## OHCHR: Forum Minority youth: towards diverse and inclusive societies - Tenth session of the Forum on Minority Issue

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## How can we guarantee that they have a meaningful opportunity to participate in cultural and political life in their country and do not suffer multiple forms of discrimination due to their age and minority origin?

## Recommendation 1. Recognition of the right of physical/bodily integrity as an absolute right

## International human rights law distinguishes between absolute, i.e. non-derogable and derogable rights. Derogable rights can be suspended or restricted under certain conditions such as a “state of emergency” or “being a minor”. Only a few rights are absolute and cannot be limited or suspended for any reason. An example is the right to recognition before the law. This indicates e.g. that a child is legally recognised as a child. Unfortunately, only the legal recognition does not give an overall protection against abuse or mistreatment done by either parents or physicians, even if the treatment was intended with good will.

## The right to integrity of the person is laid out in Art. 3 of the EU Charter of Fundamental Rights and states that:

## “1. Everyone has the right to respect for his or her physical and mental integrity. 2. In the fields of medicine and biology, the following must be respected in particular: - the free and informed consent of the person concerned, according to the procedures laid down by law, - the prohibition of eugenic practices, in particular those aiming at the selection of persons, - the prohibition on making the human body and its parts as such a source of financial gain, - the prohibition of the reproductive cloning of human beings.”

## This means that the physical body is inviolable and it states the importance of personal [autonomy](https://en.wikipedia.org/wiki/Autonomy) and the [self-determination](https://en.wikipedia.org/wiki/Self-determination) of all human beings over their own bodies. When a right is considered as inviolable this implies already the character as an absolute right. Only the person her-/himself shall be entitled to give free consent in any physical or mental treatment.

## Especially for persons under the age of majority or for adult persons with an established guardianship, the absolute right of bodily integrity implies a higher protection against unnecessary and/or unwanted physical treatment like the sex-assignment surgeries on intersex born children. If persons are unable to express their free and informed consent, an additional legal representative, who is not the caregiver, shall seek to gain the consent from the family court. Only a court order shall replace the free and informed consent of the concerned person.

## Recommendation 2. The right to recognition before the law for LGBTQI minority youth

Persons who are identifying themselves as non-binary or other, face more often all forms of discrimination including torture and murderer. Therefore it shall be mandatory to extend the right to recognition before the law especially for LGBTQI Youth as it is laid out in the Yogyakarta Principles.

## “The Right to recognition before the law” is stated in their Art. 3 as follows:

## “Everyone has the right to recognition everywhere as a person before the law. Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person’s self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom. No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person’s gender identity. No one shall be subjected to pressure to conceal, suppress or deny their sexual orientation or gender identity.

## States shall:

## a)     Ensure that all persons are accorded legal capacity in civil matters, without discrimination on the basis of sexual orientation or gender identity, and the opportunity to exercise that capacity, including equal rights to conclude contracts, and to administer, own, acquire (including through inheritance), manage, enjoy and dispose of property;

## b)     Take all necessary legislative, administrative and other measures to fully respect and legally recognise each person’s self-defined gender identity;

## c)     Take all necessary legislative, administrative and other measuresto ensure that procedures exist whereby all State-issued identity papers which indicate a person’s gender/sex — including birth certificates, passports, electoral records and other documents — reflect the person’s profound self-defined gender identity;

## d)     Ensure that such procedures are efficient, fair and non-discriminatory, and respect the dignity and privacy of the person concerned;

## e)     Ensure that changes to identity documents will be recognised in all contexts where the identification or disaggregation of persons by gender is required by law or policy;

## f)       Undertake targeted programmes to provide social support for all persons experiencing gender transitioning or reassignment.”

**Recommendation 3: Worldwide recognition of universities diplomas**

A lot of young qualified persons with migration background face different forms of indirect discrimination once they want to enter the local labor market in their chosen country.

One form is that their university diplomas are not fully recognized with the consequences that they might have to return to university to obtain another diploma. In most cases this means that they would have to pay again high tuition fees and risk to fall in debts.

Instead of returning to universities, it would be more efficient to introduce young qualified immigrant workers directly into the labor market. They should rather have a certain period, not longer than a year, of fully paid traineeship where they can use their knowledge and can adapt to the local conditions. If necessary, a theoretical special adapted course for immigrant workers could be designed and offered.

At the end of that traineeship, an exam should take place and a certificate should be handed over, once the exam is passed. This certificate should acknowledge the full recognition and equivalent of their university diplomas.

Another form of indirect discrimination is that in some countries work experience on the national labor market is required. Young immigrant workers who have finished their education in another country cannot have work experience on the national labor market in their new country. This means they would have to start with accepting jobs for which they are overqualified. This is not only a drain of knowledge, but also discouraging and demotivating for young workers. Having found a job according to someone’s qualifications helps to integrate the person in the new society and also helps the society to gain knowledge that might not have existed on the local labor market before.

According to the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, which was adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 18 June 1998 (Annex revised 15 June 2010), countries have an obligation to eliminate discrimination in respect of employment and occupation:

## “2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:  (a) freedom of association and the effective recognition of the right to collective bargaining;  (b) the elimination of all forms of forced or compulsory labour;  (c) the effective abolition of child labour; and  (d) the elimination of discrimination in respect of employment and occupation.”