



OUTRIGHT

ACTION INTERNATIONAL

Human Rights for LGBTIQ People Everywhere

The Right to Sexual and Reproductive Health – Challenges and Opportunities During COVID-19

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

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Introduction

OutRight Action International is an ECOSOC accredited civil society organization working at the international, regional and national levels to research, document, defend, and advance human rights for lesbian, gay, transgender and intersex (hereinafter, “LGBTI”)¹ people. This submission is a response to the United Nations Independent Expert on the Human Rights of Older Persons’s call for inputs for a thematic report to examine and raise awareness of the prevalence of ageism and age discrimination.

Through this submission, we aim to highlight the particular struggles of LGBTI persons in attaining their right to sexual and reproductive health during the COVID-19 pandemic. LGBTI persons are struggling to access services such as, but not limited to, HIV-related medications, hormone therapies, and other gender-affirming care as healthcare systems are focused on COVID-related issues. This problem is exacerbated by the continuing and heightened stigma against LGBTI persons during the pandemic, which further undermines their right to sexual and reproductive health.

Background: The Experiences of LGBTI Persons during COVID-19

COVID-19 continues to exacerbate inequalities that disproportionately affect LGBTI persons². In their joint statement on 17 May 2020, 96 United Nations and regional human rights experts stated that:

The existence of criminalization laws, for example, makes LGBT persons more vulnerable to police abuse and arbitrary arrest and detention in the context of movement restrictions and curfews. While contributing to the fight against the pandemic by staying at home, LGBT children, youths and elders are forced to endure prolonged exposure to unaccepting family members, which exacerbates rates of domestic violence and physical and emotional abuse, as well as damage to

¹ OutRight Action International uses the acronym LGBTI to denote the lesbian, gay, bisexual, transgender, queer and intersex community. We believe this acronym is inclusive of a broad range of people across our community. It is not exhaustive, nor is it universally accepted or used.

² United Nations Secretary General, SG/SM/20723

mental health. In many jurisdictions, LGBT persons, particularly those most impoverished or without proper documentation, rely overwhelmingly on informal economies made impossible by COVID-19 restrictions. The socio- economic consequences of the pandemic and the loss of income might also increase the vulnerabilities of LGBT persons to human trafficking and sexual exploitation³.

The pandemic has also created a context conducive to increased persecution. The joint statement continues by stating:

Some States have enacted measures which intentionally target LGBT persons under the guise of public health, including proposing legislation to deny transgender and gender diverse persons of their legal recognition. Hate speech explicitly or implicitly inciting violence against LGBT persons has been on the rise, including discourse by prominent political or religious leaders blaming the pandemic on the existence of LGBT persons in the community⁴.

This increased stigma and discrimination are further dissuading LGBTI persons to seek health services, which includes sexual and reproductive needs. Even before the pandemic, LGBTI persons are “disproportionately represented in the ranks of the poor, people experiencing homelessness, and those without health care”⁵, meaning that their struggles in attaining their right to sexual and reproductive health have only worsened as persecution intensifies.

In response to the COVID-19 pandemic, Outright Action International established the COVID-19 LGBTI Emergency Fund in April 2020, which is currently the biggest LGBTI COVID Fund in the world⁶. The fund aims to support LGBTI people and organizations where governments and other sources of support have failed to do so. During the first application round, Outright received 1,500 appeals from 131 countries, 20% of them relating to healthcare⁷. This overwhelming response indicates the severe impact that the pandemic has had on LGBTI communities around the world, particularly as it applies to reduced access to health services.

The remainder of this report will focus on the specific challenges and good practices that LGBTI persons face around the world in attaining their right to sexual and reproductive health during the pandemic.

Disruptions in HIV-Related Services

As stated by UNAIDS, men who have sex with men and trans women are key populations who are particularly vulnerable to HIV⁸. While there is currently no conclusive evidence that persons with HIV suffer greater health consequences when contracting COVID-19 than those without, experts’ working theory is that persons with low CD-4 counts and those not on treatment are at higher risk of contracting severe cases of the disease⁹.

³ OHCHR, “COVID-19: the suffering and resilience of LGBT persons”

⁴ Ibid.

⁵ Ibid.

⁶ Outright Action International, *Responding to a Crisis. Insights from OutRight's COVID-19 Global LGBTIQ Emergency Fund*, 17 July 2020.

⁷ Ibid.

⁸ Joint United Nations Programme on HIV/AIDS, *Key Populations*, Available at: <https://www.unaids.org/en/topic/key-populations>

⁹ Independent Expert on Sexual Orientation and Gender Identity, Report A/75/258, para. 28b.

Therefore, disruptions in HIV-related care must be avoided since they are potentially life-threatening.

It is reported that access to HIV care and services have been severely impacted by the pandemic, which is been summarized by a report by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity:

A recent global survey involving 2,732 respondents from 103 countries revealed that 23 per cent of participants living with HIV indicated that they had lost access to HIV care providers as a result of COVID-19 social isolation measures, and only 17 per cent reported that they were able to communicate with their providers via telemedicine¹⁰.

Outright Action International has similarly conducted in-depth interviews with 59 LGBTI people from 38 countries to characterize how the pandemic has impacted health outcomes. One-third of respondents cited disruptions in antiretroviral treatment (ARV)¹¹. They attribute this disruption to a variety of reasons including pre-existing or heightened lack of trust in the healthcare system, being unable to pick up medications, and refusal of clinics to provide long-term supplies.

Travel bans due to the COVID-19 pandemic have impeded access to HIV treatment or prevention, particularly as LGBTI persons do not rely on or trust the healthcare system in their own country. In Singapore, for instance, most people receive PReP from an overseas third-party, access to which has been restricted due to travel restrictions.¹² A respondent in Spain also cited that he did not trust the Spanish health system to maintain confidentiality of his HIV status, so he has sought medical assistance in the United Kingdom instead. Since the pandemic, however, he has been unable to travel back to the UK to receive said medication.¹³

Other respondents from Kenya, Liberia, and Jamaica described not being able to get long-term prescriptions for HIV during the pandemic.¹⁴ Ensuring that people have a long-term supply of HIV medication is critical when lockdowns are in place and travel is generally restricted or inaccessible. This problem is largely fueled by shortages of HIV medicine as efforts are directed toward COVID-19 treatment, but in cases where medicine is readily available, the problem is caused by a failure of health systems in adapting the rules surrounding the distribution of HIV medication.

Respondents have also cited the inaccessibility of transport as a reason why HIV-related services have been disrupted. A notable example is in Uganda, where the lockdown has prohibited public transportation. This effectively restricts HIV-positive people from accessing ARVs unless they have private cars.¹⁵

Disruptions in Hormone Treatments and Gender-Affirming Treatments

¹⁰ Ibid.

¹¹ Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, 6 May 2020.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

Before the pandemic, hormone and gender-affirming treatments were already inaccessible or had incredibly long wait times. The pandemic, however, has further delayed¹⁶ or made these services completely unavailable, including in cases where the continuation of ongoing treatment and support was vital¹⁷. Some of the reasons are similar to the ones disrupting HIV-related services, such as a lack of transportation to retrieve hormone treatments.

Another reason for this disruption is the lack of legislation and policies supporting its implementation. Chile, for instance, has a gender identity law but no health policy to support its implementation. A respondent from the same Outright International survey cited that services for trans people have disappeared to prioritize the COVID-19 situation: “People say they can’t go get their hormones, and hospitals say that they don’t have them”¹⁸.

In some cases documented in Europe, hormone and gender-amplifying treatments are now deemed “non-essential”¹⁹, which may have serious health implications for transgender people who started a hormone therapy regimen before the pandemic and must stop. An intersex person in Iceland recounts having to stop her new hormone therapy regimen and not having access to regular bloodwork anymore “unless it’s a severe risk to [her] health... If you’re bleeding from your genital mutilation scars, and you’re not going to bleed out, you are not a priority”²⁰.

The Particular Challenges of Sex Workers

Outright recognizes the need to view sexual and reproductive health from an intersectional lens, hence why this section discusses the impacts COVID-19 has on sex workers, particularly those who identify as trans. There is an overrepresentation of trans people among sex workers, which is “undeniably a result of widespread structural, institutional, and interpersonal violence experienced by trans people from their early lives with regards to receiving support from their families and their immediate environments and accessing education and alternative employment”²¹.

Sex workers experience specific challenges in attaining their right sexual and reproductive health. For instance, sex workers might only be able to seek health services at night²², access to which might be severely limited when resources are stretched thin to accommodate COVID-19 cases.

In South Africa, sex workers have been historically scapegoated for transmitting the HIV epidemic within the country, so in the context of a new epidemic, rising stigma and discrimination against sex workers severely hinder their ability to seek medical care. In Brazil, sex workers who are financially struggling have had no choice but to continue working the streets, making them at higher risk of contracting COVID-19. This poses a problem for trans sex workers in particular who fear of seeking medical attention due to discrimination and negligence.

¹⁶ Anna I. R. van der Miesen, Daphne Raaijmakers and Tim C. van de Grift, “‘You have to wait a little longer’: transgender (mental) health at risk as a consequence of deferring gender-affirming treatments during COVID-19”, *Archives of Sexual Behavior*, vol. 49, No. 5 (June 2020).

¹⁷ IE SOGI, Report A/75/258, para. 29

¹⁸ Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, 6 May 2020.

¹⁹ ILGA Europe, “COVID-19 impacts on LGBTI communities in Europe and Central Asia”.

²⁰ Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, 6 May 2020.

²¹ Transgender Europe, *The vicious circle of violence: Trans and gender-diverse people, migration, and sex work*, October 2017.

²² IE SOGI, Report A/75/258, para. 47

A similar situation has been recounted by a respondent in Egypt²³.

Good Practices and Opportunities

Despite the many struggles LGBTI people face in attaining their right to sexual and reproductive health during the COVID-19 pandemic, there are several instances of good practices around the world. For example, when COVID cases were on the rise, the Wuhan LGBT Center quickly mobilized online and organized to collect HIV medication from hospitals at the center of the outbreak. As the situation in Wuhan escalated and a lockdown was in force, the Center continued the service and helped obtain medication for “80-90 persons per day (about 800+ bottles)”²⁴. They also helped treat HIV-positive persons who are sick but cannot go to hospitals since they are overwhelmed with COVID-19 patients.

In Nigeria, a community leader was concerned about the lack of transportation to pick up or deliver medications, so her organization compiled information on individuals who need to get medication, when they need it, and where to get it from. In New York, a transman noted that the trans community has been sharing hormones with each other since hormones may not be counted as “essential medicine” in many areas²⁵.

There is nonetheless a lack of health governance during this pandemic in providing HIV-related services and hormone treatments. However, due to civil society organizations and communities around the world acting quickly to respond, critical sexual and reproductive health services for LGBTI persons continue to exist.

Conclusions and Recommendations

The COVID-19 pandemic continues to exacerbate inequalities, discrimination, and persecution toward LGBTI persons, which has negatively impacted their sexual and reproductive health. The report done by Outright highlights that LGBTI persons suffer disruptions in receiving HIV-related services as there are medication shortages, issues of transport, deprioritization of such treatments, and continued discrimination. Trans and intersex people in particular suffer disruptions in hormone treatments and gender-affirming treatments.

Therefore, all international stakeholders should adopt the following actions:

- Review, amend, and/or repeal existing health laws and policies that adversely affect the sexual and reproductive health of LGBTI people, particularly in attaining HIV-related services, hormone treatments, and gender-affirming treatments.
- Ensure resource allocation through adequate budget allocations that would enable the provision of universal access to sexual and reproductive healthcare for LGBTI people.
- Ensure that health care policies, ethical standards and standards of care focus on eliminating stigma, discrimination, and violence based on SOGIESC in healthcare settings.
- Ensure that sexual and reproductive health programs are tailored to the specific needs of LGBTI persons, including hormone therapy, gender-affirmative care, routine sexual and reproductive health screenings, sexually transmitted infection testing and treatment, and family planning

²³ Outright Action International, *Vulnerability Amplified: The Impact of COVID-19 Pandemic on LGBTIQ People*, 6 May 2020.

²⁴ Ibid.

²⁵ Ibid.

services responsive to diverse family forms.

- Support civil society and community organizations, particularly those that focus on providing LGBTI healthcare services, through targeted and robust funding opportunities and capacity building training to fulfill the gaps left by the government.