22 March 2021

Statement by International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA World)

**Challenges in the implementation of Article 27:**

**Access to work and employment faced by lesbian, gay, bisexual, trans and intersex persons with disabilities**

Lesbian, gay, bisexual, trans and intersex (LGBTI) persons with disabilities face challenges in accessing work and employment because of both their disabilities and their sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC).

The problem of intersectional discrimination negatively affecting LGBTI individuals with disabilities has been raised by different human rights bodies. For example, the Special Rapporteur on the rights of persons with disabilities highlighted this problem in her thematic reports and urged states to adopt a multiple and intersectional approach to fulfilling the rights of groups historically discriminated against or disadvantaged, including LGBTI individuals with disabilities.[[1]](#endnote-1) The Independent Expert on sexual orientation and gender identity has also referred to the intersectional discrimination in addition to the social exclusion and barriers to employment affecting LGBT individuals with disabilities in his thematic report.[[2]](#endnote-2)

According to an Australian research, LGBT persons with disabilities are more likely to have no employment than those without (18.7% versus 4.3%) and less likely to have full employment (31% versus 53%); persons with disabilities or long-term illness tend to have lower incomes than those without.[[3]](#endnote-3) A research conducted in Russia showed that 52.6% of respondents, LGBT persons with disabilities, faced discrimination in labour, and only 26.7% were employed.[[4]](#endnote-4)

Trans and gender non-conforming persons with disabilities face additional challenges when they cannot obtain legal gender recognition, including because the procedures are explained only in written format and in complicated language, or when there are no accessible gender-neutral bathrooms.

In most countries in the world, there is no explicit protection from discrimination based on SOGIESC in employment.[[5]](#endnote-5) Even when SOGIESC are considered protected grounds under anti-discrimination employment legislation, these provisions and relevant procedures may not be accessible for persons with disabilities.

Problems related to employment are aggravated by discrimination and violence faced by LGBTI persons with disabilities in education.

LGBTI persons with disabilities face increased risks of school bullying, segregation in specific schools and difficult access to vocational training programmes.[[6]](#endnote-6) A British research has shown that LGBT students with disabilities are more likely to experience homophobic, biphobic and transphobic bullying than non-disabled LGBT students (60% compared to 43%).[[7]](#endnote-7) In the case of intersex students, research in Australia has shown that 18% of 272 survey respondents failed to complete secondary school compared to an average of 2% in the Australian population as a whole.[[8]](#endnote-8)

Awareness-raising programmes are crucial to counter multiple and intersectional discrimination and discriminatory attitudes faced by LGBTI individuals with disabilities in different areas of work and employment, including recruitment, working conditions, and harassment in the workplace.

The CRPD Committee has previously referred to SOGIESC-related awareness-raising campaigns. For instance, in its review of Canada, it expressed concerns on the absence of information about awareness campaigns to combat attitudinal barriers and prejudices against LGBTI persons with disabilities.[[9]](#endnote-9)

We highly appreciate the CRPD Committee’s practice on article 8 of the Convention regarding explicit references to LGBTI persons, and we believe that this approach should be supported by relevant provisions in the new General Comment on the right to work and employment.

We firmly believe in the importance of a more systematic and comprehensive inclusion of a SOGIESC dimension into the new General comment on the right to work and employment as well as adding LGBTI individuals with disabilities to the list of marginalised groups at more risk of discrimination, exclusion, and harassment (alongside with women, migrants and refugees with disabilities) across different paragraphs of the General comment. This would ensure stronger protection for LGBTI persons with disabilities who face intersectional discrimination and structural barriers to work and employment.

1. Access to rights-based support for persons with disabilities (2017), [A/HRC/34/58](https://undocs.org/en/A/HRC/34/58), para 42; The rights of persons with disabilities to social protection (2015), [A/70/297](https://undocs.org/en/A/70/297), para 40. [↑](#endnote-ref-1)
2. #  Socio-cultural and economic inclusion (2019), [A/74/181](https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/220/72/PDF/N1922072.pdf?OpenElement), para 50.

 [↑](#endnote-ref-2)
3. W. Leonard and R. Mann (2018), [*The everyday experiences of lesbian, gay, bisexual, transgender and intersex (LGBTI) people living with disability*](https://www.disabilityrightswa.org/wp-content/uploads/2018/09/GAFLA-Report-Final-Version.pdf) at 50-51. [↑](#endnote-ref-3)
4. Queer-Peace (2017), [*Monitoring of discrimination of representatives of LGBT community with disability*](https://www.google.com.ua/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiygLywzebUAhXLBsAKHW1_C5cQFggsMAA&url=https%3A%2F%2Flgbtnet.org%2Fsites%2Fdefault%2Ffiles%2Ffedorov._kolichestvennoe_issledovanie_lgbtik_inva_1.pdf&usg=AF) at 6. [↑](#endnote-ref-4)
5. For example, only 81 UN Member States (42%) prohibit discrimination based on sexual orientation in employment. See ILGA World: L.R. Mendos, K. Botha, R. Carrano Lelis, E. López de la Peña, I. Savelev and D. Tan, *State-Sponsored Homophobia 2020: Global Legislation Overview Update* (Geneva: ILGA, December 2020). The number of countries recognizing gender identity, gender expression and sex characteristics as protected grounds is much lower. For instance, in Europe, discrimination in employment based on sexual orientation is prohibited in 40 states, while gender identity is considered as a protected ground in 32 states, and sex characteristics – in 8 states only. [↑](#endnote-ref-5)
6. European Disability Forum (2019), *European Human Rights Report*, Issue 3 at 28. [↑](#endnote-ref-6)
7. Stonewall (2017), ‘[School Report: The experiences of lesbian, gay, bi and trans young people in Britain’s schools in 2017](http://www.stonewall.org.uk/sites/default/files/the_school_report_2017.pdf)’. [↑](#endnote-ref-7)
8. T. Jones et al. (2016), ‘[Intersex: Stories and Statistics from Australia’](https://interactadvocates.org/wp-content/uploads/2016/01/Intersex-Stories-Statistics-Australia.pdf). [↑](#endnote-ref-8)
9. [CRPD/C/CAN/CO/1](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fCAN%2fCO%2f1&Lang=en), paras 19. [↑](#endnote-ref-9)