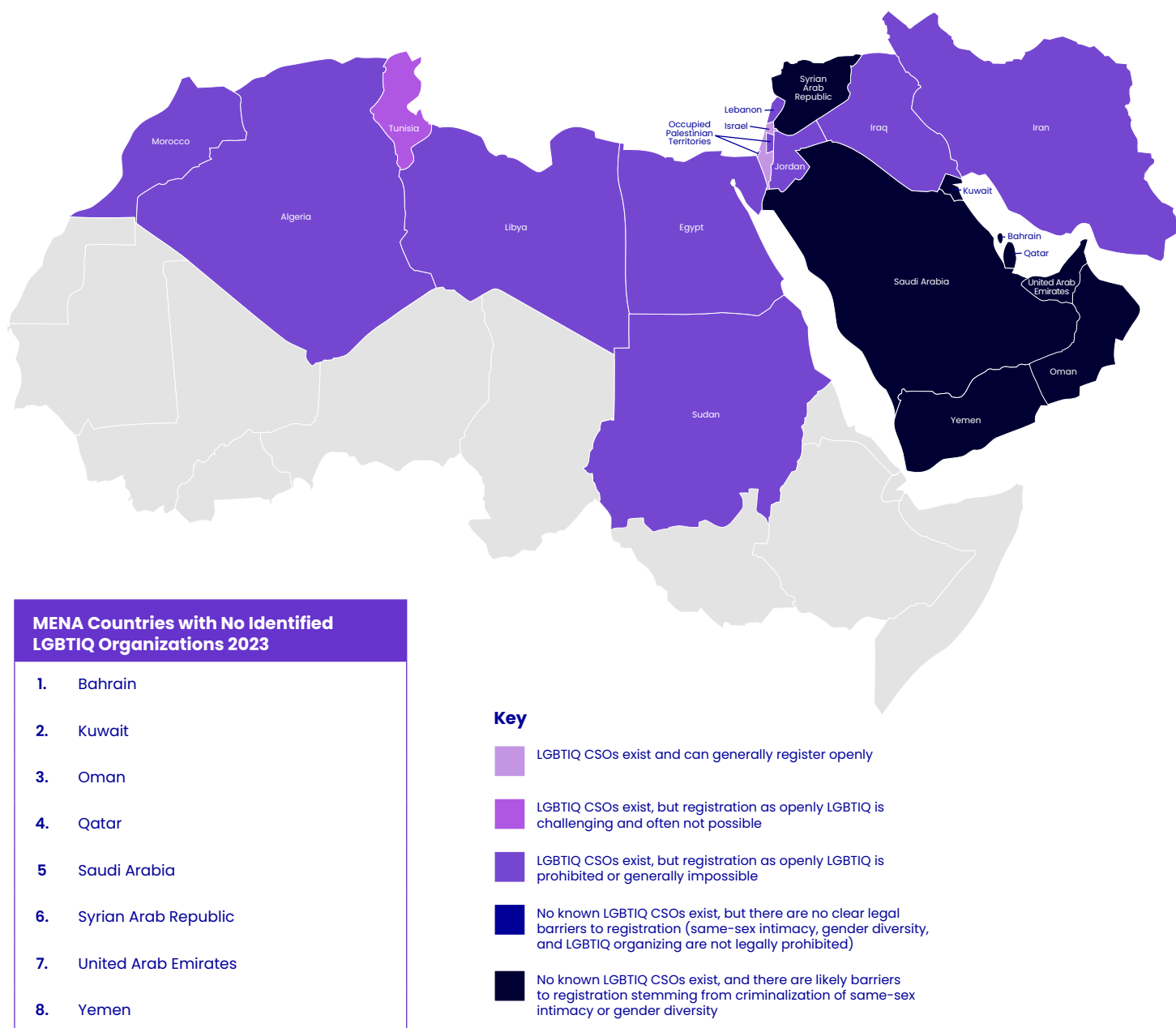


Right: A fan of Lebanese alternative rock band Mashrou' Leila holds a rainbow flag during their concert at the Ehdeniyat International Festival in Ehden town, Lebanon August 12, 2017. Picture taken August 12, 2017. (REUTERS/Jamal Saidi)

⁶⁰ Human Rights Watch, "Middle East, North Africa: Digital Targeting of LGBT People: Arbitrary Arrests, Torture Follow Online Abuses, Illegal Phone Searches," 21 February 2023, <https://www.hrw.org/news/2023/02/21/middle-east-north-africa-digital-targeting-lgbt-people> (accessed 23 May 2023); Amna Guellali, "Tunisia: Quash Prison Terms for LGBTI Duo Sentenced on Charges of Homosexuality," Amnesty International, 19 February 2023, <https://www.amnesty.org/en/latest/news/2023/02/tunisia-quash-prison-terms-for-lgbti-duo-sentenced-on-charges-of-homosexuality/> (accessed 23 May 2023).

⁶¹ Human Rights Watch, *Audacity in Adversity: LGBT Activism in the Middle East and North Africa*, April 2018, <https://www.hrw.org/report/2018/04/16/audacity-adversity-lgbt-activism-middle-east-and-north-africa#8134> (accessed 23 May 2023).

Findings on LGBTIQ Organizations' Registration in the Middle East and North Africa⁶²



In these countries, individuals who worked as loosely informal groups have gone underground due to raids or no longer operate at all because it is impossible and dangerous. Clearly, this poses a worrisome gap for already marginalized people with no access to specialized care or LGBTIQ rights-focused advocacy.

Lebanon has historically been a regional hub of LGBTIQ civil society organization in the MENA region. Its own LGBTIQ civil society has at times been vibrant and effective. Lebanese LGBTIQ

⁶² This map reflects responses from activists and Outright's desk research about laws, policies, and norms in these countries. The categories reflect general perceptions, but some organizations may have different experiences than others. Although in this map we used the umbrella LGBTIQ term, we are aware that the experiences of organizations may differ depending on whether they are working primarily on issues impacting lesbian, gay, bisexual, transgender, intersex, or queer people.

activists, in partnership with mainstream human rights organizations and supportive lawyers, contributed to policies prohibiting the use of forced anal examinations and to court rulings finding that Lebanon's law on "unnatural offenses" did not apply to consensual same-sex relations between adults.⁶³ But since 2018, when security agents in Lebanon sought to close down a conference on LGBTIQ people's rights, civil society space has become increasingly restricted, inhibiting not only Lebanese but also regional organizing.⁶⁴ In Tunisia as well, the police have become "emboldened" in perpetuating human rights violations against and specifically targeting LGBTQ activists.⁶⁵

In Kuwait, although Outright was not able to identify formally organized LGBTIQ groups, an individual plaintiff and her lawyers achieved success within the legal system in 2022 when the country's constitutional court in February 2022 overturned a law criminalizing "imitation of the opposite sex," used to prosecute transgender persons, on the basis that it was ambiguous and contravened the right to personal freedom.⁶⁶ However, the decision has neither been driven by nor spurred trans or broader LGBTIQ civil society organizing.

The comparative absence of LGBTIQ organizing in the Gulf region stems not only from harsh laws, but also from social norms and from power structures that allow people with economic privilege—especially men, who enjoy greater freedom of movement—to engage in same-sex relationships discreetly, as long as they are not vocal about these relationships. In its 2018 report on LGBT organizing in the MENA region, Human Rights Watch quoted a gay Bahraini man who said:

It's a social contract—"We have oil, you're going to get wealth, shut up. And if you don't like it, get out." So generally, activism is not something you see.... The world is a stage and you have to play your role in society.⁶⁷

The report also identified other perspectives, however, including that of a lesbian activist from Bahrain who had developed a digital platform for LGBTIQ people to network with one another across Arab-speaking countries, even in the absence of formal or informal civil society organizations.⁶⁸

⁶³ Human Rights Watch, "Lebanon: Same-Sex Relations Not Illegal – Homosexuality Not an 'Unnatural Offense,' Appeals Court Rules," 19 July 2018, <https://www.hrw.org/news/2018/07/19/lebanon-same-sex-relations-not-illegal> (accessed 23 May 2023).

⁶⁴ Human Rights Watch, "Lebanon: Security Forces Try to Close LGBT Conference – Organizers Questioned, Activists Put at Risk," 4 October 2018, <https://www.hrw.org/news/2018/10/04/lebanon-security-forces-try-close-lgbt-conference> (accessed 23 May 2023); Human Rights Watch, "Lebanon: Unlawful Crackdown on LGBTI Gatherings – Immediately Annul Ban on Assembly; Protect LGBTI People from Attacks," 4 July 2022, <https://www.hrw.org/news/2022/07/04/lebanon-unlawful-crackdown-lgbti-gatherings> (accessed 23 May 2023); "'Scary to Be Queer': Lebanon Cracks Down on LGBTQ Rights," *France 24*, 7 July 2022, <https://www.france24.com/en/live-news/20220707-scary-to-be-queer-lebanon-cracks-down-on-lgbtq-rights> (accessed 23 May 2023).

⁶⁵ Francesca Ebel, "Tunisia: LGBT Activist's Assault by Police Seen as a Pattern," *AP News*, 10 December 2021, <https://apnews.com/article/coronavirus-pandemic-business-health-africa-tunisia-f3d0629969ed647f9eab2b4465f14d70> (accessed 23 May 2023).

⁶⁶ Vivian Yee, "Kuwait Overturns Law Used to Prosecute Transgender People," *New York Times*, 16 February 2022, <https://www.nytimes.com/2022/02/16/world/middleeast/kuwait-overturns-transgender-law.html> (accessed 23 May 2023). The provisions of the article read: "Whoever makes a lewd signal or act in a public place or such that one may see it or hear it from public place, or appears like the opposite sex in any way, shall be punished for a period not exceeding one year and a fine not exceeding 1000 Dinar or one either of these punishments." ILGA Asia, "ILGA Asia Welcomes Kuwait's Decision to Overturn Law Targeting Transgender People," <https://www.ilgaasia.org/news/kuwait-trans-law-overturned> (accessed 23 May 2023).

⁶⁷ Human Rights Watch, *Audacity in Adversity*, p. 22.

⁶⁸ *Ibid.*, p. 30.

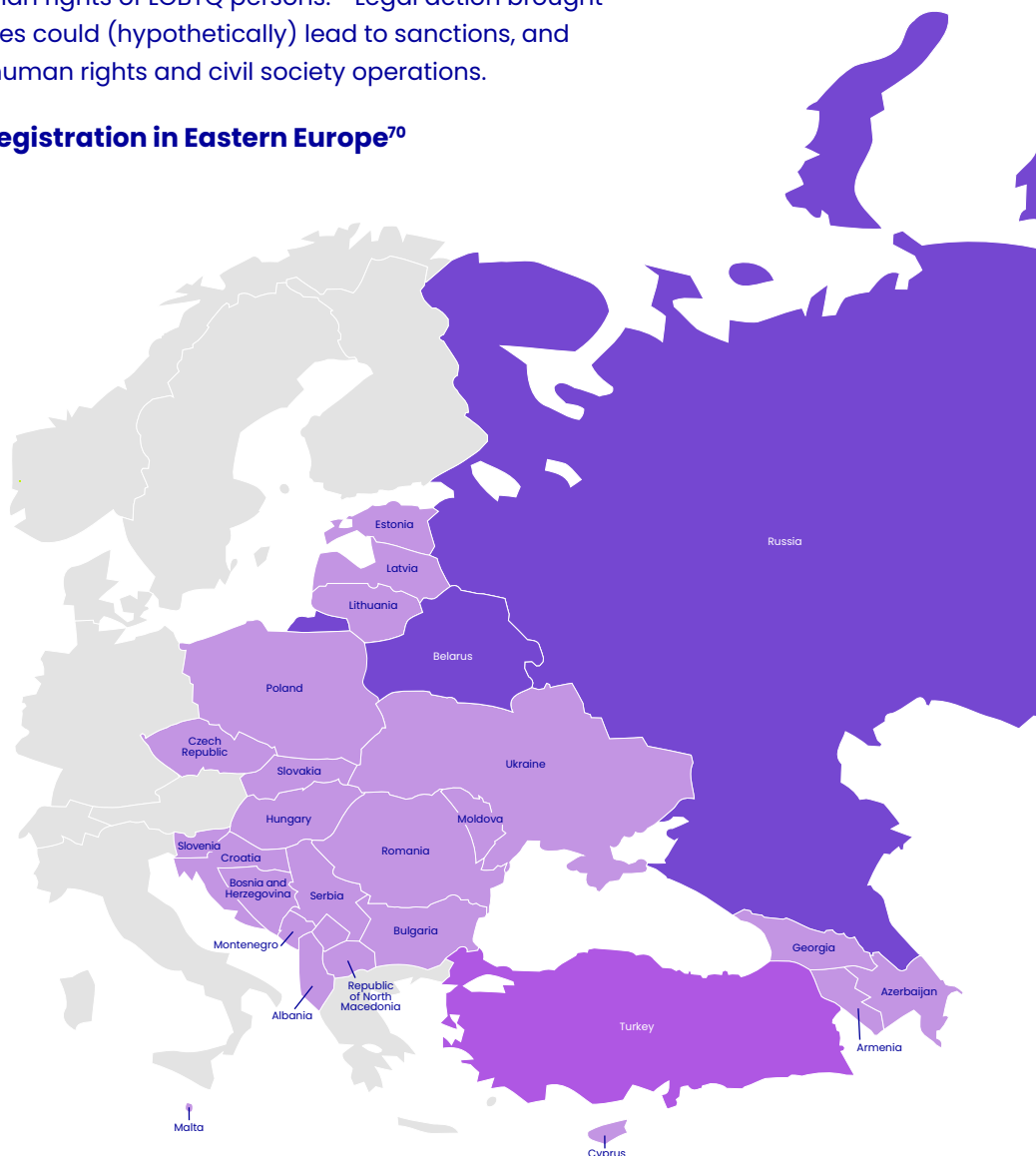
Eastern Europe

Countries in Eastern Europe have demonstrated some progress in recent years in terms of LGBTIQ organizing. In many countries in this region, activists can register organizations as clearly LGBTIQ rights-centered, without legal or social restrictions. In other countries, while national legal frameworks are generally progressive and have provisions for nondiscrimination, hostile political rhetoric and societal pushback prompt fear of violence among LGBTQ people and movement leaders. The European Union has shown a commitment to protecting and advancing LGBTIQ rights and organizing in the region, exemplified through the filing by the European Commission, the EU's independent political arm, of legal challenges against Hungary and Poland for violating the human rights of LGBTQ persons.⁶⁹ Legal action brought by the Commission against these countries could (hypothetically) lead to sanctions, and consequently overturn laws that restrict human rights and civil society operations.

Findings on LGBTIQ Organizations' Registration in Eastern Europe⁷⁰

Key

- LGBTIQ CSOs exist and can generally register openly
- LGBTIQ CSOs exist, but registration as openly LGBTIQ is challenging and often not possible
- LGBTIQ CSOs exist, but registration as openly LGBTIQ is prohibited or generally impossible
- No known LGBTIQ CSOs exist, but there are no clear legal barriers to registration (same-sex intimacy, gender diversity, and LGBTIQ organizing are not legally prohibited)
- No known LGBTIQ CSOs exist, and there are likely barriers to registration stemming from criminalization of same-sex intimacy or gender diversity



⁶⁹ European Commission, "EU Founding Values: Commission Starts Legal Action Against Hungary and Poland for Violations of Fundamental Rights of LGBTIQ People," 15 July 2021, https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3668 (accessed 23 May 2023).

⁷⁰ This map reflects responses from activists and Outright's desk research about laws, policies, and norms in these countries. It also includes data obtained from applicants to Outright's 2022 COVID-19 Grant. The categories reflect general perceptions, but some organizations may have different experiences than others. Although in this map we used the umbrella LGBTIQ term, we are aware that the experiences of organizations may differ depending on whether they are working primarily on issues impacting lesbian, gay, bisexual, transgender, intersex, or queer people.

The rise of an anti-rights, anti-gender movement in parts of Eastern Europe has led to the enactment of law and policies that hinder LGBTIQ people's rights, including rights to freedom of association and expression, and the threat of violence.⁷¹ In Bulgaria, a group of people led by presidential candidate Boyan Rasate launched an attack on Rainbow Hub, an LGBTI community center, in 2021.⁷² Also in 2021, the Hungarian Parliament outlawed LGBT-related content in schools and on television programs viewed by children.⁷³ In Azerbaijan, the 2020 Protection of Children from Information Harmful to their Health and Development stated that information contrary to notions of traditional family values is harmful: which, in practice, means the prohibition of the dissemination of LGBTIQ-related information to children in schools or by activists.⁷⁴ In Belarus, the government has systematically restricted human rights and civil society actors.⁷⁵ This has adverse effects on LGBTIQ movement building, as LGBTIQ people strive to make their voices heard amidst an absence of legal protections.⁷⁶

In 2022, a court in Russia shut down the Russian LGBT Network, its largest LGBTIQ organization, claiming that the organization "carried out political activities using foreign property."⁷⁷ The Russian Parliament in December 2022 also extended a 2013 ban on providing information on so-called non-traditional sexual relationships (the "gay propaganda" law), which had previously applied only to children, to also cover information provided to adults.⁷⁸ This has now been signed into law.⁷⁹ In April 2022, the government liquidated an LGBTQ organization on the basis that its activities contravened "traditional values."⁸⁰ Towns in Poland began establishing "LGBT (ideology) free zones" in 2019, putting LGBTIQ activists and people in fear of their lives and safety, while spreading the misinformation that LGBTIQ lives and identities are ideologies.⁸¹

⁷¹ Tony Wesolowsky, "The Worrying Regression of LGBT Rights in Eastern Europe," *RadioFreeEurope/RadioLiberty*, 23 December 2021, <https://www.rferl.org/a/lgbt-rights-eastern-europe-backsliding/31622890.html> (accessed 23 May 2023).

⁷² Elitsa Simeonova, "'He Hit Me And Just Kept Coming': Mob Allegedly Led By Bulgarian Presidential Candidate Attacks LGBT Center," *RadioFreeEurope/RadioLiberty*, 2 November 2021, <https://www.rferl.org/a/bulgaria-lgbt-attack-mob-rasate/31541895.html> (accessed 23 May 2023).

⁷³ Jennifer Rankin, "Hungary Passes Law Banning LGBT Content in Schools or Kids' TV: New Legislation Outlaws Sharing Information Seen as Promoting Homosexuality With Under-18s," *The Guardian*, 15 June 2021, <https://www.theguardian.com/world/2021/jun/15/hungary-passes-law-banning-lgbt-content-in-schools> (accessed 23 May 2023).

⁷⁴ See the text of the law in Azerbaijani here: <https://e-qanun.az/framework/40764> (accessed 23 May 2023).

⁷⁵ Anastasiia Kroupe, "Harsh Sentences for Belarusian Activists in Politically Motivated Case: Courts Verdict is the Latest in Authorities' Crackdown on Civil Society," Human Rights Watch, 6 September 2022, <https://www.hrw.org/news/2022/09/06/harsh-sentences-belarusian-activists-politically-motivated-case> (accessed 23 May 2023).

⁷⁶ Natalie Vikhrov, "Hope is Thin as Gay Activists Join Belarus Protests for Change," *Reuters*, 24 September 2020, <https://www.reuters.com/article/belarus-protests-lgbt/hope-is-thin-as-gay-activists-join-belarus-protests-for-change-idUSL5N2GL3CK> (accessed 23 May 2023).

⁷⁷ Tat Bellamy-Walker, "Russian Court Dissolves Country's Main LGBTQ Rights Organization," *NBC News*, 26 April 2022, <https://www.nbcnews.com/nbc-out/out-news/russian-court-dissolves-countrys-main-lgbtq-rights-organization-rcna25874> (accessed 23 May 2023).

⁷⁸ "Russian Lawmakers Propose Extending 'Gay Propaganda' Law to All Adults," *Reuters*, 11 July 2022, <https://www.reuters.com/world/europe/russian-lawmakers-propose-extending-gay-propaganda-law-all-adults-2022-07-11/> (accessed 23 May 2023).

⁷⁹ Ivana Kottasová, "Putin Signs Expanded Anti-LGBTQ Laws in Russia, in Latest Crackdown on Rights," *CNN*, 5 December 2022, <https://edition.cnn.com/2022/12/05/europe/russia-lgbtq-propaganda-law-signed-by-putin-intl/index.html> (accessed 23 May 2023).

⁸⁰ Bellamy-Walker, "Russian Court Dissolves Country's Main LGBTQ Rights Organization," *NBC News*, <https://www.nbcnews.com/nbc-out/out-news/russian-court-dissolves-countrys-main-lgbtq-rights-organization-rcna25874>.

⁸¹ Simon Ostrovsky, "'Anti-LGBT Ideology Zones' Are Being Enacted in Polish Towns," *PBS News*, 29 August 2021, <https://www.pbs.org/newshour/show/anti-lgbt-ideology-zones-are-being-enacted-in-polish-towns> (accessed 23 May 2023).

Some countries achieved advancement in rights related to the freedom of association. The Serbian government amended its Prohibition of Discrimination Act in 2021 to extend its anti-discrimination grounds to include gender and sex characteristics (SOGIESC).⁸² Nonetheless, the government first banned EuroPride in 2022 due to so-called security concerns, but then lifted this ban, allowing thousands to march peacefully.⁸³

Latin America

In some countries in Latin America, political and legal developments have advanced the rights of LGBTIQ people and allowed LGBTIQ organizations to operate freely. Here, Outright surveyed 17 countries, finding that LGBTIQ organizations can register freely in nearly all of them, although in Nicaragua, state hostility toward independent civil society threatens LGBTIQ organizations' ability to register and operate.

Findings on LGBTIQ CSOs Registration in Latin America⁸⁴

Key

- LGBTIQ CSOs exist and can generally register openly
- LGBTIQ CSOs exist, but registration as openly LGBTIQ is challenging and often not possible
- LGBTIQ CSOs exist, but registration as openly LGBTIQ is prohibited or generally impossible
- No known LGBTIQ CSOs exist, but there are no clear legal barriers to registration (same-sex intimacy, gender diversity, and LGBTIQ organizing are not legally prohibited)
- No known LGBTIQ CSOs exist, and there are likely barriers to registration stemming from criminalization of same-sex intimacy or gender diversity



⁸² European Network of Legal Experts in Gender Equality and Non-Discrimination, Serbia, "Amendments to the Law on the Prohibition of Discrimination," 14 June 2021, <https://www.equalitylaw.eu/downloads/5422-serbia-amendments-to-the-law-on-the-prohibition-of-discrimination-90-kb> (accessed 23 May 2023).

⁸³ "Truly Historic: Thousands March for Serbia EuroPride After 11th-Hour Announcement," *Euronews*, 19 September 2022, <https://www.euronews.com/2022/09/16/serbian-interior-ministry-upholds-ban-on-europride-march-despite-new-route-proposal> (accessed 23 May 2023).

⁸⁴ This map reflects responses from activists and Outright's desk research about laws, policies and norms in these countries. It also includes data obtained from applicants to Outright's 2022 COVID-19 Grant. The categories reflect general perceptions, but some organizations may have different experiences than others. Although in this map we used the umbrella LGBTIQ term, we are aware that the experiences of organizations may differ depending on whether they are working primarily on issues impacting lesbian, gay, bisexual, transgender, intersex, or queer people.

LGBTIQ movement building and rights organizing have led to considerable wins. There are a few salient examples. In Argentina in 2020, following advocacy by LGBTIQ groups in the region, the president “signed a decree establishing a 1% employment quota for transgender people in the public sector.”⁸⁵ After a court action in Bolivia and an appeal by a same-sex couple, the Plurinational Constitutional Tribunal ordered the registration of a same-sex union for the first time in 2023.⁸⁶ LGBTIQ civil society organizations such as Colectivo LGTB Bolivia, Coalición Boliviana de Colectivos de Lesbianas, Gays, Bisexuales y Trans (COALIBOL LGBT), and Fundación Diversencia presented amicus briefs to the court pointing out legal arguments in favor of the legal recognition of the couple.⁸⁷

The successes of LGBTIQ organizing and advocacy have also led to the legalization of same-sex marriage in countries like Ecuador in 2019, Costa Rica in 2020, and Chile in 2021.⁸⁸ In the case of Ecuador, although equal marriage was achieved through a ruling of the Supreme Court, based on the advisory opinion of the Inter-American Court of Human Rights (OC 24/17), this judicial milestone is considered the endpoint of a larger process. It was achieved after seven years of coordinated work by LGBTIQ organizations to position this issue on the public agenda, seeking to raise awareness in society and generate political commitment on the part of the authorities.⁸⁹ In the case of Costa Rica, LGBTIQ organizations were allied with the government, which submitted a request for an advisory opinion to the Inter-American Court (OC 24/17) that served as a facilitator of the process to finally achieve equal marriage in the country.⁹⁰ And in Chile, LGBTIQ organizations had decades-long advocacy work on the sexual diversity agenda—educating the public and doing political incidence—that allowed the approval of marriage equality in Congress to be the latest in a series of legislative successes after the approval years before of the civil union law (2015) and the gender identity law (2018).⁹¹

In Brazil, the former attorney general and the Communist Party of Brazil separately challenged laws in two regions prohibiting learning materials, policies, and school activities with information on sexual orientation, gender, or so-called gender ideology in state schools, leading the Brazilian Supreme Court to strike down the laws.⁹² In Paraguay, however, activists

⁸⁵ Débora Rey, “Argentina to Add More Transgender People to Labor Force,” *AP News*, 17 December 2020, <https://apnews.com/article/discrimination-buenos-aires-latin-america-argentina-laws-afaf0e941a5373ddbf54f0bb12028403> (accessed 23 May 2023).

⁸⁶ Carlos Quisbert, “El TCP emite una sentencia que legaliza la unión libre entre personas del mismo sexo,” (“The TCP issues a ruling legalizing free unions between persons of the same sex”), *Página 7*, 20 March 2023, <https://www.paginasiete.bo/seguridad/el-tcp-emite-una-sentencia-que-legaliza-la-union-libre-entre-personas-del-mismo-sexo-JM6860290> (accessed 23 May 2023).

⁸⁷ Plurinational Constitutional Tribunal of Bolivia. Ruling 0577/2022-S2, published March 20, 2023, available through search for resolution 0577 at [https://buscador.tcpbolivia.bo/\(S\(ydqgtykaqr1gbz2fx4nyuwka\)\)/WfrResoluciones.aspx](https://buscador.tcpbolivia.bo/(S(ydqgtykaqr1gbz2fx4nyuwka))/WfrResoluciones.aspx) (accessed May 2, 2023).

⁸⁸ Kara Fox and Ana Melgar Zuniga, “Ecuador’s Highest Court Legalizes Same-Sex Marriage,” *CNN*, 13 June 2019, <https://edition.cnn.com/2019/06/13/americas/ecuador-same-sex-marriage-intl/index.html> (accessed 23 May 2023); Cristian González Cabrera, “Costa Rica First in Central America to Legalize Same-Sex Marriage: Joins Six Neighbors in Latin America to Recognize Marriage Equality,” *Human Rights Watch*, 26 May 2020, <https://www.hrw.org/news/2020/05/26/costa-rica-first-central-america-legalize-same-sex-marriage> (accessed 23 May 2023); Cristian González Cabrera, “Chile Overwhelmingly Passes Marriage Equality: Addresses Parentage, Joint Adoption, Assisted Reproductive Technology,” *Human Rights Watch*, 7 December 2021, <https://www.hrw.org/news/2021/12/07/chile-overwhelmingly-passes-marriage-equality> (accessed 23 May 2023).

⁸⁹ Outright interview with Danilo Manzano, May 2023.

⁹⁰ Outright interview with Luis Salazar, May 2023.

⁹¹ Outright interview with Jaime Parada, May 2023.

⁹² Cristian González Cabrera, “Supreme Court Strikes Down Bigotry in Brazil’s Schools: Rulings Affirm Equality, Comprehensive Sexuality Education,” *Human Rights Watch*, 19 May 2020, <https://www.hrw.org/news/2020/05/19/supreme-court-strikes-down-bigotry-brazils-schools> (accessed 23 May 2023).

have been unable to achieve the revocation of a 2017 education statute prohibiting materials on “gender ideology” in schools.⁹³ Progressive parent organizations have played the leadership role against this regulation, and the possibility of legal action is currently being studied by local LGBTIQ organizations.⁹⁴ A similar scenario is experienced in Peru, which despite being the country with one of the oldest LGBTIQ organizations in the region, has made little progress in the legislative recognition of the rights of LGBTIQ people and today faces a strengthening of ultraconservative sectors in politics.⁹⁵

⁹³ Teo Armus, “Paraguay Bans Material on ‘Gender Ideology’ in Public Schools,” *NBC News*, 17 October 2017, <https://www.nbcnews.com/feature/nbc-out/paraguay-bans-material-gender-ideology-public-schools-n810596> (accessed 23 May 2023).

⁹⁴ Outright interview with Michi Moragas, May 2023.

⁹⁵ The Lima Homosexual Movement was founded in 1982. Joaquín Marreros, “HomoGénesis. Una historia del Movimiento Homosexual de Lima en los años 80,” Editorial Gafas Moradas, 2022; Esteban Guzmán, “Peru Continues to Lag Behind Other Latin American Countries on LGBTQ Rights,” *Washington Blade*, 1 June 2022, <https://www.washingtonblade.com/2022/06/01/peru-continues-to-lag-behind-other-latin-american-countries-on-lgbtq-rights/> (accessed 23 May 2023).

III.

Case Studies

III. Case Studies

These case studies of nine countries provide a close look into the legal, social, and political conditions within which LGBTIQ organizations operate. Each case study begins with information on whether consensual same-sex acts between adults are criminalized in the country. This is because there is a link between the criminalization of same-sex acts between consenting adults and the ability of NGOs catering to sexual and gender minorities to register and operate.⁹⁶ (The Caribbean is the only region in which Outright identified numerous organizations that were able to openly register in spite of laws that criminalize same-sex intimacy.) The case studies also share analysis from activists in these countries on how national laws and political situations affect their work.

Algeria

LGBTIQ CSOs exist, but registration as openly LGBTIQ is prohibited or generally impossible

The Penal Code of Algeria punishes consensual same-sex acts between adults with up to two years imprisonment.⁹⁷ LGBTIQ people, activists, and organizations are severely marginalized in Algeria, due to the laws and institutionalized homophobia sustained by politics, culture, and religion, and officials are hostile to any attempts to legitimize sexual and gender diversity in Algeria. These challenges, compounded by a legal environment that is generally hostile to freedom of association, make it “virtually impossible for organizations working on issues of sexual orientation and gender to legally register,” according to a longtime Algerian activist.⁹⁸

Civic space for LGBTIQ organizing was further threatened in December 2022, when Commerce Minister Kamel Rezig declared war on the rainbow as a symbol of homosexuality. The government sent out a wide-circulation text message in January 2023 urging Algerians to beware products bearing “immoral” symbols and colors. The Algerian government proceeded to confiscate rainbow-colored goods from stores and produced television and radio advertisements condemning the rainbow and urging families to throw away toys bearing rainbow colors.⁹⁹ Negative portrayals of homosexuality in the media contributed to hostility

⁹⁶ Outright, *The Global State of LGBTIQ Organizing: The Right to Register*, <https://outrightinternational.org/sites/default/files/2022-10/RighttoRegister.pdf>, p. 55.

⁹⁷ People’s Democratic Republic of Algeria, Penal Code (promulgated by Order No. 66-156 of 18 Safar 1386 corresponding to June 8, 1966, and amended up to Law No. 14-01 of February 4, 2014, <https://www.wipo.int/wipolex/en/legislation/details/19199> (accessed 24 May 2023), art. 338; See also art. 333 of the same law which criminalizes “public indecency.” Human Rights Watch reported a raid, mass arrests and convictions for homosexuality in 2020: “Algeria: Mass Convictions for Homosexuality – Arbitrary Arrest; Police Raid Alleged ‘Gay Wedding,’” Human Rights Watch, 15 October 2020, <https://www.hrw.org/news/2020/10/15/algeria-mass-convictions-homosexuality> (accessed 23 May 2023).

⁹⁸ International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), *State-Sponsored Homophobia*, 2019, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf, (accessed 23 May 2023).

⁹⁹ Hamza Bensouda, “Algérie. Kamel Rezig, le ministre qui chasse les arcs-en-ciel,” *Orient XXI*, 20 February 2023, <https://orientxxi.info/magazine/algerie-kamel-rezig-le-ministre-qui-chasse-les-arcs-en-ciel,6209> (accessed 23 May 2023); Sophie Perry, “Algerian Authorities Launch Pathetic Anti-Rainbow Campaign in Bid to Ban Pride Flags,” *Pink News*, 11 January 2023, <https://www.thepinknews.com/2023/01/11/algeria-pride-flags/> (accessed 23 May 2023).

targeted at LGBTIQ people on social media and caused fear and panic among activists.¹⁰⁰

Outright spoke to five Algerian LGBTIQ activists who said that none of the LGBTIQ organizations working in Algeria have attempted registration.

To this extent, according to Farid M., an Algerian LGBTIQ activist who has worked in the movement for 15 years, LGBTIQ organizations “... have little practical ability to fight for relevant antidiscrimination laws or the repeal of laws criminalizing same-sex relations.”¹⁰¹ He explained that many organizations work within the community itself, rather than on advocacy with the government or other stakeholders. Some of their activities include trainings for the community on human rights, security, and health, and some organizations are directly involved in the provision of health services, all carried out with a low profile:

When you're working in Algeria [on LGBTIQ issues], everything is secret. We do the maximum to keep a low profile and do not want anything that can be termed provocation. You could be imprisoned for the littlest thing.

LGBTQ organizations are secret organizations. They work underground. Many organizations do not even know each other as people are so afraid of disclosing who they are, because they don't trust others or know [who is] working for the government. This means that most organizations work alone. It can lead to a fragmentation of the movement.¹⁰²

According to Imani K. (pseudonym), an activist who works with an LGBTQ organization based in Algeria:

It is too dangerous to identify oneself as working to promote LGBTIQ and human rights because same-sex acts are prohibited and highly frowned upon, as also because the civic space is shrinking. We have to do everything in secret and informally.¹⁰³

Maisah G. (pseudonym), an LGBTIQ activist working for an Algerian NGO, shared a similar experience:

We cannot say what we do, not even to family. It is frustrating and has a negative impact, psychologically speaking, because we're quite proud of our work. But we have to keep it in secret so as not to endanger ourselves and our families.¹⁰⁴

Algerian law broadly restricts the rights to freedom of association and assembly, endangering LGBTIQ and human rights activists.¹⁰⁵ In 2012, in the wake of the Arab Spring protests across North Africa, the government of Abdelaziz Bouteflika enacted the Law on Associations,

¹⁰⁰ Outright interview with Farid M. (pseudonym), May 2023.

¹⁰¹ Outright interview with Farid M., virtual, October 2022.

¹⁰² Farid M. interview, January 2023.

¹⁰³ Outright interview with Imani K. (pseudonym), virtual, 24 March 2023.

¹⁰⁴ Outright interview with Maisah G. (pseudonym), LGBTIQ advocate working with an Algerian-based LGBTQ organization, virtual, 24 March 2023.

¹⁰⁵ Freedom House, “Freedom in the World 2020: Algeria,” <https://freedomhouse.org/country/algeria/freedom-world/2020> (accessed 23 May 2023); International Center for Not-for-Profit Law, “Algeria,” last updated 9 May 2023, <https://www.icnl.org/resources/civic-freedom-monitor/algeria#:~:text=The%202012%20Law%20on%20Associations,obstacles%20to%20formation%20and%20registration> (accessed 23 May 2023).

Law 12-06, replacing a 1990 law.¹⁰⁶ Rather than respond to the Arab Spring's demands for greater freedoms, Law 12-06 narrows the scope for freedom of association. It requires that associations have a specific objective that is reflected by their name, and that the objective be consistent with the "general interest" and not "contrary to national constants and values, public order, good morals and the provisions of the laws and regulations in force."¹⁰⁷ The law also requires Algerian civil society organizations to obtain prior state authorization before entering into agreements with, or receiving any funding from, an international or foreign entity.¹⁰⁸ It prescribes imprisonment of three to six months and a fine of 100,000–300,000 Algerian dinars (about US \$735–2,202) for belonging to an unregistered association.¹⁰⁹

According to Freedom House, in enforcing Law 12-06, the government creates "considerable delays and bureaucratic obstacles" for NGOs seeking registration, and closely monitors NGOs, their staff, and funding streams."¹¹⁰ While a wide range of associations might fail to meet government approval under this law, LGBTIQ organizations are specifically vulnerable due to the express criminalization of same-sex acts in section 338 of the Algerian Penal Code and the criminalization of "indecentry." This ensures, according to Algerian LGBTIQ activist Mustafa F. (pseudonym), that "we cannot officially register or do our work because we are carrying out activities that go against the law."¹¹¹ LGBTIQ organizations must therefore work underground, facing the threat of fines and prison sentences.

LGBTIQ organizations are also more likely to be impacted by restrictions on foreign funding than many other sectors of civil society, given the challenges of raising funds within Algeria to support LGBTIQ people's human rights. In addition to the prohibition on receiving foreign funds without Algerian government consent in Law 12-06, other laws complicate access to foreign funding: the 1966 Penal Code provides for a prison sentence of up to three years for receiving foreign funds for unspecified "propaganda,"¹¹² and a vaguely worded amendment to the Penal Code passed in 2020



Right: Demonstrators march with banners and flags during a protest demanding political change, in Algiers, Algeria April 9, 2021. (REUTERS/Ramzi Boudina)

¹⁰⁶ People's Democratic Republic of Algeria, Law 12-06 of 2012, https://www.icnl.org/wp-content/uploads/F2012002.pdf?_ga=2.20009915.247737064.1680086802-1470150259.1680086802 (accessed 24 May 2023). The Law on Information mandates that "all publications to have prior approval from a media regulatory authority. It also restricted expression and access to information that relates to certain subject areas, such as national identity, sovereignty, the economy, and national security." International Center for Not-For-Profit Law, "Algeria," <https://www.icnl.org/resources/civic-freedom-monitor/algeria>.

¹⁰⁷ International Center for Not-For-Profit Law, "Algeria," <https://www.icnl.org/resources/civic-freedom-monitor/algeria>.

¹⁰⁸ People's Democratic Republic of Algeria, Law 12-06 of 2012, art. 23, 30.

¹⁰⁹ Ibid, art. 45, Ch. III.

¹¹⁰ Freedom House, "Freedom in the World 2020: Algeria," <https://freedomhouse.org/country/algeria/freedom-world/2020>.

¹¹¹ Outright interview with Mustafa F. (pseudonym), 29 March 2023.

¹¹² People's Democratic Republic of Algeria, Penal Code (promulgated by Order No. 66-156 of 18 Safar 1386 corresponding to June 8, 1966), <https://ihl-databases.icrc.org/en/national-practice/penal-code-promulgated-order-no-66-156-18-safar-1386-corresponding-june-8-1966#:~:text=Summary,the%20State%20or%20the%20Constitution> (accessed 24 May 2023), art. 95

adds up to a 14-year sentence for organizations that receive foreign funds to carry out activities likely to undermine “national unity” or “public order.”¹¹³

Activists told Outright that unregistered LGBTQ organizations used to access funding through fiscal sponsorship from registered organizations in Algeria. But after the anti-NGO law passed in 2012, the human rights organization which used to be the fiscal host for Farid M.’s LGBTQ organization stopped doing so “because it became very dangerous for them.”¹¹⁴ It had already become dangerous enough to do any kind of human rights work, and the group feared that being associated with LGBTQ work would subject them to greater scrutiny. Mustafa F. said obtaining fiscal sponsorship became even more difficult after 2019:

After the 2019 [pro-democracy] protests and the shifts that have occurred in government and the socio-political space, these organizations no longer do any fiscal sponsorships for us. They are afraid of all the restrictions and being caught disobeying the law.¹¹⁵

People also used to work around the funding restrictions by receiving money in foreign personal accounts and bringing cash into the country, according to Mustafa F., “but now there are tighter restrictions on bringing in cash. You cannot bring in more than US \$1,000 or £1,000.”¹¹⁶

Other restrictive laws that impact civil society include the 2012 Law on Information, which requires prior approval from a government media authority for all publications,¹¹⁷ and Law 91-19 of 1990 on Public Meetings and Demonstrations.¹¹⁸ Law 19-91 of 1990 requires prior authorization from the ministry of interior who can deny such authorization where the gathering is contrary to national constants or the symbols of the November 1 Revolution, public order, or public morals.¹¹⁹ According to Imani K., “Clearly, we cannot do this. Our objectives and activities are seen as contrary to so-called public morals.”¹²⁰

The implementation of these repressive laws increases the vulnerability of civil society organizations and has caused both mainstream and LGBTIQ human rights organizations to cease operations.¹²¹ In 2021, the Algerian government dissolved the NGO Youth Action Rally (RAJ), for violating the law on associations by “holding discussions with other civil society activists at its headquarters in Algiers, organizing protests, as well as being in contact with national and international NGOs.”¹²² In at least two cases in 2018, women’s rights NGOs were

¹¹³ People’s Democratic Republic of Algeria, *Loi n° 20-06 du 5 Ramadhan 1441 correspondant au 28 avril 2020 modifiant et complétant l’ordonnance n° 66-156 du 8 juin 1966 portant code pénal*, https://www.icnl.org/wp-content/uploads/Law20-06Algeria.pdf?_ga=2.20191035.247737064.1680086802-1470150259.1680086802 (accessed 24 May 2023), art. 2.

¹¹⁴ Farid M. interview, January 2023.

¹¹⁵ Mustafa F. interview.

¹¹⁶ Ibid.

¹¹⁷ The Law on Information mandates that “all publications to have prior approval from a media regulatory authority. It also restricted expression and access to information that relates to certain subject areas, such as national identity, sovereignty, the economy, and national security.” International Center for Not-For-Profit Law, “Algeria,” <https://www.icnl.org/resources/civic-freedom-monitor/algeria>.

¹¹⁸ Ibid.

¹¹⁹ Centre for Human Rights of the University of Pretoria, “Laws on The Right of Peaceful Assembly Worldwide: Algeria,” last updated 2022, <https://www.rightofassembly.info/country/algeria> (accessed 23 May 2023).

¹²⁰ Imani K. interview.

¹²¹ Farid M. interview, January 2023.

¹²² Amnesty International, “Algeria: Dissolution of Leading Rights Group RAJ a Blow for Freedoms,” 13 October 2021, <https://www.amnesty.org/en/latest/news/2021/10/algeria-dissolution-of-leading-rights-group-raj-a-blow-for-freedoms/> (accessed 24 May 2023).

forced to shut down for non-registration, despite having submitted applications to be registered under Law 12-06.¹²³ Other reports indicate that some NGOs are prevented from operating legally as they have not received registration receipts “despite having submitted their applications more than five years ago.”¹²⁴

The Algerian government is deliberating a draft law to amend Law 12-06 on Associations. This version, if enacted, still requires prior authorization for receiving foreign funds and will subject organizations to what the International Center for Non-Profit Law describes as “even more vague and imprecise general criteria” by demanding “respect for national constants, principles, values enshrined in the constitution, national and territorial unity, the fundamentals of national identity, the symbols of the State and its institutions, national security and defense, public order and good morals.”¹²⁵

Imani K. explains that the inability to register “definitely affects the stability of our operations,” including because any hired staff receive salaries informally and illegally. They also have no access to employment benefits such as health care insurance and retirement funds:

Because we are not registered [it] means we cannot hire full time employees...They are not within the apparatus of the state. We use paid volunteers, which demands a lot of flexibility and missing out on employment benefits. For example, if you want to obtain a lease [for a house or apartment], they may ask for a pay slip. That’s not possible. We operate by relying on the goodwill and commitment of [paid] volunteers.¹²⁶

Meanwhile, discrimination and violence against LGBTIQ people, including at least one case of mass arrests of men suspected of homosexuality, continue amidst the clampdown on human rights and political freedoms in the country.¹²⁷

Finding support outside the LGBTIQ movement is almost impossible. Farid M. explained to Outright that it is very difficult to find legal representation when people are arrested on issues relating to their LGBTIQ identities or advocacy: lawyers are afraid of being connected with human rights groups due to the government clampdown and restrictions on the freedom of association, and with LGBTIQ groups due to criminalization of same-sex intimacy and ingrained negative social perception against homosexuality fueled by culture and religion.¹²⁸

In this context, LGBTIQ activists operate in a constant state of high alert. Imani K. said:

Living in Algeria means that I take risks on a daily basis. I always need to check my phone and computer to ensure I don’t have any information that can impact me, the people I work with, or the communities I work for.

¹²³ Amnesty International, “Algeria: Disturbing Clampdown Against Civil Society AS Two Women’s NGOs Forced to Close,” 2 March 2018, <https://www.amnesty.org/en/latest/news/2018/03/algeria-disturbing-clampdown-against-civil-society-as-two-womens-ngos-forced-to-close/> (accessed 24 May 2023).

¹²⁴ International Center for Not-For-Profit Law, “Algeria,” <https://www.icnl.org/resources/civic-freedom-monitor/algeria>.

¹²⁵ Ibid.

¹²⁶ Imani K. interview.

¹²⁷ In 2020, Algerian security forces mass arrested 44 persons in what they called “a gay wedding,” after which two men were sentenced to three years imprisonment with a fine, and the others to a one year suspended sentence. Human Rights Watch, “Algeria: Mass Convictions For Homosexuality: Arbitrary Arrests; Police Raid Alleged ‘Gay Wedding,’” 15 October 2020, <https://www.hrw.org/news/2020/10/15/algeria-mass-convictions-homosexuality> (accessed 24 May 2023)

¹²⁸ Farid M. interview.

We're always on the lookout for something. Things can change at any time."¹²⁹

For Maisah G., who lives abroad, traveling to Algeria now poses additional risks if their work is discovered: "I worry about whether I will be allowed in or allowed to travel back out. Will I be expelled? Traveling back is always dangerous."¹³⁰

Still, activists continue working, adapting their work to sidestep the risks. Imani K. said: "We hold workshops and events informally and secretly because otherwise, we'd need to seek state authorization and that means telling the authorities the purpose of the event. We cannot do that."¹³¹ They also operate creatively through online platforms. For example, in 2007, Algerian LGBTIQ organizations and persons created an online celebration known as "TenTen," the National Day of Solidarity, which has been held online every year since on 10 October.¹³² TenTen celebrates LGBTIQ solidarity in the struggle for acceptance and recognition.¹³³

Angola

LGBTIQ CSOs exist, but registration as openly LGBTIQ is challenging and often not possible

Angola made history in 2019 when its Parliament decriminalized consensual same-sex intimacy, part of an overhaul of its colonial-era penal code.¹³⁴ The new penal code, which came into force in 2021, also prohibits violence and employment discrimination based on sexual orientation.¹³⁵ Decriminalization, through the removal of a law prohibiting so-called vices against nature, has created opportunities for LGBTIQ groups to expand their advocacy for full equality and inclusion. However, discrimination persists as a result of prevailing social bias, conservative religious and cultural beliefs, and disinformation by the media.¹³⁶ In addition, "administrative bureaucracies and the religious and cultural ideologies of conservative institutions," rooted in Portuguese colonialism, pose barriers to the ability of LGBTIQ organizations to register.¹³⁷

The Government of Angola has frequently obstructed the rights to freedom of association and expression across the board, including through surveillance. This impacts the work of civil society organizations focused on promoting LGBTIQ rights, among others.¹³⁸ By law, citizens

¹²⁹ Outright interview with Imani K. (pseudonym), virtual, March 2023.

¹³⁰ Maisah G. interview.

¹³¹ Imani K. interview.

¹³² Naoufal Bouzid and Khadija Rouggany, "Mechanisms of Adaptation and Resistance to Repression in North Africa," in ILGA, *State Sponsored Homophobia*, https://ilga.org/downloads/ILGA_State_Sponsored_Homophobia_2019.pdf, p. 88.

¹³³ Salsabil Chellali, "TenTen, la Gay Pride algérienne en toute discrétion," *Jeune Afrique*, 9 October 2013, <https://www.jeuneafrique.com/167972/societe/tenten-la-gay-pride-alg-rienne-en-toute-discr-tion/> (accessed 24 May 2023).

¹³⁴ Graeme Reid, "Angola Decriminalizes Same-Sex Conduct: Discrimination Based on Sexual Orientation Banned," Human Rights Watch, 23 January 2019, <https://www.hrw.org/news/2019/01/23/angola-decriminalizes-same-sex-conduct> (accessed 24 May 2023).

¹³⁵ Article 71(4)(c) of the new Penal Code: "[Circunstâncias relevantes para a determinação da medida da pena] por discriminação em razão de raça, cor, etnia, local de nascimento, sexo, orientação sexual, doença ou deficiência física ou psíquica, crença ou religião, convicções políticas ou ideológicas, condição ou origem social ou quaisquer outras formas de discriminação" ("[Circumstances relevant to the determination of the penalty] for discrimination on grounds of race, color, ethnicity, place of birth, sex, sexual orientation, physical or mental illness or disability, belief or religion, political or ideological convictions, condition or social origin or any other forms of discrimination").

¹³⁶ Responses by Lúcia de Castro to Outright's questionnaire for this research, 22 January 2022. The colonial-era 1886 code prohibited consensual same-sex acts on the grounds that they are "acts against nature."

¹³⁷ de Castro email responses.

¹³⁸ Tahila Pimental, "Canaries in the Coal Mines: An Analysis of Spaces for LGBTI Activism in Angola," The Other Foundation, 2017, http://theotherfoundation.org/wp-content/uploads/2017/02/Canaries_Angola.pdf (accessed 24 May 2023), pp. 6, 15.

may form associations in accordance with the Constitution of the Republic of Angola, 2010. Article 4 of the Constitution provides for the right to freedom of association but restricts it to purposes not contrary to law or to public morals. Hence, an LGBTIQ activist reported that public officials in state institutions have restricted access for LGBTIQ activists and associations as “LGBTIQ themes, objectives and principles are seen as immoral in Angolan society ... this makes access to registration difficult for many LGBTIQ + organizations and many of them give up registration or do not try to register.”¹³⁹ This situation persists despite the fact that following the decriminalization of same-sex intimacy, “there is no clear law that rejects the registration of LGBTIQ organizations.”¹⁴⁰

In 2015, then-President José Eduardo dos Santos issued Decree 74/15, which required NGOs to register with several state authorities and gave powers to state authorities to decide what programs NGOs would implement. In 2017, an Angolan court declared that the decree violated constitutional rights as the president lacked the requisite powers to regulate NGOs.¹⁴¹ In the two years of its application, NGOs were greatly hampered in their operations, including in accessing their bank accounts.¹⁴² There are no indications that LGBTIQ NGOs attempted to register during this period. However, Associação Íris Angola, an Angolan LGBTIQ organization, capitalizing on its status as part of the Angolan national coordination mechanism for addressing HIV, malaria and tuberculosis, was able to engage in dialogues with state institutions, leading to its registration, after a lengthy process, as an openly LGBTIQ organization in June 2018.¹⁴³ Associação Íris Angola is publicly known as an LGBTIQ rights organization, “recognized” by the government, according to one activist, as “representatives” of LGBTIQ persons.¹⁴⁴ It works with “the Ministry of Justice and Human Rights, the Secretary of State for Health and the Secretary of State for the Family and Promotion of Women’s Rights, and the media” to advocate for LGBTIQ people’s rights.¹⁴⁵



Right: Staff of Associação Íris Angola hold a three-day training session for LGBTIQ activists in the south of Angola, August 2023. (Associação Íris Angola/2023)

¹³⁹ de Castro email responses.

¹⁴⁰ Ibid.

¹⁴¹ Human Rights Watch, “Angola’s Constitutional Court Upholds Freedom of Association: Rejects Decree Allowing Government Interference in Civil Society,” 18 July 2017, <https://www.hrw.org/news/2017/07/18/angolas-constitutional-court-upholds-freedom-association> (accessed 24 May 2023); CGTN Africa, “Angolan Court: Presidential Decree on NGO Violates Constitution,” 20 July 2017, https://news.cgtn.com/news/304d444e34517a6333566d54/share_p.html (accessed 24 May 2023).

¹⁴² Human Rights Watch, “Angola’s Constitutional Court Upholds Freedom of Association: Rejects Decree Allowing Government Interference in Civil Society,” <https://www.hrw.org/news/2017/07/18/angolas-constitutional-court-upholds-freedom-association> (accessed 5 July 2023).

¹⁴³ Diário de Notícias, “Angola Despenaliza Homossexualidade,” 24 January 2019, <https://www.dn.pt/mundo/novo-codigo-penal-angolano-despenaliza-homossexualidade-10484193.html> (accessed 24 May 2023).

¹⁴⁴ Responses by Carlos Anderson Henriques Fernandes to Outright’s questionnaire for this research.

¹⁴⁵ Ibid.

Another organization, Associação para Defesa da Mulher e dos Povos (socially known as Arquivo de Identidade Angolano/Angolan Identity Archive), successfully acquired registration in 2021. A representative of the organization told Outright that there were “many administrative barriers and slowness in the process until [we got] the certificate of admissibility and registration.”¹⁴⁶

The founders of and activists within both organizations explain that it remains extremely difficult for LGBTIQ NGOs to be registered and that anti-LGBTQ social norms hinder LGBTIQ organizing and movement building in Angola.¹⁴⁷ Presently, other LGBTIQ organizations achieve registration by “describing their organizations as focused on issues such as health, gender equality, youth or development.”¹⁴⁸

For Associação para Defesa da Mulher e dos Povos, official registration has ensured that:

...many doors opened. We had more access to funds since many donors required the official registration to finance our organization. In addition, we gained more credibility and trust at the local level, and we achieved more partnerships and collaboration with public and private institutions.¹⁴⁹

Without registration, many organizations face difficulty in accessing funding and are limited in their ability to engage with government actors and institutions. In this manner, unregistered LGBTIQ organizations are hindered in their ability to positively influence law and policy development in Angola.¹⁵⁰

China

LGBTIQ CSOs exist, but registration as openly LGBTIQ is prohibited or generally impossible

The People’s Republic of China does not prohibit same-sex intimacy between consenting adults. Until 1997, police used a 1979 Criminal Law that prohibited “hooliganism” to carry out arrests for alleged same-sex sexual activity.¹⁵¹ When this provision was removed, many regarded it as the decriminalization of homosexuality.¹⁵² Nevertheless, LGBTIQ people continue to suffer discrimination and violence, including widespread bullying in schools, and no laws expressly protect against discrimination based on sexual orientation, gender identity and expression, and sex characteristics.¹⁵³ The state, exclusively led by the Chinese Communist Party, contributes to the perpetuation of stigma and discrimination by restricting LGBTIQ

¹⁴⁶ de Castro email responses, 22 January 2022.

¹⁴⁷ Fernandes responses; de Castro email responses, January 2022.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Outright, *Precarious Progress: Advocacy for the Human Rights of LGBT People in China*, 2020, https://outrightinternational.org/sites/default/files/2022-09/PrecariousProgress_2020_1215.pdf (accessed 24 May 2023), p. 10 (citing Wenging Kang, “The Decriminalization and Depathologization of Homosexuality in China,” in *China in and Beyond the Headlines*, edited by Timothy B. Weston and Lionel M. Jensen, 2012, https://www.academia.edu/8790287/The_Decriminalization_and_Depathologization_of_Homosexuality_in_China).

¹⁵² Ibid, p. 11.

¹⁵³ Ying Xin, “Queering Advocacy in China: A Depathologization Perspective,” Beijing LGBT Center, 4 February 2021, https://outrightinternational.org/sites/default/files/2022-09/Ying_Xin_China_panel.pdf (accessed 24 May 2023); Outright, “Webinar 1 – Precarious Progress: LGBTI and The Law in China,” Video, 4 February 2021, <https://www.youtube.com/watch?v=DFacXMSSEUK> (accessed 24 May 2023); Outright, *Precarious Progress*, p. 4.

media content.¹⁵⁴ In 2017 the Netcasting Services Association introduced the 2017 General Rules for the Review of Network Audio-visual Program Content, explicitly outlawing content related to homosexuality on online broadcasts and conflating homosexuality with sexual violence: “abnormal sexual relations or sexual behaviors, such as incest, homosexuality, sexual perversion, sexual assault, sexual abuse and sexual violence.”¹⁵⁵

Activists have challenged a range of discriminatory policies and practices, including conversion practices, employment discrimination, media censorship, and marriage inequality in Chinese courts, winning some cases.¹⁵⁶ The wins include two 2016 and 2019 cases on employment discrimination based on gender identity and sexual orientation, and two cases finding an institution culpable for implementing abusive conversion practices.¹⁵⁷

This progress is threatened, and LGBTIQ activists’ freedom increasingly restricted due to the Chinese government’s growing crackdown on independent civic organizing. The Party-state extensively monitors and surveils activists. Its perception of “everything outside its control as a security threat” seriously limits civic organizing.¹⁵⁸ As a result, most human rights organizations operate from outside the country. Legally registered organizations within China tend to be “either a quasi-governmental agency or an extension of the party-state.”¹⁵⁹

LGBTIQ organizations face specific challenges in registration and operation. The founder of a China-based LGBTIQ organization told Outright that in attempting to register their organization within a region in China, they were refused registration as they had the words “lesbian, gay, bisexual, transgender and queer” in their name.¹⁶⁰ According to the founder, Tao C. (pseudonym), “if you define your organization as addressing LGBT issues, you cannot register as an NGO.”¹⁶¹ He added:

Before 2018, we didn’t attempt registration at all. But, after 2018, we noted that the environment was becoming increasingly worse [for CSOs] so we tried to get legal status to enable us to pay salaries, get insurance for staff and pay organizational taxes. We also did not want the government to use any excuse—like not paying taxes—to shut down our activities or call us an illegal group.¹⁶²

Getting registered as a publicly LGBTIQ organization proved impossible, as Tao C. explained:

¹⁵⁴ Cheng Li and Xinyue Zhang, “Online Regulations and LGBT Rights: A Test for China’s Legal System,” Brookings, 1 September 2017, <https://www.brookings.edu/opinions/online-regulations-and-lgbt-rights-a-test-for-chinas-legal-system/> (accessed 24 May 2023).

¹⁵⁵ See the Rules here: http://www.xinhuanet.com//zgjx/2017-07/01/c_136409024.htm (accessed 24 May 2023). In English, “General Rules for Content Review of Online Audiovisual Programs,” http://www.xinhuanet.com//zgjx/2017-07/01/c_136409024.htm

¹⁵⁶ Yanzi Peng, “Sowing the Seeds: The Legal Advocates in the Chinese LGBT Movement,” LGBT Rights Advocacy China, February 2021, https://outrightinternational.org/sites/default/files/2022-09/Yanzi_Peng_China_panel.pdf (accessed 24 May 2023).

¹⁵⁷ Ibid.

¹⁵⁸ Outright International, *Fading Rainbow: A Q&A on LGBTQ Equality in China*, <https://outrightinternational.org/our-work/human-rights-research/fading-rainbow-qa-lgbtq-equality-china>, p. 3.

¹⁵⁹ Chongyi Feng, “The NGO Law in China and its Impact on Overseas Funded NGOs,” (no. 47).

¹⁶⁰ Outright interview with Tao C. (pseudonym), founder of a LGBTQ organization in China, virtual, 9 March 2023.

¹⁶¹ Tao C. interview.

¹⁶² Tao C. interview.

We tried to register as an NGO in different cities, but we were rejected, even in provinces where we had good relationships with some public officials. State officials told us that ‘we cannot support the registration of an organization working on LGBT issues. If you want to be registered, you must change your name. You have to change the categories and the objectives you’re working on, and not describe your work as LGBT issues.’ After this, we went to another province, changed our name and objectives to be social workers and we got registered. Just like we need to hide our identities and sexual orientations; we also have to hide the work that we do among LGBTQ communities.¹⁶³

The multiple layers of difficulty in achieving registration status, and the consequent monitoring of individuals and organizations’ activities, have led other LGBTIQ NGOs not to attempt to register, even as their work is limited by non-registration. Haoyu J. described these limitations:

[We cannot] raise funds from the public or cooperate with local foundations. We also cannot engage or work with mainstream stakeholders because we are not registered. Unregistered organizations are looked upon by the authorities as “illegal” organizations.¹⁶⁴

Chinese LGBTIQ organizations therefore sometimes seek registration as businesses existing in a “grey space” where they can operate and raise funds, but still face significant obstacles.¹⁶⁵ Otherwise, they register as non-profits under other themes or operate under different legal statuses.¹⁶⁶

Registration is not the only challenge facing Chinese LGBTIQ organizations. If they do manage to register, organizations and staff are then directly under state authorities’ radar and must comply with stringent requirements, risking increased surveillance and having their registration canceled.¹⁶⁷ Tao C. also described the difficulty of renting offices: “If they suspect or get to know the kind of work we do, it becomes more difficult. Building owners have used excuses like, ‘you have to move out because we have low electricity on the building’ to evict LGBTQ organizations.”¹⁶⁸

Some LGBTIQ groups have been forced to shut down or limit activities because of the increasingly hostile environment. ShanghaiPRIDE, which for 12 years was the most high-profile offline event with a week’s-long festival featuring art and film



Right: ShanghaiPRIDE in 2020. The group has now shut down in light of the crackdown in China. (ShanghaiPRIDE/2020)

¹⁶³ Tao C. interview.

¹⁶⁴ Responses to Outright’s questionnaire by Haoyu J. (pseudonym), an LGBTIQ advocate from China, August 2022.

¹⁶⁵ Outright interview with Darius Longarino, Research Scholar in Law at Yale Law School, virtual, 4 August 2022; questionnaire responses from Haoyu J.

¹⁶⁶ Outright, *Precarious Progress*, p. 43.

¹⁶⁷ Ibid.

¹⁶⁸ Tao C. interview.

exhibitions, dance parties, NGO fairs, and choir performances had to disband in 2020 as a result of increased pressure from authorities.¹⁶⁹ Similarly, in 2021, LGBT Rights Advocacy China, an organization that had existed for nine years, shut down as a result of sustained pressure and surveillance by the authorities.¹⁷⁰ In 2023 as well, the Beijing LGBT Center publicly announced a halt to its operations for undisclosed reasons.¹⁷¹

Police and government officials have formally summoned and interrogated some LGBTIQ rights advocates, sometimes under the cloak of “meeting for tea,” and declining the invitation is not an option.¹⁷² According to Tao C.:

The policeman will ask you to come drink tea. It is used to give warnings and get information from us. Sometimes they ask us to keep a low profile and tell us not to do advocacy work, just focus on providing services like HIV prevention and care.

Up until 2022 when I traveled out of China, they would invite us twice a month. Sometimes it’s about stopping us from holding an event. Sometimes, they ask for information about our work. Since we started having more online events because of COVID, they also monitor those. They would say things like—they saw our event on TikTok or elsewhere and that we cannot talk about LGBT issues or marriage equality. They watch everything and give you warnings.¹⁷³

Tao C. also said police warned them “not to take funding from overseas or engage with foreign organizations.”¹⁷⁴

The frequency and intensity of police and state security contacts, visits, and surveillance have increased, prompting some LGBTIQ advocates to significantly reduce or stop their activities.¹⁷⁵ Darius Longarino, a senior fellow at Yale Law School’s Paul Tsai China Center who works closely with Chinese LGBTIQ activists, reports that these meetings have also grown more formal:

Recently, those meetings are no longer under the cloak of friendliness, but people are brought into police stations/state offices, interrogated and a record is made. It is a formal summoning of LGBTIQ advocates into the security apparatus.¹⁷⁶

State surveillance of LGBTQ activities is both physical and online. Tao C. described this surveillance:

¹⁶⁹ Steven Jiang, “End of the Rainbow: Shanghai Pride Shuts Down Amid Shrinking Space for China’s LGBTQ Community,” *CNN World*, 16 August 2020, <https://edition.cnn.com/2020/08/14/asia/shanghai-pride-shutdown-intl-hnk/index.html>, (accessed 23 May 2023); Nathan Wei, “Remembering Shanghai Pride, China’s Largest LGBTQ Festival,” *The China Project*, 16 June 2022, <https://thechinaproject.com/2022/06/16/remembering-shanghai-pride-chinas-largest-lgbtq-festival/>, (accessed 24 May 2023); Outright International, *Precarious Progress*.

¹⁷⁰ Associated Press, “China LGBT Rights Group Shuts Down Amid Hostile Environment,” *VOA*, 5 November 2021, <https://www.voanews.com/a/china-lgbt-rights-group-shuts-down-amid-hostile-environment/6301256.html> (accessed 24 May 2023).

¹⁷¹ Christian Shepherd and Vic Chiang, “Beijing LGBT Center Closes its Doors, A Blow for Diversity in China,” *The Washington Post*, 16 May 2023, <https://www.washingtonpost.com/world/2023/05/16/china-lgbt-beijing-center-closed/>, (accessed 23 May 2023).

¹⁷² Longarino interview; Tao C. interview.

¹⁷³ Tao C. interview.

¹⁷⁴ Ibid.

¹⁷⁵ Longarino interview; Tao C. interview.

¹⁷⁶ Longarino interview.

They have a lot of monitoring tools, even on WeChat [social media]. They can see everything. They monitor our websites, check our posts and event announcements. They have informants, also from the LGBTQ community, whom they tell to monitor organizations and report to them. Everyone is afraid and we don't know who to trust. You cannot hide. If I am put on the watch list, they will know my movements including if I check into hotels, buy train tickets and the like. There are also a lot of cameras in the streets ensuring that everything is monitored—leaving your house, crossing the street, taking the train, going into the office—they know everything.¹⁷⁷

In 2021, some local Civil Affairs Bureaus gave verbal warnings to domestic charitable foundations, telling them to stop collaborating with LGBTIQ organizations.¹⁷⁸ This further closes the funding space and seeks to intimidate LGBTIQ organizations down or out of existence. Prior to 2017, established local LGBTIQ organizations received financial support from international foundations, but this funding avenue and cooperative relationship shut down with the passage of the Foreign NGO Management Law.¹⁷⁹

Another challenge facing Chinese LGBTIQ activists is communication over tech platforms, both within China and externally, due to the fear of surveillance and prohibitions on using platforms such as WhatsApp.¹⁸⁰ Tao C. describes the situation in this manner:

We have to look for alternative communication platforms—we cannot use WeChat, the best channel for communication, because it is highly monitored, and WhatsApp and Telegram are blocked. Communication is laborious and not as effective. We have lost followers because of this. It was more effective for us to spread information about our events on WeChat groups, but we cannot do that anymore. We now contact possible attendees for events individually, restricting the number of people that can attend. Three, four years ago, we could have 200–300 people attending our events, but now we get about 20.¹⁸¹

LGBTIQ people's freedom of expression is also stifled. Flowing from dangerous cisheteronormative norms, the Party-state banned effeminate men from appearing on TV in 2021.¹⁸² State media promotes the narrative that exposure to LGBTIQ-related information will affect the sexual orientation or gender identity of youth.¹⁸³

In a time when online advocacy considerably contributes to building movements, the Chinese National Press and Publication Administration and the Cyberspace Administration, government entities, disallow “self-publishing” of news by journalists and bloggers” and

¹⁷⁷ Tao C. interview.

¹⁷⁸ Longarino interview; Zeyi Yang, “Tencent Dominates Digital Donations in China. That’s the Problem.” *Protocol*, 15 September 2021, <https://www.protocol.com/china/tencent-charity-platform> (accessed 23 May 2023).

¹⁷⁹ Outright, *Precarious Progress*, p. 45.

¹⁸⁰ Longarino interview; Tao C. interview; Paul Mozur, Claire Fu, and Amy Chang Chien, “How China’s Police Used Phones and Faces to Track Protesters,” *New York Times*, 12 December 2022, <https://www.nytimes.com/2022/12/02/business/china-protests-surveillance.html> (accessed 24 May 2023).

¹⁸¹ Tao C. interview.

¹⁸² Joe McDonald, “China Bans Men it Sees as Not Masculine Enough From TV,” *AP News*, 3 September 2021, <https://apnews.com/article/lifestyle-entertainment-business-religion-china-62dda0fc98601dd5afa3aa555a901b3f> (accessed 24 May 2023).

¹⁸³ Longarino interview. See Zhijun Hu, “‘Don’t Say Gay’ Is Happening in China Too. But It Can’t Turn Back the Clock,” *The Diplomat*, 3 December 2022, <https://thediplomat.com/2022/12/dont-say-gay-is-happening-in-china-too-but-it-cant-turn-back-the-clock/>, (accessed 24 May 2023).

amended regulations banning “misleading the public,” among others.¹⁸⁴ In 2021, the internet company Tencent, which hosts the WeChat app, deleted multiple accounts run by LGBTIQ advocates in universities and blocked access of several people running LGBTIQ groups, including deleting their content.¹⁸⁵ This meant that these LGBTIQ advocates and organizations could not access a WeChat crowdfunding campaign which was a “major fundraising opportunity...due to the company’s restrictions.”¹⁸⁶

In this sea of repression, LGBTIQ organizations focused on providing direct health care or other services may have a little more room to maneuver. Tao C. told Outright:

We still have a small space to do our work because we stopped advocacy work and we focus on providing services to help the community. We also carefully frame our work to show harmony in the society, not LGBTIQ rights. We must word our messages carefully.¹⁸⁷

Overall, however, the repressive environment in relation to civic and LGBTIQ rights advocacy takes a heavy toll on activists. The shift from higher-profile, visible activism to low-profile service provision leaves LGBTIQ communities and individuals feeling isolated, according to Haoyu J., as “there are no advocacy efforts or visibility of the movement.”¹⁸⁸

According to Tao C.:

Five years ago, at least, LGBT organizations could meet and discuss issues that affect us and support each other. Now, we cannot do that anymore because of fear and anxiety of being monitored. It’s very hard and exhausting, and we can’t get support from each other.¹⁸⁹

Ghana

LGBTIQ CSOs exist, but registration as openly LGBTIQ is prohibited or generally impossible

Ghana’s Criminal Offences Act of 1960 maintains a British colonial-era law that criminalizes same-sexual conduct. Homophobia dominates public discourse, advanced by political and religious leaders and members of the media. In June 2021, Parliament introduced a bill still under consideration, now titled the Human Sexual Rights and Family Values Bill.¹⁹⁰ The Bill seeks to outlaw all LGBTIQ activism. It blatantly violates LGBTIQ people’s rights to freedom of association, expression and assembly, and has led to increased violence and discrimination

¹⁸⁴ International Federation of Journalists, “China: Authorities Ban Self-Publishing by Journalists and Censor Online Content,” 28 January 2021, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/china-authorities-ban-self-publishing-by-journalists-and-censor-online-content.html> (accessed 24 May 2023); Outright, *Fading Rainbow: A Q&A on LGBTIQ Equality in China*, <https://outrightinternational.org/our-work/human-rights-research/fading-rainbow-qa-lgbtq-equality-china>, p.2. Outright International, “Fading Rainbow: A Q&A on LGBTIQ Equality in China,” (no.166), p. 2.

¹⁸⁵ Reuters, “Chinese Social Media App WeChat Deletes University LGBTIQ Accounts,” *NBC News*, 7 July 2021, <https://www.nbcnews.com/nbc-out/out-news/chinese-social-media-app-wechat-deletes-university-lgbtq-accounts-rcna1357> (accessed 24 May 2023); Pak Yiu, “WeChat Deletes Chinese University LGBT Accounts in Fresh Crackdown,” *Reuters*, 7 July 2021, <https://www.reuters.com/world/china/chinas-wechat-deletes-university-lgbt-accounts-2021-07-07/> (accessed 24 May 2023); Yang, “Tencent Dominates Digital Donations in China. That’s the Problem,” *Protocol*, <https://www.protocol.com/china/tencent-charity-platform>.

¹⁸⁶ Longarino interview.

¹⁸⁷ Tao C. interview.

¹⁸⁸ Haoyu J. questionnaire responses.

¹⁸⁹ Tao C. interview.

¹⁹⁰ Republic of Ghana, “Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill, 2021,” <https://cdn.modernghana.com/files/722202192224-0h830n4ayt-lgbt-bill.pdf>.

against LGBTIQ people even before being passed into law.¹⁹¹

The tabling of the bill took place in the context of an ongoing crackdown that included raids and mass arrests. In February 2021, law enforcement and traditional leaders raided a center belonging to LGBT+ Rights Ghana, and in May 2021, the police arrested 21 lesbian, bisexual, queer and intersex activists at a human rights workshop in Ho, a district in eastern Ghana. Police have continued to arbitrarily arrest Ghanaians based on their presumed sexual orientation or gender identity.¹⁹²

Non-governmental organizations register in Ghana under two regulatory authorities: the Registrar-General's office, in accordance with the Companies Act, and the Department of Social Welfare. Registration with the Registrar-General requires obtaining a professional financial audit. It vests the organization with the status of a company limited by guarantee. After obtaining this status, organizations ought to register with the Social Welfare department before starting operations. Registered NGOs must file annual returns to the office of the Registrar-General.¹⁹³

The registration of civil society organizations explicitly advocating for the rights or needs of LGBTIQ people is not permitted in practice, though nothing in the currently enacted laws expressly prevents LGBTIQ organizations from registering. Ghanaian LGBTIQ organizations that have managed to legally register have done so without explicitly referring to the focus area of their work. Founders of Ghanaian LGBTIQ organizations described feeling restricted from being explicit about their work because of prevailing anti-LGBTIQ norms and the criminalization of same-sex acts.¹⁹⁴

They fear that attempts to register openly might lead to unnecessary exposure for the organization and activists working there. Therefore, while registering, one organization stated that its objectives focus on embracing diversity among religious women, with no reference to sexual orientation, gender identity and expression, or sex characteristics (SOGIESC).¹⁹⁵ A second founder referenced "vulnerable groups" in their organization's registration



Right: Wilhemina Nyarko attends a rally against a controversial bill being proposed in Ghana's parliament that would make identifying as LGBTQIA or an ally a criminal offense punishable by up to 10 years in prison, in the Harlem neighborhood of New York on Monday, Oct 11, 2021. "It's a scary bill," says Nyarko, who is from Ghana and has lived in New York for thirty years. "I felt I needed to come and support this." (AP Photo/Emily Leshner)

¹⁹¹ Outright, "We Deserve Protection": Anti-LGBTIQ Legislation and Violence in Ghana, <https://outrightinternational.org/our-work/human-rights-research/we-deserve-protection-anti-lgbtq-legislation-and-violence-ghana>.

¹⁹² Ibid, pp. 21-25.

¹⁹³ "How to Register a Not-For-Profit or NGO in Ghana 2023," *Firmus Advisory*, 16 February 2023, <https://www.mondaq.com/corporate-and-company-law/1283198/how-to-register-a-not-for-profit-or-ngo-in-ghana-2023> (accessed 23 May 2023).

¹⁹⁴ Termed "unnatural carnal knowledge."

¹⁹⁵ Outright interview with Thema J. (pseudonym), location withheld, January 2022.

documents.¹⁹⁶ Yet another organization referred to its target group as “key populations” because, at the time of registration, its focus was on HIV prevention initiatives.¹⁹⁷

A founder whose organization was able to register in 2015 told Outright that:

I knew from the beginning that if I stated anything about LGBTIQ [rights] the process wouldn’t go through. So, I had to do things in a way that I would not be discriminated against. That’s how I was able to get a legal document that says this is a registered organization.¹⁹⁸

According to another founder, their organization had planned to apply for registration with the office of the Registrar-General, clearly citing their objectives of working for lesbian, gay, bisexual and transgender persons’ rights.¹⁹⁹ However, they could not find a professional auditor and company secretary in compliance with the requirements for registration: “They did not want to work with us as an LGBT organization. Now, with the entire situation in Ghana, this plan is on hold.”²⁰⁰

One activist said he had been able to use some specific terms in the application for registration as a company limited by guarantee and managed to be successful.²⁰¹ He told Outright:

We added certain terms in the objectives connoting LGBTIQ rights. We didn’t spell it out, but we added things like ‘gender non-conforming,’ ‘gender and sexual identities.’ The registration was accepted.²⁰²

Groups in Ghana describe a range of positive and negative consequences associated with legal registration. Access to funding and donors is “the main reason why we registered.”²⁰³ Without this, “challenges are enormous; you can’t even get funding.”²⁰⁴ Also, “people tend to trust registered organizations... This gives you some credence that you’re organized with structures in place.”²⁰⁵ In addition, the legitimacy registration affords is critical for protection against hostile groups: “If you’re organizing a program and somebody wants to disrupt it, you have legal documents to back the claims of your work.”²⁰⁶

Registration, however, can also expose LGBTIQ organizations to monitoring by state bodies as they must meet set standards to retain and renew their registration, such as filing annual returns under the Companies Act.²⁰⁷ According to activists, the Department of Social Welfare

¹⁹⁶ Outright interview with Bernard D. (pseudonym), location withheld, January 2022.

¹⁹⁷ Outright interview with Oko K. (pseudonym), location withheld, January 2022.

¹⁹⁸ Outright interview with Williams O. (pseudonym), location withheld, January 2022.

¹⁹⁹ Bernard D. interview. In Ghana, to acquire status as a nonprofit entity, NGOs register first with the Registrar-General under the Companies Act to gain status as a company limited by guarantee, and then with the Department of Social Welfare before starting operations.

²⁰⁰ Ibid.

²⁰¹ Oko K. interview.

²⁰² Ibid.

²⁰³ Thema J. interview.

²⁰⁴ Outright interview with Kplorm T. (pseudonym), location withheld, January 2022.

²⁰⁵ Outright interview with Joshua O. (pseudonym), location withheld, January 2022.

²⁰⁶ Outright interview with Rebecca F. (pseudonym), location withheld, January 2022.

²⁰⁷ Section 122 of the Companies Act of 1963; Firmus Advisory (no. 190).

also requires CSOs to justify their implemented activities and allow the regulators to check their offices.²⁰⁸ The executive director of an organization serving men who have sex with men explained that this department “wanted to see evidence of outreach projects and they questioned why they were not seeing any women in the pictures and reports. It created a lot of tension for us.”²⁰⁹

Presently, the introduction of the Human Sexual Rights and Family Values Bill and media sensationalism of LGBTIQ issues have contributed to a more difficult environment for Ghanaian LGBTIQ organizations. Activists said that the debate around the Bill has already interfered with their work and has discouraged LGBTIQ persons from attending programs and accessing services.

In some regions, LGBTIQ activists report that they have been unable to get facility managers to rent out meeting halls for their events: “The owners or managers would want to know exactly who you are and what you want the space for. If they got to know that you are [an LGBTIQ organization], they will refuse to give you the space.”²¹⁰

To cope, organizations have devised alternative strategies. One organization in the Ashanti region was able to find a welcoming facility to hold meetings outside their region. “Now, we transport participants from here to the place for training sessions. That’s additional money spent. We had to strategize to enable us to execute all our activities.”²¹¹

Rebecca F., an activist working with LBQ persons in Accra, told Outright: “Organizing is very difficult. Now, target persons do not want any face-to-face meetings.” As a result, she said, some organizations no longer hold meetings in person, instead adapting social media platforms to disseminate information as “no police will arrest us on virtual platforms.”²¹² But even meetings on virtual platforms such as Zoom had become challenging because in some instances, invitation links had been circulated beyond the intended recipients, leading uninvited persons to join these meetings and contributing to fears that the meetings were being hacked.²¹³ Virtual meetings are also difficult “because not all target persons are educated or use social media,” said another activist, Thema J.²¹⁴ Participation levels of rightsholders are affected: “People who can’t use the internet or don’t have access to smartphones or cannot buy data cannot participate in or benefit from our activities.”²¹⁵

LGBTIQ organizations also reach out to target persons individually:

We have tried to adopt one-on-one advocacy where we try to engage grassroots community members. We just talk to them in local languages so that they also benefit from our work.²¹⁶

²⁰⁸ Kplorm T. interview; Oko K. interview.

²⁰⁹ Oko K. interview.

²¹⁰ Williams O. interview.

²¹¹ Ibid.

²¹² Rebecca F. interview. This may change if the Promotion of Proper Human Sexual Rights and Family Values Bill is passed as is without any amendments.

²¹³ Rebecca F. interview.

²¹⁴ Thema J. interview.

²¹⁵ Williams O. interview.

²¹⁶ Thema J. interview.

It remains to be seen whether the new anti-LGBTIQ Bill will be enacted. If so, it will severely impinge on the constitutionally guaranteed rights of LGBTIQ Ghanaians and their allies to freely associate, assemble, and advance and improve rights protections.

India

LGBTIQ CSOs exist and can generally register openly

Recent legal advancements in India have facilitated LGBTIQ organizing, but the government's general hostility toward human rights work, and specific efforts to limit financial transactions from foreign donors, continue to imperil activists and their work.

In 2018, the Indian Supreme Court decriminalized homosexual conduct, ruling that the provisions of the Penal Code criminalizing same-sex acts are contrary to the constitution and violate fundamental rights.²¹⁷ One Indian activist told Outright:

The decriminalization of same-sex relationships in 2018 and the legal and government recognition of trans rights means there is no barrier to registering as LGBTQIA+ organizations now. But on a national level, the government has a hostility against all sorts of NGOs.²¹⁸

For a number of years, India has presented a challenging operating environment for civil society organizations as consecutive governments have restricted their activities.²¹⁹ In a tactic used by many governments seeking to repress independent civil society, India's Congress amended its Foreign Contributory Regulatory Act (FCRA) in 2010, requiring that non-governmental organizations obtain a license to receive funds from foreign sources and preventing organizations of a "political nature" from accessing foreign funding.²²⁰ The amended FCRA also reduces the allowed administrative expenses of NGOs to 20 percent of their budget, which could impact salaries.²²¹ Rituparna Borah, co-founder and director of an LGBTIQ organization in India called Nazariya, said that her organization and other small and growing NGOs in India face significant challenges accessing funding from donor sources outside India as a result of the FCRA's stringent certification requirements.²²²

Restrictive government policies have not specifically targeted LGBTIQ organizations. But the consistent and increasing crackdown makes LGBTIQ activists in the country concerned that they will also be targeted. In addition, they fear working in solidarity with bigger, more controversial human rights movements. Saanvi D. (pseudonym), a representative of one LGBTIQ organization that responded to Outright's questionnaire, wrote that the government's repressive tactics against other NGOs, including arrests, contribute to an abundance of caution:

²¹⁷ Human Rights Watch, "India: Supreme Court Strikes Down Sodomy Law - Upholds Rights to Privacy, Non-discrimination for LGBT People," 6 September 2018, <https://www.hrw.org/news/2018/09/06/india-supreme-court-strikes-down-sodomy-law> (accessed 23 May 2023).

²¹⁸ Saanvi D. (pseudonym), responses to Outright International's questionnaire, March 2022.

²¹⁹ Sujeet Kumar, "India: Decades of Hostility Against NGOs Have Worsened Under Narendra Modi," The Conversation, 1 May 2019, <https://theconversation.com/india-decades-of-hostility-against-ngos-have-worsened-under-narendra-modi-113300> (accessed 24 May 2023).

²²⁰ See the text of the law here: https://fcraonline.nic.in/home/PDF_Doc/FC-RegulationAct-2010-C.pdf (accessed 24 May 2023).

²²¹ Abhiroop Chowdhury and Armin Rosencranz, "India's War on NGOs," Asia and The Pacific Policy Society, 18 January 2021, <https://www.policyforum.net/indias-war-on-ngos/> (accessed 24 May 2023).

²²² Outright interview with Rituparna Borah, virtual, April 2023.

Although LGBTQIA+ activism is not currently at high risk to be targeted this way, we remain cautious about how we present ourselves, knowing the situation can change, and knowing what some of our allies have experienced.... There is always some instability and fear that our organization will be placed under scrutiny and persecuted as has happened to other human rights defenders and organizations. LGBTIQ organizations can [also] be at risk because of the marginalized sexuality and gender statuses... and because we align ourselves with other human rights defenders and progressive movements and participate in protests.²²³

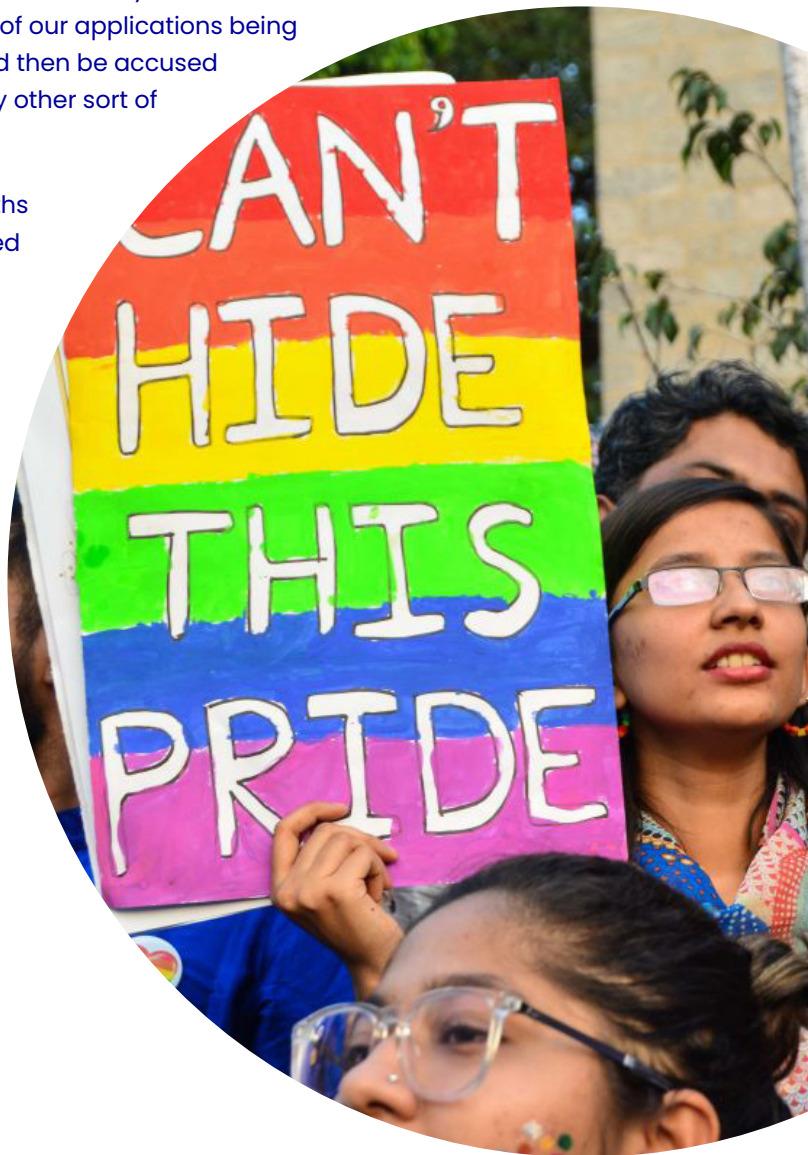
The registration process is also unnecessarily cumbersome for many CSOs. Saanvi D.'s organization has not been able to complete the registration that will allow it to receive non-taxable donations and foreign funds independently without a third-party fiscal sponsor:

We have been making audit reports for several years. But the difficulty now is that the central government is anti-NGO, and there is a possibility of our applications being rejected. We don't want to draw attention to ourselves and then be accused of anti-national activities (e.g., supporting protests) or any other sort of unfair scrutiny/financial accusation.²²⁴

The organization's access to funds was cut off for eight months when its fiscal sponsor lost its registration under the amended FCRA. Saanvi D. said:

We had to give up our office and fundraise for partial salaries for our staff. Presently, most of the NGOs think it is very risky to do fiscal sponsorship in the current scenario. There is a lot of harassment of NGOs and general insecurity about being accused of 'anti-national' activity or receiving/misusing foreign funds.²²⁵

Despite challenges, Rituparna Borah noted that one positive aspect of India's NGO registration laws is that they "allow for the listing of very wide objectives." This allows organizations, as they naturally evolve to meet the changing needs of communities and movements, "to change direction without having to go through the registration process again."²²⁶



Right: TULASI PARK AND TOWN HALL, BENGALURU, KARNATAKA, INDIA – 2018/12/09: A protester seen holding a placard saying can't hide this pride during the protest. After the queer festival, the section 376 was amended in India decriminalising homosexuality hence the LGBTQIA+ community gathered together in Bangalore and held a March from Tulasi Park in Majestic to Town Hall and a lot of people also came to support. (Photo by Meghana Sastry/ SOPA Images/LightRocket via Getty Images)

²²³ Saanvi D. responses.

²²⁴ Ibid.

²²⁵ Ibid.

²²⁶ Borah interview.

Indonesia

LGBTIQ CSOs exist, but registration as openly LGBTIQ is prohibited or generally impossible

In December 2022, Indonesia's Parliament enacted a new Penal Code criminalizing all sexual acts outside marriage and prohibiting unmarried couples from living together, effectively criminalizing same-sex intimacy across the country.²²⁷ Previously, same-sex sexual acts between consenting adults had been expressly criminalized in only two provinces, Aceh and South Sumatra. The new code, which is to come into effect in 2025, also outlaws public demonstrations and protests without permission, "insults" against government officials, and sharing views contrary to state ideology.²²⁸ Prior to this enactment, activists reported an "increase in persecutions against human rights defenders" and an "increase in violence rates aimed at LGBTIQ people in public spaces" in recent years.²²⁹

Even prior to the passage of the 2022 penal code, the Indonesian legal and political ecosystem did not permit the registration of LGBTIQ organizations. USAID found in a 2016 assessment that "CSOs can work freely in Indonesia under the 2013 law, except for those organizations working with religious minorities and lesbian, gay, bisexual, and transgender (LGBT) people."²³⁰ The new law is likely to compound the challenges facing LGBTIQ organizations.

The 2013 Ormas Act sets forth three different registration processes: for foundations and incorporated associations, both of which are legal entities under Indonesian law, and for informal "ordinary associations" that do not have legal personality. The law requires both foundations and incorporated associations to submit their articles of association containing the association's statutory purposes to a Public Notary and then to the local office of the Ministry of Law and Human Rights to obtain approval. Ordinary associations, in which individuals operate in their personal capacity, must obtain a registration certificate from the Ministry of Home Affairs or from the local government where the organization operates.²³¹

The Ormas Act was amended through a government regulation in 2017 to allow for the government to ban organizations which "pose a threat to Pancasila [the Indonesian state philosophy] and the Constitution," without judicial checks.²³² Article 21 of the amended law

²²⁷ Human Dignity Trust, "Indonesia," <https://www.humandignitytrust.org/country-profile/indonesia/> (accessed 24 May 2023); Frances Mao, "Indonesia Passes Criminal Code Banning Sex Outside Marriage," *BBC News*, 6 December 2022, <https://www.bbc.com/news/world-asia-63869078> (accessed 24 December 2023). The text of the law in Bahasa Indonesia can be found here: <https://perma.cc/3C6U-CKSS> (accessed 24 May 2023).

²²⁸ The provisions of the law on these are replicated below. According to article 256, "[a]ny person who, without prior notification to the authorities, organizes a parade, demonstration or demonstration on a public road or public place which causes disturbance to public interests, creates commotion or commotion in society, shall be punished with imprisonment for a maximum of 6 (six) months or a maximum fine of category II." Article 240(1) provides that "[a]ny person who publicly or verbally or in writing insults the government or state institutions, shall be punished with a maximum imprisonment 1 (one) year and 6 (six) months or a maximum fine of category II." Article 188(1) states as follows: "[e]veryone who spreads and develops the teachings of communism/Marxism-Leninism or other views that are contrary to Pancasila in public orally or in writing, including propagating or developing through any media, shall be punished with imprisonment for a maximum of 4 (four) years." Ananda Teresia and Kate Lamb, "Indonesia Bans Sex Outside Marriage in New Criminal Code," *Reuters*, 6 December 2022, <https://www.reuters.com/world/asia-pacific/indonesias-parliament-passes-controversial-new-criminal-code-2022-12-06/> (accessed 24 May 2023).

²²⁹ Responses by Baskoro M. (pseudonym) and Syahla A. (pseudonym), to Outright's questionnaire, March 2022.

²³⁰ USAID, "Assessment Report: Civil Society Organizations in Indonesia," July 2018, https://pdf.usaid.gov/pdf_docs/PA00T6KQ.pdf (accessed 24 May 2023), p. 19.

²³¹ Abhiroop Chowdhury and Armin Rosencranz, "India's War on NGOs," *Asia and The Pacific Policy Society*, 18 January 2021, <https://www.policyforum.net/indias-war-on-ngos/> (accessed 24 May 2023).

²³² USAID, "Assessment Report: Civil Society Organizations in Indonesia," https://pdf.usaid.gov/pdf_docs/PA00T6KQ.pdf, p. 19. See also Fakhriy Ilmullah and Mohammad Syaiful Aris, "Limitations on the Freedom of Association, Gathering and Express Opinion in Indonesia's State System," *Palarch's Journal of Archeology of Egypt/Egyptology* 17, 2020 (3): 1583-1592.

requires organizations to “maintain religious, cultural, moral, and ethical values and decency,” of particular concern to LGBTIQ organizations, especially following the 2022 criminalization of same-sex intimacy.²³³

As a result of the hostile climate, LGBTIQ organizations are largely unregistered, or seek to obtain legal recognition by defining their objectives and programs under more general themes. An Indonesian LGBTIQ activist told Outright that “[We register] and mention... gender diversity ... key population health (HIV programming), as long as we do not mention the issue of human rights and equality for LGBTIQ people.”²³⁴ Such strategies assist in evading discriminatory state responses to applications for registration and in protecting persons whose names and identifiers are linked to application documents, and would otherwise be more vulnerable to targeted harassment.²³⁵ When organizations do attempt to be forthright about their objectives, they have been advised to change tack. Syahla A. (pseudonym), a representative of an Indonesian trans organization which has been legally registered since 2008, told Outright that when the organization sought registration, the notary advised that the applicants take out the Indonesian term for “transgender” as it is “not acknowledged in Indonesian legal nomenclature.”²³⁶ Outright is aware of another recent case in which an organization was denied registration because its name included the word “rainbow”; when it changed its name, the application was accepted.

Syahla A. said that despite the enforced name change, organizations that focus specifically on transgender issues face less hostility than those working on rights related to sexual orientation. According to Syahla A., “there is only a little risk that the organization will be deregistered as long as activities are geared towards social issues and not against Indonesian criminal law” because transgender persons (waria) are recognized socially in Indonesia.²³⁷

Citing social barriers preventing registration, Rahmah B. (pseudonym), a representative of an organization dedicated to promoting LGBTIQ rights, disclosed that after getting registered with the office of the Public Notary, the organization did not attempt to register with the local office of the Ministry of Law and Human Rights, which confers legal personality and incorporates organizations, because “the situations in [location withheld] do not allow this to happen. [It is] a hostile area for LGBTIQ persons, particularly towards trans folks.”²³⁸ Not having the approval of the Ministry



Right: LGBTIQ activists in Indonesia during an interactive discussion on the experiences of trans women during the COVID-19 pandemic in Bali, Indonesia. (Outright Indonesia Program Officer/2021)

²³³ Ibid.

²³⁴ Responses by Lestari I. (pseudonym) to Outright’s questionnaire, March 2022.

²³⁵ Responses by Rahmah B. (pseudonym) to Outright’s questionnaire, March 2022.

²³⁶ Syahla A. responses.

²³⁷ Syahla A. responses.

²³⁸ Rahmah B. responses.

connotes that such a group cannot act in its own name, only through individuals.²³⁹ This makes Rahmah B.'s organization, like many others, an "ordinary association," i.e., one without legal status.²⁴⁰

Indonesian activists noted that a lack of registration can mean a lack of funding, since registration aids access to funders "that require official registration documents, to prove that our organization is legitimate."²⁴¹ If they could register, one activist said, they could more easily collaborate with the local and national government and "get legal protection under the Ministry of Law and Human Rights of Indonesia."²⁴²

Even when organizations are registered, barriers to the right to freedom of association remain. A representative of one organization that works on gender diversity, social inclusion, and health programming told Outright that, although the organization is legally registered, on one occasion a bank rejected its application to open an account because "back then we still used LGBTIQ terminology in our organization profile."²⁴³

In spite of these challenges, Indonesian LGBTIQ organizations strive to "collectively carry out advocacy work with other CSOs" while prioritizing safety and security mechanisms.²⁴⁴

Nicaragua

LGBTIQ CSOs exist, but registration as openly LGBTIQ is challenging and often not possible

Nicaragua decriminalized consensual same-sex relations in 2008. Outright's research did not surface recent cases in which LGBTIQ organizations were targeted specifically because of their work related to sexual orientation, gender identity and expression, or sex characteristics, although several representatives of LGBTIQ organizations mentioned instances of hate speech by politicians.

However, Nicaragua's Law for the Regulation of Foreign Agents, passed in 2020, threatens the rights to freedom of association and assembly for all organizations that receive foreign funding, including LGBTIQ groups.²⁴⁵ The law defines foreign agents as:

Any Nicaraguan natural or legal person or of any other nationality, that within Nicaragua receives funds, goods, or any object of value coming directly or indirectly, from foreign natural persons, Governments, Agencies, Foundations, Societies, etc.²⁴⁶

It requires organizations to register as so-called foreign agents with the Ministry of Interior and report funding sources to the Financial Analysis Unit, and authorizes the cancellation of

²³⁹ Article 8 of the Staatsblad 1870–64 (Dutch Colonial State Gazette) states, "Associations that are not established as legal entities according to general regulations or are not recognized according to these regulations cannot carry out civil actions." Also see International Center for Not-for-Profit Law, "Nonprofit Law in Indonesia," <https://icnl.org/country-notes/nonprofit-law-indonesia>, (accessed 24 May 2023).

²⁴⁰ Ibid.

²⁴¹ Lestari I. responses.

²⁴² Syahla A. responses.

²⁴³ Lestari I. responses.

²⁴⁴ Syahla A. responses.

²⁴⁵ Valeska Fonseca Torrez, "Law on the Regulation of Foreign Agents in Nicaragua," García & Bodán, 1 December 2020, <https://garciabodan.com/en/law-on-the-regulation-of-foreign-agents-in-nicaragua/> (accessed 24 May 2023).

²⁴⁶ Ibid.

registration based on violating public order.²⁴⁷ So-called foreign agents risk closer surveillance of their activities and possible closure for those that do not align with government ideology.²⁴⁸ Specifically, and quite worrisomely, the law seeks to prohibit organizations that receive foreign funding “from intervening in political issues, activities or topics,” threatening them with sanctions if they do so.²⁴⁹ One activist told Outright that through this law, Nicaraguan lawmakers aim to silence legitimate criticism and monitoring of government efforts and policy engagement, affecting all CSOs, including LGBTIQ organizations.²⁵⁰

It appears that the legislation is designed and implemented to make compliance impossible.²⁵¹ In May 2022, the Nicaraguan national assembly revoked the registration of 82 NGOs, totaling the amount of canceled CSO registrations to about 950 since 2018, on grounds of violating the foreign agents law.²⁵² Maria J. (pseudonym), a representative of a transgender rights organization, told Outright that the closures were a form of “reprisals from the government against organizations who present themselves as contrary to the ideology of the current government.”²⁵³ Adriana D., an intersex rights activist, also informed Outright that “ally organizations” had been shut down due to “not complying with orders from the government.”²⁵⁴ The activist also expressed concern that LGBTIQ organizations are at risk “if we truly focus our work in promoting the rights of our collective” because human rights work of any kind is perceived as anti-government:

[A]ny LGBTIQ organization, regardless of size, is seen as a threat to the government because of the socio-political situation we live in... The politicians and government officials... have branded us as coup plotters by us simply claiming our rights as people.²⁵⁵



Right: A young demonstrator carries a sign that reads in Spanish “Free Nicaragua. No to Repression!” during clashes in Managua, Nicaragua, Friday, April 20, 2018. Police in Nicaragua say that a police officer, protester, and pro-government activist have been killed so far in clashes sparked by a planned social security reform. (AP Photo/Alfredo Zuniga)

²⁴⁷ Nicaragua, Law on the Regulation of Foreign Agents, 15 October 2020, <https://www.icnl.org/wp-content/uploads/foragentnicaragua.pdf> (accessed 24 May 2023).

²⁴⁸ AFP, “Nicaragua Passes Controversial ‘Foreign Agent’ Law,” *DW*, 16 October 2020, <https://www.dw.com/en/nicaragua-passes-controversial-foreign-agent-law/a-55291712#:~:text=The%20law%20for%20the%20regulation,with%20the%20country's%20Interior%20Ministry> (accessed 24 May 2023).

²⁴⁹ *Ibid.*

²⁵⁰ Responses by Luis C. (pseudonym) to Outright’s questionnaire, March 2022.

²⁵¹ Human Rights Watch, “Nicaragua: Government Dismantles Civil Society: Arbitrary Closures of Groups Impede Rights, Humanitarian Work,” 19 July 2022, <https://www.hrw.org/news/2022/07/19/nicaragua-government-dismantles-civil-society> (accessed 24 May 2023).

²⁵² *Ibid.*

²⁵³ Responses by Maria J. (pseudonym) to Outright’s questionnaire, March 2022.

²⁵⁴ Responses by Adriana D. (pseudonym) to Outright’s questionnaire, March 2022.

²⁵⁵ *Ibid.*

Other laws regulating the registration of civil society organizations include article 49 of the Nicaraguan Constitution, Law 1115, General Law of Regulation and Control of Non-Profit Organizations, May 2022 and Law 1127, passed in August 2022 to reform and expand upon Law 1115.²⁵⁶ These laws prescribe that representatives of organizations submit requests for registration to the Minister of Interior, after whose approval the organization must then register with the General Directorate of Registration and Control of NPOs (Non-Profit Organizations) of the Ministry of the Interior within 15 business days.²⁵⁷ Law 1115 also requires that organizations (NPOs) verify the identity and reputation of donors and beneficiaries, and retain funders' identities for ten years.²⁵⁸

The law gives regulators "broad discretion to deny legal recognition" of NGOs while wielding the power to restrict projects and funding, and government officials can interfere with organizations' internal affairs.²⁵⁹ Government discretion in NGOs' affairs is described by the International Center for Non-Profit Law as "excessive."²⁶⁰

All four LGBTIQ organizations in Nicaragua that Outright contacted for this research are not registered. Adriana D. told Outright that their organization had intended to register but that its efforts have not advanced because it lacks the funds, "does not have the proper contacts, and is not pro-government."²⁶¹ Adriana D. added, "[i]t is always possible [to register] when the organization requesting legal status is pro-government."²⁶² Another LGBTIQ activist said that their organization is unregistered due to the costs of registration, the "many bureaucratic requirements that limit the process" and the laws which oversee the operations of CSOs.²⁶³

Because it is challenging for LGBTIQ organizations to register, they have challenges accessing international funding even if they do subject themselves to the scrutiny required under the Foreign Agents Regulation Law. Maria J., a transgender rights activist, elucidated:

There are options to access funding through another umbrella organization as an administrator, but there are few donors who feel comfortable with this alternative. Moreover, it's not possible to directly hire staff [under this scheme] and there is no autonomy in the implementation of budgets for projects.²⁶⁴

With limited access to funding, unregistered LGBTIQ organizations "depend a lot on other

²⁵⁶ International Center for Non-Profit Law, "Nicaragua," 7 March 2023, <https://www.icnl.org/resources/civic-freedom-monitor/nicaragua> (accessed 24 May 2023); Nicaragua, Law of Amendments and Additions to Law No. 1115, General Law of Regulation and Control of Non-Profit Organizations and Amendments to Law No. 522, General Law Of Sports, Physical Education and Physical Recreation, 11 August 2022, <http://legislacion.asamblea.gob.ni/normaweb.nsf/09cf45d6fc893868062572650059911e/36fa5ff8ee20e9d0062588a00075ea32?OpenDocument> (accessed 24 May 2023).

²⁵⁷ See articles 22 and 23 of Law 1115 here: <http://legislacion.asamblea.gob.ni/normaweb.nsf/09cf45d6fc893868062572650059911e/6eea6ac9ddaf06e70625881d005bd14f?OpenDocument>, accessed 9 May 2023. Also see articles 21 and 23 of Law 1127 here: <http://legislacion.asamblea.gob.ni/normaweb.nsf/09cf45d6fc893868062572650059911e/36fa5ff8ee20e9d0062588a00075ea32?OpenDocument>.

²⁵⁸ International Center for Non-Profit Law, "Nicaragua," <https://www.icnl.org/resources/civic-freedom-monitor/nicaragua>.

²⁵⁹ Ibid.

²⁶⁰ Ibid.

²⁶¹ Adriana D. responses.

²⁶² Luis C. responses.

²⁶³ Responses by Cesar R. (pseudonym) to Outright's questionnaire, February 2022.

²⁶⁴ Maria J. responses.

organizations to be able to finance our activities.”²⁶⁵ The alternative routes for establishing a basis for operations therefore invariably include “partnerships with other NGOs that aren’t necessarily LGBTIQ.”²⁶⁶ However, many organizations limit their partnerships out of fear that the government will paint them as opposition.²⁶⁷

This socio-political situation and its impact on civil society means that “LGBTIQ organizations are weakening steadily because we do not have support from foreign organizations and much less from the state.”²⁶⁸ Maria J. (pseudonym) stated that the organization cannot liaise with government bodies and ministries and “cannot grow [because it] has limited access to funding” by virtue of being unregistered.²⁶⁹ LGBTIQ activists in Nicaragua believe that the ability to register and operate openly would provide “increased access and resilience.”²⁷⁰ It would also enable organizations to administer sustainable grants, provide job opportunities for LGBTIQ people and allow high-level advocacy for law and policy change.²⁷¹ Presently, unregistered LGBTIQ organizations do not have the opportunity to lobby for policy change, such as the full recognition of same-sex unions, because “they would not take into account our demands because we don’t exist legally.”²⁷²

Uzbekistan

LGBTIQ CSOs exist, but registration as openly LGBTIQ is prohibited or generally impossible

Uzbekistan criminalizes consensual same-sex intimacy between adult males, with article 120 of its criminal code providing for up to three years imprisonment.²⁷³ When Outright conducted research in 2018 for our first report on the right to register, we could not identify any LGBTIQ organizations in Uzbekistan. For this report, we were able to contact three activists representing two different organizations. The legal and political environment still makes it extremely difficult for such organizations to operate, and neither organization identified by Outright is legally registered.

Democratic reforms beginning in 2016 gradually opened civil society space in Uzbekistan following years of repression of civil society under former president Islam Karimov, but restrictions continue to unduly limit the activities of civil society organizations across the board.²⁷⁴ The International Center for Non-Profit Law reports that Uzbek law allows for non-governmental organizations to be established “for protecting the rights and lawful interests of natural persons and legal entities; for achieving social, cultural and educational aims; to satisfy spiritual and other non-material needs; and for realizing other public benefit purposes.” However, the law also requires any group of people engaged in such activities to legally register as a national non-profit organization (NNO); all organizations that are not registered are considered illegal. Active participation in an illegal organization is subject to a fine and

²⁶⁵ Cesar R. responses.

²⁶⁶ Ibid.

²⁶⁷ Ibid.

²⁶⁸ Ibid.

²⁶⁹ Maria J. responses.

²⁷⁰ Ibid.

²⁷¹ Luis C. responses.

²⁷² Ibid.

²⁷³ Human Dignity Trust, “Uzbekistan,” <https://www.humandignitytrust.org/country-profile/uzbekistan/#:~:text=Article%20120%20punishes%20voluntary%20sexual,law%20applies%20to%20men%20only> (accessed 24 May 2024).

²⁷⁴ “Uzbekistan Sparks Hope with Registration of NGOS,” *EurasiaNet*, 11 March 2020, <https://eurasianet.org/uzbekistan-sparks-hope-with-registration-of-ngos> (accessed 24 May 2023).

a prison sentence of up to five years.²⁷⁵ Registration requirements are onerous, and the law allows the authorities to refuse to register an organization if its name offends the “morality, national or religious feelings of citizens.”²⁷⁶ Once registered, an organization must submit extensive activity reports to the Ministry of Justice, and must provide the Ministry with an astonishing level of detail in advance of holding any event.²⁷⁷

In March 2021, the president of Uzbekistan issued a decree approving a Concept Paper on Development of Civil Society in 2021–2025 and a Road Map on Implementation of the Concept, which ICNL describes as “the most comprehensive package of civil society support since the start of Shavkat Mirziyoyev’s presidency.”²⁷⁸ But by April 2023, no significant reforms had been implemented, and a decree issued in July 2022 does not bode well for civil society independence: it requires that if any Uzbek non-profit organization receives international funding, the Ministry of Justice must appoint a public administration body to provide “practical assistance” to the non-profit organization in carrying out projects under the international grant.²⁷⁹

Under these circumstances, and in the context of continued criminalization of same-sex intimacy under the Penal Code, Uzbek LGBTIQ organizations are disinclined to even attempt to register, despite the risks associated with operating without registration. LGBTQ activism in Uzbekistan is “almost impossible” as a result of intimidation from both the authorities and members of the public.²⁸⁰ Sergey D., an activist interviewed by Outright who works for an LGBTIQ organization that focuses on mental health, physical health, and human rights, said that although no provisions expressly outlaw LGBTIQ CSOs, they cannot attain legal status openly because article 120 creates security risks for anyone engaging openly in LGBTIQ organizing.²⁸¹ Vitaliy S., an activist with another LGBTIQ organization founded in 2019 that also focuses on providing mental health services, shared this impression.²⁸²

Sergey D. said that because his organization is unregistered, it cannot work with the government or national organizations, operate openly, access certain opportunities for fundraising and promoting visibility of its work, or legally access a digital audience without facing the risk or prosecution for operating illegally.²⁸³ The organization therefore works in “closed, informal groups for safety reasons. We use our trusted networks to reach the marginalized communities and subgroups within LGBTIQ populations that we serve.”²⁸⁴

²⁷⁵ International Center for Not-for-Profit Law, “Uzbekistan,” 14 December 2022, <https://www.icnl.org/resources/civic-freedom-monitor/uzbekistan> (accessed 23 May 2023).

²⁷⁶ Ibid.

²⁷⁷ Dilmurad Yusupov, “Challenges NGOs in Uzbekistan are Still Facing,” The Foreign Policy Centre, 14 July 2020, <https://fpc.org.uk/challenges-ngos-in-uzbekistan-are-still-facing/> (accessed 24 May 2023).

²⁷⁸ International Center for Not-for-Profit Law, “Uzbekistan,” <https://www.icnl.org/resources/civic-freedom-monitor/uzbekistan>.

²⁷⁹ Ibid.

²⁸⁰ Michael K. Lavers, “LGBTQ Activism in Uzbekistan ‘Is Almost Impossible,’” *Washington Blade*, 13 August 2021, <https://www.washingtonblade.com/2021/08/13/lgbtq-activism-in-uzbekistan-is-almost-impossible/> (accessed 24 May 2023).

²⁸¹ Responses by Sergey D. (pseudonym) to Outright’s questionnaire, February 2022. Republic of Uzbekistan, Penal Code, https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127504.pdf (accessed 24 May 2023), art. 120. See article 120 of the Uzbekistani Penal Code in Russian here: <https://lex.uz/docs/111457> (accessed 24 May 2023). It criminalizes “Besoqlbozlik, that is, voluntary sexual intercourse of two male individuals –shall be punished with imprisonment up to three years.”

²⁸² Outright interview with Vitaliy S. (pseudonym), activist working with an Uzbekistani LGBTIQ organization, 20 March 2023.

²⁸³ Sergey D. responses.

²⁸⁴ Ibid.

Being unregistered also limits access to foreign funding. Sergey D. said that big, international donors—even those with physical presence in Uzbekistan—only want to fund projects by and work with registered organizations.²⁸⁵ It also means that his organization relies on a fiscal sponsor to access funding. In this case—because of the prevailing anti-LGBTIQ bias in Uzbekistan and because it is illegal to operate an unregistered organization—the fiscal sponsor is in a different country. As a result, its “sustainability completely depends on the domestic and foreign policy situation in the fiscal sponsor’s country.”²⁸⁶ Alsu A., a colleague of Sergey D., elaborated:

Our system of operations is very complicated. Entering into contracts and agreements can be tricky..... Because our methods of operation and accessing funds are so complicated, many organizations are not willing to work through complex arrangements with an unregistered organization.²⁸⁷

Sergey D. also explained that since the start of the Russian aggression against Ukraine, monetary transfers have also become more complicated due to the scarcity of currency in the region: “We have opened personal bank accounts in a different country to help us access funds from foreign donors. This is however only useful when donors accept such reports from personal accounts—it’s a small percentage of donors.”²⁸⁸

In addition to the inability of LGBTIQ organizations to register, they face other challenges in Uzbekistan, Sergey D. said: “We are not allowed to hold public gatherings or demonstrations such as in parks. They don’t allow more than three people to be gathered in public.”²⁸⁹ This is despite the fact that there is no written law that “specifically regulates rallies, meetings and demonstrations.”²⁹⁰ Alsu A. reported:

In 2012, 28 of us working on LGBTIQ issues met at a garden and the police arrested us, holding us from morning till evening and took our fingerprints and passport information. They filmed us while we were walking. This has created a long-lasting fear in the community, preventing people from participating in our events. We reduce the number of physical events we have, so as not to put ourselves and the people who let us use their spaces at risk. Events on human rights and SOGIE [sexual orientation, gender identity and expression] can be considered as propaganda, and that is dangerous for all of us.²⁹¹

The perilous context leads to extensive pressure on LGBTIQ activists, as Sergey D. noted.²⁹² In terms of letting office spaces, Sergey D. told Outright that “for a couple of years, we rented an apartment, but it was quite difficult as we kept getting threats from neighbors. We have decided to only rent spaces when we need them for events. We have two allies who rent safe spaces to us as needed.”²⁹³

²⁸⁵ Outright interview with Sergey D. (pseudonym), 20 March 2023.

²⁸⁶ Sergey D. responses.

²⁸⁷ Outright interview with Alsu A. (pseudonym), 20 March 2023.

²⁸⁸ Sergey D. interview.

²⁸⁹ Alsu A. interview.

²⁹⁰ Centre for Human Rights of the University of Pretoria, “Laws on The Right of Peaceful Assembly Worldwide: Uzbekistan,” last updated 2021, <https://www.rightofassembly.info/country/uzbekistan> (accessed 24 May 2023).

²⁹¹ Alsu A. interview.

²⁹² Sergey D. responses.

²⁹³ Sergey D. interview.

Working with people within and outside LGBTIQ communities can also be tricky. Alsu A. described how a former employee capitalized on the hostile environment to threaten the organization:

In 2020, a project ended, and we had to let the staff who was working on it go. He has since been blackmailing and threatening us that he will expose our activities to relevant state authorities. It is tricky to hire and fire staff because the people who work with us have detailed information about our identities and our work.²⁹⁴

As a result, “this lack of trust and the need to maintain secrecy of activities” also makes the movement in Uzbekistan fragmented.²⁹⁵ Alsu A. explained that “Our work, by its very nature, is risky [because of the environment]. This put us and our families at risk.”²⁹⁶ In 2021, a mob attacked a “group of fans of Japanese animation films and Korean K-pop music” whom they perceived to be gay. Police responded to the incident by blaming the attack on alleged provocations by Miraziz Bazarov, an independent blogger loosely linked to the fan group who had publicly urged the decriminalization of consensual same-sex conduct.²⁹⁷ Later that same day, unknown assailants brutally attacked Bazarov; he subsequently said he believed his assailants were from the State Security Service.²⁹⁸ Alsu A. said that the police baiting of Bazarov set off a chain of events in which LGBTIQ people were targeted both by the authorities and members of the public:

This led to demonstrations by Islamic extremists, gathered at the main square in Tashkent, the capital city, demonstrating their hatred for the LGBTIQ people. There were also police raids targeting our communities. Any positive statement or public support for LGBTIQ rights immediately puts our entire communities at risk. It provokes a very extremist, radical reaction by people who are ready to attack and even kill us.²⁹⁹

As a result, she said, “We cannot do our work publicly. Our priority is to ensure our safety and security.”³⁰⁰



Right: Blogger Miraziz Bazarov lies on a stretcher upon his arrival at a hospital after he was beaten by a group of unidentified men in Tashkent, Uzbekistan March 29, 2021. Picture taken March 29, 2021. (REUTERS/Timur Karpov)

²⁹⁴ Alsu A. interview.

²⁹⁵ Vitaliy S. interview.

²⁹⁶ Alsu A. interview.

²⁹⁷ Human Rights Watch, “Uzbekistan: Independent Blogger Attacked – Ensure Effective Investigation; Condemn Flagrant Homophobia,” 31 March 2021, <https://www.hrw.org/news/2021/03/31/uzbekistan-independent-blogger-attacked> (accessed 24 May 2023).

²⁹⁸ International Federation for Human Rights (FIDH), “Uzbekistan: Sentencing of Blogger Miraziz Bazarov,” 26 January 2022, <https://www.fidh.org/en/issues/human-rights-defenders/uzbekistan-sentencing-of-blogger-miraziz-bazarov> (accessed 24 May 2023).

²⁹⁹ Alsu A. interview.

³⁰⁰ Ibid.

While legal registration remains out of reach, supporting the nascent movement in Uzbekistan will require dedication and creativity. Vitaliy S. summarized:

For us, support matters a lot—from within and outside Uzbekistan. It is important to find allies and donors who understand our contexts and are willing to work around the complex situations we find ourselves in.³⁰¹

Yemen

No known LGBTIQ organizations exist, and there are likely barriers to registration stemming from criminalization of same-sex intimacy or gender diversity

The Yemeni penal code prohibits same-sex sexual activity between consenting adults, with a maximum penalty of death by stoning.³⁰² The major barriers preventing the registration of LGBTIQ organizations in Yemen include severe social stigma against promoting LGBTIQ rights, repressive laws that criminalize same-sex sexual activity with the death penalty, the prevalence of homophobia and the sweeping influence of religious leaders over societal matters.³⁰³ The extensive humanitarian and human rights crises in Yemen have also put human rights defenders at risk and rendered social organizing extremely challenging. Although a cease-fire largely holds between the Saudi-backed government and the Houthi rebels, there is no durable peace agreement, and Yemen remains territorially divided, with 80% of the population reportedly under Houthi control while the internationally recognized government flounders.³⁰⁴ Both parties to the conflict have targeted LGBTIQ people, who have few sources of support and no access to redress within the country.³⁰⁵

On paper, Yemen's Associations and Foundations Law is less onerous than laws governing civil society in many other Gulf countries. But the International Center for Non-Profit Law reports that the government has issued regulations that restrict organizations' activities and



Right: Yemeni pro-Houthi lawmakers attend a joint session between the rebel group's House of Representatives and European independent legislators through Skype to discuss the situation in Yemen at the parliament building in the capital Sanaa on November 8, 2018. The long-distance meeting saw legislators from various countries, as part of the first International Parliamentary Conference for Peace in Yemen, demand their governments work together to end the three-year old conflict which has killed nearly 10,000 Yemenis since 2015, according to the World Health Organization. (Photo by MOHAMMED HUWAIS/AFP via Getty Images)

³⁰¹ Vitaliy S. interview.

³⁰² Human Dignity Trust, "Yemen," <https://www.humandignitytrust.org/country-profile/yemen/> (accessed 24 May 2023).

³⁰³ Responses from Yaafiah A. (pseudonym) to Outright's questionnaire, August 2022.

³⁰⁴ Edward Hunt, "Facing Houthi Victory in Yemen, the U.S. Changes Tactics," Foreign Policy in Focus, 14 December 2022, <https://fpif.org/facing-houthi-victory-in-yemen-us-changes-tactics/> (accessed 24 May 2023).

³⁰⁵ UN Human Rights Council, "Situation of Human Rights in Yemen, Including Violations and Abuses since September 2014," A/HRC/45/CRP.7, 29 September 2020, <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/GEE-Yemen/A-HRC-45-CRP.7-en.pdf> (accessed 24 May 2023), paras. 214–217, 234.

access to funding beyond what is provided for by law.³⁰⁶ Since 2021, they are also required to obtain annual licenses to operate, even if they are registered.³⁰⁷ And even when they do obtain licenses, the civil conflict in Yemen complicates the ability to operate: “they are considered illegitimate in some areas of the country if their licenses were obtained in other areas.”³⁰⁸

These positive and negative aspects of associative space in Yemen have little relevance for LGBTIQ people, who run the risk of being subjected to the death penalty if their identities are exposed through activism. Outright identified two organizations in Yemen that work, in some measure, with sexual and gender minorities. Representatives of these organizations affirmed that there are no organizations in Yemen, to their knowledge, that are wholly devoted to LGBTIQ people’s well-being or human rights.

One of these organizations is registered, without reference in its registration documents to its work with LGBTIQ populations, but has faced serious obstacles to operating freely. Abbud K. (pseudonym), a representative of the organization, said that although, by virtue of registration, their staff ought to be able to “move freely without harassment from security agencies,” this has not been the case:

Registering under general themes did not spare us from repeated harassment by the authorities, which hinders our work and puts us under constant supervision and investigations.

In 2021, according to Abbud K., the government refused to renew the organization’s permit based on accusations from local authorities that the organization receives funding from “foreigners and Jews in order to spread sexual immorality,” by “working in the LGBTQ field.”³⁰⁹ While the organization remains officially registered, Abbud K. said that the loss of a license led to a decrease in fundraising capabilities, forcing the organization “to stop paying the employees’ salaries and reduce the work team,” and raising a fear of prosecution.³¹⁰

If it is proven that we are working in the LGBT field, the official registration may be withdrawn, and this will make us liable to a trial [where the court] may prescribe the punishment of a death sentence.³¹¹

The other organization is unregistered and has not officially initiated a registration process. It has considered seeking to register by describing the organization’s work as based on general themes including youth, women’s issues, and development, but its representative was ambivalent as to the benefits of registration, noting that “[registration] makes you liable.” They explained that with registration, CSOs would need to provide the donors’ names and details of projects to state authorities for approval before they can implement them.³¹² According to the representative, Yaafiah A., “[y]ou could be taken to court and prosecuted if you violate the objectives of the organization. You could be subject to the death penalty if the court knows

³⁰⁶ International Center for Not-for-Profit Law, “Yemen,” 4 January 2023, <https://www.icnl.org/resources/civic-freedom-monitor/yemen> (accessed 24 May 2023).

³⁰⁷ Ibid.

³⁰⁸ Ibid.

³⁰⁹ Ibid.

³¹⁰ Ibid.

³¹¹ Responses by Abbud K. (pseudonym) to Outright’s questionnaire, March 2022.

³¹² Yaafiah A. responses.

that you worked on LGBTQ issues.”³¹³ Outright has not found instances where Yemeni LGBTIQ advocates have faced trial in Yemen, but it remains very risky for organizations to operate. Even the fact that they must hide their true target audiences puts them at risk.³¹⁴

Abbud K., the representative of the organization that is registered, informed Outright that registration enabled the organization to communicate with other organizations from an official position, promoting its status and respect within the civil society space.³¹⁵ But registration does expose them to state scrutiny. Staff are monitored through their phones and emails, Abbud K. said, causing them to be extremely careful in implementing their activities.³¹⁶ They added that “[the context] makes it difficult for us to involve LGBTIQ people in the basic structure of the work team and affects how we carry out advocacy for LGBTIQ causes.”³¹⁷

Deregistration and the constant threat of deregistration or cancelation of operating licenses affect the ability of human rights organizations and activists to work in the short- and long-term, preventing advancement of rights and the sustainability of movements.

³¹³ Ibid.

³¹⁴ Abbud K. responses.

³¹⁵ Ibid. Abbud K.’s organization was also able to establish a human rights protection system to assist a large group of people by virtue of its registration status.

³¹⁶ Ibid.

³¹⁷ Ibid.

IV. Relevant International Human Rights Law

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The rights to freedom of association and assembly are well established in international law, notably through article 22 of the International Covenant on Civil and Political Rights (ICCPR).³¹⁸ The ICCPR defines freedom of association as the right of people to join together in groups in order to pursue common objectives or interests, including joining organizations.³¹⁹ Article 2 of the ICCPR requires countries to adhere to all the rights in the covenant, including freedom of association, without discrimination, including on grounds of sexual orientation.³²⁰ Other international and regional human rights instruments that recognize the right to freedom of association include the Universal Declaration of Human Rights (article 20), the Convention on the Elimination of All Forms of Discrimination Against Women (article 7), the African Charter on Human And Peoples' Rights (article 10), the American Convention on Human Rights (article 16), the Arab Charter on Human Rights (article 28), and the Declaration on Human Rights Defenders (article 5).

This right is not absolute: restrictions on freedom of association are permissible only on certain clearly specified grounds.³²¹ Limitations of the right to freedom of association can be imposed to maintain “public order:” rules that ensure the peaceful functioning of society.³²² Freedom of association may also be restricted for “the protection of public health or morals.” A restriction based on “public health” is only legitimate in a situation in which the activities of an association pose a serious threat to the health of the population or individuals within it.³²³

³¹⁸ ICCPR, arts. 19, 22.

³¹⁹ ICCPR, art. 22.

³²⁰ ICCPR, art. 2.

³²¹ Certain other requirements are necessary under international law to justify freedom of association restrictions. Notably, restrictions can only be imposed if they meet the standard of being “necessary in a democratic society.” This implies that the limitation must respond to a pressing public need and be oriented along the basic democratic values of pluralism and tolerance. The term “necessary” also contains the principle of proportionality. It requires a careful balancing of the intensity of a measure with the specific reason for the limitation. In applying a limitation, a state is to use no more restrictive means than are required for the achievement of the purpose of the limitation. ICCPR, art. 22.

³²² According to the Siracusa Principles, set forth by the International Commission of Jurists, “public order” refers to “the sum of rules which ensure the functioning of society or the set of fundamental principles on which society is founded. Respect for human rights is part of public order.” UN Economic and Social Council, Commission on Human Rights, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, E/CN.4/1985/4, 28 September 1984, para 22.

³²³ Ibid., art. 21.

Well-accepted international principles have indicated that governments must not use notions of public morality “to restrict any exercise of the rights to public assembly and association solely on the basis that it affirms diverse sexual orientations or gender identities.”³²⁴ Efforts by states and governments to encroach on the ability of LGBTIQ organizations from registering and operating contravene these established rights.

The UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association has made recommendations to several countries on their responsibilities to uphold these rights with regard to LGBTIQ populations. The Rapporteur noted the restrictive nature of laws regulating civil society in Zimbabwe, urged the non-discriminatory application of laws across communities including LGBTIQ groups in Sri Lanka, and recommended the protection of the safety of LGBTQ groups in Armenia, among others.³²⁵

As many governments seek to restrict foreign funding for civil society groups, international principles posit that legal provisions restricting foreign funding must not risk the effective operations of non-governmental organizations. The Special Rapporteur’s 2022 report recommends that states ensure that both registered and unregistered CSOs:

... fully enjoy the right to seek, receive and use funding and other resources from natural and legal persons, whether domestic, foreign or international, without prior authorization or other undue impediments.³²⁶

³²⁴ The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity, March 2007, http://yogyakartaprinciples.org/wp-content/uploads/2016/08/principles_en.pdf (accessed 23 May 2023), principle 20(b); University of Nottingham Human Rights Law Centre, “Jurisprudential Annotations to the Yogyakarta Principles,” November 2007, <http://yogyakartaprinciples.org/wp-content/uploads/2017/11/Jurisprudential-Annotations.pdf> (accessed 24 May 2023), pp. 47–52, outlining the international law sources underlying the Yogyakarta Principles’ interpretation of the rights to peaceful assembly and association as they relates to sexual orientation and gender identity.

³²⁵ UN Human Rights Council, “Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association on His Visit to Zimbabwe,” A/HRC/44/50/Add.3, 14 May 2020, <https://digitallibrary.un.org/record/3865685?ln=en> (accessed 24 May 2023); UN Human Rights Council, “Visit to Sri Lanka: Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association,” A/HRC/44/50/Add.1, 5 May 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/109/54/PDF/G2010954.pdf?OpenElement> (accessed 24 May 2023); Office of the United Nations High Commissioner for Human Rights, “Statement by the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Clément Nyaletsossi VOULE, at the Conclusion of His Visit to the Republic of Armenia,” 16 November 2018, <https://www.ohchr.org/en/statements/2018/11/statement-United-nations-special-rapporteur-rights-freedom-peaceful-assembly-and> (accessed 24 May 2023).

³²⁶ Human Rights Council, “Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Clément Nyaletsossi Voule,” A/HRC/50/23, 10 May 2022, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/337/82/PDF/G2233782.pdf?OpenElement> (accessed 24 May 2023).

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Annex: List of Countries Surveyed

LGBTIQ CSOs Exist and Can Generally Register Openly

Region	Countries
Sub-Saharan Africa	Botswana, Cabo Verde, Lesotho, Madagascar, Seychelles, and South Africa
Asia and the Pacific	Bhutan, Cambodia, Fiji, India, Japan, Nepal, The Philippines, Samoa, Singapore, South Korea, Taiwan, Thailand, Timor-Leste, and Vietnam
The Caribbean	Antigua and Barbuda, The Bahamas, Barbados, Belize, The Dominican Republic, Guyana, Saint Lucia, Saint Kitts and Nevis, and Suriname
The Middle East and North Africa (MENA)	Israel
Eastern Europe	Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Georgia, Hungary, Kosovo, Latvia, Lithuania, Malta, Moldova, Montenegro, North Macedonia, Poland, Romania, Serbia, Slovakia, Slovenia, and Ukraine
Latin America	Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, Uruguay, and Venezuela

LGBTIQ CSOs Exist, but Registration As Openly LGBTIQ Is Challenging and Often Not Possible

Region	Countries
Sub-Saharan Africa	Angola, Mozambique
Asia and the Pacific	Kiribati, Laos People's Democratic Republic, Mongolia, Myanmar, Sri Lanka, and Tonga
The Caribbean	Trinidad and Tobago
The Middle East and North Africa (MENA)	Tunisia
Eastern Europe	Turkey
Latin America	Nicaragua

LGBTIQ CSOs Exist, but Registration As Openly LGBTIQ Is Prohibited or Generally Impossible

Region	Countries
Sub-Saharan Africa	Benin Republic, Burkina Faso, Burundi, Cameroon, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Republic of the Congo, Equatorial Guinea, Ethiopia, Eswatini, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Malawi, Mali, Mauritania, Mauritius, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Tanzania, Togo, Uganda, Zambia, and Zimbabwe
Asia and the Pacific	Bangladesh, China, Indonesia, Kazakhstan, Kyrgyzstan, Malaysia, Pakistan, Papua New Guinea, Tajikistan, Uzbekistan, and Vanuatu
The Caribbean	Cuba, Dominica, Grenada, Haiti, and Saint Vincent and the Grenadines
The Middle East and North Africa (MENA)	Algeria, Egypt, Iran, Iraq, Jordan, Lebanon, Libya, Morocco, the Occupied Palestinian Territories, and Sudan
Eastern Europe	Belarus and Russia
Latin America	Jamaica

Nascent LGBTIQ Organizations Exist and It Is Not Yet Clear Whether Registration As Openly LGBTIQ is Possible

Region	Countries
Asia and the Pacific	Micronesia and Palau

No Known LGBTIQ CSOs Exist, but There Are No Clear Legal Barriers to Registration (Same-Sex Intimacy, Gender Diversity, and LGBTIQ Organizing Are Not Legally Prohibited)

Region	Countries
Sub-Saharan Africa	Central African Republic, Djibouti, Gabon, and São Tomé and Príncipe
Asia and the Pacific	Marshall Islands and Nauru

No Known LGBTIQ CSOs Exist, and There Are Likely Barriers to Registration Stemming From the Criminalization of Same-Sex Intimacy or Gender Diversity

Region	Countries
Sub-Saharan Africa	Comoros, Eritrea, The Gambia, and South Sudan
Asia and the Pacific	Afghanistan, Brunei Darussalam, Maldives, North Korea, Solomon Islands, Turkmenistan, and Tuvalu
The Middle East and North Africa (MENA)	Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, Syrian Arab Republic, United Arab Emirates, and Yemen



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