**Call for Inputs**

**Deadline 31 May 2019**

**Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

6 May 2019

In accordance with my mandate as Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolution 32/2, I intend to present a thematic report at the 74th session of the General Assembly, which will focus on marginalisation and exclusion from socio-cultural environments. The report will examine how inclusion protects people from violence and discrimination, and the key role of the State in promoting and nurturing that inclusion in the social, cultural, political and other fields. Finally, it will formulate recommendations to States and other relevant stakeholders.

My report will examine these issues in relation to the themes of education, health, housing, employment/economic empowerment and an adequate standard of living. I will also consider the following sub-themes/actors (among others): culture, family, faith, migration, urban/rural, older persons, youths, political participation, social security/benefits, business sector, and media.

**Background**

Discriminatory laws and socio-cultural norms continue to marginalize and exclude lesbian, gay, bisexual, trans and gender diverse persons from education, health care, housing, employment and occupation, and other sectors. The marginalization and peripheralization are part of a vicious cycle that give rise to a host of other problems; in a context where access to economic, social and cultural rights is hampered, a series of negative impacts on individuals, their families, groups and communities can be observed, resulting in poverty and exclusion, lower socioeconomic status, and limiting access to assets that are essential to enjoy the full range of human rights. The excluding environment inevitably lends themselves to violence and discrimination, as it hampers access to their rights, creates inequality of opportunity and access to resources.

A [joint statement](https://www.ohchr.org/EN/Issues/Discrimination/Pages/JointLGBTIstatement.aspx) released by 12 UN entities in 2015 expressed concern about these issues:

“Children face bullying, discrimination or expulsion from schools on the basis of their actual or perceived sexual orientation or gender identity, or that of their parents. [...] Discrimination and violence contribute to the marginalization of LGBTI people and their vulnerability to ill health including HIV infection, yet they face denial of care, discriminatory attitudes and pathologization in medical and other settings. [...] The exclusion of LGBTI people from the design, implementation and monitoring of laws and policies that affect them perpetuates their social and economic marginalization.”

Some important steps are already being taken at the international, regional and national levels to address these issues. For example, UNESCO convened an international [consultation on homophobic bullying in educational institutions](https://unesdoc.unesco.org/ark%3A/48223/pf0000216493) in 2011, bringing together education ministries, UN agencies, NGOs and academia from more than 25 countries around the world. The World Bank is managing a [project](https://www.worldbank.org/en/topic/sexual-orientation-and-gender-identity%22%20%5Cl%20%223) aimed at filling the LGBT data gap, focused on inclusion in markets, services, and other spaces. UNDP is leading and partnering in the development of the LGBTI Inclusion Index, which will measure inclusion of LGBTI people in health, civic and political participation, personal safety and security, education, and economic empowerment. Together with the World Bank, civil society, governments and academics UNDP has developed a proposed set of [51 indicators for the LGBTI Inclusion Index](https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fundp%2Fen%2Fhome%2Flibrarypage%2Fhiv-aids%2Flgbti-index.html&data=02|01|boyan.konstantinov@undp.org|481ab2dfe96a4b9e807008d6ccb98799|b3e5db5e2944483799f57488ace54319|0|0|636921494552244721&sdata=6NY65rZdCmz13%2BnFO6vPax3EZDoQV%2Bd%2BNsm4IZYMVe8%3D&reserved=0), aligned with the framework of the SDG with a view to identifying who is “left behind” and why. Trade unions and employers’ organisations have worked to promote the meaningful inclusion of LGBT people in the workplace, and around 240 businesses have expressed support to the [Standards of Conduct for Business](https://www.unfe.org/standards/) in tackling discrimination based on sexual orientation and gender identity. States have passed legislation explicitly protecting LGBT people from discrimination in housing and access to social security.

A glance at these issues quickly affirms the interdependence and inter-relatedness of all human rights. Addressing the social and economic rights of LGBT people is critical to any efforts to address violence and discrimination on the basis of sexual orientation and gender identity. Under the 2030 Agenda for Sustainable Development, the international community committed to leaving no-one behind. In order to lift LGBT people from cycles of exclusion and abuse, we must critically examine these issues as well as emerging good practices. With my report I further seek to highlight the unique role of leaders in different fields, which will allow to break the cycle of exclusion and which can have a positive impact on misconceptions, fears and prejudices that fuel violence and discrimination.

**Call for input**

To inform my report, I am seeking inputs from relevant stakeholders (Member States, National Human Rights Institutions, civil society organizations, United Nations agencies, regional institutions, corporate entities, etc.) on the basis of the following topics:

1. Key areas in which people (in your country, region or worldwide) suffer socio-cultural and economic exclusion as a result of violence and discrimination on the basis of sexual orientation and/or gender identity; in particular,
2. What knowledge, including data, exists in the State planning bases in relation to socio-cultural and economic exclusion based on sexual orientation and gender identity, including levels of poverty, homelessness, education, employment, health, political participation and any other relevant social indicator?

**No such planning or data exists to our knowledge.**

1. How are individuals, groups or communities differently affected, based on their sexual orientation and/or gender identity?

**Whilst gay and lesbian people are visible in society and have developed a network of professionals working in different areas, transgender people are invisible and there are no professionals among their networks. Whilst there are openly gay/lesbian politicians, artists, business persons, health care professionals who engage actively with LGBT civil society the situation is very different for trans people. None of us are politicians, artists, business persons or health care professionals and we as an NGO have no trans people to engage with at different institutions etc. As a consequence often gay and lesbian people are gatekeepers themselves in all different kind of circumstances to not let trans issues being raised by trans persons themselves. The very few trans person who are openly visible, are mostly gaining visibility based on their trans status which is good for visibility but on the other hand does not help with building constituencies and having influence on decision making or implementation of policies.**

1. What are the main barriers in ensuring equal access to education, health care, employment and occupation, housing and other relevant sectors?

**Legislation to protect persons on the basis of sexual orientation and gender identity from discrimination often remains an empty promise due to the lack of proper implementation of existing legal rules. There are very few guidelines or protocols that help authorities and public service providers to put into practice the principle of respect for human dignity and equal treatment. Police, prison staff, lawyers, judges, teachers, doctors and social workers receive only minimal – if at all – training on issues of sexual orientation and gender identity. While the principle of non-discrimination is well-established at least on the level of legislation, the understanding that good quality public services would require the recognition of the specific concerns and needs of diverse population, among them those of LGBT persons, is completely lacking.**

**As mentioned there are no trans persons holding power to improve the situation so we completely rely on allies. Trans people are usually not mentioned nor thinked of when developing or implementing policies.**

1. Root causes and structural factors responsible for marginalisation and socio-cultural and economic exclusion, such as laws, public policies, institutional practices, organizational behaviours, and prevailing ideologies, values and beliefs?

**Prejudice and hostility towards sexual minorities and trans persons is very widespread; representative public opinion polls consistently find that “homosexuals” are among the most rejected social groups in Hungary, and the acceptance of trans people is among the lowest in the European Union. Discrimination, harassment and various forms of violence are part of the everyday experience for a large proportion of trans persons in Hungary. These views are often shared, in some cases even encouraged, by leading politicians. Openly homophobic and transphobic statements have become tolerated in the public discourse. Responding to these problems would require committed, comprehensive and coordinated actions on behalf of public authorities, including targeted programmes, awareness-raising campaigns and training. However, there is no government strategy or action plan to provide a legislative and financial framework for such measures. In our context gender identity is mentioned in anti-discrimination legislation since 2003. Still no one has any idea what gender identity means or who it stands for. Because of the invisibility of trans persons and our issues awareness is very law on marginalisation and exclusion. Trans people hide their identity and avoid situations because of being afraid of discrimination and violence. The survey on fundamental rights of lesbian, gay, bisexual and transgender people in EU (2012) has shown 40% of trans respondents avoid expressing their gender (or their desired gender) through their physical appearance and clothing for fear of being assaulted, threatened or harassed. (EU average was 32%).**

1. State efforts to address socio-cultural and economic exclusion through legislation, policies, data gathering, and other means, for example:
2. Destitution and poverty;

**State efforts focus on the situation of children, roma, families with one parent only and certain geographical areas of the country.**

1. Current efforts by States to address bullying and exclusion of LGBT people from education, including in education curricula teacher training, measures to promote continuing education or reinsertion in education settings and vocational training;

**The Equal Treatment Authority issued guidance on preventing and responding to harassment in schools, but the publication has not been disseminated widely. Several civil society projects were or are carried out to address bullying against minority students, but none of them received public funding. The issue of homo- and transphobic bullying does not feature in school anti-violence projects. A research in 2015 with the participation of 331 schools found that only very few of them have comprehensive policies to address bullying.**

**The National Basic Curriculum (Government Decree no. 110/2012 (VI. 4.) does not refer to information on sexual orientation or gender identity; schools are free to choose whether to incorporate such topics into their curricula. The lack of proper discussions of homosexuality and transgender issues in schools have been noted by the Council of Europe Commissioner for Fundamental Rights and the European Commission against Racism and Intolerance.**

**Research by the European Union Agency for Fundamental Rights[[1]](#footnote-2) found that teachers in Hungary do not receive appropriate training on LGBTI issues.**

1. Homelessness among LGBT people, particularly youth, and inclusion in shelter programs;

**There are no specific programmes targeting LGBT homelessness, and LGBT concerns are not included in large-scale publicly funded homelessness programmes. There is a severe lack of research data on LGBTI homelessness. Trans persons based on Transvanilla’s experience avoid going to shelters.**

**The problem of homelessness is further exacerbated by the fact that the cornerstone of the current conservative government’s homelessness policy is not support or prevention, but criminalization. On 20 June 2018 an amendment to the Fundamental Law was adopted: it declares that living permanently on the streets is illegal.**

1. Coverage by social security and benefits, as well as public and private health insurance (Taking into account survivor’s pensions for same-sex couples, insurance coverage for gender affirming care, social housing for LGBT youth and older persons etc.);

**Legislation in force since December 2006 adopted by the socialist-liberal coalition puts gender affirming surgeries in the category of treatments only partially funded by public health insurance. A government decree sets fees at 90% of the cost of the treatment, thus public health insurance covers only 10% of the costs of gender reassignment treatments.**

**While it is true that there are several other medical interventions for which the patient has to pay for, and thus this limitation is reasonable, non-arbitrary and non-discriminatory, the 10% coverage is exceptionally low. In comparison, public funding for other treatments and medical aids (e.g. prosthesis, spectacle-glasses etc.) fall in the range between 50-98%. It is unclear how the legislator set the different categories for funding, treatment to alter external sexual characteristics falls within the same group as going to a sanatorium or getting dental prosthesis.**

**Less and less gender affirming surgeries are available at publicly funded institutions, pushing trans patients out to private clinics where prices are getting higher. No quality care is available as a result and the lack of available options remains the biggest obstacle for most trans persons seeking medical interventions in the public health care system.**

1. Equal access to health (including through training and sensitisation of health care personnel), regardless of sexual orientation, gender identity or expression;

**A survey by Transvanilla among trans people[[2]](#footnote-3) in 2014 found that 26% of respondents felt discriminated based on their gender identity and/or expression. 3% of respondents faced physical assault when seeking healthcare and 19% was denied care. 19% did not go to see their family doctor or a specialist because of being afraid of discrimination based on their gender identity or expression.**

**While some health concerns specific to LGB and specifically trans people are present in medical training programs, the issues covered are very scarce, and is oftentimes limited to the issue of sexually transmitted diseases, especially HIV/AIDS; and very basic information on gender identity disorders in psychiatry and various intersex conditions in genetics and endocrinology.**

**The LGBTQ section of the Hungarian Psychologial Association developed an accredited training program in 2015 for counsellors, doctors, psychiatrists, and psychologists,269 but there is no information whether the training program is still implemented and if yes, how many professionals**

**have participated in it.**

1. Complaints mechanisms available and accessible to LGBT people facing discrimination.

**The Equal Treatment Act includes references to both sexual orientation and gender identity, and thus the Equal Treatment Authority has clear mandate. The mandate of the Commissioner for Fundamental Rights does not specifically include sexual orientation and gender identity, but the term “most vulnerable social groups” is interpreted inclusively. While the Commissioner for Fundamental Rights is very actively promoting the rights of LGBTI people, the ETAuth has taken a more reserved role in recent years focusing on adjudicating case only.**

**The Commissioner for Fundamental Rights has worked with Transvanilla in past years and also investigated individual cases around legal gender recognition. The few cases ot The Equal Treatment Authority based on gender identity usually end up with a deal. Even when launching cases often they don’t understand and do not take trans cases.**

1. Actions to ensure socio-cultural and economic inclusion based on sexual orientation and gender identity in measures undertaken to ensure implementation of the Sustainable Development Goals at the national and regional levels.

**No state actions are taken.**

1. Actions taken to raise public awareness and sensitisation on issues of sexual orientation and gender identity, in order to promote the meaningful socio-cultural and economic inclusion of LGBT people.

**State actions are more for exclusion only.**

1. Services provided by civil society to excluded and marginalised LGBT people.

**Transvanilla Transgender Association operates a community space and library in Budapest. This is the only safer space in the country where trans and gender nonconforming people can meet and organise freely. We do offer free psychological help and run support groups. Legal aid is also offered for free.**

**LGBT organisations provide legal aid, counselling and operate a hotline.**

Responses to the questions above can be submitted in English, French or Spanish, and in Word format. Please note that if you wish your submissions to be kept confidential, you are required to make an explicit request in your submission, as otherwise information may be referenced in the report and / or published.

I would be particularly grateful to receive the information requested at your earliest convenience, and preferably by 31 May 2019 at the latest. Responses may be addressed to the Independent Expert at the Office of the UN High Commissioner for Human Rights and can be submitted by email (ie-sogi@ohchr.org).

For any further question or clarification, please do not hesitate to contact me through the Office of the United Nations High Commissioner for Human Rights (Ms. Catherine de Preux De Baets, telephone: 022 917 93 27, email: cdepreuxdebaets@ohchr.org or Ms. Alice Ochsenbein, telephone: 022 917 32 98, aochsenbein@ohchr.org).

Warm regards,



Victor Madrigal-Borloz

Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

1. FRA (2016) Professionally speaking: challenges to achieving equality for LGBT people. Available at:

 http://fra.europa.eu/en/publication/2016/professional-views-lgbt-equality. [↑](#footnote-ref-2)
2. Transvanilla Tranwgender Association (2014) Transcare - Documentation of discrimination in the field of health of trans\* people in Hungary. Available at: http://transvanilla.hu/infografikak/letoltesek/transcare-report [↑](#footnote-ref-3)