



## ILGA – International Lesbian, Gay, Bisexual, Trans and Intersex Association

### Submission to the Working Group on the issue of discrimination against women in law and in practice:

#### *Discrimination in relation to the right to health and safety of lesbian, bisexual and intersex women and trans persons*

In the case of lesbian, bisexual and intersex women and trans persons, there are particular instances of discrimination in law and practice which impact on their health and safety.<sup>1</sup> ILGA would like to highlight some of these in this brief submission, and would be happy to provide more information to the Working Group on the issue of discrimination against women in law and in practice should they seek further details on any of the issues raised.<sup>2</sup>

#### **(1) Sexual and Reproductive Health and Rights**

In the context of the enjoyment of sexual and reproductive health rights, lesbian, bisexual and intersex women and trans persons (LBTI) face many of the same obstacles, such as exclusion from family planning services and sexual health programmes, a lack of information regarding reproduction and fertility, and difficulty accessing fertility treatments. These barriers often arise due to prejudices and assumptions regarding the health needs of LBTI women, and lead to discrimination. For example, the World Health Organisation has documented that “(I)ntersex people may face discrimination and stigma in the health system, in many cases being subjected to lack of quality of care, institutional violence and forced interventions throughout their lifetime”.<sup>3</sup>

Trans people in many countries do not have the ability to change their legal name or gender to match their gender identity or expression. In the states that do allow this, all but a few stipulate that the trans person has to undergo a medical transition which results in sterilisation in order to obtain documents that match their gender identity.<sup>4</sup> The High Commissioner for Human Rights has recommended the removal of all such abusive preconditions,<sup>5</sup> which violate the sexual and reproductive rights of trans persons.

#### **(2) Access to Health**

In relation to access to health, LBTI persons face barriers due to gender-stereotyping by medical professionals. Elevated numbers of lesbian and bisexual women, for instance, report discrimination, lack of understanding of medical staff of their medical needs, rejection and refusal of medical services

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<sup>1</sup> Various United Nations human rights mechanisms have highlighted the health risks to lesbian, gay, bisexual, trans and intersex persons generally, as well as LBTI women specifically. For example, the Committee on the Elimination of Discrimination against Women has expressed concern about LBTI women as “victims of abuses and mistreatment by health service providers” (A/HRC/19/41, para 56), and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has called “upon all States to repeal any law allowing intrusive and irreversible treatments, including forced genital-normalizing surgery, involuntary sterilization, unethical experimentation, medical display, ‘reparative therapies’ or ‘conversion therapies’, when enforced or administered without the free and informed consent of the person concerned.” He also called “upon them to outlaw forced or coerced sterilization in all circumstances and provide special protection to individuals belonging to marginalized groups.” (A/HRC/22/53, para 88)

<sup>2</sup> Please contact Zhan Chiam (zhan@ilga.org) and Helen Nolan (helen@ilga.org).

<sup>3</sup> *Sexual health, human rights and the law*, World Health Organization, Geneva: 215, p.27 (available at [http://www.who.int/reproductivehealth/publications/sexual\\_health/sexual-health-human-rights-law/en/](http://www.who.int/reproductivehealth/publications/sexual_health/sexual-health-human-rights-law/en/))

<sup>4</sup> *License To Be Yourself: Laws and Advocacy for Legal Gender Recognition of Trans People*, Open Society Foundations, New York: May 2014, p.13 (available at <https://www.opensocietyfoundations.org/reports/license-be-yourself>)

<sup>5</sup> A/HRC/29/23, para 79(i). The report refers to Concluding Observations of the Human Rights Committee (CCPR/C/IRL/CO/4, para. 7, CCPR/C/UKR/CO/7, para. 10), Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment’s report on abuse in health settings (A/HRC/22/53, para. 88); also “Eliminating forced, coercive and otherwise involuntary sterilization: an interagency statement”, OHCHR, UN-Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO, 2014.



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because of their sexual orientation. As a result of these obstacles, lesbians and bisexual women are less likely to consult with medical practitioners than the mainstream female population.<sup>6</sup>

In a French study, 13% of the lesbians surveyed said they did not go to gynaecologists because of lesbophobia and experiences of rejection in the past. In addition, the same survey reports that only 32% of respondents spoke openly to medical professionals about their sexual orientation, 20% told only some medical professionals and 25% told no medical professionals. In addition 60% of this last group of respondents were under 25 years old, which shows the disproportionate impact on young women.<sup>7</sup> The compounding of invisibility and self-exclusion from medical services, especially of young lesbian and bisexual women, means that they are not being monitored regularly for diseases and other conditions, making them more susceptible to developing health problems which go unnoticed until they are more advanced. Also, the specific health needs of lesbian and bisexual women go unchecked and data that feeds into the medical profession's understanding of lesbian and bisexual health is lacking.

Trans people also face difficulties accessing the right health care, and general health care practitioners may be insensitive or oblivious to trans health needs,<sup>8</sup> as well as medical interventions often being prohibitively expensive and excluded from State funding or insurance coverage.<sup>9</sup> As can be the case for intersex persons, trans people are confronted with an over-simplification of sex and gender identities by medical professionals. As a result of past trauma, intersex persons, in particular, may feel unable or unwilling to consult health care practitioners.

### **(3) Safety**

The safety of LGBTI persons is greatly impacted by the discrimination mentioned above, which leads to inadequate medical attention. In addition, LBT women can be subjected to unnecessary or involuntary conversion “therapies” and “treatments” which can have serious consequences on their physical and mental health.

Similarly, many intersex people are subject to medically unnecessary treatment aimed at “normalising” their bodies, in particular their genitalia when they are infants, children or adolescents without their full and free consent, and sometimes without the full and free consent of their parents or caregivers. The outcomes of these treatments often include irreversible genital surgery and sterilisation and can result in a lifetime of medical complications and dependence on hormones. The Committee on the Rights of the Child, the Committee against Torture and the special procedures mandate holders on the right to health and on torture have called for these unnecessary procedures to end,<sup>10</sup> and the High Commissioner for Human Rights has included these surgeries in his most recent report on female genital mutilation.<sup>11</sup>

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<sup>6</sup> Enquête sur la Visibilité des Lesbiennes et la lesbophobie (2015) SOS Homophobie.

<sup>7</sup> Ibid.

<sup>8</sup> A/HRC/29/23, para. 54.

<sup>9</sup> A/HRC/19/41, para 57.

<sup>10</sup> See CRC/C/CHE/CO/2-4, para. 42, CAT/C/DEU/CO/5, para. 20, A/HRC/22/53, para. 88, A/64/272, para. 49

<sup>11</sup> A/HRC/29/20, para 62.