**Forum on Human Rights, Democracy and the Rule of Law**

**Third session**

**Making justice truly accessible to all**

Statement by the International Lesbian and Gay Association

Thank you Chair for giving me the floor,

We welcome the thematic of this debate that sheds light into ways in which intersecting forms of discrimination affect the enjoyment of the right to access to justice.

We would like to call the attention to the lack to access to justice by lesbian, gay, bisexual, trans and intersex persons around the world.

In 69 UN member-states, consensual same-sex sexual acts are still criminalized while several others criminalize diverse gender identities and expressions. This means that in these jurisdictions, the justice system that was supposed to protect LGBTI persons can actually – and legally – be used to persecute them. Even in jurisdictions where these provisions are not enforced, their existence prevents our communities from seek justice and subject them to stigma, violence and discrimination.

Even where LGBTI persons are not criminalized, the lack of legislation protecting them from discrimination and hate crimes, the lack of recognition of trans persons’ identities, the lack of awareness of law enforcement and justice system’s officials on SOGIESC issues make a strong barrier for LGBTI persons to report human rights violations and seek accountability.

Discrimination based on sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) is frequently intersectional, deepening on the obstacles to accessing justice. As stated by the CEDAW in its General Recommendation no. 33, LBTI women often do not report violations of their rights to the authorities for fear that they will be humiliated, stigmatized, arrested, deported, tortured or have other forms of violence inflicted upon them, including by law enforcement officials. Furthermore, when women from those groups lodge complaints, the authorities frequently fail to act with due diligence to investigate, prosecute and punish perpetrators and/or provide remedies[[1]](#footnote-1).

It is highly important that not only the original perpetrators of violence and discrimination are held accountable for their acts, but also public officials from the justice system that do not act duly on discriminatory grounds. As concluded by the Inter-American Court of Human Rights in a case regarding violence against an LGBTI person, the lack of investigation on discriminatory grounds constitutes a discriminatory act in itself[[2]](#footnote-2).

In the case of intersex persons, the violation of their right to know the truth about their medical histories, in cases of violations of the right to mental and bodily integrity prevents them from effective access to justice.

In order to ensure that LGBTI persons have their right to access to justice guaranteed, member states should:

* + Abolish any legal provision criminalizing consensual same-sex sexual acts and diverse gender identities and expressions;
  + Expressly outlaw discrimination, hate speech and hate crimes on the bases of sexual orientation, gender identity and expression or sex characteristics, including through recognition of hatred based on SOGIESC as an aggravating circumstance;
  + Take all necessary and reasonable steps to protect persons from criminal prosecutions or civil proceedings that are motivated wholly or in part by prejudice regarding SOGIESC;[[3]](#footnote-3)
  + Undertake programmes of training and awareness-raising for judges, court personnel, prosecutors, lawyers and others regarding international human rights standards and principles of equality and non-discrimination, including in relation to SOGIESC[[4]](#footnote-4).
  + Ensure, in cases of violations of the right to mental and bodily integrity and SOGIESC-based hate crimes, effective access to remedies, redress, reparation and, where appropriate, psychological support and restorative treatments;
  + Protect individuals’ right to know the truth about their medical histories, including through full access to accurate medical records.

1. See eg CEDAW, GR 33, para. 8-10; ON and DP v Russian Federation (24 February 2020), UN Doc CEDAW/C/75/D/119/2017 [↑](#footnote-ref-1)
2. Corte Interamericana De Derechos Humanos Caso Azul Rojas Marín Y Otra Vs. Perú Sentencia De 12 De Marzo De 2020, para. 196. [↑](#footnote-ref-2)
3. Yogyakarta Principle no. 8 [↑](#footnote-ref-3)
4. Yogyakarta Principle no. 8 [↑](#footnote-ref-4)