

**MADA INTERNATIONAL FINAL POLICY GUIDEBOOK
On LGBT victims' civil, legal and political fundamental rights in conflict and early post-
conflict situations**

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MADA International is an international non-governmental organization (NGO) with the objective to advocate for the civil, legal and political fundamental rights of the LGBT community. In this regard, it has always strongly underlined the importance of conducting a detailed and focused analysis of the different dynamics that occur between the various parties that operate within the transitional justice context. In other words, MADA International advocates the **proactive and efficient cooperation** between the multiple local and international actors that are involved in the development and implementation of transitional justice mechanisms.

Indeed, MADA International believes that solely through an approach based on a **deep knowledge of the facts** and **their *ad hoc* use** in an environment of transparent engagement and mutual collaboration, could it be possible to establish and enforce effective transitional justice policies; whose aim would be that of **giving voice** to LGBT community's claims and **guaranteeing LGBT people a safe space where they freely denounce past episodes of abuse and express future expectations**.

In this regard, **in the long term**, MADA International aims chiefly to **promote and obtain the acceptance and integration** in the social context of the LGBT community, while simultaneously confronting episodes of discrimination and social prejudices against LGBT people.

In order to achieve the above-mentioned forward-looking objective, **in the present**, MADA International intends to prioritize operations of **documentation, participation and protection** of LGBT victims within the process of transitional justice. Indeed, MADA International believes that these measures would not only be fundamental tools for prospective purposes, but also essential instruments for its **other parallel backward aim**, i.e. the **structural litigation** of past abuse against LGBT victims.

Therefore, in order to realize its objectives, MADA International has chosen to operate with highly qualified international and *in loco* personnel to whom MADA International itself provides a series of intensive specialized training in transitional justice measures that could efficiently assist the development of close partnerships and synergy between MADA International and the relevant local LGBT community.

In addition, MADA International is firmly committed to building solid and meaningful relationships not only with other regional NGOs, but also with members of the international community. In this sense, MADA International advocates the necessity to **embrace a bottom-up approach within a broader international framework composed of governing bodies, multinational organizations and foreign funders.**

This paper presents a set of practical approaches, strategies and guidelines that MADA International has prepared and developed with respect to five different, but intrinsically linked areas of concern in relation to victims, episodes of mass atrocities, i.e. **documentation, security and protection, participation of victims, gender and reparations.** Moreover, in the process of investigating the five above mentioned fields of interest, MADA International has always considered a specific scenario, i.e. the *conflict and early post conflict situations*, and has coordinated its actions in relation to the protection and empowering of LGBT victims (therefore, through the entire document, the word *victim/s* will always refer to LGBT victims).

DOCUMENTATION

MADA International exists to bridge the gap of harm suffered by LGBT victims because of conflicts and to ensure redress during conflicts or early post conflict. Therefore, it is vital for us, as an NGO, to involve in the documentation of these cases and to ensure the preservation of records, the consistency in information and the accessibility and management of such collected data.

Documentation of harm suffered by LGBT people is crucial, not only for historical archiving, but also as source of evidential recourse during the post conflict transitional justice process.

MADA International acknowledges the fact that most states involved in domestic or international conflict do not legally acknowledge the rights of the LGBT community.

- 1) For fear of loss of primary records in fragile societies, we advocate as a **short-term measure**, local civil society **collection of data** relating to cases of abuses on LGBT victims. Data collected will, **in the long-term**, and in collaboration with our international partners, be preserved following international standards that could facilitate the possibility to access documentary evidence meant to provide the facts and nature of past abuses suffered by the LGBT community.
- 2) In collaboration with our local and international partners, we propose, as a **long-term approach**, the collection of data that would be relevant for building an encrypted social media platform. On this platform, we plan to collect data that would be acquired through the **use of new technological tools** – social media, mobile phones, online videos, and through the **direct local interactions** – interview, visit to community centers. This would create the avenue to collect and transform a variety of information into statistical data that could provide the composition and understanding of the abuses faced by the LGBT community.
- 3) For our staff, victims and partners, we recommend the use of a reservoir of documentary data that could guarantee the safety, credibility and accessibility of the recorded information.
- 4) Since victims suffer from human rights violations, we recommend, **in the long-term**, working in partnership with local and international human rights agencies in order to provide training to our staff and local civil society on the following procedures: interaction, collection, organization, management, archiving and security of individuals/data.

MADA International is objective driven and, in consideration with its short-term and long-term goals and approaches, makes the following recommendations

1. We recommend the **interaction with other archival bodies** – i.e. Archivist Without Borders, International Council on Archives, for the planning and implementation of an



international standard archiving system that would prevent mutilation, possible loss and destruction of records in the conflict affected areas.

2. We recommend the **cooperation with the local civil society** to advocate and facilitate a prompt online and social media monitoring while stimulating public awareness on the LGBT community.
3. We promote empathy as a way to build a solid working environment in collaboration with civil society actors. We recommend the training of local civil society actors to serve as first aid/psychosocial agents to assist victims in distress that need basic healthcare.
4. We recommend for purposes of safekeeping, consistency, security and credibility of documentary evidence of LGBT human rights violations, the **preservation of our records with a second jurisdiction** or international organization based in a peaceful, archive friendly and stable country like Switzerland.
5. We believe in our cooperation with other local/international NGOs and international bodies and we are convinced of the benefits that would derive from the collection of additional technical material and future policy developments.
6. We recommend, as a **long-term measure**, the establishment and reorganization of legal archives, the elaboration of laws that guarantee the protection of gathered data and the development of institutions that could facilitate the work of civil societies in the domain of documentation.

SECURITY AND PROTECTION

It is a tendency for many conflict and post-conflict societies to undergo the challenges involved with the process of victims and witnesses' security and protection. Either the platforms for the collection of such testimonies are not in place or the society is still in limbo and uncertain of where, or to whom approach for help. These challenges are even more intensified concerning the LGBT community due to the huge stigmatization suffered by this group.

Considering the sensitivity required in dealing with the victims of LGBT community and referring to the basic principles reiterated in the UN Resolution A/HRC/RES/32/2; (Protection against

violence and discrimination based on sexual orientation and gender identity adopted by the Human Rights Council on 30 June 2016)

1. **In the short term**, MADA International suggests to promote and implement **societal awareness programs** on LGBT people's fundamental rights. Moreover, it supports the establishment of **counselling services** for LGBT victims and it emphasizes the need to **listen to victims' demands and expectations**.
2. **In the long term**, we recommend the **creation of an impartial and independent mechanism similar to Syria's IIM**. This mechanism should be composed by MADA International, local NGOs and the international civil community. Moreover, it would have the mandate to formulate logistics strategies and assist victims during trial and post trial proceedings. Among others, it should have the following duties:
 1. This mechanism should create a social media platforms wherein LGBT victims can report their stories as anonymous users;
 2. The mechanism would be responsible for the logistic safety of LGBT victims during MADA International's promoted "love day" events;

Furthermore, MADA intends to work in synergy with other stakeholders in Transitional Justice. In particular, we are planning to build a sound working relationship with the ICC in order to ensure the respect of the before-mentioned UN Resolution A/HRC/RES/32/2 of 30 June 2016. In this sense, we recommend the following policies

1. Considering that dealing with LGBT victims requires special attention and ability, MADA International suggests developing, **in the short term**, a **staff-training program** for ICC's employees, experts and researchers that operate in this field. This training should include and refer to the **guidelines provided by the Tackling Discrimination against Lesbian, Gay, Bi, Trans & Intersex people – Standards of Conduct for Business**, developed by UN Office of the High Commissioner.
2. MADA International urges that chapter 4, Section 3 of the ICC's Rules of Procedure and Evidence - regarding the testimony of victims, be amended with specific provisions. Such as the inclusion of the fact that, at the beginning of the testimony,

LGBT victims should be asked how they wished to be referred to by the court during the whole proceedings.

VICTIM PARTICIPATION

Victims' participation is crucial in any meaningful TJ process. Without their participation, measures and processes of Transitional Justice would lack internal and external legitimacy, but most importantly, the views and wishes of an already marginalized group would not be taken into consideration, with the result that they will suffer even more exclusion.

Most conflict and post conflict situations do not have spaces for victims to participate in TJ mechanisms. In some countries, like Uganda, LGBT practices are criminalized (S. 2 of The Anti-Homosexuality Act, 2004) and participation is taboo. As a result, violations against victims remains largely undocumented, facilities for help (hospitals, police, judiciary etc.) are not equipped to deal with victims and this exacerbates an already bad situation.

This section will look at the goals, approaches and challenges of victim participation:

1. MADA International advocates for the **creation of a census program aimed at identifying, sensitizing and registering victims** within the affected communities.
2. We intend to **work with psychosocial experts to engage with victims individually, offer counselling and assistance in filling questionnaires** that should collect victims' identity, experiences of violations and expectations.
3. Acknowledging the scope and power of **social media**, MADA International recommends its employment in order to reach a wider audience for sharing experiences and challenges, and to encourage victim participation.

In countries where LGBT relationships are **legally recognized**,

1. Assuming that truth commissions sometimes take too long to be instituted, and the fact that truth-sharing has a great healing-power, we advise the engagement of a once-a-month private (code-enabled) event named "**love day**" held specifically for LGBT victims. At this event, victims should be able to share their stories with like-minded people, connect

and network. The event would be an invite-only affair through specially formed social media groups to avoid Anti-LGBT protests. Entry would be strictly monitored to ensure only LGBT victims are granted access. Provision would be made for those who cannot attend in person (due to fear or anonymity) to engage via video, Skype or other remote technology.

2. Moreover, we suggest that, during the “love day” events, victims should be encouraged to propose measures that they would like to see implemented in the future. A database should be created with these proposals that MADA International would use to inform advocacy drives and policy proposals.

In countries where LGBT relationships are **illegal**:

1. We recommend the creation of “**small healing private groups**” in nondescript places rented by MADA International within or near the community. These groups should be composed of psychosocial experts that will encourage victims to share their stories.
2. We intend to partner with other International Organizations to **pressure local governments** to, at least, recognize the fundamental human rights of the LGBT communities;

MADA International acknowledges the significant role that donors play in the context of transitional justice. Hence, we strongly advocate for mutual collaboration with international organizations for funding, provision of technical expertise and advocacy. In this regard, we firmly believe that donors should trust, support and contribute to the actual implementation of our project due to the following statements:

- 1) MADA International has committed itself to operate only with highly qualified international and local personnel. In other words, MADA International employees all receive intensive training on MADA International’s working mechanisms and on those matters that concern its area of operation. This ensures that victims feel confident to share their experiences with the staff and has a positive impact on participation. It also means that the information received is handled professionally, so the **victims need not worry about their security**. Moreover, MADA International always encourages its

staff to inform themselves about the latest most pressing LGBT issues in order to act with full knowledge and awareness of the concerned framework.

- 2) MADA International has always invested a great deal of energy in building a solid relationship of trust between its personnel and the local LGBT community. As a result, it has secured access to a consistent amount of reliable information and hidden archives whose consultation would help MADA International develop effective LGBT friendly policies and to understand which LGBT issues, among others, demand rapid intervention. This close working relationship with the community also ensure that victims entrust their issues with MADA International. With funding from our partners discussed above, we shall be able to carry out various reparations' programs according to the demands and expectations of the victims.

GENDER

In response to nowadays' increasing global awareness to LGBT people, the number of international and local transitional justice mechanisms that deal with gender related issues has been growing in parallel to the achievement of socio-economic and political rights by minority groups. In this sensitive context, the LGBT community has been – and still is – one of the most discriminated groups, whose voice remains very weak and often disregarded. Therefore, MADA International has prepared and suggested a **set of socio-economic and political policies** that should enhance the visibility and increase the consideration of LGBT people as individuals that are torn between public ignorance and misconceptions about the meanings and implications of the terms *sex, sexual orientation, and gender*.

Therefore, this is the approach of MADA International towards LGBT gender issues:

1. In a conflict and early post conflict situation, MADA International acknowledges the actual difficulty to engage in a fruitful cooperation with the competent national authorities. Indeed, government bodies that operate in conflict zones are not only often *lacking in financial resources*, but also do *not* demonstrate *adequate willingness* to deploy part of their energy and resources in addressing pressing social problems.

Therefore, in the short term, MADA International is fully aware of the impossibility to recommend the building *ex novo* of public infrastructures that provide social and health services intended for the only LGBT community.

However, despite these objective difficulties, MADA International firmly believes that mechanisms of public awareness of LGBT gender discrimination could still be encouraged and disseminated. In this sense, rather than a *vertical* relationship between MADA International and the governmental structures, we intend to promote contacts between MADA International and other local non-governmental organizations that focus on episodes of violation of the LGBT community. In other words, MADA International **encourages the establishment of solid horizontal ties** through which to collect, exchange and process data.

Nevertheless, in this regard, it is important to clarify that

- a. The establishment of a close network between MADA International and other *in loco* NGOs does **not** mean that MADA International will not continue to request or devalue financial assistance from the international community and foreign funders;
 - b. In the event of an increase in the affluence of human and material resources from both national and international bodies, MADA International intends to suggest policies (to be defined below) that have been developed with regard to a long-term intervention;
2. MADA International believes that the adoption of a **holistic approach** in the investigation and development of solutions to LGBT gender issues becomes a useful tool in the gradual but steady sensitization of the public opinion on episodes of violation of LGBT people's socio-economic, political and legal rights. In other words, the increasing interconnectedness between local and international bodies that belong to the political, legislative and socio-cultural sector would promote **greater openness and support** of LGBT communities.

Despite acknowledging the risk of **losing its focus** on the specific issue, MADA International advocates for the continued encouragement in the **intersectionality** process as **a means of decreasing hostilities** of those sectors that are still not willing to embrace change in the traditional layout.

With specific reference to conflict and early post conflict scenarios, MADA International has drafted a set of actual **policies** that should strengthen the presence and the rights of LGBT people in relation to the current political, legal and social dynamics.

In this regard, MADA International has attempted to propose guidelines that could provide effective solutions to issues of gender discrimination - in particular experienced by those LGBT communities that are obliged to deal with socio-economic and political realities in which public infrastructure, financial support and social services are weak or non-existent.

In view of the actual above-mentioned lack of human and financial resources, MADA International has developed two separate action plans whose implementation depends on the degree of relations between MADA International and governmental bodies, other local and international non-governmental organizations and foreign funders.

1. In case the lack of financial funds and international and local human support staff persists, MADA International
 - a. **In the short term**, upholds the importance of allocating part of the already existing facilities (hospitals, community centers, refugee camps, etc. ...) for LGBT community specific use. Indeed, MADA International acknowledges that, in conflict and early post conflict situations, the construction - *ex novo* and reserved for the local LGBT people - of the above mentioned infrastructures would be very unlikely;
 - b. **In the short term**, emphasizes the need to train its international and local employees to act in full respect of LGBT gender victims, i.e. not to press victim's testimony, not to disclose acquired intimate details, not to - *though unintentionally*

- reopen painful emotional wounds, etc. Moreover, it would also promote the drafting of manuals - on LGBT gender issues - that should be published on online platforms (user-friendly and without expenditure on printout of hard copies);
 - c. **In the short and long term**, encourages the active and intensive cooperation with other local non-governmental organizations for establishing a sound network of shelters and support to LGBT gender victims. However, we are inclined to assume that, in view of the concrete national economic scarcity and professionals' shortage, this only *local* collaboration would not be enough to satisfy MADA International purpose. Hence, in order to ensure a faster exchange of data, financial resources and moral support, MADA International firmly believes that is necessary to pursue and encourage connections with international agencies;
2. In case of a large stream of international financial aid, MADA International could develop a broader range of measures. Therefore, **in the short and long term**,
- a. It would advocate both the reservation **and** the ex-novo construction of hospital and social facilities for the exclusive use of LGBT victims. In this sense, LGBT victims could benefit from a safer environment and *ad hoc* medical and psychosocial treatment. This policy would be particularly relevant for LGBT people that are, in their turn, IDPs: indeed, in a context of extreme violence and turmoil, the creation of a protected environment would guarantee LGBT people enhanced protection;
 - b. MADA International intends to maintain and perform the above-mentioned 1.b and 1.c policies, but with a *larger impact* on the local and international scene (increased public awareness of LGBT gender issues, greater exchange of statistical data and human personnel between non-governmental and governmental agencies, publication of handbooks on LGBT gender issues, etc.).

REPARATIONS

In the transitional justice context, criminal, restorative and social justice occupies a substantial position in the development and implementation of transitional justice mechanisms. There is no

perfect 'one-size-fits-all' transitional justice mechanism, hence the employing of a holistic approach in redressing past violations. Reparations is but one element of the transitional justice process. MADA International acknowledges the difficulty of drawing and applying indiscriminately the same set of proposals to different circumstances. In other words, we recognize that every context has unique characteristics whose consideration is essential for the elaboration of appropriate mechanisms for action.

Therefore, MADA International suggests the creation of a series of guidelines, which with appropriate adjustments depending on the specific context, could assist the LGBT community in realizing their demands for reparations, while at the same time increasing the chance of a more adequate response from the responsible governments and/or the international community.

Taking into account the above-mentioned elements, MADA International, thus adopts a proactive, collaborative and holistic approach to redress these situations.

1. Concerning LGBT victims who have been the subjects of acts of violence and manifest post-conflict mental and physical damages, MADA International is committed to the implementation of specific reparations measures that will necessitate direct impact to this targeted group.
2. In full respect of the wholeness of one's physical and mental needs, **in the short and long term**, MADA International strongly advocates the establishment of **medical facilities** that should provide the victims access to specialized medical attention to deal with the immediate physical needs of the sick and injured, including HIV/AIDS related issues, pregnancy, rape, fistula etc. Physical injuries need to be treated immediately to avoid further damage and death.
3. In addition, MADA International recognizes the need to deal with the psychosocial issues arising from violations, as these have far-reaching consequences that may outlast the physical. This speaks to the mental health of the victims and ultimately their ability to heal totally and be able to move on. It also addresses their social relations within the society. MADA International strongly promotes, **in the short and long term**, the **training and establishment of social workers and psychotherapists** to work with the victims and the

society to enable spaces for conversations to enable personal healing and societal acceptance.

4. MADA International acknowledges that, because of the commission of atrocities, LGBT community may also suffer material damage. Hence, it is essential that state and non-state actors respect victims' rights to compensation and guarantee the effective implementation of means of financial support (**in the long term** - damage reduction measures, pension delivery programs and property restitution operations).

In this sense, by implementing all of those principles, MADA International recommends the following reparations in post-conflict situations:

1. **Maximum prioritization** should be given to **immediate medical attention** because of the harm suffered. This medical care should include, but not be limited to, first aid, dressings, post-exposure prophylaxis, morning-after pill and reconstructive surgery.
2. Considering the International Covenant on Economic, Social and Cultural Rights, adopted by General Assembly resolution 2200A (XXI) of 16 December 1966, article 11.1, **in the long term**, an adequate standard of living - including food, clothing and housing - should be ensured as complementary to the currently provided medical attention for emergencies, temporary housing, clothing, and food.
3. MADA International understands the difficulty involved in evaluating and quantifying moral damages. However, **in the long term**, we recommend a financial compensation for moral damages, in cash, to the direct victims that have suffered physical and psychological harm. In addition, in cases of death or forced disappearance, financial compensation should be provided to their relatives in the following order: 1) Spouse or common-law partner. In this regard, MADA International advocates for equal benefits for same sex surviving partners; 2) Descendants; 3) Ascendants

CONCLUSION

Through this document, MADA International has intended to present its own final policy guidebook - whose implementation, in the short and long term, should provide solutions to those episodes of discrimination and violence that the global LGBT community has experienced, and



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continues to suffer. Therefore, we earnestly hope that our recommendations could, from a forward-looking perspective, not only effectively **promote and improve the civil, legal and political rights of LGBT people**, but also **encourage their steady integration** into the surrounding civil society. Ultimately, we look to a tolerant and inclusive society in which all people are treated equally regardless of their differences.