



Submission to the Office of the United Nations High Commissioner for Human Rights (OHCHR)
The Sustainable Development Goals and Health

The Sustainable Development Goals (SDGs) promise ‘a world with equitable and universal access to health care and social protection, where physical, mental and social well-being are assured’. They rest on a respect for inalienable and universal human rights and vow to leave no one behind, including the most vulnerable in society. For the SDGs to meet their promises, they must be applied to everyone without exception, including lesbian, gay, bisexual, transgender and intersex (LGBTI) persons.

LGBTI persons are frequently denied their right to the highest attainable standard of physical and mental health due to an inaccessibility or absence of essential services which meet their specific needs related to their sexual orientation, gender identity, gender expression or sex characteristics (SOGIESC). This is often confounded by discrimination, harassment and violence in health care settings, including humiliation, inferior quality of care, refusal of services, pathologization and severe violations to autonomy and bodily integrity. There are many ‘treatments’ and ‘therapies’ forced upon LGBTI persons, such as genital ‘normalizing’ surgeries or conversion therapy, which amount to cruel, inhumane or degrading treatment and torture. These forms of abuse are often intersectional and linked to other factors, including age, gender, race, socio-economic status or HIV status. The right to the highest attainable standard of health does not exist in isolation as all human rights are interrelated, interdependent and indivisible by nature. When the former is violated, it negatively affects the exercise of other human rights. The denial of the highest attainable standard of health has serious negative impacts on quality of life and perpetuates a vicious cycle of discrimination, exclusion, poverty and stigma. There must be change to truly leave no one behind and achieve the world envisaged by the SDGs.

Mental Health

The promotion of mental health and well-being for all is an intrinsic part of SDGs. With this respect, much is to be done for LGBTI persons. Whilst many of them lead happy, healthy and fulfilling lives, many others experience disproportionately high levels of mental health problems as compared to the general population. This includes anxiety, depression, post-traumatic stress disorder and suicidal ideation. These problems arise due to human rights violations that they face in all social and institutional contexts, including families, communities, schools, hospitals, workplaces and religious institutions.

Lesbian, gay and bisexual persons face significantly higher levels of discrimination, rejection and violence than heterosexual persons which can lead to an array of mental health problems. They have been found to be two times more likely to experience anxiety and three times more likely to develop depression and related disorders compared to heterosexual persons.¹ These figures tend to be significantly worse for youth. Transgender persons are similarly vulnerable to mental health problems as a result of the gross human rights violations they face in their lives. The studies conducted into their mental health needs reveal that as much as 84% deal with suicidal thoughts and around 25% have actually made suicide attempts.² Promisingly, however, research has shown that transgender persons with high levels of social support are significantly less likely to attempt suicide than those with little social support.³ Intersex persons are equally at risk of developing mental health problems, largely correlated to invasive genital 'normalizing' surgeries and hormone interventions. In a study of people with intersex variations, around 60% had thought about suicide and a further 19% had attempted to take their life specifically on the basis of issues related to having a congenital sex variation.⁴ Despite this, research shows that psychosocial support for intersex persons is often considerably limited.⁵ There are often intersectionalities and overlaps within the LGBTI spectrum itself, exacerbating the mental health challenges and risks faced by certain individuals.

Although many LGBTI persons are vulnerable to a wide range of mental health problems, it must be emphasized that their identities themselves are part of natural human experience and not mental health disorders. The mental health challenges faced are predominantly linked to the discrimination, harassment and violence they face on the basis of their SOGIESC. Despite this, the field of mental health has been historically misused to pathologize LGBTI persons. Unfortunately, non-conforming gender identities and expressions are still widely regarded as a symptom of a mental health disorder, and the International Classification of Diseases classifies gender identity as a disorder. This pathologization merely exacerbates the trauma that transgender persons face in their lives and contributes to their real mental health problems. It presents the dangerous and false idea that to be cis-gender is the *correct, desirable* and *healthy* norm. The pathologization of transgender persons also has alarming consequences, such as institutionalization, forced conversion and sterilization. It can moreover act as a dangerous distraction or obstacle when transgender persons attempt to access mental health services to treat problems such as anxiety or depression, denying them of their fundamental human right to the enjoyment of the highest attainable standard of mental health.

Best Practices and Challenges

In light of these issues, there have been some state initiatives or programs which specifically target the mental health problems of LGBTI persons. In **Germany**, for example, the Federal Anti-Discrimination Agency has funded a virtual portal for intersex, transgender and genderqueer youth in order to help

¹ G. Rosenstreich, 'LGBTI People Mental Health and Suicide, Revised 2nd Edition', National LGBTI Health Alliance (2013), p. 3. <<http://bit.ly/2wDnUao>>

² J. McNeil *et al*, 'Trans Mental Health Study 2012' (September 2012), p. 59. <<http://bit.ly/2vGGtgB>>; P. Mayock *et al*, 'Supporting LGBT Lives: A study of the mental health and wellbeing of gay, lesbian, bisexual and transgender people', Gay and Lesbian Equality Network and BeLonG To Youth Service (2009), p. 94. <<http://bit.ly/2eAVw0l>>

³ G. Bauer *et al*, 'Suicidality among trans people in Ontario: Implications for social work and social justice', *Service Social*, Vol. 59, No. 1 (2013), p. 42. <<http://bit.ly/2iXtLja>>

⁴ T. Jones *et al*, 'Intersex: Stories and Statistics from Australia' (2016), p. 3. <<http://bit.ly/2iXvw4u>>

⁵ E. M. Leidolf *et al*, 'Intersex Mental Health and Social Support Options in Pediatric Endocrinology Training Programs', *Journal of Homosexuality*, Vol. 53, No. 3 (2008), p. 233. <<http://bit.ly/2x6Vfxt>>

them to access non-pathologizing information and counselling, and to strengthen their mental health and self-confidence through images, texts and videos which promote the idea that diversity of sex characteristics and of gender is healthy and normal.⁶ In 2017, **Denmark** declassified diverse gender identities and expressions as a mental disorder and officially depathologized transgender persons, alleviating the trauma and stigma which contributes to their poor mental health.⁷

However, certain states have failed their duty to provide adequate mental health services to LGBTI persons. In the **United Kingdom**, LGBT asylum seekers are regularly held in immigration detention centers and denied adequate mental health support, despite the serious psychological challenges of both fleeing persecution and being held in detention.⁸

Recommendations

1. States should establish clear policies to ensure LGBTI persons have access to mental health services and psychosocial support which is attentive to and sensitive of their SOGIESC, and take steps to the maximum of available resources to provide these services as free at the point of use
2. States should pass laws declassifying diverse gender identities and expressions as a mental health disorder to depathologize transgender persons

Harmful Practices

As SDGs pledge to ensure healthy lives and promote well-being for all at all ages, harmful treatments done to LGBTI persons, including harmful practices on intersex persons and conversion ‘therapies’ are major obstacles to the achievement of the set goals. While these ‘treatments’ continue to be carried out throughout the world, gross violations of LGBTI persons’ multiple fundamental human rights take place.

Harmful Practices on Intersex Persons

Intersex persons, especially infants, children and adolescents, frequently undergo non-medically necessary⁹ genital ‘normalizing’ surgeries and gonadectomies¹⁰ without their full, free and informed consent. The surgeries are often accompanied by strong hormonal interventions in order to force the child’s body to develop in accordance with the expectations of their assigned gender as they go through puberty. These practices are irreversible and have severe short-term and long-term effects, such as mental health problems, nerve damage, pain, scarring and sterilization. There is very rarely any form of redress or reparative justice given to those who face such acts. These violations are often exacerbated by the fact that intersex children and their parents are denied or do not have access to any information including their medical records. The bodily integrity of intersex children and adults is ultimately violated. They are denied the right to determine their own sex and gender once they are more mature and have

⁶ Council of Europe, ‘Human rights and intersex people’ (April 2015), p. 46. <<http://bit.ly/2vGEmJQ>>

⁷ The Guardian, ‘Denmark to declassify being transgender as mental disorder’ (1 June 2016). <<http://bit.ly/2xLY8Bq>>

⁸ Stonewall and United Kingdom Lesbian and Gay Immigration Group, ‘No safe refuge: experiences of LGBT asylum seekers in detention’ (2016), p. 9. <<http://bit.ly/2xKRAMP>>

⁹ The term ‘non-medically necessary’ refers to treatments which are non-emergency and can be deferred until the person is able to provide their full, free and informed consent.

¹⁰ A gonadectomy is the surgical removal of gonads (testis, ovary or ootestis).

the capacity to provide consent. These practices, common in every region of the world, are an extreme violation of the right to the highest attainable standard of health and can be tantamount to cruel, inhumane or degrading treatment or even torture.¹¹ They have indeed been repeatedly condemned in the concluding observations of the Committee Against Torture and the Committee on the Rights of the Child.¹²

There is also evidence of prenatal treatments being administered to pregnant persons carrying a fetus which may have variations in sex characteristics as a result of congenital adrenal hyperplasia (CAH). These prenatal interventions are often carried out without adequate informed consent.¹³ This treatment not only amounts to *de facto* experimentation with no basis in approved research, but further pathologizes and stigmatizes what are healthy and natural bodily variations. The treatments take the form of the drug dexamethasone, despite clear evidence that this can cause adverse long-term effects on the health of the parent and child, including a heightened risk of heart disease and diabetes.¹⁴

These so-called treatments are intended to assign the child what is perceived to be one of only two binary options for gender and sex and are justified by the societal pressure for bodies to conform to strict norms and stereotypes. This impossibility of many parents and medical professionals to comprehend and accept natural diversity is a testament to the harms of the rigid gender and sex binaries. They are also performed on the basis that it will supposedly prevent the child from experiencing bullying, perpetuating the idea that children whose bodies are non-normative should not only expect but also carry the burden of discrimination from others. The absence of any credible medical ground for conducting these practices has led to the characterization that they are simply a culturally-accepted form of infant genital mutilation.¹⁵

Best Practices and Challenges

In 2015, **Malta** passed the Gender Identity, Gender Expression and Sex Characteristics Act which made 'medical intervention which is driven by social factors without the consent of the minor' a violation of domestic law, the first government to pass a law explicitly banning these violations on intersex children anywhere in the world.¹⁶ Previously in 1999, however, the Constitutional Court of **Colombia** had issued a global-first decision significantly restricting the ability of parents and medical professionals to conduct surgeries without the informed consent of intersex children by appealing to their rights to

¹¹ The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment condemned these practices and stated that they could amount to torture in a report. See: United Nations General Assembly, 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez', A/HRC/22/53 (1 February 2013), paras. 77, 79. <<http://bit.ly/18UCGLQ>>

¹² Examples: United Nations Committee Against Torture, 'Concluding observations on the combined sixth and seventh periodic reports of Denmark', CAT/C/DNK/CO/6-7 (4 February 2016), paras. 42-43. <<http://bit.ly/2hMUg6P>>; United Nations Committee on the Rights of the Child, 'Concluding observations on the fifth periodic report of France', CRC/C/FRA/CO/5 (26 February 2016), paras. 47-48. <<http://bit.ly/2xZskv8>>

¹³ A. Dreger et al, 'Prenatal Dexamethasone for Congenital Adrenal Hyperplasia: An Ethics Canary in the Modern Medical Mine', J Bioeth Inq., Vol. 9, No. 3 (2012). <<http://bit.ly/2wwzGTf>>

¹⁴ Council of Europe, 'Human rights and intersex people' (April 2015), p. 20. <<http://bit.ly/2vGEmJQ>>

¹⁵ The Inter-American Commission on Human Rights, 'Violence Against Lesbian, Gay, Bisexual, Transgender and Intersex Persons in the Americas' (2015), para. 185. <<http://bit.ly/2qB0CQo>>

¹⁶ 'Gender Identity, Gender Expression and Sex Characteristics Act', Chapter 540 of the Laws of Malta (2015), para. 14. <<http://bit.ly/2eRoVnF>>

autonomy and self-determination.¹⁷ These best practices show the potential of both the legislative and judicial branches of government to promote and protect the human rights of intersex children.

Despite these emerging best practices, documented violations against intersex children occur in jurisdictions across the world. In the **Netherlands**, for example, there is a common ‘predict and control’ health care treatment for intersex children, in which doctors predict the future gender of the child and force this decision through surgery and hormones.¹⁸ The Inter-American Court of Human Rights (IACHR) has reported on these invasive interventions being carried out in jurisdictions across the Americas, including in **Argentina, Canada and Uruguay**.¹⁹ Whilst these practices are common in every region of the world, it can prove difficult to hold governments accountable for such violations as they rarely hold official records related to intersex persons or pass laws explicitly mentioning sex characteristics.

Recommendations

1. States should pass laws explicitly prohibiting non-medically necessary genital normalizing surgeries, gonadectomies and hormone interventions on intersex minors and prenatal treatments administered to pregnant persons
2. States should devise and implement training programmes for medical professionals on the autonomy and self-determination of intersex persons in consultation with intersex civil society
3. States should revise medical guidelines and treatment protocols to ensure that intersex persons who have faced coercive and involuntary medical intervention or undergo consensual or emergency medical treatment are given access to detailed medical records
4. States should provide redress and reparations for those who have faced coercive and involuntary medical interventions and formally apologize for the harmful treatment of intersex persons
5. States should ensure that intersex-led organizations are sufficiently resourced to advocate and campaign for the right of intersex persons to enjoy the highest attainable standard of physical and mental health
6. States should consult with intersex organizations and persons in all legislative, political or social changes that affect and concern them, and use statements made by intersex groups to guide all policies, including the Malta Declaration, the Darlington Statement and the Vienna Statement²⁰

Conversion ‘Therapies’

¹⁷ Corte Constitucional de Colombia (Constitutional Court of Colombia), Sentencia SU-337/99 (12 May 1999), para. 91. <<http://bit.ly/2iTnRUL>>

¹⁸ Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit COC Nederland, Nederlands Netwerk voor Intersekse/DSD and Transgender Netwerk Nederland, ‘Summary of recommendations for The Netherlands’ (2017). <<http://bit.ly/2vCFJcn>>

¹⁹ The Inter-American Commission on Human Rights, ‘Violence Against Lesbian, Gay, Bisexual, Transgender and Intersex Persons in the Americas’ (2015), para. 184. <<http://bit.ly/2qB0COo>>

²⁰ Intersex civil society groups have produced various declarations and statements affirming their human rights, which include health-specific recommendations. See: ‘Malta Declaration’ (1 December 2013). <<http://bit.ly/2fKioey>>; ‘Darlington Statement’ (10 March 2017). <<http://bit.ly/2xSpFBa>>; ‘Riga Statement’ (12 October 2014). <<http://bit.ly/2gfvogh>>; ‘Vienna Statement’ (31 March 2017). <<http://bit.ly/2vnJOCf>>

LGBT youth are widely subjected to harmful conversion ‘therapies’ in clinics or camps aimed at eliminating their SOGIE. These practices are not only ineffective and unscientific but have severely damaging effects on physical and mental health and are recognized at the international level as a form of torture.²¹ Indeed, LGBT youth held in these clinics or camps are often exposed to continuous psychological abuse, forced to consume unsanitary food and water, held in isolation for prolonged periods of time and subjected to electroshocks and other painful treatments. Whilst LGBT persons of all identities are at risk of conversion therapies, lesbian and transgender women tend to be a particular target and often face severe forms of sexual violence, such as ‘corrective’ rape. The act of conversion therapy rests on the myth that diverse manifestations of SOGIE are a symptom of a mental disorder which can be ‘cured’, and is legitimized by the pathologization of LGBT persons as previously discussed in this submission.

There is a global trend of states either directly sponsoring these practices or failing to fulfil their duty to protect minors from such human rights violations. Whilst it’s parents who predominantly admit their children into these clinics or camps, sometimes through excessive force such as kidnapping, the therapies are performed by medical professionals and in most cases endorsed or tolerated by the state. Due to the fact that perpetrators are commonly family members, medical and legal professionals and agents of the state, there is often a reluctance of victims to come forward and report these ordeals to the authorities. This is worsened by the fact that many victims are forced to sign written ‘consent’ forms for these practices which creates their perception that they are powerless and unable to obtain justice.²² These conversion therapies, often confounded by an absence of sufficient redress systems, are a serious affront to the right to the highest attainable standard of health.

Best Practices and Challenges

In 2016, **Malta** passed the Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act which made the practice of attempting to ‘change, repress or eliminate a person’s sexual orientation, gender identity or gender expression’ punishable by heavy fines or a prison sentence, proving itself again to be a proponent of best practices on SOGIESC issues.²³ There are similar laws protecting LGBT minors in place in provinces of **Canada** and states of the **United States**.²⁴ These laws counteract the widespread normalization of conversion therapies and help ensure that authorities act with due diligence to prevent, punish, investigate and redress instances of human rights violations of LGBT minors. Moreover, in 2017, a **China** court ruled in favor of a gay man who underwent conversion therapy and ordered the hospital to issue a public apology in local newspapers and pay compensation.²⁵ This case highlights the role of the judicial system in forming best practices in terms of health care for LGBT persons.

²¹ The OHCHR characterised these practices as torture in a report. See: United Nations General Assembly, ‘Discrimination and violence against individuals based on their sexual orientation and gender identity: Report of the Office of the United Nations High Commissioner for Human Rights’, A/HRC/29/23 (4 May 2015), para. 38. <<http://bit.ly/2wBin5P>>

²² The Inter-American Commission on Human Rights, ‘Violence Against Lesbian, Gay, Bisexual, Transgender and Intersex Persons in the Americas’ (2015), para. 210. <<http://bit.ly/2gB0COo>>

²³ ‘Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act’, Chapter 567 of the Laws of Malta (2016), para. 2. <<http://bit.ly/2eAxjuM>>

²⁴ ‘Affirming Sexual Orientation and Gender Identity Act’, Legislative Assembly of Ontario (2015), para. 2.9. <<http://bit.ly/2gBFkfZ>>; Movement Advancement Project, ‘LGBT Policy Spotlight: Conversion Therapy Bans’ (2017). p. 1. <<http://bit.ly/2vHGHEp>>

²⁵ Human Rights Watch, ‘China Court Rules Against Forced Conversion Therapy’ (10 July 2017). <<http://bit.ly/2uLWCh0>>

However, there are concerning developments with regards to conversion therapy across the world. In 2017, the Islamic Development Department of **Malaysia** produced a film which endorses conversion therapy and claims that sexual orientation can be changed with extensive training.²⁶ Moreover, the authorities have abused transgender women in conversion camps which were deceptively promoted as outreach programs.²⁷ This form of official government support for such practices legitimizes abuse and violence committed against LGBT persons. In **Ecuador**, the authorities have failed to take action on the large number of operating conversion therapy centers in the country, most of which target lesbian women, despite the fact that such centers have been acknowledged by the Ministry of Health and addressed in recommendations received by Ecuador during the Second and Third Cycles of the Universal Periodic Review (UPR).²⁸

Recommendations

1. States should pass laws explicitly prohibiting any practices aimed at repressing or eliminating a person's SOGIE
2. States should take measures to prevent, investigate, prosecute and punish all instances of conversion therapies committed by private actors through the establishment of a specialised complaints mechanism
3. States should combat persisting myths surrounding conversion therapy within the medical profession through training programmes on the intrinsic and unalterable nature of SOGIE

Gender Affirming Health Care Services

The protection of human rights of all, the principle that the SDGs are grounded in, including the right to the highest attainable standard of physical and mental health, cannot possibly be realised without ensuring all transgender persons' access to gender affirming health care services with their informed consent and on a voluntary basis.

Gender affirming health care services are medical interventions that many, but not all, transgender persons may wish to access in order to affirm their gender identity. This may include but is not limited to hormone treatment or surgeries. These services are seen as essential to many transgender persons to feel comfortable and at ease with their bodies.

Despite this, as a result of the pathologization of non-conforming gender identities and expressions, in many States transgender persons need to be diagnosed with 'gender dysphoria' in order to access gender affirming health care services. This is a denial of their autonomy and self-determination. The majority of public health systems or insurance schemes also fail to cover free hormone treatment or surgeries for gender affirming purposes due to the myth that they are cosmetic and non-medically necessary procedures, excluding huge numbers of transgender persons due to their heavy financial

²⁶ Malay Mail Online, 'Jakim's 'spiritual camp' tried to 'change' us, lament Muslim transgenders' (23 November 2014). <<http://bit.ly/2gDIVz8>>

²⁸ Taller Comunicación Mujer y Sexual Rights Initiative, 'Examen Periódico Universal de Ecuador 27th Sesión' (May 2017), para. 4. <<http://bit.ly/2eV2CNT>>

cost. Moreover, access to these services can be further obstructed due to verbal and physical transphobic abuse exercised by medical professionals. As a consequence of the widespread inaccessibility of gender affirming health care services, many transgender persons resort to unsafe alternative measures, such as using unregulated hormone treatments or injecting silicon or industrial oil, severely undermining their right to the highest attainable standard of health.²⁹

Whilst many transgender persons may view gender affirming health care services as essential, for others they are not necessary in order to feel comfortable with their gender identity, and no individual should be forced into such procedures under any circumstances. However, in many jurisdictions which allow transgender persons to transition, they are commonly required to undergo irreversible surgeries in order to obtain legal recognition of their gender identity, effectively coercing them into sterilization and torturous treatment in health care settings. This linkage of legal and medical aspects of transition, each acting as a prerequisite of the other, may result in gross violations of transgender persons' human rights.

Best Practices and Challenges

In 2012, **Argentina** passed the Gender Law which ensured transgender persons access to legal gender recognition without the need for psychiatric diagnosis or medical treatment.³⁰ Similarly, in 2011, the Constitutional Court of **Germany** ruled that the requirement of gender affirming surgeries in order to secure legal gender recognition was violation of the rights to physical integrity and self-determination.³¹ There have been similar court decisions made in **Austria, India, and Sweden**.³² In **India**, certain states have also implemented transgender welfare policies which include free access to gender affirming procedures.³³ These best practices counteract the discriminatory obstacles many transgender persons face when accessing essential health care services.

Alarmingly, **Finland** maintains its policy of forcing sterilization of transgender persons seeking legal recognition of their gender identity, defying various recommendations on the issue at the UPR, CEDAW as well as a ruling of the European Court of Human Rights.³⁴

Recommendations

1. States should pass laws eliminating psychiatric diagnosis of 'gender dysphoria' as a prerequisite for gender affirming treatments
2. States should revise policies to ensure that gender affirming treatments are deemed essential and made available through public health systems

²⁹ United Nations Development Programme, 'Discussion Paper: Transgender Health and Human Rights' (December 2013), p. 22. <<http://bit.ly/2eBfeZZ>>

³⁰ Transgender Europe, 'English Translation of Argentina's Gender Identity Law as approved by the Senate of Argentina on May 8, 2012' (12 September 2013), art. 4. <<http://bit.ly/2wnOhDf>>

³¹ Federal Constitutional Court of Germany, 1 BvR 3295/07 (28 January 2011). <<http://bit.ly/2vHwho4>>

³² Open Society Foundations, 'A Legal Gender Recognition Gender Brief: Licensed to Be Yourself: Forced Sterilization' (2015), p. 9. <<https://osf.to/2x75ceF>>

³³ Scroll.in, 'Why Kerala's free sex-change surgeries will offer a new lifeline for the transgender community' (16 March 2016). <<http://bit.ly/2eGqAiZ>>

³⁴ Gay Star News, 'Finland will keep sterilizing trans people after it rejects law reform' (29 August 2017). <<http://bit.ly/2gBqQqn>>; Transgender Europe, 'Human Rights Victory! European Court of Human Rights ends Forced Sterilisation' (6 April 2017). <<http://bit.ly/2qRTq0m>>

3. States should build the capacity of medical professionals to deal with transgender patients in a competent, non-judgmental and sensitive manner through comprehensive training programs, and devise such programs in consultation with transgender civil society
4. States should ensure a welcoming environment for transgender persons in health care settings through methods such as trans-inclusive hospital forms and the use of preferred names and pronouns
5. States should pass laws explicitly prohibiting the requirement of medical treatments or sterilization in order for transgender persons to access legal gender recognition

Sexual Health

The SDGs draw particular attention to ensuring universal access to sexual and reproductive health care services, including for family planning, information and education. It further explicitly commits to accelerate the pace of progress made in fighting communicable diseases and epidemics, including but not limited to the human immunodeficiency virus (HIV), hepatitis and other sexually transmitted infections (STIs). It is absolutely crucial for the achievement of the SDGs to ensure that LGBTI persons' right to the highest attainable standard of health with respect to sexual and reproductive matters is respected, protected and fulfilled.

HIV and STI Treatments

LGBTI persons require full access to essential sexual health services, including medicines to prevent and treat HIV and other STIs. Whilst much has been done to address and meet the specific sexual health needs of men who have sex with men (MSM), the high vulnerability of transgender women to these illnesses warrants more attention from the international community. Globally, 19.1% of transgender women live with HIV, and in certain countries they can be up to 49 times more likely than the general population to be living with HIV.³⁵ The ability of transgender women to access sufficient treatment is often challenged by an absence of critical services or overt discrimination from medical professionals, such as insensitive or offensive language, blaming or shaming for health status, or even point-blank denial of services. Although a small amount of research has been conducted on this topic, most reports aggregate their data with MSM, preventing a sufficient understanding and response to the sexual health challenges and needs faced by transgender women specifically.³⁶

The World Health Organization (WHO) has published recommendations to states on HIV prevention and treatment for vulnerable groups, explicitly including transgender persons. This includes the provision of condoms and lubricants as well as testing services. They also strongly recommend access to essential medicines, including pre-exposure prophylaxis (PrEP) and post-exposure prophylaxis (PEP) to prevent HIV, and antiretroviral therapy (ART) to treat HIV.³⁷ Despite these authoritative

³⁵ S. Baral *et al*, 'Worldwide burden of HIV in transgender women: a systematic review and meta- analysis', *Lancet*, Vol. 13 (2013), p. 214, 217. <<http://bit.ly/2exYToX>>

³⁶ United Nations Development Programme *et al*, 'Implementing Comprehensive HIV and STI Programmes with Transgender People: Practical Guidance for Collaborative Interventions' (2016), p. xiv. <<http://bit.ly/25KYVxN>>

³⁷ The World Health Organization, 'Consolidated Guidelines on HIV Prevention, Diagnosis, Treatment and Care for Key Populations' (2014), p. 27, 42, 44, 46, 52. <<http://bit.ly/1qPWA03>>

guidelines, many states have failed to take steps to the maximum of its available resources to provide such services to transgender persons.

Best Practices and Challenges

In 2017, **South Africa** launched the world's first national LGBTI HIV plan aimed at significantly reducing infection rates and discrimination and stigma by providing information, psychosocial support and treatment to all members of the community.³⁸ Similarly, in 2017, the **Philippines** launched a pilot program offering PrEP to MSM and transgender women.³⁹ These best practices showcase states taking concrete and targeted steps to progressively realize the right of LGBTI persons to the highest attainable standard of health. In **India**, the government has invited transgender women and *hijra*⁴⁰ human rights defenders from across the country to provide inputs on its HIV prevention and care programs.⁴¹ This consultation with members of the community is commendable and should be considered as a best practice to be replicated by other states.

Conversely, certain states have taken measures which have restricted the right of LGBTI persons to access HIV prevention and treatment services. In **Indonesia**, the authorities' recent crackdown on LGBTI communities has forced NGOs to stop providing HIV testing and other essential services.⁴² Similarly, in **Tanzania**, the police recently arrested a group of twenty individuals attending a workshop on HIV/AIDs prevention and accused them of 'training people in homosexuality'.⁴³ This state sponsored homophobia creates a climate of fear which prevents people from accessing essential health care services.

Recommendations

1. States should comply with WHO guidelines and offer essential services to prevent and treat HIV to MSM and transgender persons, including condoms, lubricants, PrEP, PEP and ART
2. States should collaborate with LGBTI civil society, medical professionals, health academics and other stakeholders to develop a national HIV plan for MSM and transgender persons
3. States should record and disaggregate HIV data on MSM and transgender persons to facilitate a better understanding of their specific health care needs
4. States should condemn and combat all discriminatory attitudes in the provision of essential sexual health services to MSM and transgender persons through training of medical professionals

Sex Education

³⁸ The Citizen, 'World first as SA launches national LGBTI HIV plan' (14 June 2017). <<http://bit.ly/2wAPips>>

³⁹ Reuters, 'Philippines trials anti-HIV drug as cases hit record high' (26 July 2017). <<http://reut.rs/2wAVpdq>>

⁴⁰ *Hijras* are a distinct cultural, social and religious gender non-conforming group within the wider trans population in India.

⁴¹ United Nations Development Programme *et al*, 'Implementing Comprehensive HIV and STI Programmes with Transgender People: Practical Guidance for Collaborative Interventions' (2016), p. 8. <<http://bit.ly/25KYVxN>>

⁴² South China Morning Post, 'Indonesia cracks down on gays and it fuels its HIV epidemic' (6 August 2017). <<http://bit.ly/2wAxqeH>>

⁴³ Pan Africa ILGA, 'The Right to Freedom of Association Under Threat – 20 Arrested in Tanzania for Alleged Homosexuality' (21 September 2017). <<http://bit.ly/2xBJH10>>

LGBTI youth require exposure to sexual health education programs which incorporate their identities and provide all necessary information to keep them healthy and safe. Across the world, LGBTI romantic and sexual behaviors, experiences and feelings are unaddressed or actively banned from sexual health education in schools and other educational settings. This exclusion has damaging effects, such as an exacerbated risk of HIV and other STIs. In many cases, this lack of inclusive sexual health education is a result of a much wider restriction on the freedom of expression for LGBTI voices. For sexual health education programs to be both inclusive and sensitive of SOGIESC issues, they should provide medically accurate information, dispel damaging myths and stereotypes and emphasize the need for protection for youth of all identities. More importantly, they should include positive examples of LGBTI romantic and sexual relationships, including that of bisexual, transgender and intersex persons.

Best Practices and Challenges

In 2012, the Ministry of Education of the **Netherlands** introduced a policy legally requiring schools to educate youth on 'sexual diversity'. However, it's unclear how this policy has been implemented and monitored given that schools have the freedom to use their own teaching methods on these topics, as well as uncertainty over the inclusion of transgender and intersex issues.⁴⁴ This should as such be taken as the first steps in introducing best practices on this issue at the national level.

In the **United States**, however, eight states have laws in place explicitly restricting or prohibiting the teaching of LGBTI-inclusive content in schools.⁴⁵ There are similar restrictions or prohibitions on SOGIESC issues being taught in schools in many other countries, such as the **Russian Federation**.⁴⁶

Recommendations

1. States should, in consultation with LGBTI civil society, amend national sex education curricula to be inclusive of *all* identities within the LGBTI spectrum and ensure essential information is presented in an accurate, positive and sensitive manner
2. States should repeal any 'propaganda' or other discriminatory laws which limit LGBTI persons' freedom of expression and ability to access essential information about their sexual health

⁴⁴ Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit COC Nederland, Nederlands Netwerk voor Intersekse/DSD and Transgender Netwerk Nederland, 'The Rights of LGBTI Children in The Netherlands: A shadow report to the UN Committee on the Rights of the Child' (4 August 2014), p. 9. <<http://bit.ly/2wDHYJJ>>

⁴⁵ Advocates for Youth, Answer, GLSEN, Human Rights Campaign and Planned Parenthood Federation of America, 'A Call to Action: LGBTQ Youth Need Inclusive Sex Education' (2015), p.3. <<http://bit.ly/2eGzE7x>>

⁴⁶ Bayev and Others v Russia, ECHR, No. 67667/09, 44092/12 and 56717/12 (2017), para. 25. <<http://bit.ly/2eGz1en>>