Violence and its impact on LGBTI people’s right to physical and mental health.

Submission to the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

18 January 2022

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The purpose of this document is to provide inputs on the effects of violence against LGBTI persons on their enjoyment of the right to health. Particularly, it focuses on global challenges for LGBTI persons regarding the COVID-19 pandemic, mental health outcomes due to prejudices and stigmatization based on sexual orientation, gender identity, and expression and/or sex characteristics (SOGIESC), and the specific barriers faced by trans and intersex persons in accessing health care. Moreover, this submission makes a general overview of the situation of LGBTI persons in different regions concerning the right to physical and mental health by providing statistics, case examples, testimonies, and academic research on the matter. Lastly, the report employs an intersectional approach considering the nexus between SOGIESC, and other factors such as age and HIV status.
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I. Introduction

Although many lesbian, gay, bisexual, trans and intersex people (hereafter LGBTI) live healthy and happy lives, research has demonstrated that a disproportionate number experience poorer physical and mental health outcomes and have a high risk of suicidal and self-harming behaviors. These health outcomes are directly related to experiences of stigma, discrimination, violence and abuse based on their SOGIESC. For instance, the issue of systemic gender-based violence (GBV) is present in different regions of the world and keeps currently affecting LGBTI communities. GBV is often exacerbated due to additional factors both external (COVID19 pandemic) or specific for these populations, such as hatred towards different forms of sexual orientation and gender expression (e.g. homophobia, transphobia) embedded in many societies. Particularly, GBV directed towards trans and lesbian women and harmful practices inflicted on intersex persons have severe consequences on their well-being and their access to healthcare services. Due to the mentioned reasons, this submission provides a general overview of the implications of violence and discrimination on LGBTI people’s health rights worldwide. The gathering of the information was possible thanks to the collaboration of different organisations working on the ground. However, it must be noted that the data presented in this document does not represent all the challenges faced by LGBTI survivors of violence in the health sector, and further research shall be implemented in this regard.

II. Gender based violence against LGBTI persons and its impact on the right to health: Statistics and country examples. (Question 1.3)

- A 2020’s survey made by the EU Agency for Fundamental Rights (FRA) in the EU countries, North Macedonia and Serbia, showed that the highest rates of physical or sexual attacks motivated by the victim being LGBTI were observed in Poland (15 %), Romania (15 %), Belgium (14 %) and France (14 %). The lowest rates were found in Portugal (5 %) and Malta (6 %). The rates were higher in other European countries such as North Macedonia (19 %) and Serbia (17 %). Many victims of physical or sexual attacks pointed out that the incident implied mental health consequences, such as depression or anxiety. Moreover, most of the trans and intersex respondents indicated negative consequences related to psychological problems and fear to go out.

- In Australia, a 2021’s study showed that the most common consequences on LGBTI person’s mental health provoked by discrimination and violence are: suicide attempts, depression, anxiety, psychological distress and mental disorders. For instance,

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1 LGBTQI+ Health Australia, (2021), “Snapshot of Mental Health and Suicide Prevention Statistics for LGBTQI+ people”.
2 This submission counted with the collaboration of Fundación Huésped in Argentina, Youth Queer Alliance Mauritius, and feminist and LGBTI independent activists.
4 FRA, (2020), ibid. p. 42
LGBTIQ+ people are two and a half times more likely to have been diagnosed or treated for a mental health condition. It is relevant to highlight that the study considered specific rates for groups such as lesbians or LGBTIQ+ youth. In the latter case, it was found that LGBTIQ+ young people aged 16 to 17 were almost five times more likely to have attempted suicide in their lifetime and 63.8% of LGBTIQ+ young people aged 14 to 21 reported having ever been diagnosed with a mental disorder. Another example is that 83.3% of lesbian women aged 14 to 21 reported experiencing high levels of psychological distress.6

- In **Mauritius**, a 2021’s survey showed that only 7.84% of respondents reported approaching health institutions or doctors due to, among others, lack of confidence in the healthcare system and lack of support or perceived lack of support from healthcare providers7. Similarly, another survey carried out in 2017 demonstrated that stigma, discrimination, and physical and sexual abuse against trans people contributed to depression and other mental health issues, as 33% of respondents were found to have attempted suicide due to their trans identity.8

- Likewise, a study on LBQ women and trans masculine persons in **Haiti** revealed that while 42% access health services when feeling sick, only 3% accessed health care after sexual assaults and 6% after a physical assault. Lastly, 32% of the LGBTI respondents felt that they received poorer healthcare services, and 27% mentioned they were insulted or denied service because of their sexual orientation, gender identity, or gender expression (SOGIE). 9

- In the case of **Argentina**, a nationwide study on trans masculinities and non-binary people found high indicators of mental health problems. In this regard, 47% reported having received a diagnosis related to their mental health, the most frequent being depression (37%), anxiety (34.8%), post-traumatic stress disorder (10.6%), and borderline personality disorder (5.7%). Likewise, more than half (58%) reported to have attempted committing suicide at least one time in their lives.10

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5 This submission uses the acronym LGBTI to refer to all groups of people with diverse sexual orientation, gender identity and expression and sex characteristics. However, when a source of information uses another acronym for these groups or for referring to a specific composition of populations, we use the abbreviations employed on those sources. E.g. LGBT (lesbian, gay, bisexual and trans), LGBTI (lesbian, gay, bisexual, trans and intersex), LGBT+ (lesbian, gay, bisexual, trans and other), LGBTQ (lesbian, gay, bisexual, trans and queer), LGBTIQ (lesbian, gay, bisexual, trans and intersex and queer), LGBTIQ+ (lesbian, gay, bisexual, trans, intersex, queer and other), LTQ (lesbian, bisexual, trans and queer), LGBTIQ2S (lesbian, gay, bisexual, trans, queer, intersex and Two-Spirit).

6 LGBTIQ+ Health Australia, (2021), Ibid.

7 Information shared by Young Queer Alliance (2021)

8 Prevention Information et Lutte contre le sida (PILS) (2017) **Integrated Biological and Behavioral Surveillance Survey for Trans people in Mauritius**, P. 33


III. Structural and institutional violence based on SOGIESC in medical settings: Country examples and State responses (Question 3 and 8)

Covid-19 pandemic effects

- During the pandemic, Human Rights Watch has documented health care discrimination based on sexual orientation and gender identity in countries including the United States, Tanzania, Japan, Indonesia, Bangladesh, Russia, and Lebanon. ¹¹

- A study conducted in Argentina, two months after the beginning of the mandatory isolation to control the spread of the virus, has shown the negative impact of the pandemic on access to health services. In a sample of 72 trans feminine persons, 50% experienced barriers in accessing hormone treatment, 24.6% in accessing general medical care, 18.8% in accessing mental health care, 11.3% in accessing antiretroviral treatment, and 10.1% in accessing substance abuse treatment. They also avoided a sexual and reproductive health consultation for fear of experiencing discrimination, rejection or stigma because of their gender identity.¹²

- LGBTI human rights defenders and activists face risks of violence and mental health issues. According to a recent report by the Council of Europe Commissioner for Human Rights, ‘the current context, ongoing attacks and hatred, as well as the decreased opportunities to meet for community support during the pandemic have had damaging effects on LGBTI human rights defenders’ well-being and mental health. Many activists work on a volunteer basis, combining their activism with a day-job, and working around the clock. It was reported that many defenders experience burnout. Some activists leave their country or stop their activism in the face of the hardships experienced.’¹³

‘Conversion therapies’

- ‘Conversion therapy’ is a term describing pseudo-scientific and harmful practices used to attempt altering a person’s gender expression, gender identity or sexual orientation.

- Experimentation and abuse have long taken place under the legitimizing cloak of medicine, psychology, and science. According to ILGA World, gruesome practices – including electroshock ‘therapies’, forced internments in ‘clinics’, and exorcisms – are still applied in numerous countries, pushing people of diverse sexual orientations,

gender identities, and expressions to living self-loathing lives, up to the extreme consequences of committing suicide.14

- The UN Independent Expert on sexual orientation and gender identity has called for a global ban on practices of ‘conversion therapy’, a process that must include: clearly defining the prohibited practices; ensuring public funds are not used to support them; banning advertisements; establishing punishments for non-compliance and investigating respective claims; creating mechanisms to provide access to all forms of reparation to victims, including the right to rehabilitation.15

**Trans and intersex health-related issues**

- Pathologisation of trans and intersex persons remains a key factor preventing their access to health care across the world. This has even aggravated with the rise of anti-gender rhetorics and actions in many countries. In most places in the world, comprehensive informational resources16 on trans-related health care are non-existent. Besides, even in countries with ‘trans health’ structures that are functional, the implementation of comprehensive and holistic approaches to the health and wellbeing of trans people continues to be a global objective to be achieved.

- In East Africa, many intersex and trans people face significant barriers in accessing gender-affirming health care. Health services for gender and sexually diverse persons are lumped under HIV-related clinical services for “Key Populations”. This poses a significant challenge for intersex and trans persons as the health and HIV/AIDS prevention, care and support interventions have largely focused on cisgender17 sex workers and men who have sex with men (MSM). The systematic exclusion of intersex and trans persons from tailored health services has resulted in limiting the health outcomes for them in the region.18

- Similarly, in Haiti and other Caribbean countries, very few trans men access medical (hormones) or transitioning options as many attain it outside of any formal health provider (private or public) due to the lack of availability of these services.19

- In Sweden, there are reported cases of ‘conversion therapy’ and medical experimentation conducted by health care providers on trans patients without their

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15 A/HRC/44/53 (1 May 2020).
16 Such as the resources available by the National Centre for Trans Equality
17 Cisgender: a term referring to those people whose gender identity and gender expression match the sex they were assigned at birth and the social expectations related to their gender. See ILGA Europe Glossary
18 Chivuli Ukwimi, East Africa Trans Health & Advocacy Network, (2020) Legal Gender Recognition and Access to Trans-Affirming HealthCare in East Africa. P. 10
19 FACSDIS, (2020) Amsterdam: COC Netherlands. Ibid.
full and informed consent. Trans people who have certain mental health conditions, such as autism, are prevented from accessing gender affirmative health care.\textsuperscript{20}

- Concerning intersex issues, in most countries around the world, intersex children and adolescents are subjected to medically unnecessary surgeries, hormonal treatment and other procedures to forcibly modify their appearance or physical development to be aligned with societal expectations of female and male bodies without their prior, personal and informed consent.\textsuperscript{21} Thus, intersex people are more likely to experience higher levels of ‘minority’ stress because of discrimination and stigmatization, leading to social isolation and limited understanding of their bodies by others.\textsuperscript{22} These factors can act as significant barriers for intersex persons to access health care services. In addition, intersex communities face communication difficulties with health professionals and dissatisfaction with the treatment and care received, including trauma caused by surgeries during childhood or adolescence.\textsuperscript{23}

- For instance, in Mexico harmful practices such as sterilization procedures: castration, gonadectomy, hysterectomy, removal of "discordant reproductive structures", (secondary) sterilization and imposition of hormone treatments; feminization procedures: clitoral amputation/reduction, vaginoplasty and/or dilatations; and masculinizing surgeries: hypospadias "repair", are imposed on intersex people in an arbitrary manner. In addition, in the Mexican public health system, in some cases coverage for intersex-related treatment is subject to age limits, resulting in the denial of necessary medical care to intersex adolescents or adults.\textsuperscript{24}

- Multiple statements delivered by several intersex civil society organizations around the world have made a call for an end to these flagrant human rights violations, including the Malta Declaration 2013, the Darlington Statement 2017, the Vienna Statement 2017, the African Intersex Statement 2017, the Statement of San Jose de Costa Rica 2018, and the Asian Intersex Statement 2018.

\textsuperscript{20} Transhälsan (2021), Mistreatment of transgender persons in Sweden: submission to the 72nd session of the Committee against Torture (CAT).
\textsuperscript{24} Brújula intersexual (2018). Mutilación Genital Intersex Violaciones de los derechos humanos de los niños con variaciones de la anatomía sexual. Informe de ONG para el 9o informe periódico de México sobre la Convención sobre la eliminación de todas las formas de discriminación contra la mujer (CEDAW)
IV. The effect of same-sex relations criminalization and intersex-related harmful practices on LGBTI person’s enjoyment of the right to health. (Question 4)

**Same-sex relations criminalization**

- **In Mauritius,** since 2019, there have been three cases in the Supreme Court involving six gay adults challenging the constitutionality of criminalization of consensual same-sex sexual acts. Such criminalization has prevented LGB persons from effectively accessing the plethora of free healthcare provided by the state owing to legal and structural barriers. This also contributed to the disproportionate and high infection rate of HIV (around 20%) and STIs among gay and bisexual men and boys, and other men having sex with men (MSM) and trans people (28% HIV, 47% Syphilis and 18% HCV) as compared to the population in general (around 1% HIV prevalence).  

- **Same-sex sexual acts and relations are criminalized in Tanzania.** Sexually and gender-diverse persons are also considered taboo by society in general. Further, intersex people are considered to be an abnormality. The government of Tanzania has introduced health policies that deny sexual and gender minorities access to health services, which has resulted in adverse effects such as LGBTI persons living with HIV not being able to pick up their medication from public health centers. Lastly, LGBTI persons do not access basic health services for fear of stigma, discrimination and even arrests if they attempt to seek them.

- **In Egypt,** access to healthcare for LBTI women is particularly challenging, as same-sex sexual acts are repressed through charges of debauchery, and trans and intersex people’s identities are pathologized. This results in institutional violence, torture, discrimination and arbitrary detentions, and therefore LBTI women/persons might not even seek medical and psychological assistance, which puts them at a higher risk of illness and mental health conditions. Moreover, neither official nor private sectors in Egypt offer safe sexual and reproductive health services designed explicitly for LBTI women.

**Harmful Practices against intersex persons and their consequences**

- Many people born with variations of sex characteristics continue describing negative experiences in their interactions with health services and staff as they become adults. These experiences lead to poorer physical and mental health outcomes for people.

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25 Information shared by Young Queer Alliance (2021)
with intersex variations and their families and have been the focus of continuing efforts by intersex advocates to change medical systems.  

- Testimonies have documented profound negative consequences of the often irreversible procedures employed on intersex persons, including permanent infertility/sterilization, incontinence, loss of sexual function and sensation, and experiences tantamount to rape (such as dilation, the repeated insertion of a device into a newly opened vaginal cavity), causing life-long pain and severe psychological suffering, including depression and shame linked to attempts to hide and erase intersex traits.

“Medical care for my health needs is hard to find without discrimination. Therefore, I go to the doctor only in extreme emergencies.” (Germany, Intersex person)

V. Specific medical and healthcare needs for LGBTI survivors from violence (Question 7)

**LBTI Women**

- LBTI women need specific medical assistance to provide services focused on sexual health and reproduction.
- There is an imperative need to address stigma and discrimination toward women that are victims of assault particularly when they are part of the LBTI community since many of them are victims of so-called “corrective” rape. In addition, this population requires the State implementation of continuous and strategic awareness campaigns to demystify uninformed notions of victim blaming and stigma. Campaigns that should also target health care providers, administrative staff at hospitals and clinics as well as law enforcement officers.

**Intersex persons**

- Intersex survivors of violence need human rights and patient-centred approaches that do not pressure people with intersex variations or their legal guardians to make decisions based primarily on rigid stereotypical sex and gender norms, and rather,

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29 FRA, (2020), ibid. p. 52

support informed decisions about what is best for people with intersex variations in the long term.

- Intersex persons also need states to implement national guidelines on medical interventions for people born with variations in sex characteristics, clearly outlining the requirements to obtain informed consent medical interventions.

- In relation to access to reproductive services and fertility counselling, intersex people should be included assisted and guided in all related sexual and reproductive health care programs in line with human rights affirming standards of care.

- Furthermore, there is an urgent need of implementing comprehensive educational and training programmes in medical institutions, universities and health systems to inform and educate healthcare providers about the medical needs for intersex people, promoting depathologization of sex characteristics variations in medical guidelines, protocols, and classifications.

**Trans persons**

- Trans persons need that their public health services provide affirmative access to necessary and appropriate medical treatment, including surgeries and hormone treatment, psychosocial, psychosexual and psychological support.

- There is an urgent need of implementing comprehensive educational programmes and training in medical institutions, universities, and health systems to inform and educate doctors about the medical needs of trans people promoting depathologization of gender identity in medical guidelines, protocols, and classifications.