

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

Food, nutrition, and the right to health

I. Introduction

Outright International is dedicated to working with partners around the globe to strengthen the capacity of the LGBTIQ human rights movement, document and amplify human rights violations against LGBTIQ people, and advocate for inclusion and equality. Outright is pleased to deliver this input in response to the call for submissions by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on the subject of “food, nutrition, and the right to health.”

II. International legal standards

International human rights law standards are applicable to all without distinction. Each individual is entitled to their human rights without discrimination, including on the basis of sexual orientation, gender identity and expression, or sex characteristics.¹ States must respect, protect, and fulfil their human rights obligations.

All people, including lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) people, have a right to health.² The right to food and nutrition is an underlying condition for the full realisation of the right to health.³ The right to food is recognized in the Universal Declaration of Human Rights⁴, the International Covenant on Economic, Social and Cultural Rights⁵, the Convention on the Elimination of All Forms of Discrimination against Women⁶, the Convention on the Rights of the Child⁷, and the Convention on the Rights of Persons with Disabilities.⁸ The right to food is also recognized in regional instruments including the Protocol of San Salvador,⁹ the African Charter on the Rights and Welfare of the Child,¹⁰ and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa.¹¹

The right to food is reflected in SDG 2, on ending hunger and ensuring access by all people to safe, nutritious and sufficient food; SDG 3, on ensuring health; and SDG 5, on achieving gender equality.¹² All SDGs can only be achieved if no one is left behind, so States must include LGBTIQ people in their implementation.¹³

¹ Universal Declaration of Human Rights (1948) at preamble, arts. 1, 7 (hereafter “UDHR”).

² International Covenant on Economic, Social and Cultural Rights (1966) at art. 12; International Convention on the Elimination of All Forms of Racial Discrimination (1966) at art. 5(e)(iv); Convention on All Forms of Discrimination Against Women (1979) at arts. 11(1)(f), 12 and 14(2)(b).

³ Committee on Economic, Social and Cultural Rights (CESCR) *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, E/C.12/2000/4 (2000) at ¶¶4, 11, 12(a).

⁴ UDHR at art. 25.

⁵ International Covenant on Economic, Social and Cultural Rights (1966) at art. 11.

⁶ Convention on the Elimination of All Forms of Discrimination against Women (1979) at art. 12(2).

⁷ Convention on the Rights of the Child (1989) at arts. 24(2)(c) and (e), 27(3).

⁸ Convention on the Rights of Persons with Disabilities (2006) at arts. 25(f), 28(1).

⁹ Protocol of San Salvador (1988) at art. 12.

¹⁰ African Charter on the Rights and Welfare of the Child (1990) at arts. 14 (2) (c), (d) and (h).

¹¹ African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2003) at arts. 14(2)(b), 15.

¹² UN Department of Economic and Social Affairs, *The 17 Goals*, available at https://sdgs.un.org/#goal_section.

¹³ UN Sustainable Development Group, *Leave No One Behind*, available at <https://unsdg.un.org/2030-agenda/universal-values/leave-no-one-behind>.

III. Structural Barriers to Food for LGBTIQ People During Crisis

LGBTIQ people face structural barriers to food access, including discrimination by service providers, lack of family and community support, and stigma and fear.¹⁴ These pre-existing challenges are exacerbated during crisis, as clearly evidenced during the COVID-19 pandemic.

Outright International conducted interviews with LGBTIQ individuals across 5 regions during the first months of the COVID-19 pandemic. These interviews revealed that LGBTIQ people were not receiving adequate food assistance.¹⁵

Examples of the ways in which LGBTIQ people were excluded from food assistance include:

- In Panama and parts of Colombia and Peru, officials mandated separate food shopping days for men and women.¹⁶ These policies led to abuse and arrest of transgender and non-binary people perceived to be violating mandates.¹⁷
- In the Philippines, two lesbian interviewees said that Barangay (district) officials denied them food assistance because their relationships did not fit a narrow definition of “family.” One was told she and her partner were ineligible to receive food packs unlike similarly situated heterosexual couples.¹⁸ The other was told she could not have food because she did not have a husband or child.¹⁹
- Due to workplace discrimination and social exclusion, LGBTIQ people are disproportionately represented in the informal work sector and experience high rates of poverty.²⁰ Therefore, the economic impact of COVID-19 led to food insecurity among many LGBTIQ people. One applicant to Outright’s COVID-19 fund said ongoing hunger experienced by LGBTIQ people was leading to a rise in suicide rates.²¹ A St. Lucia-based grantee told Outright about a beneficiary living with HIV who was unable to afford both food and HIV medicine, and had gone hungry.²²
- Discrimination in service delivery contributes to food insecurity. According to UNAIDS, Sanggar Swara, an Indonesian organisation for transgender women, reported that in some cases transgender women were denied food aid due to their gender identity.²³
- Provision of aid from locations that have historically been unsafe for LGBTIQ people further restricts food access. An activist from Sri Lanka described how police stations were giving out food rations. However, some LGBTIQ people did not feel safe going to the police, so could not access food.²⁴

Outright mobilized to make support available for LGBTIQ people by launching the COVID-19 Global LGBTIQ Emergency Fund, which provided grants for LGBTIQ individuals and organizations. When Outright began receiving applications, 55% of applicants requested food

¹⁴ HRC, *Conflict and the Right to Food: Report of the Special Rapporteur on the Right to Food, Michael Fakhri*, A/HRC/52/40 (29 Dec. 2022) at ¶38.

¹⁵ Outright International, *Vulnerability Amplified: The Impact of the COVID-19 Pandemic on LGBTIQ People (Vulnerability Amplified)*

https://outrightinternational.org/sites/default/files/2022-10/COVIDsReportDesign_FINAL_LR_0.pdf.

¹⁶ *Vulnerability Amplified* at 23.

¹⁷ *Id.*

¹⁸ *Id.* at 24.

¹⁹ *Id.*

²⁰ *Id.* at 23.

²¹ OutRight Action International, *Responding to a Crisis: Insights from OutRight’s COVID-19 Global LGBTIQ Emergency Fund 2021*, https://outrightinternational.org/sites/default/files/2022-09/BriefingPaper_0821.pdf at 9.

²² *Meet the Grantees* at 7.

²³ UNAIDS, *Supporting Transgender People During the COVID-19 Pandemic*,

https://www.unaids.org/en/resources/presscentre/featurestories/2020/april/20200406_transgender_covid19

²⁴ *Vulnerability Amplified* at 25.

assistance.²⁵ A year later, 21% of applicants still requested funds for food.²⁶ These high numbers are perhaps a reflection of discriminatory policies which hamper access to food. Policies related to binary definitions of gender, narrow conceptions of “family,” workplace discrimination and social exclusion, and discriminatory service provision created inequitable access to food for LGBTIQ people.

Resourcing LGBTIQ communities in crisis, both with food and direct assistance, can help alleviate violations of the right to food and health. By delivering monetary assistance directly to LGBTIQ people, Outright was able to reduce hunger experienced by this population.²⁷ Targeted support for LGBTIQ people from local governments can also reduce violence in food systems, such as when the health minister in Kerala, India, specifically sent food kits to 1000 transgender people during COVID-19.²⁸

IV. Recommendations:

As stated above, LGBTIQ people are often excluded from the creation and access to food programs, and States and other stakeholders must take all measures to include all groups that are marginalized, including LGBTIQ people in the development, implementation and monitoring of food inclusion laws, policies and programs. To guarantee the inclusion of LGBTIQ people:

- States must ensure that public institutions do not undermine access to food for LGBTIQ people by reviewing national laws, policies and programs that discriminate or criminalize LGBTIQ people, to ensure universal respect for the rights to food and health.
- States must prevent third parties from violating the rights to food and health of LGBTIQ people, including through legislative and regulatory measures.
- States must provide assistance to those unable to access food in a non-discriminatory manner, ensuring LGBTIQ people are not excluded through binary definitions of gender or narrow conceptions of family in all food assistance related programs.
- States and other stakeholders must enable LGBTIQ people to participate more fully in the formal work sector by addressing workplace discrimination and social exclusion, including through promoting gender- and LGBTIQ-inclusive awareness and knowledge across society.

²⁵ OutRight Action International, *Responding to a Crisis: Meet the Grantees of OutRight's COVID-19 Global LGBTIQ Emergency Fund (Meet the Grantees)*, <https://outrightinternational.org/sites/default/files/2022-10/BriefingPaperNov2020WDonors.pdf> at 5.

²⁶ *Id.*

²⁷ *Meet the Grantees* at 5.

²⁸ *Vulnerability Amplified* at 19.