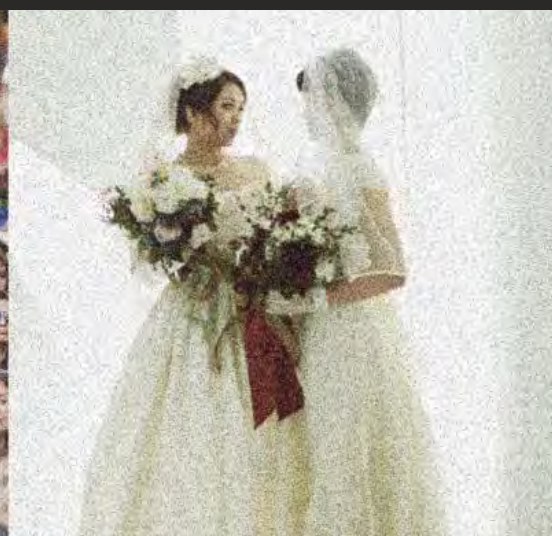




HUMAN  
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## “This Is Why We Became Activists”

Violence Against Lesbian, Bisexual and Queer Women and Non-Binary People







# **“This Is Why We Became Activists”**

Violence Against Lesbian, Bisexual, and Queer  
Women and Non-Binary People

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# **“This Is Why We Became Activists”**

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## Summary

There are specific types of violence that target queer women, even when we're closeted. *Machorra*, that's the Spanish version of dyke. We do things men do not like. I love to drive my truck. Friends hop in and out. Men don't like it. Because it means that I move on my own; I do not need them. I'm not sure if it's a queer women specific trait, but when we work with men in activist spaces, we do not seek their approval. If we don't aim to please them, they call us violent. We make men angry.<sup>1</sup>

– Sofía Blanco, indigenous land defender, Mexico

"I think one queer woman's story can change those that come after it. That is why I agreed to talk to you, to tell you what happened."<sup>2</sup>

– Amani, lesbian activist and writer, Tunisia

In June 2021, Amani's girlfriend ended their relationship. Amani told Human Rights Watch that for months prior to the breakup, her girlfriend's parents had been "refusing to let her leave the house" and "pushing her to marry a man."<sup>3</sup> They ultimately succeeded, and the woman left Amani. Amani said it was "not the first" time in her life that a woman left her due to "the simple, disturbing fact that because I am not a man, I am not a good enough partner for the woman I love."

While speaking to Human Rights Watch, Amani only mentioned Tunisia's well-documented,<sup>4</sup> violent<sup>5</sup> treatment of lesbian, gay, bisexual, and transgender (LGBT) people once.<sup>6</sup> Most of the conversation was about her writing and her love life.

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<sup>1</sup> Human Rights Watch video interview with queer woman and indigenous land defender Sofia Blanco, Mexico. August 8, 2022.

<sup>2</sup> Human Rights Watch video interview with lesbian activist and writer Amani, Tunisia. July 15, 2022. For Amani's story, please see Section III. "Forced Marriage and Compulsory Heterosexuality."

<sup>3</sup> Ibid.

<sup>4</sup> "Tunisia: Attack on Director of LGBT Group," Human Rights Watch news release, October 28, 2021, <https://www.hrw.org/news/2021/10/28/tunisia-attack-director-lgbt-group>.

<sup>5</sup> "Tunisia: Police Arrest, Use Violence Against LGBTI Activists," Human Rights Watch news release, February 23 2021, <https://www.hrw.org/news/2021/02/23/tunisia-police-arrest-use-violence-against-lgbti-activists>.

<sup>6</sup> Nora Noralla (Human Rights Watch), "Tough Territory for Transgender People in the Middle East and North Africa," commentary, *The Tahrir Institute for Middle East Policy*, April 8, 2022, <https://www.hrw.org/news/2022/04/08/tough-territory-transgender-people-middle-east-and-north-africa>.



Amani knows that as a lesbian, she is at risk of physical violence, sexual harassment, and arbitrary arrest by police in Tunisia. In fact, she has experienced all three of these abuses. However, despite having received significantly less attention from the media and NGOs around the world, coercive marriage practices also harm queer women's rights, freedoms, and opportunities for joy, in direct violation of international human rights laws that protect the right to free and full consent to marriage.<sup>7</sup> According to Amani, the queer women she knows have "either been coerced into marrying a man or been broken up with by a girlfriend who was coerced into marry a man. It's everywhere. It's the backdrop to our lives."

Her words echoed stories told to Human Rights Watch by other lesbian, bisexual, and queer (LBQ+) people<sup>8</sup> around the world affected by marriages to men they did not want to enter or cannot leave, including in Indonesia, Malawi, and Kyrgyzstan. Liliya, the founder of an LBQ+ organization in Kyrgyzstan, was forced to marry a man by her parents at age 19. Asante, a lesbian in Malawi, has been physically assaulted twice by the husband of her bisexual partner, a woman who wants, but does not have the money to get, a divorce. Dali, a bisexual youth activist in Indonesia, says her community has lost "dozens of queer women mentors who are pressured into marrying men."<sup>9</sup>

Documentation of forced heterosexual marriages of LBQ+ women is scarce. In 2019, queer feminist group Mawjoudin<sup>10</sup> released a three-minute creative film *Until When?*<sup>11</sup> in which a Tunisian woman is waxed and groomed ahead of her (presumably arranged) marriage to a man. She storms out of the house mid-video and announces to the camera, "I love someone. ... And she is not a man."

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<sup>7</sup> Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, adopted November 7, 1962, G.A. Res. 1763 A (XVII), <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-consent-marriage-minimum-age-marriage-and> (accessed February 1, 2023).

<sup>8</sup> LBQ+ is an acronym for lesbian, bisexual, and queer. The term includes cisgender women, transgender women, transgender men, non-binary people, and people of other genders who identify as lesbian, bisexual, or queer. See Glossary.

<sup>9</sup> For Dali's story, see Section IX. "The Right to Health."

<sup>10</sup> "Fragments of a Queer Life," L'initiative Mawjoudin pour l'égalité, accessed February 1, 2023, <https://www.mawjoudin.org/>.

<sup>11</sup> Mawjoudin, "لوقتاش؟" "موجوئين" *Until When?* video clip, YouTube, May 18, 2019. <https://www.youtube.com/watch?v=YgNGSuVpTEk> (accessed February 1, 2023).

The film is a rarity. In Tunisia and elsewhere, forced marriage research<sup>12</sup> and policy is largely situated within women’s rights<sup>13</sup> and children’s rights<sup>14</sup> discourses, and rarely if ever explicitly acknowledges the existence of queer people.<sup>15</sup> NGOs, donors, governments, and policy makers working to end forced marriage seldom address issues related to sexuality, or forced marriages *specifically* of LBQ+ women. The presumption of heterosexuality in forced marriage studies, policies, and funding precludes an analysis of how a coerced heterosexual marriage makes it impossible or dangerous for an LBQ+ person to live a queer life.

According to interviews Human Rights Watch conducted with 66 lesbian, bisexual, and queer (LBQ+) activists, researchers, lawyers, and movement leaders in 26 countries between March and September 2022, forced marriage is one of ten key areas of human rights abuses most affecting LBQ+ women’s lives. Human Rights Watch identified the following areas of LBQ+ rights as those in need of immediate investigation, advocacy, and policy reform. This report explores how the denial of LBQ+ people’s rights in these ten areas impacts their lives and harms their ability to exercise and enjoy the advancement of more traditionally recognized LGBT rights and women’s rights:

- the right to free and full consent to marriage;
- land, housing, and property rights;
- freedom from violence based on gender expression;
- freedom from violence and discrimination at work;
- freedom of movement and the right to appear in public without fear of violence;
- parental rights and the right to create a family;
- the right to asylum;
- the right to health, including services for sexual, reproductive, and mental health;
- protection and recognition as human rights defenders; and
- access to justice.

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<sup>12</sup> UN Commission on Human Rights, Report of the Secretary General. Issue of child, early and forced marriage, A/75/262, July 28, 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/197/92/PDF/N2019792.pdf?OpenElement> (accessed February 1, 2023).

<sup>13</sup> See for example “Marriage and Divorce in Tunisia: Women’s Rights,” *AWID*, September 10, 2010, <https://www.awid.org/news-and-analysis/marriage-and-divorce-tunisia-womens-rights> (accessed February 1, 2023).

<sup>14</sup> See for example “2020 Country Reports on Human Rights Practices: Tunisia,” Bureau of Democracy, Human Rights, and Labor. U.S. Department of State. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/tunisia/> (accessed February 1, 2023).

<sup>15</sup> For full literature review and analysis, see Section III. “Forced Marriage and Compulsory Heterosexuality.”

This investigation sought to analyze how and in what circumstances the rights of LBQ+ people are violated, centering LBQ+ identity as the primary modality for inclusion in the report. Gender-nonconforming, non-binary, and transgender people who identify as LBQ+ were naturally included. At the same time, a key finding of the report is that the fixed categories “cisgender” and “transgender” are ill-suited for documenting LBQ+ rights violations, movements, and struggles for justice. As will be seen in this report, people assigned female at birth bear the weight of highly gendered expectations which include marrying and having children with cisgender men, and are punished in a wide range of ways for failing or refusing to meet these expectations. Many LBQ+ people intentionally decenter cisgender men from their personal, romantic, sexual, and economic lives. In this way, the identity LBQ+ itself is a *transgression* of *gendered* norms. Whether or not an LBQ+ person identifies as transgender as it is popularly conceptualized, the rigidly binary (and often violently enforced) gender boundaries outside of which LBQ+ people already live, regardless of their gender identity, may help to explain why the allegedly clear division between “cisgender” and “transgender” categories simply does not work for many LBQ+ communities. This report aims to explore and uplift, rather than deny, that reality.

## Beyond Women and LGBT

The desk review and interviews conducted for this report finds that when LBQ+ experiences of violence are discussed and documented, it is most often as a sub-violation of broader LGBT rights abuses or, less frequently, a sub-violation of women’s rights abuses. This conceptualization presents LBQ+ women as merely a variation on a theme that was not built for them. It perpetuates their marginalization for two main reasons:

- Policies and research focused on “women’s rights” *often* address the ten issues above, but *rarely* explicitly name LBQ+ women as rights-holders or analyze how their unique experiences of violence warrant more specific laws, policies, and protocols to protect them. Specifically, women’s rights research and policies related to forced marriage and property rights implicitly assume heterosexuality and a binary construction of gender, and rarely address abuses experienced by queer women.
- LGBT rights research and policies are significantly *more likely* than women’s rights research to explicitly name LBQ+ women as rights-holders and victims. However, they are significantly *less likely* to address the broader societal and legal



restrictions on people assigned female at birth which prevent their enjoyment of “LGBT rights” advancements.

In 2017, the World Economic Forum published an article entitled “What you need to know about LGBT rights in 11 maps.”<sup>16</sup> The color-coded quick guide to various legal statuses, protections, and prohibitions of LGBT rights included maps showing the criminalization of homosexuality, marriage equality, legal gender change, legal adoption, protection from discrimination based on sexual orientation or gender identity, prohibition of housing discrimination, bans on military service and blood donations, “age of consent for homosexual sex” equality.<sup>17</sup>

Advancing these rights issues is necessary but not sufficient for the full recognition of rights for LBQ+ individuals and communities. The decriminalization of same-sex practices, for example, may have a decidedly small impact on the life of a queer woman in a country where sexist laws and policies prohibit her from inheriting her parent’s property, renting an apartment without a male guardian’s permission, or seeking a divorce from a marriage she was coerced into.

Normative conceptualizations of LGBT rights have not effectively incorporated fundamental areas of women’s rights investigation and policy work, such as forced marriage of women and girls, women’s property rights, and their freedom of movement. In other words, basic restrictions on women’s freedom, autonomy, and economic empowerment, which are often key barriers to LBQ+ rights, are not considered relevant to the progression of LGBT rights. There is an immense opportunity for future investigations into the nine rights areas covered in this report, with the aim of improving LBQ+ rights and lives.

In addition to increasing the number of LBQ+ women interviewed or consulted for future LGBT or women’s research projects, research topics should *intentionally center* the issues that LBQ+ women say most affect their lives (Sections III-X). This will allow for a deeper,

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<sup>16</sup> “What you need to know about LGBT rights in 11 maps,” *World Economic Forum*, March 1, 2017. <https://www.weforum.org/agenda/2017/03/what-you-need-to-know-about-lgbt-rights-in-11-maps/> (accessed February 1, 2023).

<sup>17</sup> Ibid.

more complex analysis of how and in what circumstances LBQ+ rights are violated and reveal the multiple ways in which states are failing LBQ+ women.

## Policy and Recommendations

Concurrent to these research gaps, Human Rights Watch found a clear lack of laws and policies that explicitly name LBQ+ women as rights-holders in the ten areas covered in the report. This lack of legal protection and the alleged “invisibility” of LBQ+ women in national and international law are barriers to their ability to access justice.<sup>18</sup>

This report finds that the LBQ+ research gap matters because it drives—and is driven by—a system of mutually reinforcing gaps: the lack of research into violations and abuses of LBQ+ people’s rights; the lack of laws and policies that explicitly protect the rights of LBQ+ people; barriers to accessing justice for LBQ+ victims of human rights abuses; and the lack of funding for LBQ+-led movements.<sup>19</sup>

The gaps implicate governments and donors as stakeholders who should take specific steps to address these problems in order to protect LBQ+ people from a lifetime of intersectional violence and discrimination. Key recommendations are:

- Governments should develop laws, policies, and protocols that explicitly protect the rights of LBQ+ people. Authorities should also reform patriarchal systems of control, including male guardianship laws, policies, and practices; discriminatory property and inheritance laws; and other restrictions on women’s autonomy, movement, and freedom, which limit LBQ+ access to other more traditionally conceptualized “LGBT rights.”
- Donors should fund LBQ+-led movements, rather than seeking to fund only LBQ+ groups working on “LGBT rights” as they are normatively conceptualized. This funding should manifest in two ways: 1) Fund LBQ+-led groups working on land,

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<sup>18</sup> See Section XII. “Justice.”

<sup>19</sup> A 2020 report published by Mama Cash and Astraea examined for the first time and in a global, in-depth manner the severe lack of funding and philanthropic attention given to LBQ+-led movements. As such, this Human Rights Watch investigation does not seek to reproduce those findings. It builds upon and is in dialogue with previous report’s findings, but focuses on the other three “systems” in need of LBQ+ reform: research, policy, and barriers to justice. See “Background: Funding Challenges” (this report) and Saleh, L. and Sood, N., *Vibrant Yet Under-Resourced: The State of Lesbian, Bisexual, and Queer Movements* (New York and Amsterdam:

Astraea Lesbian Foundation for Justice and Mama, 2020), [https://fundlbq.org/wp-content/uploads/2020/06/Astraea\\_MamaCash\\_LBQ\\_Report\\_VDEF-v2-SPREADS.pdf](https://fundlbq.org/wp-content/uploads/2020/06/Astraea_MamaCash_LBQ_Report_VDEF-v2-SPREADS.pdf) (accessed February 1, 2023).

environmental, and indigenous rights, humanitarian response, disability rights, and forced marriage, and LBQ+ women living in poverty. This will support LBQ+ activists in documenting and advocating against the multiplicity of violations their communities endure and in building allies to surmount the structural barriers they face to accessing justice. 2) Fund LBQ+-led movements working specifically for LBQ+ rights, and ensure that grantees are not pressured to expand their work to accommodate broader, normative conceptualizations of “LGBT rights.”

- Researchers should conduct targeted investigations into how restrictions on women’s freedom and autonomy impede the advancement of LGBT rights. This research should be done in partnership with LBQ+ organizations to produce knowledge about specific violence they experience. This will inform what specific law and policy changes will best support safety, justice, and rights for LBQ+ women in particular contexts, beyond those identified in this report.

### *Forced Marriage (Section III)*

Compulsory heterosexuality, the pressure to marry men, and coercive marriage practices were the most frequently reported abuses experienced by LBQ+ interviewees, including in Canada, Indonesia, Kenya, Kyrgyzstan, Lebanon, Malawi, Mexico, Poland, Sri Lanka, Tanzania, Tunisia, and Ukraine. There is an immediate need to develop laws, policies, and protocols that explicitly protect LBQ+ people from forced marriage or coercive marriage practices. Interviewees reported abuses including forced marriage as a conversion practice; punishment from family for failure to conform to heteronormative markers of adulthood; psychological abuse and humiliation as coercive tactics; the infantilization of unmarried or divorced LBQ+ women; and violence against the partners of LBQ+ women married to men.

States should produce national action plans to end forced and coerced marriage practices that explicitly include an intersectional approach to the elimination of all forms of conversion practices, and collaborate with local and national LBQ+ organizations and unregistered collectives at each stage of conceptualization, drafting, and implementation. Governments should ensure that violent intimidation and retribution against people for refusal to marry are punishable under law and that survivors have access to adequate, gender- and SOGIE-sensitive legal, medical, and psycho-social services. Finally, states should end discriminatory divorce laws, which make it significantly easier for men to



divorce their wives than for women to divorce their husbands and thus harm LBQ+ women who wish to leave their husbands without fear of retribution, violence, or losing custody of their children.

### *Property Rights (Section IV)*

According to recent World Bank Group studies, two-fifths of countries worldwide limit women's property rights,<sup>20</sup> and in 44 countries, male and female surviving spouses do not have equal rights to inherit assets.<sup>21</sup> There exists a chronic lack of research into how LBQ+ women's rights are impacted by patriarchal laws, policies, and customs like these, which limit women's rights to own and administer property.

In a preliminary scoping, this report finds that violations of women's property rights are a queer issue because they harm LBQ+ women's ability to live queer lives free from violence and discrimination. This includes by forcing them to hide their sexualities, partners, and queer lives from their biological families to avoid further discrimination in inheritance regimes that already privilege sons; requiring LBQ+ women to marry men in order to have access to land and property (reinforcing the coercive marriage practices above); preventing LBQ+ couples from pursuing a life together; and violating their rights to freedom of association and assembly, which compounds existing barriers to queer organizing and community building.

In many countries, discriminatory laws restricting women's access to property are relics of, or were heavily influenced by, colonial property laws.<sup>22</sup> These often intersect with and compound harmful traditional practices and customary laws. While analyzes of the effects of colonialism on LGBT rights typically focused on the criminalization of same-sex conduct and the imposition of binary constructions of sexual orientation, gender identity and

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<sup>20</sup> Nayda L. Almodóvar-Regueis and Nisha Arekapudi, "Women's property rights are the key to economic development," *World Bank*, February 24, 2020, <https://blogs.worldbank.org/developmenttalk/womens-property-rights-are-key-economic-development> (accessed February 2, 2023).

<sup>21</sup> "Women, Business and the Law 2020," *World Bank*, January 14, 2020, <https://openknowledge.worldbank.org/bitstream/handle/10986/32639/9781464815324.pdf> (accessed February 2, 2023).

<sup>22</sup> *Ibid.* Page 19.

expression (SOGIE) as forms of social control,<sup>23 24</sup> colonial property laws have impacted LBQ+ women's lives as much as, if not more than, colonial anti-homosexuality laws.

States should revoke discriminatory property laws, restrictions on women's labor, and sexist family codes, including those that persist in formerly colonized countries. States should also amend family law to articulate the concept of marital property and allow for its division on an equal basis between spouses, recognizing financial and non-financial contributions made by women.

### *Violence Against Masculine-Presenting LBQ+ People (Section V)*

Gender expression is a critical component of how, why, and in what circumstances LBQ+ people are attacked and have their rights violated. LBQ+ people interviewed for this report repeatedly named gendered discrimination against masculine-presenting people assigned female at birth in particular as the catalyst for a lifetime of economic, social, workplace, psychological, physical, and sexual violence.

LBQ+ advocates in Argentina, El Salvador, Indonesia, Kenya, Kyrgyzstan, Malawi, Sri Lanka, Tanzania, and the US reported that from a young age, styles of dress read as masculine, gender-nonconforming, or androgynous resulted in threats from parents to remove such girls from school, compounding the already precarious access to education that girls face globally. According to Rosa, a sex worker rights defender and lesbian woman in El Salvador, police are "far more brutal" to masculine-presenting queer women during arrests and street harassment, which, Rosa said, is particularly dangerous because employment discrimination based on their masculine-presentation is a large part of what originally forced many LBQ+ people into sex work.

Violence against masculine-presenting people assigned female at birth weaves throughout the report, continuing to indicate the need for greater focus on gender expression, in particular, in analysis of abuse, violence, and crimes committed based on SOGIE.

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<sup>23</sup> Human Rights Watch, *This Alien Legacy: The Origins of "Sodomy" Laws in British Colonialism*, (New York: Human Rights Watch, 2008), <https://www.hrw.org/report/2008/12/17/alien-legacy/origins-sodomy-laws-british-colonialism>.

<sup>24</sup> "Theresa May 'Deeply Regrets' Colonial Anti-LGBT Laws," Human Rights Watch news release, April 18, 2018. <https://www.hrw.org/news/2018/04/18/theresa-may-deeply-regrets-colonial-anti-lgbt-laws>.

States should pass comprehensive anti-discrimination legislation that prohibits discrimination on the grounds of sexual orientation, gender identity, or gender expression, and explicitly add gender expression to legislation that already prohibits discrimination based on sexual orientation and gender identity. Interviews indicate that states should also introduce legal protections for gender non-conforming primary and secondary students, the absence of which can impact a lifelong trajectory of violence and discrimination for masculine-presenting LBQ+ people, and immediately investigate and end violent policing and arrest tactics that discriminatorily impact their lives.

### *Violence and Harassment at Work (Section VI)*

Rosa's account of violence against masculine-presenting sex workers echoed reports from LBQ+ activists in Ghana, Kenya, and a regional network in Central Asia who spoke of the multiple forms of economic marginalization that, they say, force LBQ+ women, non-binary people, and trans men into sex work, where many are denied basic protection of their rights.<sup>25</sup> During interviews in other countries, LBQ+ activists told Human Rights Watch about other forms of violence at work against LBQ+ women and their lack of access to redress, including in Kenya, Argentina, and Kyrgyzstan.

Research is needed into violence and harassment of LBQ+ women, non-binary people, and trans men at work, including abuse perpetrated by male coworkers, employers, supervisors, and third parties. Interviews indicate that groups at particular risk include masculine-presenting people assigned female at birth, unmarried women, feminine queer women who are out at work, and LBQ+ people who are openly in a queer relationship. Working with LBQ+ movements, future research should investigate labor rights violations in fields of work that LBQ+ people say are important, popular, or common among their community members. This will allow for labor rights reform in fields critical to the economic survival of LBQ+ people, couples, and communities, without necessitating the sort of radical "outing" that often makes including LBQ+ people in workplace research dangerous.

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<sup>25</sup> Front Line Defenders, *Sex Worker Rights Defenders At Risk* (Dublin: Front Line Defenders, 2022), [https://www.frontlinedefenders.org/sex-worker-rights-report/fullreport.html?theme=false#anc2\\_6a](https://www.frontlinedefenders.org/sex-worker-rights-report/fullreport.html?theme=false#anc2_6a) (accessed February 2, 2023).



States should enact labor rights laws that explicitly protect LBQ+ workers from violence, harassment, and discrimination at work, including laws which protect workers from discrimination because of sexual orientation, gender identity and gender expression.

### *Freedom of Movement (Section VII)*

LBQ+ interviewees in El Salvador, Lebanon, Kyrgyzstan, Malawi, Sri Lanka, Tanzania, Turkey, Tunisia, and the US reported extreme, gendered constraints on LBQ+ women's freedom of movement. As in other areas, there is an urgent need for more intersectional research that addresses, for example, what it means for LBQ+ women that "legal provisions limiting women's freedom to decide where to go, travel and live still exist in 30% of the 187 economies examined".<sup>26</sup>

As women's advocates have documented and argued, states should end patriarchal legal systems, such as male guardianship laws that restrict women's rights to marry, study, work, rent or own property, reproductive health, and travel, and refrain from issuing laws, policies, decrees, and emergency measures that discriminatorily restrict women's freedom of movement. Researchers and advocates are encouraged to view these issues not only as women's rights reforms, but as central to the advancement of LGBT rights.

Additionally, interviewees said restrictions on their freedom of movement stemmed not only from the application of sexist, patriarchal legal regimes, which impact LBQ+ women's ability to travel and move freely, but also from violence against LBQ+ individuals and couples in public, which cause them to limit when and how often they leave the house, and if they do so with their partner. Human Rights Watch compiled accounts of nine LBQ+ couples murdered or brutally attacked in just five countries (Italy, Mexico, South Africa, the United Kingdom, and the US) since 2015. Interviewees say that such attacks cause them to "self-police" their movements, due to fear of leaving the house together with their partner.

States should conduct thorough, transparent investigations into reports of violence against LBQ+ individuals and couples and establish human rights desks at police stations

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<sup>26</sup> "Moving freely: Moving closer to gender equality," *World Bank*, May 20, 2019, <https://blogs.worldbank.org/opendata/moving-freely-moving-closer-gender-equality#:~:text=Freedom%20of%20movement%20may%20be,2019%3A%20A%20Decade%20of%20Reform> (accessed February 2, 2023).

to provide a safe environment for LGBT persons to report police abuses and for complaints to be processed and investigated without delay.

### *Parental Rights (Section VIII)*

Parental rights and reproductive rights were raised as key concerns among LBQ+ organizers and lawyers in Argentina, El Salvador, Kenya, Malawi, Mexico, Poland, Ukraine, and the US. Critically, LBQ+ people want to create and protect their families, regardless of the criminalization of same-sex conduct or legalization of same-sex marriage. LBQ+ interviewees in several countries where same-sex conduct is criminalized, such as Kenya and Malawi, told Human Rights Watch that creating families was a top priority, but that they lack information on how to safely do so.

The report calls on states to revoke laws that prevent single women and unmarried couples from adopting, and to pass LGBT-inclusive parental recognition bills that explicitly recognize the legal parenthood of non-gestational LBQ+ parents and protect them from discriminatory demands that they adopt their own children. States should also reform discriminatory adoption laws and policies that make adoption unfairly difficult for racialized and economically marginalized LBQ+ parents, and introduce anti-discrimination legislation prohibiting insurance policies that discriminate against LBQ+ couples and individuals from accessing reproductive treatments, such as in vitro fertilization (IVF), egg freezing, and sperm donation.

### *Asylum (Section IX)*

Interviews conducted for this report indicate that LBQ+ parents and couples fleeing situations of conflict or seeking asylum for a range of other reasons face unique and potentially life-threatening barriers. Additionally, LBQ+ families also face unique barriers to being resettled abroad as a family unit. When interviewees discussed migration and asylum issues, they most often spoke about threats to family unity during resettlement.

Many asylum regimes require refugee couples to be married, in civil partnerships, or able to provide proof of living together in a relationship akin to marriage for a certain period of time prior to applying for reunification. This makes family unity incredibly precarious for all LGBT families. Compounding this, what little targeted research exists on the barriers faced

by individual LBQ+ asylum seekers offers insight into unique struggles families face when both parents are LBQ+ people.

States should develop clear asylum and refugee resettlement family reunification guidance for LGBT family unity that allows LBQ+ asylee and refugee parents and families to reunite with separated children and other family members. Additionally, states should train asylum decision makers to recognize the intersection of membership in the LBQ+ social group with the risk of persecution in the context of a range of discriminatory economic, legal, and social issues faced by LBQ+ asylum applicants as individuals, parents, and families.

### *Health (Section X)*

LBQ+ advocates reported a severe lack of consistent, safe access to a wide range of health services, including mental health support,<sup>27</sup> reproductive health care,<sup>28</sup> fertility treatment,<sup>29</sup> maternal health,<sup>30</sup> routine testing for cancer,<sup>31</sup> and access to services for people living with HIV.<sup>32</sup> In interviews, Human Rights Watch found that LBQ+ organizations are particularly focused on addressing the lack of sexual and gender-based violence (SGBV) services available to LBQ+ women, including sexual and reproductive health care, testing, and treatment for LBQ+ survivors. Tamara, an intersex lesbian activist in Malawi and founder of a queer foundation, dedicated her life to ending SGBV against LBQ+ women after surviving what she called “corrective rape” at the age of 19.<sup>33</sup> She told Human Rights Watch that

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<sup>27</sup> “IDAHOT 2021 - Together: Resisting, supporting and healing!,” *Hivos*, May 17, 2022, <https://hivos.org/news/idahot-2021-together-resisting-supporting-and-healing/> (accessed February 2, 2023).

<sup>28</sup> “Human Rights Campaign Fact Sheet: Lesbian, Bisexual, Queer Women Who Have Been Pregnant Are More Likely to Need Abortion Services; Demonstrates Impact Roe Reversal Would Have on LGBTQ+ People,” Human Rights Campaign, June 2, 2022, <https://www.hrc.org/press-releases/human-rights-campaign-fact-sheet-lesbian-bisexual-queer-women-who-have-been-pregnant-are-more-likely-to-need-abortion-services-demonstrates-impact-ro-reversal-would-have-on-lgbtq-people> (accessed February 2, 2023).

<sup>29</sup> Human Rights Watch, “*You Don’t Want Second Best*: Anti-LGBT Discrimination in US Health Care (New York: Human Rights Watch, 2018), <https://www.hrw.org/report/2018/07/23/you-dont-want-second-best/anti-lgbt-discrimination-us-health-care#7968>.

<sup>30</sup> Wilson, B.D.M., Gordon, A.R., Mallory, C., Choi, S.K., Badgett, M.V.L., & LBQ Women’s Report Team, *Health and Socioeconomic Well-Being of LBQ Women in the U.S.*, (Los Angeles: Williams Institute, UCLA school of law, 2021), pp. 54, <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LBQ-Women-Mar-2021.pdf> (accessed February 2, 2023).

<sup>31</sup> Greg Hernandez, “Silent No More: Demanding Equity in LBQ Women’s Health Care,” *LGBT News Now*, March 23, 2019, <https://lgbtnewsnow.org/silent-no-more-demanding-equity-in-lbq-womens-health-care/> (accessed February 2, 2023).

<sup>32</sup> “Uganda: ‘LBQ Womxn’ need equal access to health,” *Rights Africa, Equal Rights, One Voice*, April 9, 2021, <https://rightsafrika.com/2021/04/09/uganda-lbq-womxn-need-equal-access-to-health/> (accessed February 2, 2023).

<sup>33</sup> Human Rights Watch video interview with Tamara, intersex lesbian, women human rights defender, and leader of an LBQ+ organization in Malawi, July 15, 2022.

LBQ+ women in her community are dying of untreated sexually transmitted infections (STIs) and other complications related to sexual assault due to their inability to safely seek care at public hospitals due to lesbophobia on the part of medical professionals, while private hospitals remain financially out of reach for many LBQ+ women.

Activists in Canada, Kenya, Indonesia, and Malawi reported a lack of LBQ+-informed therapy and addiction recovery services. States should enact policies and protocols supporting LBQ+ survivors of sexual assault and introduce nondiscrimination protections for LBQ+ women in access to health care. Governments should also work with LBQ+ organizations to establish a complaints procedure through which LBQ+ women who experience human rights violations or abuses in a health care setting, including discrimination, denial of services, or conversion practices aimed at changing their SOGIE, can file complaints and seek support and redress. Donors are encouraged to work with LBQ+ groups to support the establishment of community-based mental health programs and queer-informed recovery services for substance abuse, taking into account the particular privacy needs of LBQ+ women who are married to men.

### *Human Rights Defenders (Section XI)*

LBQ+ activists interviewed for this report are leaders in a wide range of social, political, land, environmental, economic, gender, and racial justice movements, beyond the bounds of what is typically conceptualized of as “LGBT rights” work.<sup>34</sup> The report identified three key challenges to the protection of LBQ+ human rights defenders: risks related to their intersectional work and identities (including the criminalization of LGBT people in many countries); their lack of international visibility and perceived legitimacy; and a lack of funding.

Despite the global trend toward increasing visibility and protection for human rights defenders,<sup>35</sup> LBQ+ activists are often not recognized as defenders and therefore are denied access to protection frameworks. States should adopt human rights defender protection and recognition laws that explicitly affirm the rights of LBQ+ human rights defenders and

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<sup>34</sup> Anya Jabour, “When lesbians led the women’s suffrage movement,” *The Conversation*, January 24, 2020, <https://theconversation.com/when-lesbians-led-the-womens-suffrage-movement-129867> (accessed February 2, 2023).

<sup>35</sup> See Section X. “LBQ+ Human Rights Defenders” for a comprehensive list of laws and mechanisms dedicated to the promotion and protection of human rights defenders.

establish human rights defender protection mechanisms with staff trained on the specific risks and needs of LBQ+ human rights defenders. Staff at these mechanisms should conduct outreach to LBQ+ organizations and unregistered collectives, and have dedicated supports in place for the physical, sexual, digital, and verbal threats received by LBQ+ defenders. Police and security forces need to ensure that LBQ+ human rights defenders who report attacks and threats to police are not sexually, physically, or verbally harassed or assaulted by officers, and that defenders are able to file incident reports without fear of retaliation.

Donors should reform restrictive funding requirements that force LBQ+ organizations to demonstrate exclusive work on LGBT issues and allow LBQ+-led organizations and collectives to apply and receive funding for intersectional work in a range of human rights areas including women's rights; land, environmental, and indigenous rights; disability rights; migrant rights; housing and homelessness; right to health and health care access; and humanitarian aid. Additionally, donors should ensure that funding for LBQ+ organizations include budget lines for human rights defender security, and cover the costs of physical meeting spaces and transportation for training, community-building, and wellness. Finally, donors are encouraged to support programs and services for LBQ+ well-being and psychosocial care, and explicitly ask local organizations what their mental health needs are.

### *Access to Justice (Section XII)*

LBQ+ women face multiple systematic barriers to accessing justice, including those that women and non-binary people face more generally—such as discrimination based on gender in state and non-state institutions, limitations on their time and resources due to care responsibilities, and violations of their rights to education and freedom of movement—and those that LGBT people face more generally, such as a lack of lawyers trained and willing to work with queer communities, courts that discriminate against LGBT people and families, and a wide range of laws criminalizing LGBT people that make reporting to police a dangerous act.

In addition to facing both these sets of barriers, the report interrogates five additional barriers to accessing justice that stem from a lack of: laws and policies protecting LBQ+ rights, documentation of anti-LBQ+ violence, understanding of what constitutes anti-LBQ+ violence, sustainable funding, and research into specific structural barriers.

## Glossary

**Bisexual:** Sexual orientation of a person who is sexually and romantically attracted to people of more than one gender. Historically understood to mean attraction to both men and women, the term is now used in a manner more inclusive of transgender and gender non-conforming people.

**Butch:** Term typically used by masculine-presenting LBQ+ people to describe their gender expression. Sometimes, it is used to describe sexual orientation or gender identity.

**Cisgender:** Term that denotes or relates to a person whose sense of personal identity and gender corresponds with the sex assigned to them at birth.

**Femme:** Term typically used by feminine-presenting LBQ+ people to describe their gender expression. Sometimes, it is used to describe sexual orientation or gender identity. The term is also common among transgender women.

**Feminine-presenting:** Describes a person who adopts a visual aesthetic that is culturally coded or aligned with women or femininity, which could include types of clothing, mannerisms, haircuts, and patterns of speech.

**Gay:** Synonym in many parts of the world for homosexual. It is used by LGBT people to refer to varied sexual orientations and gender identities.

**Gender:** Social and cultural codes (as opposed to biological sex) used to distinguish between what a society considers “masculine,” “feminine,” or “other” conduct.

**Gender-Based Violence:** Violence directed against a person because of their gender or sex. Gender-based violence can include sexual violence, sexual exploitation, sexual harassment, domestic violence, psychological abuse, harmful traditional practices, economic abuse, and gender-based discriminatory practices. The term originally described violence against women, but it is now widely understood to include violence against individuals of all genders based on how they experience and express their gender and sexuality.

**Gender Expression:** External characteristics and behaviors that societies define as “masculine,” “feminine,” “androgynous,” or “other,” including dress, appearance, mannerisms, speech patterns, and social behavior and interactions. Gender expression is distinct from, and not necessarily reflective or indicative of, a person’s sexual orientation or gender identity.

**Gender Identity:** A person’s internal, deeply felt sense of being a man, woman, non-binary person, or other gender. It does not necessarily correspond to their sex assigned at birth.

**Gender Non-Conforming:** Behaving or appearing in ways that do not fully conform to social expectations based on one’s assigned sex at birth.

**Heteronormativity:** A system that normalizes behaviors and societal expectations that are tied to the presumption of heterosexuality and an adherence to a strict gender binary.

**Heterosexual:** Sexual orientation of a person whose primary sexual and romantic attraction is toward people of a different sex.

**Homophobia:** Fear of, contempt of, or discrimination against LGBT people or queerness.

**LBQ+:** Acronym for lesbian, bisexual, and queer. The term includes cisgender people, transgender people, non-binary people, and people of other genders who identify as lesbian, bisexual, or queer.

**LGBT:** Acronym for lesbian, gay, bisexual, and transgender. Used here as an inclusive term for groups and identities sometimes associated together as “sexual and gender minorities.”

**Lesbian:** Commonly understood to mean a woman whose primary sexual and romantic attraction is toward other women. Used here to include people of other genders, such as gender non-binary people, who identify as lesbians.

**Lesbophobia:** Fear of, contempt of, or discrimination against LBQ+ people.



**Masculine-presenting:** Describes a person who adopts a visual aesthetic that is culturally coded or aligned with men or masculinity, which could include types of clothing, mannerisms, haircuts, and patterns of speech.

**“Outing”:** The act of disclosing an LGBT person’s sexual orientation or gender identity without their consent.

**Queer:** An inclusive term covering multiple identities, sometimes used interchangeably with “LGBT.” It is also used to describe divergence from heterosexual and cisgender norms.

**Sex:** Classification of bodies and people (often at birth) as female, male, or other, based on biological factors such as external sex organs, internal sexual and reproductive organs, hormones, and chromosomes.

**Sex Worker:** An adult who regularly or occasionally receives money or goods in exchange for consensual sexual services.

**Sexual Orientation:** A person’s sexual and emotional attraction to people of the same gender, a different gender, or any gender.

**Sexual Violence:** Any sexual act, attempt to obtain a sexual act, or other act directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting.

**SOGIE:** An acronym for sexual orientation, gender identity, and gender expression.

**Transgender (also “trans”):** Denotes or relates to people whose assigned sex at birth differs from their gender identity.

**Transgender woman:** Person assigned male at birth who identifies as a woman. Transgender women may also identify as lesbian, bisexual, or queer (LBQ+).

**Transgender man:** Person assigned female at birth who identifies as a man. Transgender men may also identify as lesbian, bisexual, or queer (LBQ+).

**Transmasculine:** A broad term used by people assigned female at birth who identify with masculinity, regardless of their gender identity. The term may be used by non-binary people, gender non-conforming people, transgender men, masculine-presenting LBQ+ people, and others.

**Transphobia:** Fear of, contempt of, or discrimination against transgender people.

## Terminology

LBQ+ people include cisgender, transgender, non-binary, and gender-nonconforming people who identify as LBQ+. This report uses both “LBQ+ women” and “LBQ+ people,” to allow for the political reality that some people who identify as LBQ+ do not identify as women, but, at the same time, much of the discrimination and violence that LBQ+ people face is tied to their identities as women. So, too, is their access to women’s rights services, justice, and mechanisms. This section explains why and how Human Rights Watch chose certain terminology to express different ideas throughout the report.

### Transgender LBQ+ People

While Human Rights Watch explicitly sought interviews with gender-nonconforming, non-binary, and transgender people who identify as LBQ+, this report does not provide an in-depth examination of LBQ+ trans people’s experiences from a gender identity perspective. Several recent Human Rights Watch reports have explicitly addressed transgender rights with a focus on gender identity.<sup>36</sup>

This investigation sought to analyze how and in what circumstances the rights of LBQ+ people are violated, centering LBQ+ identity as the primary modality for inclusion in the report. Gender-nonconforming, non-binary, and transgender people who identify as LBQ+ were naturally included.

Dozens of LBQ+ people, including cisgender women, interviewed by Human Rights Watch affirmed that trans people are central to the LBQ+ rights and justice struggle. Several interviewees used the acronyms LBT (lesbian, bisexual, and trans), LBQT (lesbian, bisexual, queer, and trans), or LBQTQ (lesbian, bisexual, trans, and queer) to describe their activist movements and organizations in order to explicitly denote the inclusion of trans people. Others use one of these acronyms in recognition of the social, romantic, and

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<sup>36</sup> See for example: “We Just Want to Live Our Lives”: El Salvador’s Need for Legal Gender Recognition (2022); “People Can’t Be Fit into Boxes”: Thailand’s Need for Legal Gender Recognition (2021); “I Just Try to Make It Home Safe”: Violence and the Human Rights of Transgender People in the United States (2021); “Don’t Punish Me for Who I Am”: Systemic Discrimination Against Transgender Women in Lebanon (2019); “A Really High Hurdle”: Japan’s Abusive Transgender Legal Recognition Process (2019).

political ties between cisgender LBQ+ women, trans men, and transmasculine people. Happy, a lesbian human rights defender from Tanzania, said:

We use LGBTQ women to include trans women explicitly. Our leadership committee is two trans women, one gay man, and four lesbian women. Many who join our events use ‘butch’ first, because it’s what they find on the internet. They use ‘stud’ [a term more common among Black lesbians] once they find the actual community in real life in Tanzania. Sometimes in the process of doing self-awareness and -acceptance training, we find that people who used to identify as lesbians discover they are trans men. People need information to know who they are. In Tanzania, people do not have information about SOGIE. Our trainings help people understand who they really are.

In Tanzania, people will say “I feel like a man, but I don’t have a plan or finances to transition, so I consider myself a stud lesbian.” We explain that transition is not what matters, what matters is how you feel, and we refer them to other organizations which focus on trans men’s issues. When they find out they are trans, many stop saying they are studs. They don’t want to be stud because it is so associated with being a woman.<sup>37</sup>

Like Happy’s experience working with butches, studs, and trans men in Tanzania, across regions and languages, interviewees reported that the deep ties between LBQ+ women, trans men, and transmasculine people mean their spaces inherently blur the alleged divisions between cisgender and transgender identities.

The decision to use or discard identity labels, such as “butch” and “stud,” is personal. LBQ+ activists in different countries reported unique trends in whether trans men continued to use LBQ+ identity markers once they identify as trans men. In Tanzania, trans men stopped identifying as studs due to the dysphoric effect the term carries for transgender men (because it is “associated with being a woman”).<sup>38</sup> In Indonesia, the

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<sup>37</sup> Human Rights Watch video interview with Happy, a lesbian human rights defender with LBQ+-led organization Eagle Wings in Tanzania, April 21, 2022.

<sup>38</sup> Ibid.

opposite is true, according to Tama, a human rights defender and co-founder of Transmen Indonesia. A 2022 survey that his organization conducted among 30 transmasculine people across the country found “education is still low related to the identity of trans men, which [results in a] still mixed identity of butch with transmen.”<sup>39</sup> The study noted that “many individuals” in the community “can’t even tell the difference between masculine gender expression, lesbian sexual orientation, and gender identity as trans men.”<sup>40</sup> A review of dating app profiles further demonstrated a mix of lesbians and trans men who use both terms.<sup>41</sup> Indeed, at least two interviewees for this report identify as “lesbian trans men.”

Many use butch in English and *trans laki-laki* for trans man. *Jalalai* can mean tomboy or trans man. We [trans men] have received some criticism from lesbians who said we were trying to claim their identity....

Talking specifically about queer women is okay. It is not inherently transphobic to specify when you mean LBQ+ *women* and not trans men. At the same time, we can admit and recognize that queer women and transmasculine people have the same base of oppression. In Indonesian bigger cities, we have three groups specifically for trans men. But Indonesia is big and spread out. For most of the country, trans men are always part of LBQT groups.

While Tama’s group in Indonesia and Happy’s group in Tanzania reported different identification trends, they share the assessment that lack of access to SOGIE education impacts how and when LBQ+ people choose to identify both their sexual orientation and gender. In all countries in which Human Rights Watch conducted research, it was clear that “LBQ+” and “trans men” are not mutually exclusive categories. This report uses the terms, phrases, and identities reported by interviewees to refer to each of them. Apparent inconsistencies are an intentional reflection of how and when people of many genders identify as LBQ+.

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<sup>39</sup> Transmen Indonesia, *Melihat Lebih Dekat Situasi Transpria di Indonesia: Aktualisasi Diri, Tantangan dan Harapan* (Transmen Indonesia, 2022),

[https://drive.google.com/file/d/1oBzW7wovlxhXnCyn\\_-oi1fYjUyT-omA/view](https://drive.google.com/file/d/1oBzW7wovlxhXnCyn_-oi1fYjUyT-omA/view) (accessed February 2, 2023).

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

As noted in the Summary and will be seen in this report, the rigidly binary (and often violently enforced) gender boundaries outside of which LBQ+ people already live, regardless of their gender identity, may help to explain why the allegedly clear division between “cisgender” and “transgender” categories simply does not work for LBQ+ populations.

## **Masculine-Presenting LBQ+ People**

During this research, Human Rights Watch found gender expression (as compared to either sexual orientation or gender identity) to be a frequent topic of discussion among interviewees, and one less explored in its relation to human rights violations. As such, sexual orientation (the original objective in a report on LBQ+ people) and gender expression (the identity interviewees frequently discussed) are centered in this report.

Several LBQ+ interviewees experienced human rights violations and abuses as a direct result of being masculine-presenting. For these interviewees, the difference between identifying as a trans man, butch lesbian, or non-binary queer woman was less central to their experience of violence and self than their experience as a masculine-presenting person.

In their own assessment, and in Human Rights Watch’s analysis, gender expression is critical to understanding violence against LBQ+ people and is prioritized in this report above categorizations related to gender identity. Many masculine-presenting people interviewed for this report reported a fluid gender identity that traverses the normative boundaries of “man,” “woman” or “trans”, and centered instead their experience of gender expression. This report, in keeping with an LBQ+-centered methodological approach to documentation, mirrors that focus on gender expression, and intentionally focuses on “masculine-presenting” LBQ+ people as rights-holders in some sections, in particular Section V. “Butches Get Punched”: Violence Against Masculine-Presenting LBQ+ People.

## **“Women and girls” and “Female”**

Gender is distinct from sex assigned at birth. Many sources relevant to our desk research, however, used the terms interchangeably. Some international organizations and state

bodies tracking “gender” parity or women’s rights using various equality indexes use the terms “women and girls” and “female” as synonymous with “sex assigned at birth.”

While a key aim of this report is to critique the presumed heterosexuality of all women and girls, in order to do this, we must draw upon existing work which, at times, has not recognized or acknowledged the existence and experience of queer and transgender women and girls.

To demonstrate the “LBQ+ research gap,” several chapters of this report cite existing women’s rights research that does not explicitly name LBQ+ women and girls. In reference to literacy rates, economic marginalization, discriminatory inheritance laws, and other systemic forms of discrimination that are experienced by people assigned female at birth, this report uses the categorizations and terms used by the organizations that collected the data.<sup>42</sup> Similarly, where relevant, this report uses “women and girls” in some specific cases to discuss specific barriers to accessing justice and resources, including education and literacy, that many LBQ+ people face as a result of being raised as “girls.”

Human Rights Watch recognizes that the use of “gender” as synonymous with “sex” has contributed to the major data gap vis-à-vis transgender people. There is a chronic lack of data available, for example, about the literacy rates of transgender youth, as well as other statistics indicating their access to rights and resources.

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<sup>42</sup> For example, in the case of literacy, UNICEF defines gender equality as “equal rights for girls and boys” and reports on global literacy rates in “male” and “female” categories. See: <https://www.unicef.org/gender-equality> and <https://data.unicef.org/topic/education/learning-and-skills/> (Accessed December 10, 2022.)



## Methodology

This report maps human rights violations and abuses faced by LBQ+ communities to determine research and documentation gaps regarding LBQ+ rights. It aims to identify opportunities to render visible LBQ+ experiences in existing areas of human rights where they have been overlooked, and to carve out space for new formulations of LBQ+ rights on their own terms, regardless of whether they fit into preexisting categories of human rights research. As part of this, the report identifies critical areas in need of future investigation and key policy reforms in several fields, which have the potential to immediately and substantially improve LBQ+ access to a wide range of rights.

Human Rights Watch conducted remote interviews with 60 LBQ+ people in 20 countries: Argentina, Canada, Egypt, El Salvador, Hungary, Indonesia, Japan, Kenya, Kyrgyzstan, Lebanon, Malawi, Mexico, Poland, Sri Lanka, Sweden, Tanzania, Tunisia, Uganda, Ukraine, and the United States. Six additional interviews were conducted in person with LBQ+ activists from Austria, Bulgaria, Germany, Italy, Russia, and Spain at the EuroCentralAsian Lesbian\* Conference, held in Budapest from September 29 to October 1, 2022.

Interviewees ranged from 21- to 75-years-old. The majority of those interviewed were movement leaders, activists, and human rights defenders working at the local or national level. Most interviewees are experts in their field, and provided invaluable insight based on years of experience working on issues affecting LBQ+ people. Sixty-six interviews are not a representative sample of LBQ+ experience. Interviewees were selected primarily for their knowledge and expertise of LBQ+ issues in their communities, and for their ability to speak to the priorities, threats, and organizing goals of various LBQ+ movements around the world, to help direct future investigations and advocacy projects.

This includes both people who work explicitly on LGBT or LBQ+ rights, and LBQ+ people who work in other human rights areas, such as land, environmental, and indigenous rights; migrant rights and border justice; economic and racial justice; and humanitarian response. Other interviewees included LBQ+ individuals working in international human rights organizations, academics who have produced research specifically on the rights of LBQ+ people, international justice researchers, lawyers, and journalists. Human Rights Watch also spoke with the authors of *Vibrant Yet Under-Resourced: The State of Lesbian,*

Bisexual & Queer Movements, the first study to analyze the extreme funding gaps facing LBQ+ movements.

The interviews were supplemented with desk research, including a review of research conducted by five organizations on the rights of LBQ+ people and trans men in Arabic, Bahasa Indonesian, French, and Spanish. The literature review was conducted online and primarily in English, an approach which inevitably privileges knowledge production that is written, published online, and in English. It inherently excludes and perpetuates the invisibility of other modalities, such as oral traditions and intergenerational storytelling, which are especially critical because formal, written documentation of LBQ+ rights violations and abuses represent only a fraction of the knowledge that LBQ+ communities hold about these experiences. To address this gap, subsequent sections of this report draw heavily on and prioritize the analysis of the 66 LBQ+ people and rights experts interviewed for this report.

Finally, to aid in the development of LBQ+ research methodologies, the researcher reviewed Human Rights Watch documentation manuals, interview guides, and thematic toolkits for researchers, as well as documentation manuals produced by feminist groups including the Association for Women's Rights in Development (AWID), the Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensores), JASS Just Power, Nazra for Feminist Studies, the Regional Coalition for Women Human Rights Defenders in the Middle East and North Africa (WHRD-MENA), and the Women Human Rights Defenders International Coalition (WHRD-IC).

# **I. Background**

This section maps existing research on the rights of LBQ+ people by human rights organizations, select academics, and donors. In addition to country specific reports, the literature review found research on LBQ+ experiences of poverty and economic marginalization, attacks on LBQ+ people who are human rights defenders, and the lack of funding for LBQ+ movements.

This section also introduces overarching concepts for researchers and other stakeholders to consider in order to close the research, advocacy, and policy gap. Specifically, it analyzes how LBQ+ exclusion from research is perpetuated by persisting misconceptions of LBQ+ “invisibility;” normative, gendered conceptualizations of “outness;” and incorrect assumptions that LBQ+ people primarily suffer violence in the so called “private sphere” and at rates lower than queer men and boys.

## **Human Rights Research Gap**

LBQ+ people’s experiences are underrepresented in human rights investigations, reports, and advocacy campaigns. The scoping and consultations with experts in multiple human rights areas found few documents that explicitly position LBQ+ people as rights-holders subjected to violations under international human rights law.

At the national level, few human rights reports have documented and analyzed violations of LBQ+ people's rights. These include reports on Burundi,<sup>43</sup> Iran,<sup>44</sup> Iraq,<sup>45</sup> Kenya,<sup>46</sup> and lesbian asylum claims in the United States.<sup>47</sup>

At the regional level, civil society organization have published reports on:

- violence against lesbian, bisexual, and transgender (LBT) people in Japan, Malaysia, Pakistan, the Philippines, and Sri Lanka;<sup>48</sup> another presented accounts of queer women from Algeria, Egypt, and Sudan;<sup>49</sup>
- violations and abuses against lesbian, bisexual, queer and transgender (LBQT+) women in the North Caucasus;<sup>50</sup>
- lesbophobic violence in Europe and Central Asia;<sup>51</sup>

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<sup>43</sup> Global Philanthropy Project, *Defiant: Landscape Survey on Violence Against LBQ Women, Trans People, and Female Sex Workers in Burundi*, (Nairobi: UHAI EASHRI, 2018), <https://globalphilanthropyproject.org/2019/12/20/defiant-landscape-survey-on-violence-against-lbq-women-trans-people-and-female-sex-workers-in-burundi/> (accessed February 2, 2023).

<sup>44</sup> OutRight International, *Human Rights Report: Being Lesbian in Iran* (New York: OutRight International, 2016) <https://outrightinternational.org/our-work/human-rights-research/human-rights-report-being-lesbian-iran> (accessed February 2, 2023).

<sup>45</sup> OutRight International, *"I Need to be Free": What It Means to be a Queer Woman in Today's Iraq* (New York: OutRight International, 2022) <https://outrightinternational.org/our-work/human-rights-research/i-need-to-be-free-what-it-means-be-queer-woman-todays-iraq> (accessed February 2, 2023).

<sup>46</sup> Gay and Lesbian Coalition of Kenya, *Research on The Lived Experiences of Lesbian, Bisexual and Queer Women in Kenya* (Nairobi: Gay and Lesbian Coalition of Kenya, 2017) <https://galck.org/wp-content/uploads/2017/01/Research-on-the-lived-experiences-of-LBQ-women-in-Kenya.pdf> (accessed February 2, 2023).

<sup>47</sup> National Center for Lesbian Rights (NCLR), *The Challenges to Successful Lesbian Asylum Claim* (San Francisco: NCLR, 2013) [https://www.nclrights.org/wp-content/uploads/2013/04/Resources\\_Challenges\\_Lesbian\\_Asylum\\_Claims.pdf](https://www.nclrights.org/wp-content/uploads/2013/04/Resources_Challenges_Lesbian_Asylum_Claims.pdf) (accessed February 2, 2023).

<sup>48</sup> OutRight International, *Violence Through the Lens of Lesbians, Bisexual Women and Trans People in Asia* (New York: OutRight International, 2016) <https://outrightinternational.org/our-work/human-rights-research/violence-through-lens-lesbians-bisexual-women-and-trans-people-asia> (accessed February 2, 2023).

<sup>49</sup> Bedayaa Organization for LGBTQI in Nile Valley Area Egypt and Sudan, Mesahat Foundation for Sexual & Gender Diversity (Egypt & Sudan), The Transhomos Organization (Algeria), *Queer Women Voices From North Africa* (Bedayaa Organization for LGBTQI in Nile Valley Area Egypt and Sudan, Mesahat Foundation for Sexual and Gender Diversity, The Transhomos Organization, 2016), <https://www.docdroid.net/igDPp9s/queer-women-voices-from-north-africa-pdf#page=2> (accessed February 2, 2023).

<sup>50</sup> The "Queer Women of the North Caucasus" Project with support from the Heinrich Böll Foundation, *Violence Against Lesbian, Bisexual and Transgender Women in the North Caucasus region of the Russian Federation* (Moscow: The "Queer Women of the North Caucasus" Project, 2018) <https://womenplatform.net/region/violence-against-lesbian-bisexual-and-transgender-women-in-the-north-caucasus/> (accessed February 2, 2023).

<sup>51</sup> EuroCentralAsian Lesbian\* Community, *Lesbophobia: An Intersectional Form of Violence* (Vienna: EuroCentralAsian Lesbian\* Community, 2021) <https://europeanlesbianconference.org/wp-content/uploads/2021/10/Lesbophobia-3.pdf> (accessed February 2, 2023).

- and LBQ+ rights in Bolivia, Colombia, Ecuador, and Mexico, mapped in a series of reports issued by a Latin American collective.<sup>52</sup>

At the global level, a 2016 report analyzed for the first time how anti-homosexuality laws specifically target and impact lesbian and bisexual women and girls.<sup>53</sup>

While several of these reports discuss the criminalization of same-sex relations as one of the key drivers of violence against LBQ+ people, many additionally center other restrictions on women's freedom, including freedom of movement, bodily autonomy, access to education, labor rights, and financial independence as critical components of LBQ+ lives. A report on LBT experiences of violence in Asia, for example, found that the advancement of LBQ+ rights depended on the removal of “obstacles from both the public and private spheres that prevent all women (female bodied, gender variant, lesbian, bisexual) and female-to-male transgender men from enjoying violence-free lives.”<sup>54</sup> Research that is conducted specifically into the lives of LBQ+ people—rather than LGBT rights more broadly—invariably presents a more complex picture of rights and freedoms, demonstrating the need for future research in this area.

LGBT rights researchers have long noted that testimonies from LBQ+ and transmasculine people are more difficult to source than those from cisgender gay men and transgender

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<sup>52</sup> “Informe Regional sobre la situación de lesbianas, mujeres bisexuales y queer/cuir,” LESLAC - Red de Organizaciones de Lesbianas y Mujeres Bisexuales y Cuir, July 27, 2022. See reports: <https://drive.google.com/drive/folders/11H6A46aatc-stlvfoyxhtGF5j8LXWquN>. See launch event: [https://www.facebook.com/LESLAC26A/posts/pfbido2hp1LVyYxq1D6RdRPZ5HPLmqBbyQsyZVKQYJEW9ruD19wboSPtAEWFnb cEjxNNsN8l?\\_\\_cft\\_\\_%5bo%5d=AZVoPDEsCeT7jo9oQ6efQBWO CGMUBN4Xm9xPiZ3OrvRYoisKv7DMZdrxdXGYqlwVm qUNPYHP oGn9LihBNNxAcUfGDagKUI6wWnZ71tudHoEPiCCovBVz93psDYfwcX\\_1PkixJOFG4D6EaW1P4cH6MdZjBTQht7Wy-qT9KH1sw-Ztsm6Y7uUl5j-wZUrxKsXXdxBC9UsZ4myhB26\\_CB6PIA9FTf1QTqhwLHYwBTl781kYg&\\_\\_tn\\_\\_=%2CO%2CP-R](https://www.facebook.com/LESLAC26A/posts/pfbido2hp1LVyYxq1D6RdRPZ5HPLmqBbyQsyZVKQYJEW9ruD19wboSPtAEWFnb cEjxNNsN8l?__cft__%5bo%5d=AZVoPDEsCeT7jo9oQ6efQBWO CGMUBN4Xm9xPiZ3OrvRYoisKv7DMZdrxdXGYqlwVm qUNPYHP oGn9LihBNNxAcUfGDagKUI6wWnZ71tudHoEPiCCovBVz93psDYfwcX_1PkixJOFG4D6EaW1P4cH6MdZjBTQht7Wy-qT9KH1sw-Ztsm6Y7uUl5j-wZUrxKsXXdxBC9UsZ4myhB26_CB6PIA9FTf1QTqhwLHYwBTl781kYg&__tn__=%2CO%2CP-R) (accessed July 28, 2022).

<sup>53</sup> Human Dignity Trust, *Breaking the Silence Criminalisation of Lesbians and Bisexual Women and its Impacts*, (London: Human Dignity Trust, 2016) <https://www.humandignitytrust.org/wp-content/uploads/resources/Breaking-the-Silence-Criminalisation-of-LB-Women-and-its-Impacts-FINAL.pdf>, (accessed February 2, 2023).

<sup>54</sup> OutRight International, *Violence Through the Lens of Lesbians, Bisexual Women and Trans People in Asia*.

women.<sup>55 56 57</sup> This gap also results from women’s rights research that presumes women research subjects are heterosexual, which often precludes any potential investigation of the unique experiences of LBQ+ people in broader issues affecting women and girls, such as domestic violence, forced marriage, gendered poverty, maternal mortality, and reproductive rights.<sup>58</sup> LGBT and women’s rights researchers alike frequently choose to examine issues that are not those most affecting queer women’s lives.

Maps and databases covering LGBT rights and laws around the world typically illustrate which countries criminalize homosexuality, allow for same-sex marriage, have nondiscrimination policies that explicitly name sexual orientation, gender identity, and gender expression (SOGIE) as protected categories, and, in recent years, increasingly include information on which countries allow for legal gender recognition.<sup>59 60 61</sup> While important, these topics do not address the fundamental lack of power, autonomy, and control in many women’s lives that limits their expression of sexuality. For example, LGBT rights mappings rarely if ever include laws related to women’s property rights, inheritance

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<sup>55</sup> The Other Foundation, “Southern Africa Regional LBQ\* Convening,” March 16-18 2022, <https://theotherfoundation.org/southern-africa-regional-lbq-convening/#:~:text=The%20convening%20is%20meant%20to%20strengthen%20leadership%20development,public%20attitudes%20that%20result%20in%20exclusion%20and%20violence> (accessed February 2, 2023).

<sup>56</sup> Claire Heuchan. “We Need to Talk About Misogyny and the LGBT Community’s Erasure of Black Lesbian History” *AfterEllen*, July 9 2018, <http://www.afterellen.com/general-news/561237-we-need-to-talk-about-misogyny-and-the-lgbt-communitys-erasure-of-black-lesbian-history#mh3bWJUlDoVaT4KX.99> (accessed February 2, 2023).

<sup>57</sup> Saleh, L. and Sood, N., *Vibrant Yet Under-Resourced: The State of Lesbian, Bisexual, and Queer Movements*. See specifically “History and Current Content.”

<sup>58</sup> See for example: Samuel Chiron, “How Heteronormative Paradigms Ostracize Queer Populations in Intimate Partner Violence Research,” *HuffPost Communities*, February 9 2016, [https://www.huffpost.com/entry/how-heteronormative-parad\\_b\\_9171030](https://www.huffpost.com/entry/how-heteronormative-parad_b_9171030) (accessed February 2, 2023); National Coalition Against Domestic Violence (U.S.). and Lobel Kerry, *Lesbian Task Force, Naming the violence : speaking out about lesbian battering* (Seattle: Seal Press, 1986) <https://archive.org/details/namingviolencespoolobe> (accessed February 2, 2023).; Victoria A. Brownworth, “Lesbian Erasure: A Footnote to Women’s History Month,” *Philadelphia Gay News*, March 10 2021, <https://epgn.com/2021/03/10/lesbian-erasure-a-footnote-to-womens-history-month/> (accessed February 2, 2023); Everett BG, Komiariak MA, Mollborn S, Adkins DE, Hughes TL, “Sexual Orientation Disparities in Pregnancy and Infant Outcomes,” *Maternal Child Health J.*, 23(1) (2019): 72-81, accessed February 2, 2023,. doi: 10.1007/s10995-018-2595-x; Swedish International Development Cooperation Agency, *Poverty and sexuality: what are the connections(Sida)* (Brighton: Institute of Development Studies, 2010) <https://www.eldis.org/document/A61881>, (accessed February 2, 2023).

<sup>59</sup> Max Fisher, “This Map shows how America compares to the rest of the world on gay rights,” *The Washington Post*, June 26, 2013, <https://www.washingtonpost.com/news/worldviews/wp/2013/06/26/this-map-shows-how-far-america-has-come-on-gay-rights-compared-to-the-rest-of-the-world/> (accessed February 2, 2023).

<sup>60</sup> “Equality Maps,” Movement Advancement Project, <https://www.lgbtmap.org/equality-maps> (accessed February 2, 2023).

<sup>61</sup> “Maps - Sexual orientation laws,” International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), <https://ilga.org/maps-sexual-orientation-laws>, (accessed December 10, 2022).

rights, and rental rights even though they are critical to LBQ+ people's ability to have physical spaces to meet romantic partners, raise families, and organize in collectives.<sup>62</sup>

There is also a stark absence of documentation of LBQ+ experiences of poverty, labor rights, environmental crimes, climate change, reproductive justice, indigenous LBQ+ peoples' rights, police violence, and conflict. Representation is better in disability rights studies and migration—in no small part due to the vocal activism of LBQ+ activists in these spaces—but there remains room for further investigation in those fields.<sup>63 64</sup>

Consultations with researchers in these various human rights areas have indicated that the gap in knowledge production vis-à-vis LBQ+ rights within their specific area of focus is not an intentional silencing of the LBQ+ experience. Rather, it reflects the persistent belief that sexuality is not relevant to many investigations, and the presumption of heterosexuality in human rights subjects. In addition to this methodological gap, queer and feminist thinkers have identified a range of other factors contributing to the underrepresentation of LBQ+ people in human rights investigations, including:

- the siloing of human rights areas that limits analyses of LGBTI+ peoples' rights to reports specifically focused on this issue;<sup>65 66 67 68</sup>

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<sup>62</sup> See Section IV. "Land, Housing, and Property Rights."

<sup>63</sup> Ezra Kronfeld, "The Intersections of Queerness and Disability." *Out Front Magazine*, February 16, 2018, <https://www.outfrontmagazine.com/intersections-queerness-disability/> (accessed February 2, 2023).

<sup>64</sup> "Human Rights Campaign Fact Sheet: Lesbian, Bisexual, Queer Women Who Have Been Pregnant Are More Likely to Need Abortion Services; Demonstrates Impact Roe Reversal Would Have on LGBTQ+ People," *Human Rights Campaign*, June 2, 2022, <https://www.hrc.org/press-releases/human-rights-campaign-fact-sheet-lesbian-bisexual-queer-women-who-have-been-pregnant-are-more-likely-to-need-abortion-services-demonstrates-impact-ro-reversal-would-have-on-lgbtq-people> (accessed February 2, 2023).

<sup>65</sup> A. H. Monjurul Kabir, T. Thomson, A. Abukito, C. Kirungi, D. J. Pérez Montúfar, D. Jigjid, E. Sánchez, G. Khoury, A. Salelkar, K. Nair, K. Adhikari, P. Ochieng, P. Mahalmaki, M. Apio, N. Adhikari, R. Galarza, T. Mwanjala, and Y. Zayed, "Intersectionality Resource Guide and Toolkit: An Intersectional Approach to Leave No One Behind," (New York: UN Women, 2020) <https://reliefweb.int/report/world/intersectionality-resource-guide-and-toolkit-intersectional-approach-leave-no-one-behind#:~:text=Applying%20an%20intersectional%20lens%20helps%20connect%20human%20rights,fulfil%20the%20pledge%20to%20leave%20no%20one%20behind> (accessed February 2, 2023).

<sup>66</sup> Alan Pelaez Lopez, "5 Ways the LGBTQIA+ Movement Fails at Intersectionality," *Everyday Feminism*, December 19 2016, <https://everydayfeminism.com/2016/12/lgbtqia-fails-at-intersectionality/> (accessed February 2, 2023).

<sup>67</sup> Juneau Gary, PsyD, and Neal S. Rubin, PhD, ABPP. "Are LGBT rights human rights? Recent developments at the United Nations." *American Psychological Association*, June, 2012, <https://www.apa.org/international/pi/2012/06/un-matters> (accessed February 2, 2023).

<sup>68</sup> See, for example, the absence of documentation of women's property rights which explicitly includes queer women (Section IV).



- patriarchal systems, the devaluation of female sexuality, and the lack of legitimacy afforded to the romantic and sexual relationships of LBQ+ women;<sup>69</sup>
- risks and barriers to women and non-binary people's engagement in the public sphere, including male guardianship laws, stigma, family pressure, sexism and gender bias in urban planning, and cultural conceptualizations of women's reputations as closely tied to family honor;<sup>70</sup>
- the historic focus on HIV/AIDS programming that led to more funding and visibility for gay men's groups and to the persistently male-dominated leadership of international, regional, and local LGBTI rights organizations;<sup>71 72</sup>
- the focus on the decriminalization of same-sex relations and the removal of colonial era anti-homosexuality laws as the central issue of LGBT struggles;<sup>73</sup>
- homophobia, transphobia, biphobia, and lesbophobia within women's rights and feminist movements;<sup>74</sup>
- compulsory heteronormativity, which positions LBQ+ people outside society's conception of womanhood and personhood by virtue of not being socially, financially, legally, religiously, and/or culturally recognizable via heterosexual partnerships;<sup>75 76</sup>
- assumptions about sexuality, including those made on the basis of partnership or marriage, and the lack of acknowledgement that women and non-binary people of all sexualities can be compelled or forced to enter heterosexual partnerships and marriages;<sup>77</sup>

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<sup>69</sup> Michael Bronski, Ann Pellegrini, AND Michael Amico, "Is lesbian sex real sex?" *Slate*, October 13 2013, <https://slate.com/human-interest/2013/10/is-lesbian-sex-real-sex.html> (accessed February 2, 2023).

<sup>70</sup> Criado Perez, Caroline, *Invisible Women: Data Bias in A World Designed for Men* (New York: Abrams, 2019).

<sup>71</sup> Global Philanthropy Project, *2019-2020 Global Resources Report* (Global Philanthropy Project, 2022) <https://globalresourcesreport.org/wp-content/uploads/2022/06/GRR-2019-2020-Final.pdf> (accessed February 2, 2023).

<sup>72</sup> Saleh, L. and Sood, N., *Vibrant Yet Under-Resourced: The State of Lesbian, Bisexual, and Queer Movements*

<sup>73</sup> "What you need to know about LGBT rights in 11 maps," *World Economic Forum*.

<sup>74</sup> Rita Nketiah (Human Rights Watch), "Homophobia is a Feminist Issue," commentary, *African Feminism*, March 8, 2022, <https://www.hrw.org/news/2022/03/08/homophobia-feminist-issue>.

<sup>75</sup> Pollitt AM, Mernitz SE, Russell ST, Curran MA, Toomey RB, "Heteronormativity in the Lives of Lesbian, Gay, Bisexual, and Queer Young People," *J Homosex.*, 68(3) (2019):522-544, accessed February 2, 2023, doi: 10.1080/00918369.2019.1656032.

<sup>76</sup> See Section III. "Forced Marriage and Compulsory Heterosexuality."

<sup>77</sup> Dean Manning & Chu Kim-Prieto, "Heteronormative Bias in Research." *The SAGE Encyclopedia of Psychology and Gender*, 4 vols (Thousand Oaks: Sage Publications Inc., 2017), accessed February 2, 2023, DOI:<https://dx.doi.org/10.4135/9781483384269>.

- domestic violence, coupled with the popular notion that much of the violence perpetrated against women happens in the private sphere and the corresponding notion that all familial violence is private;<sup>78</sup>
- economic marginalization and a corresponding lack of access to financial, legal, and other resources for LBQ+ people to document and visibilize their issues.<sup>79</sup>

## Academic Research

Recent academic research into the health, social welfare, and economic marginalization of LBQ+ people has provided strong thematic guidance for areas to address in future human rights investigations and can help close the LBQ+ research gap in the human rights field. This is especially true for studies that explicitly name and address the underrepresentation of LBQ+ issues in their field. For example, *Intersectionality and the Subjective Processes of LBQ Migrant Women: Between Discrimination and Self-determination* (2021) explored the lack of analysis afforded to the sexualities of migrant women relative to migrant men in Italy:

On the one hand, studies have increasingly focused on migrants' sexuality, particularly on the condition of gay and bisexual males: Carnassale (2013), Ferrara (2019), Masullo (2015a; 2015b). On the other hand, however, sociological literature paid much less attention to the sexuality of migrant women, with a relative absence of studies – both qualitative and quantitative – on non-normative sexualities. Rather than showing a lack of interest on the issue, this absence refers to the general difficulty of studying women with non-normative sexual orientation. Considering only Italian studies, for example, those on lesbians (net of ethnic differences) are significantly less numerous than those on gays and lesbians appear to be markedly more invisible than the male population (Masullo, Coppola, 2020).

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<sup>78</sup> “Launching ‘A Shattered Public Sphere’ Campaign,” *Nazra for Feminist Studies*, November 25 2019, <https://nazra.org/en/2019/11/launching-shattered-public-sphere-campaign> (accessed February 2, 2023).

<sup>79</sup> UN Commission on Human Rights, Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, A/74/181, July 19, 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/220/72/PDF/N1922072.pdf?OpenElement> (accessed February 2, 2023).

In the US, the Williams Institute at UCLA School of Law issued two extensive reports concerning LBQ+ lives in 2021 and 2022 that, similarly, intentionally addressed the LBQ+ research gap. The first, *System Involvement Among LBQ Girls and Women*, found that LBQ+ women and girls of color are overrepresented in both carceral and foster care systems: “Of the more than 10 percent of girls in foster care who identify as lesbian, bisexual, queer and questioning, nearly 90 percent of them are girls of color and more than 30 percent of them are Black.”<sup>80</sup>

When discussing the risks associated with high rates of incarceration, due to a lack of current research on violence against LBQ+ people in prison, this report refers to evidence from past studies on violence against transgender people in prison.

The second UCLA study, *Health and Socioeconomic Well-Being of LBQ Women in the US*, is the largest, most comprehensive known research on the rights of LBQ+ people. Though focused exclusively on the US, the findings and suggestions for future research resonate internationally. This is in part because the report takes an intentionally “expansive” view of what constitutes well-being, in line with the methodological reforms suggested by more than a dozen LBQ+ advocates around the world who were interviewed for this report. The study relied on a wide range of datasets and national population surveys to analyze LBQ+ women’s experiences of discrimination, health, housing, homelessness, sexual violence, mental health, reproductive health, system involvement, and resilience. It found that LBQ+ women (cis and trans) make up 55 percent of the US LGBT population, with 7 million women and 3 million girls identifying as LBQ+ and LBQ+ or questioning, respectively. Among its key findings, nearly one-fifth of LBQ+ women reported wanting children but were not able to have them; LBQ+ women were more likely (90 percent) to never visit LGBT centers for health care compared to gay, bisexual and queer men (77 percent); and nearly one-third of LBQ+ women identified their health as “poor” compared to one-fifth of heterosexual women. The study also found that twice as many LBQ+ women (46 percent) have been diagnosed with depression as straight women (23 percent), and a staggering 44 percent of LBQ+ or questioning girls reported having considered suicide in the last year, compared to 18 percent of straight girls, 13 percent of straight boys, and 32 percent of gay, bisexual, queer, and questioning boys.

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<sup>80</sup> Wilson, B.D.M. & Bouton, L.J.A., *System Involvement Among LBQ Girls and Women* (Los Angeles: The Williams Institute, UCLA School of Law, 2022) <https://williamsinstitute.law.ucla.edu/publications/system-involved-lbq-girls-women/> (accessed February 2, 2023).

This data supports calls from LBQ+ advocates in Canada, Indonesia, Lebanon, Malawi, Tanzania, and Tunisia to produce more and better research into the mental health of their communities. Black and brown diaspora LBQ+ leaders have specifically called for analyses of the linkages between compulsory outing in white-led Pride organizations and rates of depression and anxiety among queer Black and brown women in those spaces.

Suicide rates in our community are extremely high, but we don't have any research or concrete proof of this. Most queer South Asian women I know have attempted it at least once. We are trying to do advocacy with bigger Pride orgs about how they can be more inclusive and less dangerous for us, but research into the immense mental stress we're under would help us prove it and be taken more seriously.<sup>81</sup>

## Poverty and Economic Marginalization

[A lesbian sex worker couple in our community] lives about 20 mins outside of Centro. In the area they're in now, there are a lot of raids. Police come to very impoverished areas. They have to rent from gangs in this area because it's the only place they can afford a house big enough for the older and younger members of their families that they, as women, are expected to care for. Gangs occupy the houses without warning and stay however long they want. The two women make very little money, and being poor basically means expecting a police raid.<sup>82</sup>

– Rosa, lesbian and sex worker rights defender from El Salvador

Poverty among LBQ+ women, though not always named explicitly as a human rights violation, is a consistent backdrop to the majority of existing research on violence against LBQ+ people. LBQ+ people—who may be women, queer, in relationships with women, in relationships with queer people, members of racially and ethnically marginalized groups, and indigenous—exist amid multiple layers of economic marginalization, as members of many groups subjected to structural forms of discrimination that intersect and multiply.<sup>83</sup>

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<sup>81</sup> Human Rights Watch video interview with Sonali Patel, founder of the Queer South Asian Women's Network, May 26 2022.

<sup>82</sup> Human Rights Watch video interview with Rosa, lesbian and sex worker rights defender with Liquid Ambar, El Salvador, May 3, 2022.

<sup>83</sup> For more on how the economic marginalization of women constitutes violence, see: Human Rights Watch, *Better to Make Yourself Invisible: Family Violence against People with Disabilities in Mexico* (New York: Human Rights Watch, 2020), <https://www.hrw.org/report/2020/06/04/better-make-yourself-invisible/family-violence-against-people-disabilities->

However, economic data that disaggregates by sexual orientation is rare; studies and reports that explicitly name the precarious position of LBQ+ women have tended to focus on the US, on the UK, and at the “international” level, such as UN reports that cover LBQ+ poverty in general terms. A significant gap in published research into LBQ+ poverty exists at both the country and regional levels in most parts of the world.<sup>84</sup>

A 2009 study found that lesbian couples in the US faced poverty at a higher rate than heterosexual married couples or gay-male couples.<sup>85</sup> In 2013, an updated version of the same study found that children in same-sex couple households were almost twice as likely to be poor as children in married different-sex couple households. It also determined that the rate of poverty among same-sex female couples is double that of male same-sex couples.<sup>86</sup> According to a 2019 UN report addressing economic marginalization and the inclusion of LGBT communities:

Combined with gender-based discrimination against women, where women face a pay gap and hold the burden of unpaid care work, lesbian women facing discrimination on the basis of sexual orientation and gender identity are often even worse off. Pay gaps translate to smaller contributions to pension schemes and therefore to increased poverty in retirement.<sup>87</sup>

*Paying an Unfair Price: The Financial Penalty for LGBT Women in America* (2015) found that discrimination against LBQ+ women in jobs, families, and health negatively impacted their economic security. Unsafe work environments and discrimination in hiring led to lower pay and less advancement, and discrimination in insurance and unequal access to reproductive health care led to long-term, costly health complications that made finding

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mexico; “Iran: Adopt Draft Law to Protect Women,” Human Rights Watch news release, December 4, 2021, <https://www.hrw.org/news/2020/12/04/iran-adopt-draft-law-protect-women>; and Human Rights Watch “*I Thought Our Life Might Get Better*”: Implementing Afghanistan’s Elimination of Violence against Women Law (New York: Human Rights Watch, 2018) <https://www.hrw.org/report/2021/08/05/i-thought-our-life-might-get-better/implementing-afghanistans-elimination>.

<sup>84</sup> See below for discussion of the intersection between poverty and violence against lesbians in Ghana and El Salvador.

<sup>85</sup> Victoria A. Brownworth, “Study finds poverty highest among lesbians,” *Philadelphia Gay News*, March 19, 2009, <https://epgn.com/2020/10/28/new-study-shows-roots-of-lgbtq-poverty-and-need-for-government-data/> (accessed February 2, 2023).

<sup>86</sup> M.V. Lee Badgett, Laura E. Durso, and Alyssa Schneebaum, *New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community* (Los Angeles: Williams Institute, UCLA School of Law, 2013) <https://williamsinstitute.law.ucla.edu/publications/lgb-patterns-of-poverty/> (accessed February 2, 2023).

<sup>87</sup> UN Commission on Human Rights, Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, A/74/181, July 19, 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/220/72/PDF/N1922072.pdf?OpenElement> (accessed February 2, 2023).

work even more difficult.<sup>88</sup> Meanwhile, *Disaggregating the Data for Bisexual People* (2018) found bisexual women were in a particularly precarious economic position, with bisexual women ages 18-64 less likely than lesbian women to have a job.<sup>89</sup>

Though not specifically focused on LBQ+ women, a 2021 study into LGBT experiences in the construction industry in the UK has provided some of the most illustrative findings on how LBQ+ people and cisgender gay men have experienced homophobia differently and how homophobia has directly impacted the economic security of LBQ+ women in unique ways:

For women [compared with cisgender gay men], gender is a bigger obstacle than sexuality for career. Cis-female participants (i.e. those female at birth) identifying as lesbian stated that they felt their gender had more of an impact as to how they were treated at work, in comparison to their sexuality. One participant said, “I can hide I’m gay, but I can’t hide that I’m a woman.” The pervasiveness of gender discrimination was also underlined during the stakeholder workshop discussions. The domination of the construction by white heterosexual males, particularly at the very top of companies was posited as a more substantial barrier to their career progression than their LGBT identity. The term ‘old boys club’ came up repeatedly in the interviews to describe gender-related issues within the industry.

These findings illustrate one aspect of the multiple forms of economic marginalization that LBQ+ women face. Another factor—workplace violence against LBQ+ people—was repeatedly confirmed in the consultations conducted for this report, including by activists in Argentina, Indonesia, Kenya, Kyrgyzstan, Tunisia, and the US (see Section VI. Violence and Discrimination at Work).

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<sup>88</sup> Center for American Progress (CAP), Movement Advancement Project (MAP), *Paying An Unfair Price: The Financial Penalty for LGBT Women in America* (Washington DC and Denver: CAP and MAP, 2015), <https://www.lgbtmap.org/file/paying-an-unfair-price-transgender.pdf#:~:text=As%20detailed%20in%20the%20September%202014%20report%20authored,laws%20at%20the%20local%2C%20state%20and%20national%20levels> (accessed February 2, 2023).

<sup>89</sup> “Disaggregating the Data for Bisexual People,” *Center for American Progress*, September 24, 2018. <https://www.americanprogress.org/article/disaggregating-data-bisexual-people/> (accessed February 2, 2023).

Multiple forms of economic marginalization have contributed to the strong presence of LBQ+ people in sex work in several countries, including Ghana, El Salvador, and Tanzania, according to both the literature review and interviews.<sup>90</sup> For a 2018 report on abuses against LGBT people in Ghana, one 28-year-old lesbian woman, told Human Rights Watch:

The problem in Accra is that LGBT people can't get work. Nobody wants to give them jobs. Also, when the family finds out, they don't pay your school fees, so you are uneducated. There is also no support to learn a trade. When both lesbian partners don't work, the femme partner is expected to date and sleep with men to get money—sometimes they both must do sex work to survive.<sup>91</sup>

By contrast, two interviewees said that in El Salvador, sex work is one of the few forms of work available to masculine-presenting LBQ+ people, who experience rampant hiring discrimination because of their gender expression.<sup>92</sup> The connection between economic marginalization, sex work, and masculine gender expressions is explored in Section V. “Violence Against Masculine-Presenting LBQ+ People.” While little research exists on the experiences of LBQ+ sex workers, both the background scoping and interviews suggest that an investigation into their unique experiences of violence is urgently needed.

## Attacks on Human Rights Defenders

Between 2017 and 2022, there has been more documentation and analysis of the risks, threats, and attacks on LBQ+ activists as a subset of feminist organizing and women human rights defenders (WHRDs). At the regional and local levels, reports and statements on LBQ+ human rights activism<sup>93</sup> have been published in Kenya (2018),<sup>94</sup> Sub-Saharan

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<sup>90</sup> See for example: *Sex Worker Rights Defenders At Risk*, Front Line Defenders.

<sup>91</sup> Human Rights Watch, “No Choice but to Deny Who I Am”: *Violence and Discrimination against LGBT People in Ghana* (New York: Human Rights Watch, 2018) <https://www.hrw.org/report/2018/01/08/no-choice-deny-who-i-am/violence-and-discrimination-against-lgbt-people-ghana>.

<sup>92</sup> Human Rights Watch video interview with Rosa, lesbian and sex worker rights defender with Liquid Ambar, El Salvador, May 3, 2022.

<sup>93</sup> This refers to reports about LBQ+ activism, specifically, not broader reports on LGBT activism or LGBT rights.

<sup>94</sup> Tanishtha Bhatia Sen Gupta, “LBQ women and the need for specified activism in Kenya,” *Human Rights Consortium, University of London*, June 14, 2018, <https://humanrights.blogs.sas.ac.uk/2018/06/14/lbq-women-activism-kenya/> (accessed February 2, 2023).

Africa with case studies in Cameroon and Togo (2013),<sup>95</sup> South Africa (2019) following the Global Feminist LBQ Conference,<sup>96</sup> and on the “state of lesbian organizing” in the EU and accession countries (2020).<sup>97</sup> At the global level, several reports documenting attacks on feminist organizing more broadly have centered the experiences of LBQ+ leaders. Such reports include: *Rights Eroded: A Briefing on the Effects of Closing Space on Women Human Rights Defenders* (2017);<sup>98</sup> *The State of Intersex Organizing* (2nd edition) and *The State of Trans Organizing* (2nd edition) (2017);<sup>99</sup> and *Standing Firm: Women and Trans-Led Organisations Respond to Closing Space for Civil Society* (2017).<sup>100</sup>

95 “Between Us: The complexities of Lesbians, Bisexual and Queer Women’s Organizing in Francophone Sub-Saharan Africa.” *Qain*, August 2013.  
<https://static1.squarespace.com/static/54191049e4b0677471aa06c9/t/559ab8c8e4b0050728db6a1a/1436203208489/BE+TWEEN+US-> (accessed February 2, 2023).



and violence as a threat to feminist movement-building, the documentation or analysis of anti-LBQ+ violence itself is not their main objective. For example, one report found the demonization of queer people to be detrimental to feminist movements;<sup>103</sup> another found that attacks on lesbians have a detrimental effect on women's organizing and identified lesbophobia "and its influence in the reduction of civic space" as a critical area for future research.<sup>104</sup> This means that organizations and funders combatting the "shrinking civic space for civil society" phenomenon must also concern themselves with addressing homophobia and attacks framed in terms of "gender ideology".

Many of the activists interviewed ... experience closing civil society space as being driven, at least in part, by an increase in state-sponsored rhetoric that prescribes and enforces narrow patriarchal and heteronormative gendered behaviour and sexual identity.<sup>105</sup>

## Funding Challenges

LBQ+ movements are radically underfunded, receiving only a small portion of LGBT funding globally and an even smaller fraction of women's rights funding globally.<sup>106</sup> According to one LBQ+ activist, "We sit firmly in the LGBT portfolio of almost all our donors. Women's rights foundations do not contact us. They see us, queer *women*, as fundamentally a gay issue."<sup>107</sup>

*Vibrant Yet Under-Resourced* (2020), by feminist organizations Astraea and Mama Cash, is the groundbreaking result of a global analysis of funding for LBQ+ communities. The authors collected data from 378 activists in 97 countries and 67 donors and analyzed LBQ+ activists' priorities, the critical lack of targeted funding for their work, and mapped where donor efforts aligned with LBQ+ communities' strategies for creating new feminist futures. The report found that LBQ+ groups did not have the budgets, savings, or access to the external support needed to implement their creative, diverse movement strategies:

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<sup>103</sup> Urgent Action Fund International Human Rights Law Clinic University of California, Berkeley, School of Law, *Rights Eroded: A Briefing on the Effects of Closing Space on Women Human Rights Defenders*.

<sup>104</sup> Mama Cash and Urgent Action Fund, *Standing Firm: Women and Trans-Led Organisations Respond to Closing Space for Civil Society*.

<sup>105</sup> Ibid.

<sup>106</sup> Saleh, L. and Sood, N., *Vibrant Yet Under-Resourced: The State of Lesbian, Bisexual, and Queer Movements*.

<sup>107</sup> Human Rights Watch video interview with Joy Chia, Astraea Foundation, May 24, 2022.

The median budget for LBQ groups in 2017 was \$11,713 USD. Nearly three-quarters (72%) of LBQ groups operated on annual budgets of less than \$50,000 per year; in fact, approaching half (40%) reported an annual budget of less than \$5,000.

One-third (34%) of groups received no external funding, and for nearly half (48%) of all groups, external funding did not exceed \$5,000.

The majority of LBQ groups have few, if any, paid staff and are heavily reliant on volunteers. One-quarter of all groups have no full-time staff (28 percent), and another 25 percent have just one or two staff full-time members.<sup>108</sup>

Other key findings include that LBQ+ groups faced significant barriers to accessing funding, which impacted their access to rights, including their access to justice, and that two strategies central to LBQ+ organizing—knowledge production and well-being—are critically underfunded.

In 2017, 89% of donors funded [LBQ+] community, movement, and network building, 77% funded advocacy, and 73% funded capacity building — all key activist strategies. However, other strategies central to LBQ organizing were funded to a much lesser extent. Less than half (43%) of donors in our sample funded research and knowledge production, while direct services, including mental health and well-being, were funded by the fewest donors (32%).<sup>109</sup>

Consultations for this report confirmed the importance of immediately increasing the amount of funding available for LBQ+ groups to collaboratively produce knowledge (reports, videos, investigations, visualizations), as well as to train and deploy mental health and well-being services in their communities.

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<sup>108</sup> Saleh, L. and Sood, N., *Vibrant Yet Under-Resourced: The State of Lesbian, Bisexual, and Queer Movements*.

<sup>109</sup> Ibid.

## Concepts That Perpetuate LBQ+ Exclusion

Several misconceptions about LBQ+ people and their experiences of discrimination and violence fuel their exclusion from research: (1) the assumption that lesbians are “invisible,” by nature or by choice; (2) “outness” is the only path to queer liberation, and all queer people should want to be “out,” (3) LBQ+ people primarily experience violence in the “private sphere” and not in public; and (4) LBQ+ people are safer and freer from violence than queer men and boys.

### *“Lesbian Invisibility”*

The phrase “lesbian invisibility” refers to the devaluation of the identities, experiences, and contributions of LBQ+ people in the arts, politics, social movements, and a wide range of other documented histories as discussed above.<sup>110</sup> In the human rights field, addressing the radical gap in documentation of LBQ+ experiences is critical to protecting the rights of LBQ+ people. However, speaking of lesbian invisibility begs the question: Invisible to whom?

When the phrase is deployed uncritically and without explicit commitment to rectifying that gap, lesbian invisibility assumes LBQ+ issues are, in fact, hidden, harder to document, and more complicated to access.<sup>111</sup> It elides the intentional devaluation of women’s issues, including in queer spaces, and normalizes the primacy placed on cisgender men as the “natural” subject of rights, research, and investigation. Colloquial references to lesbian invisibility treat it as a naturally occurring phenomenon and erode the responsibility of researchers, advocates, and funders to recognize and seek to address the systemic nature of discrimination and violence against LBQ+ people. Accordingly, the

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<sup>110</sup> Jenn T. Grace, “Why Are so Many Lesbians Invisible within the LGBT Community?” *Huffington Post*, June 8, 2017, [https://www.huffpost.com/entry/why-are-so-many-lesbians-invisible-within-the-lgbt\\_b\\_5939ded7e4bob65670e56914](https://www.huffpost.com/entry/why-are-so-many-lesbians-invisible-within-the-lgbt_b_5939ded7e4bob65670e56914) (accessed February 2, 2023); “Lesbian Invisibility in Art History | Interview with Ksenia M. Soboleva.” WMN. August 2 2020, [www.wmnzine.com/lesbian-invisibility-ksenia-soboleva/](http://www.wmnzine.com/lesbian-invisibility-ksenia-soboleva/) (accessed February 2, 2022); Rituparna Borah, “Being a Femme Lesbian – “Passing” as Straight vs Invisibility as Queer,” *Feminism in India*, April 25, 2017, [feminisminindia.com/2017/04/26/femme-lesbian-invisibility-queer/](http://feminisminindia.com/2017/04/26/femme-lesbian-invisibility-queer/) (accessed February 2, 2023); “Older Lesbians Are the Keepers of a Rich History of the Lives of Women Who Love Other Women,” *Yahoo News*, June 14 2022, [ca.news.yahoo.com/older-lesbians-keepers-rich-history-150740960.html?guccounter=1](http://ca.news.yahoo.com/older-lesbians-keepers-rich-history-150740960.html?guccounter=1) (accessed February 2, 2023); Claire Heuchan, “We Need to Talk About Misogyny and the LGBT Community’s Erasure of Black Lesbian History.”  
<sup>111</sup> Ellen O’Regan, “Cork project will ‘breach the historical invisibility of LBQ relationships and sexual lives’,” *Irish Examiner*. February 15, 2022, <https://www.irishexaminer.com/news/munster/arid-40808721.html> (accessed February 2, 2023); “Lesbian Invisibility: from AIDS, to Civil Rights, to Marriage Equality,” Maine Archives & Museums event, April 29 2021, <https://www.mainemuseums.org/eventspublic/10335307> (accessed February 2, 2023).

phrase functions as an excuse not to advocate for LBQ+ victims of human rights violations and abuses.

Several interviewees questioned an assumption often made by researchers and NGOs that queerness is “too dangerous” or “too complicated” of an issue to discuss publicly or to even ask about in interviews during fact-finding research trips. While it is true that LBQ+ human rights defenders who are visible advocates for their communities face immense, sometimes life-threatening risks for doing so (see Chapter X. LBQ+ Human Rights Defenders), LBQ+ activists reported being stripped by researchers, reporters, NGOs, and others of their agency and decision-making power to decide to tell their stories. LBQ+ activists in Indonesia, Tanzania, and Tunisia spoke of experiences with supposedly allied state institutions who told them it was “too dangerous” to issue statements supporting lesbian groups being threatened with sexual violence, even though the community themselves had asked for public solidarity. Non-LBQ+ researchers spoke of instances when they chose to discard accounts from LBQ+ victims for fear that “outing” them would increase their risks. These accounts have indicated how human rights researchers, advocates, and allied advocacy targets all play a role in imposing the infantilizing notion that being “out” is too dangerous for LBQ+ partners, victims, and interviewees, thus perpetuating the alleged invisibility of LBQ+ communities and their issues.

As detailed later in this report, governments also contribute to “lesbian invisibility” and the human rights violations that result in several ways, including by failing to explicitly name LBQ+ people in services, programs, social support, laws, and policies aimed at the promotion and protection of women’s rights. This omission has created barriers to accessing justice, health care, and support for LBQ+ victims of violence and discrimination, because they are not clearly named as rights-holders in, for example, anti-discrimination labor policies,<sup>112</sup> SGBV programs, or health care guidelines.<sup>113</sup> (For more on how the lack of explicit LBQ+ inclusion in women’s rights laws and policies negatively impacts LBQ+ people, see Section IV. “Property Rights,” Section X. “Health,” and Section XII. “Justice”).

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<sup>112</sup> See Section VI. “Workplace Violence and Discrimination.”

<sup>113</sup> See Section IX. “The Right to Health.”

## *“Outness”*

We aren’t trying to force people to come out of the closet. Before colonialism, queerness was very “out.” It’s recolonizing to be asked to “come out” by white people with no awareness of how dangerous that is for us at home, for the ways in which colonists forced our queer ancestors into this closet they now want us to bust out of. For queer South Asian women, we want to come out to people we feel safe with. But the idea is pushed on us that we need to come out to everyone.<sup>114</sup>

– Sonali Patel, founder of the Queer South Asian Women’s Network

The phrase “lesbian invisibility” is additionally problematic because of its implied negative connotation that visibility is essentially good and that “being out” is a universal path to freedom and queer liberation. In her 2014 talk at the London School of Economics, Palestinian activist Haneen Maikey, former director of the Palestinian LGBT rights organization Al-Qaws, said visibility is not the primary goal for most Palestinian queers with whom she works. Lamenting a Google search for “gay” that primarily returned images of “rainbows and pride parades and gay men celebrating,” she asserted there are other paths to securing queer rights.<sup>115</sup> Maikey spoke of a collective white savior who is interested not only in coaxing a queer brown subject “out” into a life of visible queerness as the only true path to liberation, but also in creating distance between that subject and their family and community. She spoke of the process by which the community of origin is demonized so white LGBT activists “can have the satisfaction of saving other people” and of the violence and trauma that results:

The dynamic between the colonized and colonizer, you can see it as a savior complex, how white western activists go to save different LGBT communities. ... But in order for me [a hypothetical white savior] to convince you that I [need] to save you, I need to convince you that you need to hate your own community. This is the only way you can be saved.<sup>116</sup>

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<sup>114</sup> Human Rights Watch video interview with Sonali Patel, founder of the Queer South Asian Women’s Network, May 26, 2022.

<sup>115</sup> “Liberation in Palestine, A Queer Issue - Haneen Maikey,” video clip, YouTube, March 9, 2014, <https://www.youtube.com/watch?v=6Zqh5rtNGQ4> (accessed February 2, 2023).

<sup>116</sup> Ibid.

In a similar way, the Marigold Seeds Collective, a grassroots organization creating “nurturing spaces where LGBTQ+ South Asians and Indo-Caribbeans can build friendships” wrote of coming out as a “western” concept.<sup>117</sup> The Collective has encouraged queer people to instead think of “inviting people into” a space they create for themselves, for which they decide the boundaries. This inviting in should be treated as a privilege: if, when, and how the queer person wants certain members of their family or community to know certain parts of their identity. As the phrase “lesbian invisibility” begs the question *Invisible to whom?* the word “out” begs the question *Out to whom?* The concept of lesbian invisibility is rooted in the idea that there is a universal understanding of what “out” means. It ignores the reality of LBQ+ people who are “out” to their chosen families, friend groups, and queer activist circles after having put thought into how, when, and under which circumstances they choose to extend that “outness” to a wider public.

The Queer South Asian Women’s Network is an LBQ+ organization focused on supporting queer people in diaspora communities.<sup>118</sup> Based in Toronto, Canada, the Network was founded to “challenge our collective invisibility as Queer South Asian Women and Gender Non-Conforming folks.” While focused on challenging invisibility, its guiding principles assert: “You don’t need to be ‘out’ to be living your best queer desi life. Redefine the closet, or at least, make it a fabulous living space” and “Reject white colonial queer narratives. Refuse to assimilate to Western LGBTQ+ norms. Reclaim queerness and gender fluidity for South Asian diasporic bodies.”<sup>119</sup>

“Reclaiming queerness and gender fluidity” in ways that subvert notions of outness are central organizing goals for many LBQ+ movements. Activists in Canada, Kenya, Indonesia, Mexico, and the US spoke of efforts to research, reclaim, reignite, and publicize the non-binary, gender expansive views of their indigenous ancestors that predated the rigid, binary gender systems imposed by colonizers.

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<sup>117</sup> See Marigold Seeds Collective post on Instagram, <https://www.instagram.com/p/CEfkUoAjuoA/> (accessed February 2, 2023).

<sup>118</sup> Queer South Asian Women's Network, [qsawnetwork.com](http://qsawnetwork.com) (accessed February 2, 2023).

<sup>119</sup> Ibid.

For human rights research to bolster rather than undermine these movements, subjects of human rights investigation should be known and recognized in ways and spaces they create for themselves—spaces they “invite others into”—instead of demanding human rights subjects embody popular conceptualizations of “outness.” This is particularly crucial in the context of queer women for several reasons. First, the personified queer human is traditionally male, hence there has been a proliferation of research and advocacy centering gay men and men who have sex with men. Conceptualizations of outness are bound up in normative ideas about the human and queerness, which themselves privilege white, male, and cisgender subjects. They discount what “out” looks like for a queer woman living in a favela outside of Rio or in an Adivasi community in eastern India. Failure to reconceptualize a new, less stereotypically “out” subject of queer rights continues to exclude many LBQ+ people from human rights research, investigations, and advocacy.

Second, people who are assigned female at birth bear immense familial pressures and care responsibilities. This makes radical “outing” and distancing of oneself from one’s family (in order to be a valid queer subject) not only traumatic, but also layered with the weight of abandoning one’s duties as a woman, mother, sister, daughter, and caregiver. Enforcing a simplified idea of “outness” is often ill-suited, potentially violent, and at odds with the primacy of family in many women’s lives.

A more nuanced conceptualization of fighting invisibility would not force individual LBQ+ people to make themselves visible to become legitimate subjects of human rights investigations.

To that end, this report intentionally seeks to:

- reconceptualize new, less stereotypically “out” queer people to capture the experiences of many LBQ+ people;
- examine violations of LBQ+ rights through the regulation of relationships, desires, physical markers, political acts, sexual practices, family structures, and social groups;
- pivot toward identifying the unique ways in which the rights of LBQ+ people are violated or abused without requiring that those affected individuals name themselves “LBQ+” in all circumstances;

- analyze barriers that make LBQ+ lives uniquely difficult, and explore different concepts, identities, labels, and frames that do not require a monolithic “outness” but would benefit from documentation and advocacy;
- identify LBQ+ themes that are not currently foregrounded in normative conceptualizations of either women’s rights frameworks or LGBT rights frameworks: for example, women’s rights researchers should include gender expression and LGBT rights researchers should include property rights.

### *Public/Private Binary*

In May 2016 in [Ghana], the mother of a young woman organized a mob to beat up her daughter and another woman because she suspected they were lesbians and in a same-sex relationship. The two young women were forced to flee the village.

– “No Choice but to Deny Who I Am”: Violence and Discrimination against LGBT People in Ghana<sup>120</sup>

Decades of advocacy on behalf of women’s rights defenders, organizations, and scholars won the recognition that “private” abuses—acts of violence in the home—are human rights abuses that should be sanctioned by law. This was critical step in the advancement of women’s rights struggles. The development and proliferation of an alleged binary between the public and private spheres, however, has in fact been an impediment to research and advocacy on women’s rights, including LBQ+ rights.

The accounts collected for this report have directly refuted an assumption sometimes made by researchers that violence against LBQ+ women occurs predominantly in the “private sphere.” The concept of “private sphere” violence as the main arena for LBQ+ rights abuses is problematic, and this assumption has enabled NGOs, government institutions, families, police, neighbors, and the media to ignore violence against LBQ+ people.

In reality, abuses against LBQ+ women are often public and visible. Violence traditionally considered “private” often has public dimensions. Families can and do attack LBQ+

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<sup>120</sup> Human Rights Watch, “No Choice but to Deny Who I Am”: Violence and Discrimination against LGBT People in Ghana.



women in public. Attacks on LBQ+ people are not necessarily contained to the private sphere just because the perpetrator was known to them or a family member. The public/private dichotomy is a challenge not only for LBQ+ women, but also women who do not identify as LBQ+. At least two UN special rapporteurs on violence against women have repeatedly affirmed that this public/private dichotomy in international human rights law is “one of the main obstacles to the protection of women’s rights.”<sup>121</sup>

In her 2006 report, then-Special Rapporteur on Violence against Women Yakin Ertürk wrote:

The public/private codification in international law has not only served as an ideological barrier to the development of the human rights discourse in many societies but it has also served as a guard against it. In many parts of the world the struggle for human rights seems to end at one’s doorsteps.

In her 2013 report, then-Special Rapporteur on Violence against Women Rashida Manjoo drew upon Ertürk’s work:

One of the primary problems [Ertürk’s] found was that the due diligence standard focused primarily on violence against women as an isolated act and failed to take into consideration the connections between violence and the violation of other human rights, including general principles of gender equality and non-discrimination. She also addressed the need to move away from a public/private dichotomy in viewing violence against women. Her argument is that categorizing some forms of violence against women as part of the private sphere tends to have a normalizing effect, and it makes

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<sup>121</sup> The due diligence standard as a tool for the elimination of violence against women, see:

UN Commission on Human Rights (UNCHR), Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Yakin Ertürk, E/CN.4/2006/61, January 20, 2006, <https://digitallibrary.un.org/record/565946#:~:text=Symbol%20E%2FCN.4%2F2006%2F61%20Title%20The%20due%20diligence%20standard%20as,against%20Women%2C%20Its%20Causes%20and%20Consequences%2C%20Yakin%20Ert%C3%BCrk> (accessed February 2, 2023).

States' intervention seem to be different in such situations, as opposed to where there are 'public' incidents of violence.<sup>122</sup>

Human rights violations and abuses against LBQ+ people that occur at the intersection of the public/private dichotomy include assaults on butch lesbians and transmasculine people by their queer partners' husbands;<sup>123</sup> harassment of women employed outside the home;<sup>124</sup> violent attacks on LBQ+ couples perpetrated by their family members;<sup>125</sup> and sexual harassment of LBQ+ human rights defenders by police who accuse women living outside their hometown of having run away from home based on gendered notions that women's "private" lives are with parents or husbands.<sup>126</sup>

Framing any of these forms of anti-LBQ+ violence as predominantly private elides state responsibility to consistently protect LBQ+ victims and survivors. This report will explore meaningful reforms that could circumvent harmful, overly simplified narratives surrounding "outness," invisibility, and the public/private domains.

### *The Myth of LBQ+ Safety and Freedom*

Despite a litany of abuses against LBQ+ couples and individuals, there is a persisting myth that queer women and girls have more space, safety, and freedom in society than queer men and boys, including to explore their sexuality. This concept is bolstered by the existence of anti-sodomy laws that do not explicitly criminalize same-sex relations between women (See Section II. Legal and Advocacy Context). More than two-thirds of our LBQ+ interviewees referenced and critiqued that myth, noting that these alleged freedoms stem from the devaluation of women, their sexuality, and their intimacies.

Legal regimes around the world deny women full personhood; in fact, the lack of explicit criminalization of queer women's sexual conduct proves this point. LBQ+ sex decenters the traditional prominence of men, so it is delegitimized to the extent of not qualifying as

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<sup>122</sup> UNCHR, Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Rashida Manjoo, A/HRC/23/49/Add.3, June 4, 2003. [https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session23/A\\_HRC\\_23\\_49\\_English.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/RegularSession/Session23/A_HRC_23_49_English.pdf) (accessed February 2, 2023).

<sup>123</sup> See Section V. "Butches Get Punched": Violence Against Masculine-Presenting LBQ+ People.

<sup>124</sup> See Section VI. Violence and Discrimination at Work.

<sup>125</sup> See Section VII. Freedom of Movement and the Right to Appear.

<sup>126</sup> See Section V. "Butches Get Punched": Violence Against Masculine-Presenting LBQ+ People, and Section XI. Human Rights Defenders.

sex at all. It falls outside the knowable bounds of criminalization in many homophobic contexts, not because LBQ+ women are accepted, but because they are radically devalued.

Colloquially, this implies that LBQ+ lives are somehow “easier” for being neither visible nor legitimate enough to criminalize or regulate. However, this belief obscures LBQ+ women’s vulnerability to homophobic and lesbophobic violence, which manifests differently for queer woman and girls than for queer men and boys.

Nadia, a lesbian activist in Beirut, explained:

I was caught kissing my girlfriend. The cop asked for my number. Another day, I was swimming topless when a policeman showed up. He wouldn’t leave until he took my number. I agreed to go on a date with him, and he called my phone in front of me to confirm it was my real number. I had to change my number. That anxiety doesn’t go away.

A cop won’t arrest me, but he’ll come up to me, try to fondle me, touch my arm. To what extent am I safer in the public sphere if I’m avoiding prison in exchange for harassment and rape? How does that affect women’s ability to appear in public?<sup>127</sup>

The myth of LBQ+ freedom and safety discounts the social and legal restrictions on women’s freedom of movement and ability to appear safely in public that foreground the lives of LBQ+ people. Lisa Davis, Special Advisor on Gender Persecution to the International Criminal Court Prosecutor and Co-Director of the Human Rights and Gender Justice (HRGJ) Clinic at City University of New York (CUNY), centered experiences like Nadia’s against the global backdrop of male power, women’s lack thereof, and the need for human rights documentation that captures—rather than takes for granted—this imbalance:

International criminal law recognizes that people of all genders and sexual orientations can be targeted with gender persecution and the recognition of such crimes can reflect the continuum of historical and longstanding

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<sup>127</sup> Human Rights Watch video interview with Nadia, LBQ+ rights activist. May 24, 2022.

structural discrimination and fundamental rights deprivations experienced by women, girls and LGBTQI+ persons. But sometimes unearthing such discrimination can be challenging because those with power in society are often considered a greater threat to the group trying to control power, than those who are perceived as gender transgressors but don't hold power. For example, Nazis criminalized male gay sex, not lesbian sex. Why? Women were not perceived as a threat.

It is often assumed that LGBTQI+ persecution did not happen and that persecution was only committed against gay men. That's in part because the oppression of women was already happening before the Nazis arrived, and most historians just haven't adequately captured how that compounded the crimes committed against them that may amount to gender persecution.

It is important that brutal acts towards gay men have been recognized as atrocities, but we haven't captured the sexist violence against women that was in the backdrop. We must secure justice for gender persecution for all victims – men, women, and/including LGBTQI+ persons – if we are going to root out the discrimination that fuels such violence. We need to understand how discrimination undergirds oppression or we may miss the double or triple forms of discrimination that LGBTQI+ people may face within that context. Or these victims run the risk of remaining invisible.<sup>128</sup>

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<sup>128</sup> Human Rights Watch video interview with Lisa Davis. May 26 2022.

## II. Legal and Advocacy Context

The legal context is a key starting point for human rights analyses, and laws that violate human rights are the focus of research and advocacy to repeal or reform abusive laws. Maps and databases of LGBT rights and LGBT-related laws around the world typically illustrate which countries criminalize same-sex relations, allow for same-sex marriage, have nondiscrimination legislation that explicitly names sexual orientation, gender identity, and gender expression (SOGIE) as protected categories, and, in recent years, allow for legal gender recognition.<sup>129 130 131</sup> While important, these topics do not address the fundamental lack of power, autonomy, and control that many women have over their own lives that limits their expression of sexuality. To address this gap, this report explores legalized restrictions on women's rights and freedoms that intersect with, and often usurp, the normative advancement of LGBT rights by negatively impacting LBQ+ lives.

A 2017 World Economic Forum article, "What you need to know about LGBT rights in 11 maps," featured visualizations of the criminalization of homosexuality, marriage equality, legal gender change, legal adoption, protection from discrimination based on sexual orientation or gender identity, prohibition of housing discrimination, bans on military service and blood donations, "age of consent for homosexual sex," and bans on conversion practices.<sup>132</sup>

These rights issues are relevant but not sufficient for the full recognition of LBQ+ rights. This report explores how the legalized denial of LBQ+ rights in a wide range of other areas impacts their lives just as significantly, if not more so, than the criminalization of same-sex relations, marriage equality, or gender recognition. For example, the decriminalization of same-sex practices may have a decidedly small impact on the life of a queer woman in country where discriminatory laws and government practices prohibit her from inheriting property, renting an apartment, or seeking a divorce from a heterosexual marriage she was coerced into.

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<sup>129</sup> Max Fisher, "This Map shows how America compares to the rest of the world on gay rights."

<sup>130</sup> "Equality Maps," Movement Advancement Project.

<sup>131</sup> "Maps - Sexual orientation laws," International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA).

<sup>132</sup> "What you need to know about LGBT rights in 11 maps," *World Economic Forum*.

A normative conception of identity-based rights laws may hold that one needs one set of laws to protect them “as a queer person” (for example, laws which prohibit discrimination based on sexual orientation), another set to protect them “as women” (for example, laws which prohibit inheritance discrimination based on sex), another to protect them as a member of a particular racial or ethnic group, another to protect them as a person with disabilities, and so on. This report takes a different approach. It examines how laws and policies traditionally conceptualized of as “women’s rights” issues are directly tied to LBQ+ people’s ability to live freely “as queer people.” Women’s property rights, for example, determine what physical space an LBQ+ person literally has *to be queer in*. Legislation protecting human rights defenders, similarly, does not just protect an LBQ+ activist “as an activist” but rather as a full, complete, queer political subject who can enact their queerness via freedom of speech, expression, assembly, and association. This report is not just about legal frameworks, but it does seek to contribute to a more expansive reading of which international human rights laws and legal obligations are relevant to the struggle for LBQ+ liberation.

## Criminalization of Same-Sex Relations

A 2016 report found that 44 of the 78 countries that criminalized same-sex relations also criminalized same-sex conduct between women.<sup>133</sup> According to the report from Human Dignity Trust, between 1986 and 2014, ten jurisdictions that previously only criminalized same-sex relations between men introduced explicit penalties for lesbian and bisexual women.<sup>134</sup> These are Bahamas, Barbados, Botswana, the Gambia, Malaysia, Malawi, Solomon Islands, Sri Lanka, Trinidad and Tobago, Zambia, and one state in Nigeria.<sup>135</sup>

Other legal developments less obviously aimed at increasing the criminalization of LBQ+ women appear to have had that effect. In 2012, Iran’s amended penal code produced a more exact definition of *mosaheqeh* (lesbianism) that, according to some legal scholars, would make it more difficult to convict women.<sup>136</sup> However, the new definition of *mosaheqah* as an act in which a “woman places her sexual organs on the sexual organs of

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<sup>133</sup> Human Dignity Trust, *Breaking the Silence Criminalisation of Lesbians and Bisexual Women and its Impacts*.

<sup>134</sup> Ibid. Page 10

<sup>135</sup> Ibid. Page 10

<sup>136</sup> Human Rights Watch, *Codifying Repression: An Assessment of Iran’s New Penal Code*, (New York: Human Rights Watch, 2012), pp. 26, [https://www.hrw.org/sites/default/files/reports/irano812webwcover\\_o.pdf](https://www.hrw.org/sites/default/files/reports/irano812webwcover_o.pdf).

[another woman]”<sup>137</sup> is still considered a “crime against God,”<sup>138</sup> and several national and international NGOs have documented ongoing arrests and abuses in detention against lesbians.<sup>139</sup>

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)’s 2020 *State-Sponsored Homophobia* report found 67 countries with provisions criminalizing consensual same-sex conduct, two additional countries with de facto criminalization, and the death penalty legally prescribed as punishment in Brunei, Iran, Mauritania, twelve states in Nigeria, Saudi Arabia, and Yemen.<sup>140</sup>

## Legal Reforms Beyond Decriminalization

The same 2016 report examining the impact of the criminalization of homosexuality and same-sex conduct on lesbian and bisexual women concluded:

Decriminalisation remains an important step for lesbians and bisexual women, not only in those countries where they are or may be captured by the criminal law but also because the maintenance of any form of anti-LGBT laws fosters and perpetuates generalised homophobia, impacting the entire LGBT community. Legal interventions to achieve decriminalisation, however, need to better integrate and reflect the overlapping and differential impact of these criminal laws on lesbians and bisexual women.<sup>141</sup>

A web of laws regulating the many identities of LBQ+ people impact the full recognition of their rights. In interviews conducted for this report, Human Rights Watch identified ten key issues affecting the lives of LBQ+ people that they believe necessitate further human rights investigation, documentation, and advocacy. The commonalities across continents, languages, and cultures demonstrate the global need for investigative work that centers the lived experiences of LBQ+ communities and approaches these topics using the

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<sup>137</sup> Article 127 of the old code defined lesbianism as “same-sex relations between women by way of their genitals.”

<sup>138</sup> OutRight International, *Human Rights Report: Being Lesbian in Iran*.

<sup>139</sup> Ibid.

<sup>140</sup> ILGA World: Lucas Ramon Mendos, Kellyn Botha, Rafael Carrano Lelis, Enrique López de la Peña, Ilia Savelev and Daron Tan, *State-Sponsored Homophobia 2020: Global Legislation Overview Update* (Geneva: ILGA, December 2020).

<sup>141</sup> Human Dignity Trust, *Breaking the Silence Criminalisation of Lesbians and Bisexual Women and its Impacts*.

frameworks, terminology, and methodological approaches created by these communities themselves. These include:

- the right to free and full consent to marriage;
- land, housing, and property rights;
- freedom from violence based on their gender expression;
- a world of work free from violence and discrimination;
- freedom of movement and the right to appear in public without fear of violence;
- parental rights, including the ability to create a family;
- the right to health, including services for sexual and gender-based violence survivors and mental health;
- protection and recognition as human rights defenders; and
- access to justice.

These ten issues should be viewed as intersectional categories of investigation because they impact LBQ+ people's ability to fully exercise the rights won by other identity groups, like women or LGBT people, to which they also belong. For example, gendered discrimination in inheritance, property, and rental rights (Section IV) critically hinders women's ability to form and sustain relationships and families, even in countries where homosexuality is decriminalized, or marriage equality is recognized.<sup>142</sup><sup>143</sup> Similarly, lesbophobic violence in the workplace (Section VI) harms lesbians' ability to access and maintain safe and consistent employment, even as women in their field make strides to close the gender pay gap.<sup>144</sup>

The key issues identified here are not wedded to popular conceptualizations of "LGBT rights" or "women's rights." As such, they are relevant to all human rights researchers, who should not only consider making these issues the central topic of future investigations, but also mainstream them into analyses of other human rights.

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<sup>142</sup> "Map of Countries that Criminalise LGBT People," Human Dignity Trust, <https://www.humandignitytrust.org/lgbt-the-law/map-of-criminalisation/> (accessed December 10, 2022).

<sup>143</sup> "Marriage Equality Around the World," Human Rights Campaign, <https://www.hrc.org/resources/marriage-equality-around-the-world> (accessed December 10 2022).

<sup>144</sup> Megan O'Donnell, Ugonma Nwankwo, Ania Calderon and Callie Strickland, "Closing Gender Pay Gaps," *Center for Global Development*, September 16, 2020, <https://www.cgdev.org/publication/closing-gender-pay-gaps#:~:text=Gender%20pay%20gaps%20are%20the%20symptom%20of%20larger,the%20global%20economy%20%28Noland%2C%20Moran%2C%20and%20Kotschwar%2C%202016%29> (accessed February 2, 2023).



Each of these ten issues points to the range of laws and legal gaps which affect the lives of LBQ+ people, beyond criminalization, including:

- the lack of laws, policies, and protocols that explicitly protect LBQ+ women from forced marriage or coercive marriage practices (Section III);
- discriminatory divorce laws, which make it significantly easier for men to divorce their wives than for women to divorce their husbands and thus harm LBQ+ people who wish to leave their husbands without fear of retribution or violence (Section III);
- women's property and inheritance rights, which are limited in two-fifths of countries worldwide,<sup>11</sup> and which define LBQ+ people's ability to access physical spaces to raise families, organize in collectives, form romantic relationships, and build independent lives (Section IV);
- property laws, restrictions on women's labor, and sexist family codes, including colonial-era laws and policies that persist in several formerly colonized countries and have impacted LBQ+ people's lives as much as, if not more than, colonial-era anti-homosexuality laws (Section IV);
- the absence of legal protections for gender non-conforming students, which can contribute to a lifelong trajectory of violence and discrimination for masculine-presenting LBQ+ people (Section V.);
- the criminalization of sex work, a profession that LBQ+ people sometimes enter due to discriminatory hiring practices in other fields of work (Section V.);
- the exclusion of gender expression from nondiscrimination policies protecting people from discrimination because of sexual orientation and gender identity, which fail to protect, in particular, masculine-presenting LBQ+ people (Section V.);
- the absence of labor rights laws that explicitly protect LBQ+ people from violence, harassment, and discrimination at work (Section VI.);
- patriarchal legal systems, such as male guardianship laws that restrict women's rights to marry, study, rent or own property, reproductive health, and travel without the permission of a male guardian (Section VII.);
- other laws, policies, decrees, and emergency measures that discriminatorily restrict women's freedom of movement (Section VII.);
- discriminatory fertility laws and insurance policies that prevent LBQ+ people from accessing reproductive treatments, such as IVF, egg freezing, and sperm donation, to create their families (Section VIII.);

- laws, policies, and court decisions requiring non-gestational LBQ+ parents to adopt their children, which also reify structural racism and classism given the legal and financial barriers to adopting (Section VIII.);
- laws that prevent single women from adopting, or large cultural taboos that limit the vast majority of people of all sexualities from adopting (Section VIII.);
- the absence of policies and protocols supporting LBQ+ survivors of sexual assault, including explicit nondiscrimination protections for LBQ+ people in access to health care (Section IX.);
- the lack of proper legal recognition for LBQ+ people as human right defenders and the risks they face for leading social movements, which limits their access to and enjoyment of the protection mechanisms and laws that support and affirm the peaceful, legitimate work of human rights defenders (Section X).

For each issue identified, a sub-section on key next steps summarizes recommendations to governments, researchers and, where appropriate, donors. Recommendations to governments, national legislatures, security forces, donors, national health departments, and judiciaries can be found at the end of the report.

### III. Forced Marriage and Compulsory Heterosexuality

[A group of LBQ+ activists] met two lesbians forced into marriages whose husbands later left them. They had kids and no prospect of getting back on their feet. They had to marry because of societal norms and now the men are gone. Another lesbian in our group is trying to find a gay man to marry so she can have her independence. He doesn't need it. As a man, he has freedom without her; this will just be a step up on the social ladder for him. But she literally needs it.<sup>145</sup>

– Nadia, an LBQ+ rights activist in Lebanon

Forced marriage is a huge issue for LBQ+ people in Kyrgyzstan. It happens to both young girls and to queer men, but it's different for girls because there are so many existing pressures on girls anyway, and there is no path to freedom [to move out from your parents' home] if you don't get married. Usually, it's not as obvious as the family forcing you to marry someone. But you will be under pressure from the family and have to run away with no money and no place to go. In my case, I had to get married. There was no other way to live the life I wanted to live, away from my mom and brothers. You can't live alone, you have to be a virgin, all these things. LBQ+ people have to struggle with this invisible pressure.<sup>146</sup>

– Liliya, an LBQ+ rights activist in Kyrgyzstan

Adrienne Rich's 1980 essay "Compulsory Heterosexuality and Lesbian Existence" popularized the term "compulsory heterosexuality": the theory that heterosexuality is a political institution, presumed to be naturally occurring and enforced by sexist, patriarchal, and heteronormative societal expectations.<sup>147</sup>

Compulsory heterosexuality, the pressure to marry men, and coercive marriage practices were the most frequently reported abuses experienced by our LBQ+ interviewees in

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<sup>145</sup> Human Rights Watch video interview with Nadia, LBQ+ rights activist, Lebanon. May 24, 2022.

<sup>146</sup> Human Rights Watch video interview with Liliya, LBQ+ rights activist, Kyrgyzstan. June 23, 2022.

<sup>147</sup> Adrienne Rich, "Compulsory Heterosexuality and Lesbian Existence," (The University of Chicago Press, 1981) <https://archive.org/details/compulsoryheteroorich/page/631> (accessed, February 2, 2023).

Canada, Indonesia, Kenya, Kyrgyzstan, Lebanon, Malawi, Mexico, Poland, Sri Lanka, Tanzania, Tunisia, and Ukraine.

International human rights law protects the rights to free and full consent to marriage and to choose one's spouse under the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.<sup>148</sup> Forced marriages not only violate the aforementioned rights, but also implicate others, including the rights to education; freedom from physical, mental, and sexual violence; health; equality and nondiscrimination; information; and an effective remedy when rights are violated.<sup>149 150 151</sup>

Research, case law, and advocacy on forced marriage is largely situated within “women’s rights” and “child rights” discourses, which rarely explore issues related to sexuality or explicitly address forced marriages of LBQ+ people.<sup>152</sup> Human Rights Watch has documented child marriage as a violation of women’s and children’s rights, including in

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<sup>148</sup> Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948); Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, adopted November 7, 1962, G.A. Res. 1763 A (XVII); International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976.

<sup>149</sup> Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948); International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976; Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990.

<sup>150</sup> “Forced marriage: A brutal barrier to a child’s education,” *Right to Education Initiative*, November 9, 2018, <https://www.right-to-education.org/blog/forced-marriage-brutal-barrier-child-s-education> (accessed February 2, 2023).

<sup>151</sup> U.N. General Assembly, Resolution on Child, early and forced marriage, adopted December 19, 2016, U.N. Doc. A/RES/71/175, <https://digitallibrary.un.org/record/857708?ln=en> (accessed February 3, 2023).

<sup>152</sup> “Forced marriage and lesbian, gay, bisexual and trans people,” *Stonewall*, <https://www.stonewall.org.uk/help-advice/criminal-law/forced-marriage> (accessed December 10, 2022).

Afghanistan,<sup>153</sup> Bangladesh,<sup>154</sup> Nepal,<sup>155</sup> Nigeria,<sup>156</sup> Somalia,<sup>157</sup> South Sudan,<sup>158</sup> and Zimbabwe.<sup>159</sup> A 2022 Human Rights Watch report on violence against LGBT people in Iraq documented six victims of forced marriage, three of whom were LBQ+.<sup>160</sup>

Documentation, visibility, and advocacy against the forced heterosexual marriages of LBQ+ people, explicitly, is scarce.

- In 2019, queer feminist group Mawjoudin<sup>161</sup> released a three-minute film showing a Tunisian woman being forced by her family to marry a man before she leaves the house and announces to the camera, “I love someone [else]. I love her. And she is not a man.”<sup>162</sup>
- In 2018, Karma Nirvana, an NGO operating a hotline for survivors of forced marriage in the UK, reported an “uptick in calls from LGBT people” without specifying how many were LBQ+.<sup>163</sup>
- In 2013, a Salvadoran lesbian woman won her US asylum case by challenging the court’s original ruling that her forced marriage, at the age of 14 to a man 50 years her senior, was not a form of persecution that warranted asylum.<sup>164</sup> The Center for Gender & Refugee Studies’ *amicus* brief in this case asserted that forced marriage

<sup>153</sup> “Afghanistan Facing Famine,” Human Rights Watch news release, November 11, 2011. <https://www.hrw.org/news/2021/11/11/afghanistan-facing-famine>.

<sup>154</sup> Human Rights Watch, *Marry Before Your House is Swept Away: Child Marriage in Bangladesh*, (New York: Human Rights Watch, 2015), <https://www.hrw.org/report/2015/06/09/marry-your-house-swept-away/child-marriage-bangladesh>.

<sup>155</sup> Human Rights Watch, “*Our Time to Sing and Play*: Child Marriage in Nepal” (New York: Human Rights Watch, 2016), <https://www.hrw.org/report/2016/09/09/our-time-sing-and-play/child-marriage-nepal>

<sup>156</sup> “Child Marriage Remains Prevalent in Nigeria,” Human Rights Watch news release, January 17, 2022, <https://www.hrw.org/news/2022/01/17/nigeria-child-marriage-violates-girls-rights>

<sup>157</sup> “No Place for Children: Child Recruitment, Forced Marriage, and Attacks on Schools in Somalia,” Human Rights Watch news release, February 20, 2012, <https://www.hrw.org/report/2012/02/20/no-place-children/child-recruitment-forced-marriage-and-attacks-schools-somalia>.

<sup>158</sup> Human Rights Watch, “*This Old Man Can Feed Us, You Will Marry Him*: Child and Forced Marriage in South Sudan,” (New York: Human Rights Watch, 2013), [https://www.hrw.org/report/2013/03/07/old-man-can-feed-us-you-will-marry-him/child-and-forced-marriage-south-sudan#\\_ftn161](https://www.hrw.org/report/2013/03/07/old-man-can-feed-us-you-will-marry-him/child-and-forced-marriage-south-sudan#_ftn161).

<sup>159</sup> “Ensure Justice for Zimbabwe’s Child Brides,” Human Rights Watch news release, August 6, 2021, <https://www.hrw.org/news/2021/08/06/ensure-justice-zimbabwes-child-brides>.

<sup>160</sup> Human Rights Watch, “*Everyone Wants Me Dead*: Killings, Abductions, Torture, and Sexual Violence Against LGBT People by Armed Groups in Iraq” (New York: Human Rights Watch, 2022), [https://www.hrw.org/report/2022/03/23/everyone-wants-me-dead/killings-abductions-torture-and-sexual-violence-against#\\_ftn230](https://www.hrw.org/report/2022/03/23/everyone-wants-me-dead/killings-abductions-torture-and-sexual-violence-against#_ftn230).

<sup>161</sup> “Fragments of a Queer Life,” L’initiative Mawjoudin pour l’égalité.

<sup>162</sup> “لوقتاش؟” *Until When?* Mawjoudin.

<sup>163</sup> “When Coming Out as Gay or Lesbian Leads to Forced Marriage,” *Freedom United*, August 23, 2018. [https://www.freedomunited.org/news/when-coming-out-as-gay-or-lesbian-leads-to-forced-marriage/?gclid=CjwKCAiA-dCcBhBQEIwAeWidTSQUwzD-GQASOIbNmXoIBSRnpPnwkk2AgIDThU1C9stNjxKfNpchoCm5EQAvD\\_BwE](https://www.freedomunited.org/news/when-coming-out-as-gay-or-lesbian-leads-to-forced-marriage/?gclid=CjwKCAiA-dCcBhBQEIwAeWidTSQUwzD-GQASOIbNmXoIBSRnpPnwkk2AgIDThU1C9stNjxKfNpchoCm5EQAvD_BwE) (accessed February 2, 2023).

<sup>164</sup> “Maldonado-Lopez V. Holder,” *AILA South Florida Litigation Committee*, <https://ailasflitigation.org/briefs/asylum/maldonado-lopez/> (accessed February 2, 2023).

was at the center of the case and cited international treaties that protect women and girls against forced marriage.<sup>165</sup>

- There are accounts in the media of LBQ+ people from Afghanistan,<sup>166</sup> India,<sup>167</sup> and the UK<sup>168 169</sup> who were forced to marry men.

Most of this already limited visibility does not distinguish between LBQ+ people forced to marry men (1) as a form of punishment or as a “cure” after their families learned they were LBQ+ and (2) because they live in communities where forced marriages of women and girls are prevalent, regardless of sexuality.

This section unpacks issues related to the forced and coerced marriage of LBQ+ people, including forced marriage as a conversion practice; the infantilization of unmarried or divorced LBQ+ people; “queer time” and the failure to conform to heteronormative markers of adulthood; and violence against the partners of LBQ+ women married to men.

## Asante’s Story, Malawi

Asante is a 21-year-old lesbian from Phalombe, Malawi, who also identifies as a non-binary trans man whose family subjected them to conversion practices upon discovering their sexuality.<sup>170</sup>

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<sup>165</sup> Brief as Amici Curiae on Behalf Of Center For Gender & Refugee Studies, East Bay Community Law Center, East Bay Sanctuary Covenant, Florence Project, Public Counsel, Public Law Center, Immigration Equality, National Center For Lesbian Rights, Human Rights Center, International gay and Lesbian Human Rights Commission, International women’s Human Rights Clinic, And Madre supporting petitioners Yesenia Marisol Maldonado Lopez, *Maldonado Lopez v. Eric Holder*, No. 12-72800. June 6, 2013.

[https://cgrs.uchastings.edu/sites/default/files/Brief\\_only\\_CGRS\\_Amicus\\_Maldonado\\_06\\_06\\_2013\\_FINAL.pdf](https://cgrs.uchastings.edu/sites/default/files/Brief_only_CGRS_Amicus_Maldonado_06_06_2013_FINAL.pdf) (accessed February 3, 2023).

<sup>166</sup> Patrick Kelleher, “Lesbian Risks Life and Flees Afghanistan to Escape Forced Marriage to Taliban Brute,” *PinkNews*, December 27, 2021, [www.pinknews.co.uk/2021/12/27/afghanistan-lesbian-taliban-forced-marriage/](http://www.pinknews.co.uk/2021/12/27/afghanistan-lesbian-taliban-forced-marriage/) (accessed February 2, 2023).

<sup>167</sup> Josh Jackman, “Two Lesbians Divorce Husbands to Marry Each Other,” *PinkNews*, January 2, 2019, [www.thepinknews.com/2019/01/02/lesbians-india-divorce-husbands-marry/](http://www.thepinknews.com/2019/01/02/lesbians-india-divorce-husbands-marry/) (accessed February 2, 2023).

<sup>168</sup> Adrian Goldberg, “Tale of Gay Woman Forced to Marry to Protect ‘Honour,’” *BBC News*, October 24, 2010, [www.bbc.com/news/uk-11613992](http://www.bbc.com/news/uk-11613992) (accessed February 2, 2023).

<sup>169</sup> Lin Taylor, “Young, Gay and Married - Britons Wed to Avoid Abuse,” *Reuters*, August 23, 2018, [www.reuters.com/article/us-britain-lgbt-marriage-idUSKCN1L824I](http://www.reuters.com/article/us-britain-lgbt-marriage-idUSKCN1L824I) (accessed February 2, 2023).

<sup>170</sup> Human Rights Watch video interview with Asante, trans man and lesbian, Malawi, July 15, 2022.

In 2018, Asante met a bisexual woman on Facebook and began a relationship with her, they said.<sup>171</sup> At that time, the woman was married to a man and had two children, Asante said. When the man found messages from Asante on the woman's phone three months later, he found Asante on the street, followed them in his car, and physically assaulted them. During the attack in 2018, the man repeatedly threatened to kill them. Asante said:

He found a message from me on her phone. He found me in Phalombe. He started beating my face on the road. People watched. I had a gash on my face. I had to go to the hospital and stay for two days. I have a medical report. My mouth, my face, my nose had so much blood. I still have a [scar] four years later. He said he would beat me everywhere, every time he found me, until I was dead. He said everywhere I move, every time, he will find me and beat me until I die.<sup>172</sup>

When Asante left the hospital, they returned to their boarding school until graduation in 2019. After that, they moved back in with their parents from 2019 to 2022. Asante told Human Rights Watch that their parents “always shouted horrible things at me, saying I disgraced the family” and repeatedly tried to force them to marry a man:

My parents said the man did a good thing to me. They said it would change me, because a girl and girl together is shameful. They kept telling me to change, to act like a woman, and to marry a man... They kept saying they will take my men's clothes and set them on fire, and they took my phone so I couldn't be online and meet another woman.<sup>173</sup>

After the attack, Asante's parents intensified their efforts to force Asante to marry a man, using conversion practices<sup>174</sup> to change Asante's SOGIE:

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<sup>171</sup> Asante's pronouns are they/them.

<sup>172</sup> Human Rights Watch video interview with Asante, trans man and lesbian, Malawi. July 15, 2022.

<sup>173</sup> Interview with Asante, trans man and lesbian, Malawi. July 15, 2022.

<sup>174</sup> Conversion practices are attempts to change or divert a person's sexual orientation, gender identity or gender expression. While “conversion therapy” is a widely used term to describe these practices, the word “therapy” is dangerous because it implies a person's SOGIE can or should be “cured.” To the contrary, the United Nations said in 2020 that practices of so-called “conversion therapy” can amount to torture and should be banned. See also the next subsection on “Conversion Practices” in this chapter.

My parents tried again and again to force me to marry a man, to stop talking to girls, and to have kids. But I do not want that. I can't. I said no. I don't have feelings for men; I have feelings for girls.

They called people to talk to me. They called my uncle to talk to me. He said to be more like a girl and marry a man. But my heart is not like that. He said if I don't change, he will beat me too and call the police to arrest me. My family is very religious: we are with the Assemblies of God. When I said no to my uncle, my parents called the pastor to come talk to me in 2018, after my partner's husband beat me. He said I should change. They took me to the church and forced me to kneel on the ground. About ten people started touching me on the head. They stood over me and prayed for some hours. I was scared. I heard my ex-girlfriend's family also created a group of people to come shout at her and tell her to change.<sup>175</sup>

Despite Asante ceasing all communication with their former partner after her husband attacked them, the man found and physically assaulted Asante for a second time in July 2021. Asante later learned that the woman had divorced her husband and thought this motivated the second attack.

He said I took his wife and made his heart sad, so he will beat me. He thought we were still together in 2021. I kept trying to tell him that I didn't see her anymore, that the relationship ended in 2018 after the first attack, but he didn't listen...

In May [2022], my parents said I disgraced my family enough, and they chased me out. I found a place to live. I want a girlfriend and someone to love but can't find one. It is hard to find [one] here because a lot of lesbian women are dating men or married. It is hard to find a lesbian or bisexual woman who is available and not dating a man. And I am afraid now. I will never be with someone married again, so there is no one.<sup>176</sup>

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<sup>175</sup> Human Rights Watch video interview with Asante, trans man and lesbian, Malawi, July 15, 2022.

<sup>176</sup> Human Rights Watch video interview with Asante, trans man and lesbian, Malawi, July 15, 2022.



This case study highlights several challenges for LBQ+ relationships. Asante endured conversion practices when their parents learned about the relationship. Additionally, the physical assault of Asante by their married bisexual partner's husband represents the many layers of danger implicit in the coercive practices facing LBQ+ communities.

## Conversion Practices

Forced and coerced marriage as a type of conversion practice is explored in reports from LGBT organizations.<sup>177</sup> Conversion practices are sustained and deliberate efforts to change a person's SOGIE. "Conversion therapy" is a widely used term to describe these attempts, but the word "therapy" is dangerous because it wrongly implies that SOGIE can and should be cured. In 2020, the UN expert on sexual orientation and gender identity said "conversion therapy" can amount to torture.<sup>178</sup>

A 2019 OutRight global report found "corrective rape" was used as a conversion practice against LBQ+ people in Chile, Ecuador, India, Nigeria, and South Africa.<sup>179</sup> (The conceptualization of corrective rape as a conversion practice is just one framing of corrective rape. See Section V. for a broader discussion of this type of violence against LBQ+ people, and the ways in which corrective rapes targets expressions of independence, power, agency, masculinity, and gender transgression in women).

In 2019, OutRight, along with partner organizers Equal Rights in Nigeria, galck+ in Kenya, and Access Chapter 2 in South Africa, began documenting conversion practices in these three countries. Yvonne Wamari and Ohotuowo Ogbeche, Africa Program Officer and Global Researcher with the team, respectively, told Human Rights Watch that "all cases of corrective rape we have documented so far, as part of conversion practices, were against

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<sup>177</sup> "The Global Reach of So-Called Conversion Therapy," Outright International, August 12, 2019.

<https://outrightinternational.org/our-work/human-rights-research/global-reach-so-called-conversion-therapy>

<sup>178</sup> "'Conversion therapy' can amount to torture and should be banned says UN expert," UN Office of the High Commissioner for Human Rights, July 13, 2020, <https://www.ohchr.org/en/stories/2020/07/conversion-therapy-can-amount-torture-and-should-be-banned-says-un-expert#:~:text=%E2%80%99Conversion%20therapy%E2%80%99%20can%20amount%20to%20torture%20and%20should,identity%2C%20Victor%20Madrigal-Borloz%20tells%20the%20Human%20Rights%20Council> (accessed February 2, 2023).

<sup>179</sup> Outright International, *The Global Reach of So-Called Conversion Therapy* (New York: Outright International, 2019) <https://outrightinternational.org/our-work/human-rights-research/global-reach-so-called-conversion-therapy> (accessed February 2, 2023).

LBQ+ people.”<sup>180</sup> In 2022, the organizations released reports on the three focus countries.<sup>181</sup> The report from Kenya found:

Methods of conversion ‘therapy’ identified by respondents include unethical physical and medical ‘treatments,’ beatings and forced sex or marriage and prolonged detention in homes or camps. For example, one respondent spoke of a friend who was outed by her family. The person explained that after that, “[t]he family got mad and asked her to stop [being gay], to which she answered that she cannot. They locked her in her brothers’ *simba* for two weeks and she was forced to fast, and a pastor prayed for her. There was no change, so they organized for her to be raped.”<sup>182</sup>

The 2019 global report also documented several cases in which forced marriage was the last form of violence inflicted upon an LBQ+ person after they had been subjected to “corrective rape.”

Marriage is a tool to cover up what society sees as shameful. People view marriage with a man as the way of having a normal life so LBQ+ women can forget this [queer] life. In Ghana, I spoke with LBQ activists addressing cases of women forced or pressured to marry men to cover “shame.” Their families may have taken them to a pastor or priest in the first instance, some were raped because of their identities, and when all that didn’t work in “changing” them, marriage is looked on as the solution.<sup>183</sup>

– Ohotuowo Ogbeche, Global Researcher, OutRight

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<sup>180</sup> Outright International, *Converting Mindsets, Not Our Identities* (New York: Outright International, 2019), <https://outrightinternational.org/our-work/human-rights-research/converting-mindsets-not-our-identities> (accessed February 2, 2023).

<sup>181</sup> Ibid.

<sup>182</sup> Gay and Lesbian Coalition of Kenya, *Shame Is Not A Cure: So-called Conversion “Therapy” Practices In Kenya*, (Nairobi: Gay and Lesbian Coalition of Kenya, 2022), [https://outrightinternational.org/sites/default/files/2022-08/galc%2BConversion\\_Practices\\_in\\_Kenya.pdf](https://outrightinternational.org/sites/default/files/2022-08/galc%2BConversion_Practices_in_Kenya.pdf) (accessed February 2, 2023).

<sup>183</sup> Human Rights Watch video interview with Ohotuowo Ogbeche, Outright Global Researcher, April 26, 2022.

In these cases, the family and community viewed marriage as the ultimate tool to enforce heterosexuality, used *after* starvation, isolation, captivity, or rape “failed” as conversion practices. This indicates an acknowledgment of the extreme violence inherent in condemning an LBQ+ person to a heterosexual marriage as compared with other conversion practices. These abuses seem cyclical, since some LBQ+ people are first subjected to conversion practices because they refused to marry a man but then ultimately forced into marriage when those conversion practices “fail.” Marriage thus appears to be both the standard by which heterosexuality is judged and the ultimate regulatory tool for its enforcement.

To better understand the interplay between conversion practices to forced marriage, there is a need for research into:

- the forced marriage of LBQ+ people, which include but are not limited to forced marriages as a form of conversion practice, and may amount to torture in some circumstances;<sup>184</sup>
- how the societal and familial pressure to marry men puts LBQ+ people at risk of violence for refusing to do so;
- the specific types of violence perpetrated against LBQ+ people who refuse to marry men, which include *but are not limited to* conversion practices;
- and analysis of how and in which circumstances “corrective rape” is used to punish LBQ+ people who refuse to marry men, or to preemptively punish them in order to coerce them to marry men.

## Liliya’s Story, Kyrgyzstan

Liliya is a 39-year-old lesbian and the leader of Grace, an LBQ+ rights organization that fights for the rights of queer women and non-binary people, ranging from age 17 to approximately 50, in Kyrgyzstan. Grace was originally founded to work on LGBT rights more broadly, but Liliya said it “transitioned to LBQ-focused work because we realized that when we think about LGBT issues, we usually meant men and trans women. So, this LBQ+ specificity was important.”

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<sup>184</sup> “‘Conversion therapy’ can amount to torture and should be banned says UN expert,” UN Office of the High Commissioner for Human Rights.

Liliya told Human Rights Watch:

I knew I liked girls from age 7 or 8. My mom had a friend, and I looked at her and thought she was so beautiful, so attractive, so smart. As a teenager, I was dating boys because everyone was dating boys. But I really liked some of my girl classmates and just wanted to be near them. I couldn't feel this attraction [to boys]. It didn't matter if I saw the boy I was "dating" every day or not. But the girl, if she didn't come to school, I would go to see her, bring her lunch, just see if she was okay.<sup>185</sup>

When she was 19, Liliya's family pressured her into marrying a man.

When I wanted to move out and live on my own, my mom always said: "You will leave the home with a husband or after my death." My mom would say, "over my dead body," which means "if you want to kill me, go ahead and do what you want." It's all this manipulation to say that if I don't get married, I will be responsible for my family dying.<sup>186</sup>

Liliya was legally married to a man and lived with her husband for three months, during which time her parents were not "supposed to visit" her often per social customs, which was emotionally difficult for Liliya, who expressed feeling "alone." She said:

I honestly tried to keep a small hope, thinking maybe it might work, maybe if I tried hard enough and stayed in this house, I would actually enjoy being with a man. But it was terrible to share a bed with a person you don't like. It was torture to live with someone who didn't even elicit emotion from you.<sup>187</sup>

After three months, she told her mother she wanted a divorce. Following her divorce, her family hassled her for years about remarrying:

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<sup>185</sup> Human Rights Watch video interview with Liliya, LBQ+ rights activist, Kyrgyzstan June 23, 2022.

<sup>186</sup> Ibid.

<sup>187</sup> Ibid.

My relatives still asked, more than a decade later, when I will marry again. Everyone thinks it's their duty to ask. When I turned 30, I was finally too old for marriage in their eyes. This is freedom. They don't ask anymore. I can live the way I want to live.<sup>188</sup>

Although Liliya has “freedom,” she now grapples with a form of societal infantilization in which a woman who is not married to a man is not treated as an adult. She said: “I’m 39. But they see me as a teenager forever because I’m no longer married [to a man].”<sup>189</sup>

## Divorce, Infantilization, and Queer Time

Some LBQ+ people interviewed by Human Rights Watch spoke of marrying men to achieve the greater social capital and level of autonomy reserved for men and married women.<sup>190</sup> Others did not experience heteronormative pressures and practices as violence but as something that precluded their abilities to know themselves, their desires, and their sexualities.<sup>191</sup> Liliya from Kyrgyzstan explained:

Most of the LBQ women I know have kids from their marriages with men. Some are still married, some not. Some have grandkids with their husbands but still identify as LBQ. One friend started dating women in her late 30s. I don't think she was forced to marry by her family, per se. It's not that obvious. It was more about the system. Everyone around in your life and family says you have to marry, so why wouldn't you? Many people think if you're lesbian, you should know that somehow and live a lesbian life from early birth and childhood, whatever that means. But it's impossible for most women to wake up in the morning and say, “oh I'm a lesbian.” It's so hard for them to describe. It's about their traditions and environments and what words they have even been taught. Then from 18 or 19, you're married

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<sup>188</sup> Ibid.

<sup>189</sup> Ibid.

<sup>190</sup> Ibid; Human Rights Watch video interview with Nadia, LBQ+ rights activist, Lebanon, July 12, 2022.

<sup>191</sup> Human Rights Watch video interview with Dali, LBQ+ rights activist, Indonesia. June 23, 2022; Human Rights Watch video interview with queer woman human rights defender, Egypt. April 7, 2022.

and sleeping with a man every night. What space is there to discover who you are?<sup>192</sup>

Even in contexts in which LBQ+ people are not forced or coerced into marriage, their failure to marry impacts all aspects of their lives. Liliya’s story illustrates the infantilization of unmarried women that can occur in cultures in which adulthood is only societally recognized by entering a heterosexual marriage.<sup>193</sup> When Liliya, 39, divorced the husband she had been forced to marry at 19, she was again infantilized. She told Human Rights Watch:

I hear from young LBQ girls all the time, “When I’m done studying, I have to become an adult and get married.” They of course mean married to a man. If you’re married with a family and kids, you’re an adult. You’re a serious member of the community. It’s like, you are hetero, so you are an adult. Even my relatives can’t accept me as an adult. I’m 39. They see me as a teenager forever because I’m no longer married.<sup>194</sup>

Gender scholar Kathryn Bond Stockton similarly argued in 2008 that these and other popular conceptualizations of “growth” depend on a linear, normative understanding of what becoming an adult means, which is a path ill-fit or inaccessible for many LBQ+ people. While the specific expectations vary by context and culture, getting (and staying) married seems universally present as one of the “objective life events” used to judge if a woman has entered adulthood.<sup>195</sup> Queer studies scholars, such as Elizabeth Freeman, have posited the concept of “queer time,” which speaks to a way of living that does not follow the normative progression of heterosexual life steps.<sup>196</sup> In Kyrgyzstan, Liliya’s family “sees

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<sup>192</sup> Human Rights Watch video interview with Liliya, LBQ+ rights activist, Kyrgyzstan, June 23, 2022.

<sup>193</sup> In some jurisdictions women are permanently infantilized regardless of marital status because of guardianship laws. For more on the impact of guardianship laws on LBQ+ women, see Section IV. Property Rights and Section VII. Freedom of Movement and The Right to Appear.

<sup>194</sup> Human Rights Watch video interview with Liliya, LBQ+ rights activist, Kyrgyzstan, June 23, 2022.

<sup>195</sup> Sociologist Pamela Aronson who coined and critiqued the phrase “objective life events” in *The Markers and Meanings of Growing Up: Contemporary Young Women's Transition from Adolescence to Adulthood*. She explained that these events fail to account for class, shifting conceptualizations of gender, and how “young women” actually understand themselves. In the US, she says these events are “completing education, entering the labor force, becoming financially independent, getting married, and becoming a parent,” February, 2008, [https://www.jstor.org/stable/27641038?mag=queer-time-the-alternative-to-adulthood#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/27641038?mag=queer-time-the-alternative-to-adulthood#metadata_info_tab_contents) (accessed February 3, 2023).

<sup>196</sup> Elizabeth Freeman. *Time Binds: Queer Temporalities, Queer Histories* (Durham: Duke University Press, 2010), accessed February 2, 2023, DOI: <https://doi.org/10.1215/9780822393184>.

[her] as a teenager forever” because she ended her marriage to a man and did not have children, visibly violating the heterosexual adult progression.

Liliya’s account echoes those of several LBQ+ women interviewed for this report who began dating women after divorcing their husbands. As with Liliya, they faced continued harassment for their divorces because they had to move back in with their parents afterward. This demonstrates a paradox for LBQ+ women vis-a-vis marriage and divorce as liberatory concepts.

- Only by getting married were these women able to stop the immense societal and familial pressures they experienced, leave their parents’ homes, and reach a level of autonomy reserved for “adult” married women. As Nadia in Lebanon explained, her LBQ+ friends are actively seeking gay men to marry because they “literally need” a husband in order to attain the autonomy withheld from unmarried women.
- Yet, once divorced, many of these women were forced to move back in with their parents due to economic restrictions, cultural taboos, and childcare needs. Divorce gave them the opportunity to explore romantic relationships with women but living with their families exposed them to homophobic attacks.

In Kyrgyzstan, Liliya’s divorce was, at that point in her life, her most visible, active rejection of heteronormativity. This foregrounded her life as a lesbian and activist. But she had already endured human rights abuses for her quieter efforts to resist marrying a man. Long before her marriage and divorce shortly thereafter, Liliya had been pressured, humiliated, and punished for attempting to live outside of what Elizabeth Freeman and José Esteban Muñoz (respectively) call “chrononormativity”<sup>197</sup> and “straight time.”<sup>198</sup> She was “forced to get married by [her] mom” and thought “there was a chance it would work.”

Future investigations into forced marriage would be strengthened by an examination of the ways in which chrononormativity foregrounds human rights abuses against LBQ+ people, who are coerced, attacked, and infantilized for their persistent efforts to live non-heterosexual lives.

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<sup>197</sup> Feminist writer and theorist Elizabeth Freeman uses the term chrononormativity to describe the normative use of time as a political tool to organize individual human bodies “toward maximum productivity.” The term describes, in this report, the ways in which LBQ+ people are pressured into normative societal “steps” associated with adulthood, and have their rights violated and denied if they fail to submit to the system. See: Elizabeth Freeman, *Time Binds: Queer Temporalities, Queer Histories*.

<sup>198</sup> José Esteban Muñoz, *Cruising Utopia: The Then and There of Queer Futurity* (New York: New York University Press, 2009).

Particular attention should be paid to discriminatory divorce laws, which, in many countries, allow men to divorce their wives with significantly more freedom and ease than women, and the ways they limit LBQ+ women's ability to end a marriage they did not or no longer want.<sup>199</sup> In Iran, for example, women must spend years building a case in court proving they are at risk of violence or have another "legitimate" reason for leaving their husbands if the husband does not fully agree to the divorce. A husband, however, can file for divorce "whenever he wishes to do so."<sup>200</sup> Women in the Philippines cannot legally seek a divorce, and marriage can only be annulled in a very limited number of cases after a lengthy, expensive process with no guaranteed outcomes.<sup>201</sup> <sup>202</sup> In China, women can divorce their husbands, but all property he bought remains in his name. Ireland did not legalize divorce until 1997. In so much as these are women's rights issues, they are queer issues.

Happy, a human rights defender in Tanzania working with the LBQ+-led organization Eagle Wings,<sup>203</sup> told Human Rights Watch that some of the most common topics LBQ+ women want to discuss in peer-to-peer counseling are "forced marriage, being forced to live with men and have children with them, and the endless mental suffering in those lives they were forced into."<sup>204</sup> She explained that, in addition to potential violence, the threat of losing their children has also limited the possibilities for LBQ+ women wanting to leave their husbands. She underscored the need for public education and better research into forced marriage as a queer issue:

Some want to leave their husbands but don't know how to start. We connect them with friendly lawyers, but most can't afford them. Some have kids but don't have the financial means to support them. They know they

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<sup>199</sup> Karin Yefet et al. "Divorce as a Substantive Gender-Equality Right," *University of Pennsylvania Journal of Constitutional Law* (February 2020), <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1711&context=jcl> (accessed February 3, 2023).

<sup>200</sup> "Civil Code of Iran (Divorce and Dissolution of Marriage)," *Legal Information Institute*, 2022, [www.law.cornell.edu/women-and-justice/resource/civil\\_code\\_of\\_iran\\_%28divorce\\_and\\_dissolution\\_of\\_marriage%29](http://www.law.cornell.edu/women-and-justice/resource/civil_code_of_iran_%28divorce_and_dissolution_of_marriage%29) (accessed February 2, 2023).

<sup>201</sup> Diana Mendoza, "'I Almost Died': Abused Filipino Women Hope Divorce Will Become Legal", *Reuters*, April 16, 2018, [www.reuters.com/article/us-philippines-divorce-women/i-almost-died-abused-filipino-women-hope-divorce-will-become-legal-idUSKBN1HNo46](http://www.reuters.com/article/us-philippines-divorce-women/i-almost-died-abused-filipino-women-hope-divorce-will-become-legal-idUSKBN1HNo46) (accessed February 2, 2023).

<sup>202</sup> "Now Illegal, Divorce Is a Women's Rights Issue in the Philippines," *Global Citizen*, February 27, 2018, [www.globalcitizen.org/en/content/philippines-womens-rights-divorce-illegal/](http://www.globalcitizen.org/en/content/philippines-womens-rights-divorce-illegal/) (accessed February 2, 2023).

<sup>203</sup> Eagle Wings Youth Initiative (EYWI), <https://awdf.org/eagle-wings-youth-initiative-eywi/> (accessed February 2, 2023).

<sup>204</sup> Human Rights Watch video interview with woman human rights defender Happy, Program Manager and Peer Counselor at Eagle Wings, Tanzania, April 21, 2022.



won't be able to take the kids if they leave, or [if they do, they] will be very poor. Then some men take the kids if they find out you are a lesbian. So most of us just pretend to be straight and okay in marriages.

## Bisexual Relationships and Threats to Partners

Coercive, heterosexual marriage practices put immense stress on, denigrate, and often ruin romantic LBQ+ relationships. LBQ+ people in several countries reported having partners whose families forced them to marry men, which ended their relationship. A common refrain across interviews was expressed by Amani, a lesbian activist and writer:

The last time I was with a woman, we spent an entire year together. It was so perfect. She was with a man before me, and her family was waiting for the marriage, but it wasn't what she wanted. She was with me; it was good and perfect. The family were pushing and pushing her to go back to him and marry him.

Then they started to not let her go out. Not let her leave the house. Asking her who she is texting. Then there is the emotional manipulation. It started to get bad for both of us. At the end, she was just obliged to sit there in the house and do whatever they wanted, even though it was the thing that she hates the most. I wanted to be there and to fight for this. She refused. She wanted peace of mind, even if it wasn't her happiness. She was depressed and didn't have emotional energy to love me the way she used to. And she's not the first. It's not the first time this happened [to me].

Imagine you find the perfect person, and the only problem is that you're not a man? Who you are is just thrown away and it's just related to what sex you are? An entire human being is belittled because this is a patriarchal society. I don't want to be a man. I love being a woman. But if I was a man, I could be with the person I love.<sup>205</sup>

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<sup>205</sup> Human Rights Watch video interview with lesbian activist and writer Amani, Tunisia, July 15, 2022.

Liliya in Kyrgyzstan, like Amani, explained that when she watched Disney movies as a child, she imagined herself as a boy not because she felt like one, but because that was the only way she could imagine “being with the princess.” A 2016 report on lesbian rights in Iran documented the similar case of Sara, “who was madly in love with Maryam” and “contemplated undergoing sex reassignment surgery (SRS)” not because she identified as trans or a man, but “so that she could openly, and legally, live with Maryam.”<sup>206</sup> The pressure to marry men takes an immense toll on the emotional and psychological welfare of LBQ+ couples.

Once LBQ+ people are married to men, they face the threat of violence not only to themselves, but also to *their LBQ+ partners* from husbands and families if their sexualities are discovered. Ohotuowo Ogbeche, who researches conversion practices in Nigeria and Ghana, told Human Rights Watch:

In our study in Nigeria, all cases of sexual violence we documented were against LBQ+ women. I have not encountered the corrective rape of [gay] men; we see other forms of violence there. And it’s very important to note that the violence is not always against the women you would imagine. There was one case in Ghana where the husband caught his queer wife with her woman partner. He raped the partner. The women know they could not report to the police and so they shared these with LBQ+ activists. We see patterns of violence against LBQ women in hetero marriages.<sup>207</sup>

Asante’s story (see above) illustrates the wide range of ways in which the linkages between compulsory heterosexuality, forced marriage, conversion practices, and intimate partner violence can impact a young lesbian’s life. Asante was attacked in public by their partner’s husband, and then violated in “private” by their family who continued to pressure them to marry a man. Asante’s story also highlights the extreme emotional burden that LBQ+ people carry in worrying about both their own physical safety and their partners’.

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<sup>206</sup> OutRight International, *Human Rights Report: Being Lesbian in Iran*.

<sup>207</sup> Human Rights Watch video interview with Ohotuowo Ogbeche, Outright Global Researcher, April 26, 2022.

Tamara, an intersex lesbian activist, expert on SGBV against LBQ+ communities in Malawi, and survivor of “corrective rape,” told Human Rights Watch that stories like Asante’s highlight the risk of sexual violence to bisexual women and their partners due to their relationships with men:<sup>208</sup>

Corrective rape is a very big topic among all LBQ+ women I know here, especially bisexual women. Communities are confused about why anyone would be bi. They think they haven’t experienced the right type of penis, even if they have been with men. Men think if [bisexual women are] raped, they’re going to realize what they’re missing. Many LBQ women aren’t comfortable reporting because they’d often be reporting someone they know, someone they have a relationship with. When a bisexual woman is in a relationship with a hetero male and they find out about their sexuality, maybe they’re having a conversation about past relationships, for example, the man often feels threatened, scared, confused, and becomes violent. Or, and we see this a lot, if a bisexual woman breaks up with them, they come back and rape her. They use the trust they had as a gateway to her. They’ll say, “do you want to meet up and talk about us.” That’s a normal conversation for exes to have, but for bi women we’ve learned it can mean rape. As a bi person they feel responsible, like I was raped and it’s my fault.

LBQ+ people hold this dual set of risks—the threat of violence to oneself and to one’s partner—by men who have previously been their romantic or sexual partners and feel a continued sense of ownership over them. The fear of being outed to one’s current *or past* male partners was discussed by LBQ+ people in several countries, who worried that being outed even to an ex-partner (who was a man) could lead to violence against themselves or their LBQ+ partners. This demonstrates a sort of post-facto domestic violence that forces LBQ+ people to hide their sexual orientations even after they have ended a relationship.

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<sup>208</sup> See Section XI. LBQ+ Human Rights Defenders, for more on Tamara’s case and human rights work.

## Key Next Steps

States should:

- Produce a national action plan to end forced and coerced marriage practices that explicitly includes an intersectional approach to the elimination of all forms of conversion practices and collaborate with local and national LBQ+ organizations at each stage of conceptualization, drafting, and implementation to ensure meaningful outreach to LBQ+ victims of forced and coerced marriage.
- Ensure that violent intimidation and retribution against people for refusal to marry are punishable under law and that survivors have access to adequate, gender- and SOGIE-sensitive legal, medical, and psycho-social services.
- Develop laws, policies, and protocols that explicitly protect LBQ+ people against forced marriage or coercive marriage practices.
- Amend discriminatory divorce laws, which make it significantly easier for men to divorce their wives than for women to divorce their husbands and thus harm LBQ+ people who wish to leave their husbands without fear of retribution or violence.

Donors should:

- Ensure LBQ+ organizations and collectives supporting survivors of forced marriage and working to end the practice have access and receive funding aimed at ending forced and coerced marriage, including child marriage, and proactively seek out and aim to support these groups.
- Encourage governments to develop a comprehensive national action plan to end forced and coerced marriage that explicitly includes an intersectional approach to the elimination of all forms of conversion practices through a broad consultative process.
- Participate in the development, and support the implementation, of government national action plans to end forced and coerced marriage.
- Fund LBQ+ organizations and collectives carrying out narrative change projects, aimed at visibilizing and affirming joyous lives that do not adhere to heteronormative standards of adult progress markers for women such as marriage to a man and pregnancy.

Opportunities for LBQ+ research include:

- Explore the linkages between heteronormative practices, conversion practices, “corrective rape,” and forced marriage to aid in the development of state policies and reforms, and do not treat these topics as siloed.
- Interrogate the assumption that women and girls in forced marriages to men are heterosexual, as this precludes analyses of how forced marriages impact and violate queer people’s rights.
- Explicitly include a focus on the rights of LBQ+ girls in research on child marriage, including by conducting interviews with LBQ+ girls or girls who are gender non-conforming.
- Broaden forced marriage studies to include an examination of sexuality under human rights law and standards, including the understanding that forced marriage can amount to torture.<sup>209</sup>
- Incorporate a strong focus on the economic, legal, and societal factors that coerce LBQ+ people into undesired marriages with men.
- Analyze the different ways in which LBQ+ people are coerced into marriage, or punished for refusing, as well as how unmarried LBQ+ people are punished, violated, and abused in other ways.<sup>210</sup>
- Analyze how moving about the world as single or unmarried women exposes LBQ+ women to violence in, for example, immigration (see Section VIII.) and employment (see Section VI.).

This additional research would not only contribute to knowledge production concerning the lives and realities of LBQ+ people, but also ensure the use of international human rights, economic, and societal frameworks in the struggle for LGBT rights.

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<sup>209</sup> “‘Conversion therapy’ can amount to torture and should be banned says UN expert,” UN Office of the High Commissioner for Human Rights.

<sup>210</sup> In 2013, the National Center for Lesbian Rights wrote that “women who are ‘unprotected’ by a marriage to a man are marginalized in their community and are consequently the targets of violence and rape.”

## IV. Property Rights

LBQ+ women face a wide range of barriers to realizing their rights to land, housing, and property. Marriages to men are often a requirement for women to have access to property. This subsection explores the linkages between women's property rights and LBQ+ rights.

At present, women's property rights and LGBT people's property rights are largely constructed as separate categories of rights research areas and are consequently examined, analyzed, and advocated for in siloes. For LBQ+ women, this constitutes another area in which the full realization of their rights is harmed by the analysis of "women's rights" and "LGBT rights" violations as parallel and not interlinked or overlapping categories.

On the one hand, women's property rights research and policy development typically cover discriminatory inheritance laws, unequal administrative control over land, and divorce laws. On the other, LGBT property rights discourses typically center discrimination based on SOGIE in rentals and mortgage lending, homelessness, and the rights of LGBT couples to own and administer property together.<sup>211 212</sup> For example, in 2021 a Chinese court ruled that a same-sex lesbian couple was not entitled to the same property rights as heterosexual couples, stating "the relationship between same-sex couples is not protected or regulated by China's Marriage Law."<sup>213</sup>

Despite this increasingly visibility for queer property rights, LBQ+ women are rarely mentioned in the extensive body of international research on women's property rights (see below). This leaves a gap in our understanding of how LBQ+ women are denied property rights not only because of their queerness, but also because they are women.

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<sup>211</sup> Adam P. Romero, Shoshana K. Goldberg, Luis A. Vasquez, *LGBT People and Housing Affordability, Discrimination, and Homelessness*, (Los Angeles: UCLA School of Law, 2020), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Apr-2020.pdf> (accessed February 3, 2023).

<sup>212</sup> "What You Need to Know about LGBT Property Ownership Discrimination," *Pride Legal*, August 30, 2019, <https://pridelegal.com/lgbt-property-ownership-discrimination/> (accessed February 2, 2023).

<sup>213</sup> Zhang Wanqing, "LGBT Couples Not Entitled to Full Property Rights, Court Rules," *Sixth Tone*, August 21, 2021, <https://www.sixthtone.com/news/1007286/lgbt-couples-not-entitled-to-full-property-rights%C2%8C-court-rules> (accessed February 2, 2023).

Violations of women's property rights harm LBQ+ women not just "as women," but also in terms of their ability to live queer lives free from violence and discrimination.

This includes by:

- forcing them to hide their sexualities, partners, and queer lives from their biological families to avoid further discrimination in inheritance regimes that already privilege sons;
- requiring LBQ+ women to marry men in order to have access to land and property, contributing to the coercive marriage practices discussed in Section III;
- requiring LBQ+ women to stay in violent, unsafe, or unhappy marriages with men in order to maintain access to the land and property needed to sustain themselves and their children;
- limiting the ability of LBQ+ people who divorce their husbands or become widows to start new, financially viable LBQ+ relationships later in life;
- presenting an economic and legal barrier to LBQ+ couples to begin a life together, which is particularly critical in the instances where neither partner can rent, own, or inherit property;
- violating their right to privacy by denying them the ability to rent, own, or inherit homes where they can meet with LBQ+ friends and partners;
- violating their rights to freedom of association and assembly, which compounds existing barriers to queer organizing and community building.

In many societies, LBQ+ women have few if any spaces to meet safely in public with friends, fellow organizers, and partners.<sup>214</sup> Countries with housing and rental laws that discriminate against unmarried women, such as Kuwait,<sup>215</sup> or where single women face de

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<sup>214</sup> "Lebanon: Unlawful Crackdown on LGBTI Gatherings," Human Rights Watch news release, July 4, 2022, <https://www.hrw.org/news/2022/07/04/lebanon-unlawful-crackdown-lgbti-gatherings>; Human Rights Watch, *"I Became Scared, This Was Their Goal": Efforts to Ban Gender and Sexuality Education in Brazil* (New York: Human Rights Watch, 2022), <https://www.hrw.org/report/2022/05/12/i-became-scared-was-their-goal/efforts-ban-gender-and-sexuality-education-brazil>; Human Rights Watch, *"Everyone Wants Me Dead": Killings, Abductions, Torture, and Sexual Violence Against LGBT People by Armed Groups in Iraq*; Human Rights Watch, *"Even If You Go to the Skies, We'll Find You": LGBT People in Afghanistan After the Taliban Takeover*, (New York: Human Rights Watch, 2022), <https://www.hrw.org/report/2022/01/26/even-if-you-go-skies-well-find-you/lgbt-people-afghanistan-after-taliban-takeover>; Front Line Defenders, *Attacks on LGBT Rights Defenders Escalating in Indonesia*, (Dublin: Front Line Defenders, 2017), <https://www.frontlinedefenders.org/en/statement-report/report-attacks-lgbt-rights-defenders-escalating-indonesia> (accessed February 3, 2023).

<sup>215</sup> "Women Suffer Discrimination in Rights of Housing Welfare," *Arab Times, Kuwait News*, February 22, 2018, [www.arabtimesonline.com/news/women-suffer-discrimination-rights-housing-welfare/](http://www.arabtimesonline.com/news/women-suffer-discrimination-rights-housing-welfare/) (accessed February 2, 2023).

facto discrimination in renting hotel rooms, such as in Qatar,<sup>216</sup> prevent LBQ+ women from gathering to celebrate holidays, mark life events, mourn, organize, sustain personal relationships, and create community care spaces. For LBQ+ activists, not having a safe space to organize with their colleagues harms their ability to provide health and human rights workshops, peer-to-peer counseling, domestic violence services, and other community programs. Therefore, laws that restrict women's rights to rent an apartment—a safe space where they can organize and mobilize—can violate LBQ+ rights to freedom of association and assembly.

In addition to positioning LBQ+ women in women's property rights and LBQ+ rights, this subsection underscores the need to explore the impact of colonialism on property laws, which has affected LBQ+ women's lives as much as, if not more than, colonial-era anti-homosexuality laws that frequent LGBT rights discourses.

## LBQ+ People and Women's Property Rights

Women's rights to property, land, and housing are protected by several human rights treaties and standards, including the International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); UN Declaration on the Elimination of Violence against Women; the Istanbul Convention on Preventing and Combatting Violence against Women and Domestic Violence; and the UN Declaration on the Rights of Peasants and other People Working in Rural Areas.

Despite these protections, a World Bank Group's 2020 report found that two-fifths of countries worldwide limit women's property rights.<sup>217</sup> The report analyzed laws impacting women's property rights in 190 economies, ranging “from the basics of transportation to the challenges of starting a job and getting a pension,” and found that in 19 countries,

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<sup>216</sup> Human Rights Watch, *“Everything I Have to Do is Tied to a Man”: Women and Qatar's Male Guardianship Rules*, (New York: Human Rights Watch, 2021), <https://www.hrw.org/report/2021/03/29/everything-i-have-to-tied-man/women-and-qatars-male-guardianship-rules>.

<sup>217</sup> World Bank Group, *Women, Business and the Law 2020*, (Washington: World Bank Group, 2020) <https://openknowledge.worldbank.org/bitstream/handle/10986/32639/9781464815324.pdf> (accessed February 2, 2023).



women “do not have equal ownership rights to immovable property” and in “44 countries, male and female surviving spouses do not have equal rights to inherit assets.”<sup>218</sup>

Several Human Rights Watch investigations have analyzed violations of women’s property rights. A 2021 report on male guardianship laws and policies in Qatar found “a history of laws and traditions around the world that give men control over women’s lives or deny women legal capacity equal to men,” including European and American legal traditions.<sup>219</sup> The report continued to describe and compare other historical legal traditions:

For instance, while women had rights to property including after marriage, and could inherit under Islamic law in 7th century Arabia, married women in some European legal traditions and later in the United States lost part of their legal personhood upon marriage, and their property became their husband’s under a concept known as “coverture” as their husbands were deemed their protectors.<sup>220</sup>

A 2020 Human Rights Watch report found that in Kenya:

Women face many challenges in acquiring property in their own name or jointly with a spouse, and women like Ruth K., at dissolution of their marriage after divorce, or on the death of their husband, still face unimaginable institutional barriers in accessing judicial and traditional dispute resolution mechanisms and face legal ambiguity that impedes their right to matrimonial property, when they do.<sup>221</sup>

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<sup>218</sup> Nayda L. Almodóvar-Reteguis and Nisha Arekapudi, “Women’s property rights are the key to economic development,” *World Bank*, February 24, 2020, <https://blogs.worldbank.org/developmenttalk/womens-property-rights-are-key-economic-development> (accessed February 2, 2023).

<sup>219</sup> Human Rights Watch, *“Everything I Have to Do is Tied to a Man”: Women and Qatar’s Male Guardianship Rules*.

<sup>220</sup> *Ibid.*

<sup>221</sup> “Once You Get Out, You Lose Everything”: Women and Matrimonial Property Rights in Kenya. Human Rights Watch. June 25 2020. <https://www.hrw.org/report/2020/06/25/once-you-get-out-you-lose-everything/women-and-matrimonial-property-rights-kenya>.

A review of 11 reports and statements on women’s property rights by the World Bank,<sup>222 223</sup> UN Women, the Office of the High Commissioner for Human Rights (OHCHR),<sup>224 225</sup> the UN special rapporteur on the right to adequate housing,<sup>226</sup> the UN Human Settlements Programme (UN-Habitat),<sup>227</sup> and the US Agency for International Development (USAID)<sup>228</sup> found only two mentions of non-heterosexual women, both in OHCHR reports.

In 2012, OHCHR noted that enumerated groups of women that have “specific vulnerabilities to violations,” including lesbian and transgender women, “face different housing conditions and are more likely to become homeless or to live in inadequate housing” due to “a combination of factors. But it did not discuss how laws violating women’s property rights more generally impacted LBQ+ women specifically.”<sup>229</sup>

In 2020, an OHCHR report compiled a list of various legal instruments available for the promotion of women’s property rights in different regions of the world, including an Inter-American Court of Human Rights advisory opinion. This opinion affirmed the property and inheritance rights of same-sex couples: “Article 1(1) of the American Convention of Human Rights (1969) provides for the principle of non-discrimination in the enjoyment of the rights recognized under the Charter.”<sup>230</sup>

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<sup>222</sup> Nayda L. Almodóvar-Reteguis and Nisha Arekapudi, “Women’s property rights are the key to economic development,” *World Bank*, February 24, 2020, <https://blogs.worldbank.org/developmenttalk/womens-property-rights-are-key-economic-development> (accessed February 2, 2023).

<sup>223</sup> World Bank Group, *Women, Business and the Law 2020*, (Washington: World Bank Group, 2020) <https://openknowledge.worldbank.org/bitstream/handle/10986/32639/9781464815324.pdf> (accessed February 2, 2023).

<sup>224</sup> UN Office of the UN High Commissioner for Human Rights and UN Entity for Gender Equality and the Empowerment of Women (UN Women), *Realizing Women’s Rights to Land and Other Productive Resources*, HR/PUB/13/04/Rev. 1 (New York and Geneva: United Nations, 2020) [https://www.ohchr.org/sites/default/files/RealizingWomensRightstoLand\\_2ndedition.pdf](https://www.ohchr.org/sites/default/files/RealizingWomensRightstoLand_2ndedition.pdf) (accessed February 3, 2023).

<sup>225</sup> UN Office of the UN High Commissioner for Human Rights, *Women and the Right to Adequate Housing* (New York and Geneva: United Nations, 2012) [https://www.ohchr.org/sites/default/files/WomenHousing\\_HR.PUB.11.2.pdf](https://www.ohchr.org/sites/default/files/WomenHousing_HR.PUB.11.2.pdf) (accessed February 3, 2023).

<sup>226</sup> All available reports on this page were reviewed by Human Rights Watch: UN Office of the UN High Commissioner for Human Rights, “Women and the right to adequate housing,” <https://www.ohchr.org/en/special-procedures/sr-housing/women-and-right-adequate-housing#tools> (accessed July 27, 2022).

<sup>227</sup> UN Habitat, *Women and Housing Towards Inclusive Cities*, HS/042/14E (Nairobi: United Nations Human Settlements Programme [UN-HABITAT], 2014) [https://unhabitat.org/sites/default/files/download-manager-files/Women and Housing Book.pdf](https://unhabitat.org/sites/default/files/download-manager-files/Women%20and%20Housing%20Book.pdf) (accessed February 3, 2022).

<sup>228</sup> USAID, *Study on Women and Property Rights: Project Best Practices* (Washington DC: USAID, 2006) [https://pdf.usaid.gov/pdf\\_docs/Pnadj420.pdf](https://pdf.usaid.gov/pdf_docs/Pnadj420.pdf) (accessed February 3, 2023).

<sup>229</sup> UN Office of the UN High Commissioner for Human Rights, *Women and the Right to Adequate*.

<sup>230</sup> UN Office of the UN High Commissioner for Human Rights and UN Entity for Gender Equality and the Empowerment of Women (UN Women), *Realizing Women’s Rights to Land and Other Productive Resources*

No further explanation or analysis was provided in either OHCHR report, indicating that the unique impacts of sexist property laws on LBQ+ populations have largely yet to be studied. This research gap provides an immense opportunity for growth in the promotion and protection of LBQ+ rights.

## Women and LGBT Property Rights

Many LGBT reports and advocacy campaigns have examined and critiqued discriminatory housing policies around the world that allow landlords to reject or evict tenants based on their sexuality. States are increasingly implementing anti-discrimination policies for housing that include SOGIE as protected classes. The World Economic Forum's "What you need to know about LGBT rights in 11 maps" included a map visualizing housing protections for LGBT people.<sup>231</sup> However, this fight for LGBT housing rights has been largely disconnected from the fight for women's property and rental rights more broadly. Thus, few studies, policies, and campaigns aimed at promoting LGBT housing rights have accounted for how laws prohibiting all women from renting apartments, owning land, and inheriting property impact the economic and social well-being of LBQ+ women. To date, no publicly available annual barometer, report, or mapping of LGBT rights at the national, regional, or international level includes women's rights to rent and own property.

Foundational tenants of women's property rights need to be better incorporated into LGBT rights analyses. To this end, LGBT rights researchers, including those interested in LGBT people's freedom of assembly and association, should ask whether:

- sons and daughters have equal inheritance rights;
- surviving spouses of all genders have equal inheritance rights;
- women can rent and purchase property without discrimination including needing the permission of a male guardian or showing they are married;
- women can sign legally binding contracts without restrictions;
- and the law grants both spouses "equal administrative authority over assets during marriage."<sup>232</sup>

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<sup>231</sup> "What you need to know about LGBT rights in 11 maps," *World Economic Forum*.

<sup>232</sup> World Bank Group, *Women, Business and the Law 2020*, (Washington: World Bank Group, 2020), pp 33, <https://openknowledge.worldbank.org/bitstream/handle/10986/32639/9781464815324.pdf> (accessed February 2, 2023).

These questions define LBQ+ women's ability to live independent lives free from violence and discrimination by enabling them to refuse or leave marriages with men with the knowledge that they will be able to rent, own, or inherit property irrespective of their relationship to a man.

## Colonial Property Laws

In many countries, discriminatory laws restricting women's access to property and ability to administer it are products of colonialism and colonial powers' sexist property laws. The aforementioned 2020 World Bank Group report found:

Belgium, for example, receives a score of 100 in 2019, but in 1970 its score was 38.1, the same score that Afghanistan receives today. This finding implies that 50 years ago women had less than half the rights of men in the areas covered. For example, married women in Belgium could not sign a contract, get a job, or administer property without their husbands' permission until 1976.

Dependent on patterns of colonization, economies in other regions inherited such provisions. In Sub-Saharan Africa, for example, the Democratic Republic of Congo inherited the Belgian civil code, while Kenya inherited British marriage laws. Restrictions in colonial versions of labor and family codes persist in many economies to this day.<sup>233</sup>

Analyses of the effects of colonialism on LGBT people's rights have typically focused on the criminalization of same-sex conduct and the imposition of binary constructions of SOGIE as forms of social control.<sup>234</sup> For example, Human Rights Watch has documented how colonial-era British sodomy laws still impact the rights of LGBT people across Asia, Africa, the Caribbean, the Middle East, and the Pacific.<sup>235</sup> However, equally important for LBQ+ women, yet significantly less prominent in LGBT rights discourses, are colonial laws

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<sup>233</sup> Ibid. Page 19.

<sup>234</sup> Human Rights Watch, *This Alien Legacy: The Origins of "Sodomy" Laws in British Colonialism*, (New York: Human Rights Watch, 2008), <https://www.hrw.org/report/2008/12/17/alien-legacy/origins-sodomy-laws-british-colonialism>.

<sup>235</sup> "Theresa May 'Deeply Regrets' Colonial Anti-LGBT Laws," Human Rights Watch news release, April 18, 2018. <https://www.hrw.org/news/2018/04/18/theresa-may-deeply-regrets-colonial-anti-lgbt-laws>.

that limit women's property rights. These laws intersect with and compound harmful traditional practices and customary laws.

## Key Next Steps

States should:

- Revoke discriminatory colonial-era property laws, restrictions on women's labor, and sexist family codes that persist in several formerly colonized countries, noting that they have impacted LBQ+ women's lives as much as, if not more than, colonial-era anti-homosexuality laws.
- Amend family law to articulate the concept of marital property and allow for its division on an equal basis between spouses at the time of dissolution of marriage for all communities, recognizing financial and non-financial contributions made by women.

Opportunities for LBQ+-centered research include:

- Investigate how violations of women's rights to property, inheritance, and land harm LBQ+ women's ability to live queer lives free from violence and discrimination in the various ways described in this subsection.
- Center women's property rights in future analyses of LGBT rights globally in order to paint a fuller, more accurate picture of the state of the world for LGBT people and investigate the unique impacts of sexist property laws on LBQ+ women.
- Analyze how colonial property laws limit some LGBT people—namely LBQ+ people—from renting, owning, and administering property, which in turn critically hinders their ability to form queer relationships, start queer families, and build queer human rights organizations, and integrate this perspective into framings of LGBT rights movements as decolonization work.

## V. "Butches Get Punched": Violence Against Masculine-Presenting LBQ+ People

Unless they present hyperfeminine, butches don't have access to the job market. You will not be considered if you don't wear nice women's clothes. If you set up catering, you will get told, "I am disgusted; a woman who thinks she's a man is cooking for me." So butch lesbians normally have an assistant, or their femme partner if they have one, who is more feminine-looking to run the front so customers don't know a masculine-presenting person is cooking behind the curtains. Many of us become sex workers [due to lack of job opportunities].... But then when police raid brothels and homes, the masculine lesbians get treated "like men." This means more forceful handcuffing, kneeling, and stripping their shirts off.

– Rosa, lesbian and sex worker rights defender El Salvador<sup>236</sup>

Gender *expression* is a critical component of how, why, and in what circumstances LBQ+ people are attacked and have their rights violated. Human Rights Watch's *Outlawed* project found "at least nine countries have national laws criminalizing forms of gender expression that target transgender and gender nonconforming people."<sup>237</sup> While gender expression is thus less explicitly criminalized than sexual orientation—the same project reports 66 countries that criminalize same-sex relations between consenting adults — LBQ+ people interviewed for this report repeatedly named gendered discrimination against masculine gender expressions<sup>238</sup> in particular as the catalyst for a lifetime of economic marginalization, discrimination and harassment at work, psychological abuse, and physical and sexual violence.<sup>239</sup>

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<sup>236</sup> Human Rights Watch video interview with Rosa, lesbian and sex worker rights defender with Liquid Ambar, El Salvador. May 3, 2022.

<sup>237</sup> "Outlawed: 'The Love That Dare Not Speak Its Name,'" Human Rights Watch feature, June 26, 2019. [http://internap.hrw.org/features/features/lgbt\\_laws/#type-of-laws](http://internap.hrw.org/features/features/lgbt_laws/#type-of-laws)

<sup>238</sup> This section uses the phrase "assigned female at birth" to include women who continue to identify with the gender and sex they were assigned at birth, as well as non-binary people and trans men. The phrase is used to highlight the centrality of gender expression, as many people interviewed and quoted in this chapter experienced violence as directed at their masculine gender expression despite having been assigned female at birth.

<sup>239</sup> "Outlawed: 'The Love That Dare Not Speak Its Name,'" Human Rights Watch feature, June 26, 2019. [http://internap.hrw.org/features/features/lgbt\\_laws/#type-of-laws](http://internap.hrw.org/features/features/lgbt_laws/#type-of-laws)

Their accounts point to the need for deeper research and analysis of how masculine gender expression by LBQ+ people increases their risk of exposure to various human rights violations and abuses. Some reports on violence against LBQ+ people (explored below) have treated gender expression as a signifier of sexual orientation or gender identity, limiting knowledge production on how presentations of masculinity are themselves policed and violated.

Our research and interviews point to the need for a more wholistic approach to analyzing violence against LBQ+ people that does not relegate gender expression to a secondary category of identity, or signifier of sexual orientation, but rather considers gender expression as a fully-fledged category on its own. This call for a thematic focus on gender expression was bolstered by reports of attacks on masculine-presenting LBQ+ people, voiced by LBQ+ advocates in a range of countries, demands an intersectional approach that examines the racialization of masculinity as a risk factor for LBQ+ people.

Noting that violence is not only perpetrated against masculine-presenting LBQ+ people, this section focuses on masculine-presenting LBQ+ victims to highlight the role of gender expression in the attack, such that documentation and advocacy can be strengthened in the fight to end violence against LBQ+ people of all gender expressions.

### **“Masculine Women Make Men Angry”<sup>240</sup>**

LBQ+ leaders in several countries, and at least one report from an LBQ+ organization, stated that reporting on violence against LBQ+ people often “exclusively focuses” on sexuality as the alleged motive of the perpetrator, at the expense of showing how gender expression played a role in the attack.<sup>241</sup>

Nadia, an LBQ+ activist in Lebanon recounted how, in 2019, a man in Beirut threatened to shoot her after she defended a female friend he was sexually harassing:

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<sup>240</sup> Human Rights Watch video interview with Nadia, LBQ+ rights activist, Lebanon. 24 May 2022.

<sup>241</sup> Mouvement pour la promotion du respect et égalité des droits et santé (MOPREDS); Jeunialissime; Oasis Club Kinshasa; Rainbow Sunrise Mapambazuko; Mouvement pour les libertés individuelles (MOLI); Synergía - Initiatives for Human Rights, *Human Rights Violations Against Lesbian, Gay, Bisexual and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC)*, (Kinshasa: Mouvement pour la promotion du respect et égalité des droits et santé, 2017), [https://www.ecoi.net/en/file/local/1411473/1930\\_1507798258\\_int-ccpr-css-cod-29078-e.pdf](https://www.ecoi.net/en/file/local/1411473/1930_1507798258_int-ccpr-css-cod-29078-e.pdf) (accessed February 2, 2023).

If you are butch-presenting, there's an attitude from men of "you think you're a man, we're going to treat you like one, but we know you can't handle it." If your girlfriend is being harassed in a bar and you try to protect her; if you're femme, you'll be sexually harassed along with her. But butches get punched. The violence is immediate. This is why we don't go out much.

I had a gun pulled on me once because I stood up to a guy aggressively hitting on a friend of mine. He threatened to use it and said multiple times: "I'll show you" and "you're trying to become a man." It's not just about inflicting violence on your body; it's about proving you're not as strong as you're pretending your body is.

This stuff is way more nuanced than men trying to "show you what you're missing" by raping you. It's not just about "here is the dick you need sexually because you're a lesbian." It's about "here is the dick you aspire to physically have; I'm going to show you that you cannot have it." It's about putting queer women in their place. A stark reminder about violence against those who struggle to take up space.<sup>242</sup>

As Nadia explained, some male perpetrators of violence are enraged by masculine-presenting LBQ+ people. They start physical altercations and, in Nadia's case, threaten LBQ+ people, including at gun point. Sexual orientation, gender identity, and gender expression are interwoven aspects of people's identities, but according to LBQ+ activists interviewed, the prominent discursive focus on sexual orientation as the singular cause of anti-LBQ+ violence has precluded research, analysis, policy formation, discussion, and public education that addresses gender expression as a risk factor in and of itself. This in turn thwarts the promotion and protection of LBQ+ people's right to present themselves as visibly masculine, however that is variably understood in their context, without fear of retribution and violence.

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<sup>242</sup> Human Rights Watch video interview with Nadia, LBQ+ rights activist, Lebanon, May 24, 2022.



## Education and Employment

LBQ+ advocates in Argentina, El Salvador, Indonesia, Kenya, Kyrgyzstan, Malawi, Sri Lanka, Tanzania, and the US reported that from a young age, styles of dress read as masculine, gender-nonconforming, or androgynous resulted in threats from parents to remove girls from school, compounding the already precarious access to education that girls face globally. A 2017 Human Rights Watch report examining discrimination against LGBT students in the Philippines found that “teachers scrutinized girls they considered ‘butch’ or masculine, and took steps to separate them from other girls to prevent them from becoming close.”<sup>243</sup> One 22-year-old bisexual woman who had attended high school in Manila told Human Rights Watch that more masculine-presenting girls were “especially targeted.” She explained:

If someone is really butch, our professors are always watching us. They’re talking among themselves and student council to pinpoint who was involved in same-sex relationships. There’s not much bullying among the students, but it was oppression from the administration. ... One of our professors went into our class and said, did you know, girls are for boys, girls are not for girls, we know who’s involved in same-sex relationships, and if you don’t stand up, we’ll make you stand up ... So as a result, some of my butch classmates would attempt to be feminine, they would hide it, they would wear more feminine clothes.<sup>244</sup>

As a UNESCO report on discrimination and bullying in school noted, “[e]xclusion and stigma in education can also have life-long impacts on employment options, economic earning potential, and access to benefits and social protection.”<sup>245</sup> According to interviews, if women continued to wear these same styles of masculine-coded dress later in life, they experienced employment discrimination. This included rejection from jobs in indoor employment otherwise available to lower- and middle-class women in many

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<sup>243</sup> Human Rights Watch, “*Just Let Us Be*”: *Discrimination Against LGBT Students in the Philippines*, (New York: Human Rights Watch, 2017), [https://www.hrw.org/report/2017/06/21/just-let-us-be/discrimination-against-lgbt-students-philippines#\\_ftn155](https://www.hrw.org/report/2017/06/21/just-let-us-be/discrimination-against-lgbt-students-philippines#_ftn155)

<sup>244</sup> Ibid.

<sup>245</sup> UNESCO Office Bangkok and Regional Bureau for Education in Asia and the Pacific, *From insult to inclusion: Asia-Pacific report on school bullying, violence and discrimination on the basis of sexual orientation and gender identity*, (Bangkok: UNESCO Office Bangkok and Regional Bureau for Education in Asia and the Pacific, 2015), <https://unesdoc.unesco.org/ark:/48223/pf0000235414> (accessed February 2, 2023).

countries, such as in hotels, restaurants, catering, cleaning, administration, and secretarial work.

Andrea Rivas, a lesbian activist and lawyer in Argentina, told Human Rights Watch:

The first homophobic attack I suffered was at 12 years old: verbal violence from the father of the girl I was going with. He knew just by how I dressed. I liked pants. Parents tell girls like me if we won't stop dressing like this, we won't get to go to school. You are marginalized in the early stages, in primary school and high school. The hate of the patriarchy starts. You have different chances to get to a university. It is even worse in rural places, because if you don't have the feminine image, you're not the stereotype of what a girl or woman should be. A lot of lesbians have problems accessing formal jobs. Even if they can access them—for example, in the plantation—they are targeted with outing and sexual violence in a different way than heterosexual women. The less economic options you have, the more exposed you are to violence. As a lawyer now, I receive so many reports that paint a picture of violence over a lifetime. We need to analyze it from the first moments, because it starts when you are little, when you are building your identity.<sup>246</sup>

The need to focus on masculine clothing and gender presentations as a catalyst for discrimination, as expressed by Rivas, is also presented in a 2021 UCLA study on LBQ women's well-being that explicitly names the need for research into how gender expression impacts a range of socioeconomic and health outcomes. While data collection and research that includes sexual orientation is increasingly common in many fields, studies that account for gender expression—and could thus capture the experience of masculine-presenting LBQ+ people—like the UCLA one, are rare. The study stated:

Some issues clearly pertinent to public policy, like additional indicators of maternal health and mortality, the impact of immigration-related policy and abuse, rates of interpersonal violence (IPV), and types of occupations, are not easily (or at all) available in national or state data systems that also

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<sup>246</sup> Human Rights Watch video interview with Andrea Rivas, lawyer and lesbian activist, Argentina. May 20, 2022.

include sexual orientation and gender identity. Of particular importance is the role of gender expression among LBQ women in its impact on economic outcomes, health, and well-being.<sup>247</sup>

LBQ+ activists in Argentina, El Salvador, and Kyrgyzstan told Human Rights Watch similar stories about masculine-presenting LBQ+ people in their communities being routinely pushed into precarious jobs with poor labor rights practices (farm work, sex work, and auto shops, respectively) or primarily male-dominated fields where they face further forms of abuse.<sup>248 249 250 251 252 253</sup>

Rosa, an LBQ+ activist in El Salvador, reported that several butch lesbians in her community were compelled to work as sex workers after being repeatedly rejected from work they were otherwise qualified for, such as jobs in restaurants, food trucks, and hotels due to wearing pants, collared shirts, and their hair short. As sex workers, they were exposed to a wide range of human rights violations and dangers.

Sex work is legal in El Salvador, but policing varies widely across the country.<sup>254</sup> Violence by police and soldiers against sex workers in El Salvador is rampant, including violent

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<sup>247</sup> Wilson, B.D.M, Gordon, A.R., Mallory, C., Choi, S.K., Badgett, M.V.L., & LBQ Women's Report Team, *Health and Socioeconomic Well-Being of LBQ Women in the U.S.*, (Los Angeles: Williams Institute, UCLA school of law, 2021), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LBQ-Women-Mar-2021.pdf> (accessed February 2, 2023).

<sup>248</sup> "Women in Male-Dominated Jobs Report More Harassment, Discrimination," *Law Offices of Daniel Feder*, March 16, 2018, [www.dfederlaw.com/blog/2018/03/women-in-male-dominated-jobs-report-more-harassment-discrimination/](http://www.dfederlaw.com/blog/2018/03/women-in-male-dominated-jobs-report-more-harassment-discrimination/) (accessed February 2, 2023).

<sup>249</sup> "Women in Male-Dominated Jobs at High Risk for Sexual Harassment," *Sexual Harassment*, March 7, 2014, [www.sexualharassment.com/women-in-male-dominated-jobs-at-high-risk-for-sexual-harassment/](http://www.sexualharassment.com/women-in-male-dominated-jobs-at-high-risk-for-sexual-harassment/) (accessed February 2, 2023).

<sup>250</sup> Susan Chira, "The 'Manly' Jobs Problem," *The New York Times*, February 8, 2018, <https://www.nytimes.com/2018/02/08/sunday-review/sexual-harassment-masculine-jobs.html> (accessed February 2, 2023).

<sup>251</sup> Elyse Shaw et al., *Sexual Harassment and Assault at Work: Understanding the Costs*, (Washington: Institute for Women's Policy Research, 2018), [iwpr.org/iwpr-publications/briefing-paper/sexual-harassment-and-assault-at-work-understanding-the-costs/](http://iwpr.org/iwpr-publications/briefing-paper/sexual-harassment-and-assault-at-work-understanding-the-costs/).

<sup>252</sup> "Working in a male-dominated field may increase risk of sexual harassment," *Law Office of William M. Julien, P.A.*, <https://www.attorneyjulien.com/articles/working-in-a-male-dominated-field-may-increase-risk-of-sexual-harassment/> (accessed February 2, 2023).

<sup>253</sup> "Gender Matters," *Center for American Progress*, August 6, 2018, [www.americanprogress.org/article/gender-matters/](http://www.americanprogress.org/article/gender-matters/) (accessed February 2, 2023).

<sup>254</sup> See: "Sex workers have a say as any other women," a 2014 project by the sex worker rights organization Organización de Trabajadoras del Sexo (OTS) in El Salvador, which investigated and mapped the situation of "women sex workers in various cities and in a variety of sectors (outdoor and indoor) and settings (street, parks, bars, nightclubs, brothels)." March 2, 2015. <https://www.redumbrellafund.org/ots-mapping-human-rights-violations-sex-workers-el-salvador/>. See also: Human Rights

raids on homes and brothels, public strip searches, and widespread sexual assault and rape in police custody. A 2021 report on sex workers' rights in El Salvador, described joint raids by the Salvadoran Army and the police:

Security forces break into sex work establishments, force all clients to leave, and illegally demand that workers show soldiers their HIV test results. Soldiers then force workers out into the street, often at gunpoint and without clothing. In public, they separate workers into two lines according to alleged HIV status: the “dirty” line and the “clean” line.”<sup>255</sup>

Rosa, a lesbian woman leading the sex workers' rights organization Liquid Ambar in San Salvador, said these raids subject LBQ+ sex workers, particularly those who are masculine-presenting, to additional forms of physical and sexual violence that are directly tied to their sexual orientation *and* gender expression.<sup>256</sup>

Whenever a lesbian sex worker is detained, they say we are insane, that we are lesbians because we haven't had a good fuck. Before they take you to jail, you get raped. Then they bring you and charge you. You are targeted as a sex worker, hunted down on the street the way we all are, and then you are punished like a lesbian. When police raid brothels and homes, the masculine lesbians get treated “like men.” This means more forceful handcuffing, kneeling, and stripping their shirts off.

According to Rosa, police are “far more brutal” to masculine-presenting queer women, which is particularly dangerous given that their masculine-presentation is a large part of what originally forced many LBQ+ people into sex work. Thus, masculine-presenting queer women's discrimination in employment may lead to police violence after being pushed into sex work. (For a more general discussion of anti-LBQ+ violence at work, see Section VI. “Workplace Violence and Discrimination.”)

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Situation of Sex Workers in El Salvador. February 2018. Situational report presented to the UN Human Rights Committee, 122nd Session March 12 to April 6 2018. [https://tbinternet.ohchr.org/Treaties/CCPR/SharedDocuments/SLV/INT\\_CCPR\\_CSS\\_SLV\\_30315\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/SharedDocuments/SLV/INT_CCPR_CSS_SLV_30315_E.pdf)

<sup>255</sup> See, for example: Front Line Defenders, *Sex Worker Rights Defenders at Risk*, (Dublin: Front Line Defenders, 2021), [https://www.frontlinedefenders.org/sites/default/files/fld\\_swrdr\\_final\\_english.pdf](https://www.frontlinedefenders.org/sites/default/files/fld_swrdr_final_english.pdf) (accessed February 2, 2023).

<sup>256</sup> Human Rights Watch video interview with Rosa, lesbian and sex worker rights defender with Liquid Ambar, El Salvador. May 3, 2022.

## Police Violence and Class Discrimination

Police violence targets masculine-presenting LBQ+ people differently from their feminine-presenting counterparts, as indicated by Rosa's analysis of the especially violent police treatment of LBQ+ sex workers in El Salvador. Past research conducted by Human Rights Watch points to the role of class in relative vulnerability to police harassment and violence experienced by masculine-presenting LBQ+ people. A 2016 Human Rights Watch report on violence against LGBT people in Sri Lanka found cases of police harassment against masculine-presenting LBQ+ people, in which victims who could speak English were able to exit dangerous situations and avoid further violence.<sup>257</sup>

Maneesha, a 26-year-old lesbian in Colombo, said that a police officer questioned her and her lesbian friend in a public park because they were together and gender non-conforming, both with short hair and dressed in jeans and shirts. To escape police scrutiny, she said, "We pretended that we don't speak Sinhala. We spoke in English; we acted like we're from abroad, like we have money.... If we didn't act like that, we'd be in trouble."

Neelanga, a 36-year-old lesbian in Colombo, said "class and gender are elements in police abuse; anyone who looks butch is a suspect."<sup>258</sup>

"Butch" is read along classed lines, and class often determines the tools available to LBQ+ people to mitigate violence and harassment directed against their butch-ness. Lucia, a lesbian woman in El Salvador, and Whitney, a Black lesbian in the US (see below, "The Racialization of Masculinity"), told similar stories.

### *Lucia's Story, El Salvador*

Lucia is a lesbian woman who lives with her partner and her partner's children in a neighborhood of San Salvador. Lucia is masculine-presenting and wears what she described as "men's clothes" to work and at home.<sup>259</sup>

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<sup>257</sup> "All Five Fingers Are Not the Same" Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka. Human Rights Watch. August 16 2026.

<sup>258</sup> Ibid.

<sup>259</sup> Human Rights Watch video interview with Lucia, lesbian woman in San Salvador, El Salvador. August 8, 2022.

Lucia said her life as a gender non-conforming person changed drastically on March 27, 2022, when the government of El Salvador declared a “state of emergency” in response to a spate of gang violence.<sup>260</sup> <sup>261</sup> The government deployed thousands of soldiers and police officers to conduct raids throughout the country, suspended several constitutional rights, and promulgated legal amendments that violate basic due process rights.<sup>262</sup> According to the government, more than 56,000 people suspected of gang membership were detained as of November 8, 2022.<sup>263</sup> Human Rights Watch and its partners in El Salvador found evidence of “gross human rights violations, including arbitrary detention seemingly based on individuals’ appearance and social background, as well as short-term enforced disappearances.”<sup>264</sup>

As part of the police-run *Casa Segura* program, which evicts gang members from homes they have occupied in the city, police raided Lucia’s home three times between March and April 2022. She told Human Rights Watch about the third raid, which occurred April 2:

In the middle of the night, there was a loud barging, we yelled “coming.” I got dressed quickly, put on my top, slippers, and my partner opened the door. Police told us to get out into the yard while they searched the house. Me, my partner, her son. I came out first. He trailed behind me. They told me and my partner’s son to kneel on the ground with our hands behind our necks: the way they search and detain men. I asked why, and they said stop asking questions. My partner was not forced to kneel. They let her go back into the house. They told her to find our IDs, to see if we were the gang members they were looking for. He said if we asked questions, he would beat us. We were kneeling for a long time waiting for the IDs to be

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<sup>260</sup> “El Salvador: Sweeping New Laws Endanger Rights,” Human Rights Watch news release, April 8, 2022.

<https://www.hrw.org/news/2022/04/08/el-salvador-sweeping-new-laws-endanger-rights>

<sup>261</sup> Human Rights Watch video interview with Lucia, lesbian woman in San Salvador, El Salvador. August 8, 2022.

<sup>262</sup> “El Salvador: Evidence of Serious Abuse in State of Emergency,” Human Rights Watch news release, May 2, 2022.

<https://www.hrw.org/news/2022/05/02/el-salvador-evidence-serious-abuse-state-emergency>; “El Salvador: Sweeping New Laws Endanger Rights.” Human Rights Watch. April 8 2022 <https://www.hrw.org/news/2022/04/08/el-salvador-sweeping-new-laws-endanger-rights>

<sup>263</sup> “Guerra contra las pandillas logra captura de 56,716 terroristas en siete meses del régimen de excepción,” *Comunicado de Prensa, Gobierno de El Salvador*, November 4, 2022. <https://www.presidencia.gob.sv/guerra-contra-las-pandillas-logra-captura-de-56716-terroristas-en-siete-meses-del-regimen-de-excepcion/> (accessed February 2, 2023).

<sup>264</sup> “Bukele’s Old Recipes to Address Gang Violence Are Set to Fail,” Human Rights Watch news release, June 21, 2022, <https://www.hrw.org/news/2022/06/21/bukeles-old-recipes-address-gang-violence-are-set-fail> (accessed February 2, 2023).

checked.... At one point, they [police officers] said, “put your whole body on the ground” while insulting us and threatening to beat us.<sup>265</sup>

Lucia believed police forced her to kneel and violently searched her “like a man” because of her gender expression. The police did not ask her more femme partner to kneel, instead sending her back into the house.

They asked me to kneel because they don’t see me as a woman anymore. Every time they came in, searched the house, and asked us to step outside, they made me stand next to my partner’s son but took her back inside. The police make me stand with the men during raids. It makes me feel bad, like my rights have been violated. The fact that I’m a lesbian doesn’t mean I’m a man. I feel like they abuse their authority and their uniform. I am uncomfortable and violated.

They do *know* I’m a woman. When they frisked me, they assigned a female officer to frisk me saying “this is a woman.” Even when they delegated a woman to frisk me, she did it very violently. When I tried to stand up for myself when they insulted me, the woman who was frisking me would get more violent and threaten to beat me up. So it’s like I am punished for dressing like a man, even though they admit I am a woman.<sup>266</sup>

The common presence of soldiers on the street conducting ID checks and attacking, harassing, and threatening people has resulted in Lucia being stopped and harassed by soldiers multiple times. She said security forces look at her masculine gender expression and accuse her of being in a gang.<sup>267</sup> Effectively, Lucia is stopped in the same manner that many young men in El Salvador are, in which police subject certain styles of clothing to classist stereotypes and accusations, based on perceptions of class status. Then, once she is interacting with police or soldiers, she faces the risk of lesbophobic, sexist, and transphobic violence that other women and queer people face. Lucia explained:

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<sup>265</sup> Human Rights Watch video interview with Lucia, lesbian woman in San Salvador, El Salvador. August 8, 2022.

<sup>266</sup> Human Rights Watch video interview with Lucia, lesbian woman in San Salvador, El Salvador. August 8, 2022.

<sup>267</sup> Human Rights Watch, “*We Just Want to Live Our Lives*”: *El Salvador’s Need for Legal Gender Recognition*, (New York: Human Rights Watch, 2022), <https://www.hrw.org/report/2022/07/18/we-just-want-live-our-lives/el-salvadors-need-legal-gender-recognition#1430> (accessed February 2, 2023).

We have asked ourselves several times why I get stopped and frisked so much and my [more feminine] partner never does. Before the [state of emergency], I wore really baggy clothing, shorts, t-shirts, and my cap backwards. Now the police think if you dress like that, you're a gang collaborator.

One time when they stopped and frisked me, they asked why I have that [short] haircut, but that's how I like my hair. They think people who dress like me are gangsters.

As a result of the dangers she faces at the intersection of her gender and class, Lucia purchased more formal "men's clothing" to mitigate being accused of gang membership. She explained that she has been navigating, and trying to financially afford, a complicated web of requirements to avoid police abuse by dressing more formally without dressing more feminine.

I don't wear feminine clothing. I wear what you would call men's t-shirts, more fitted to my body now so they look fancier, but I'm not trying to be someone I'm not. I avoid long sleeves because police think you're covering tattoos. I don't wear shorts anymore, only pants because they're more formal.

It is really complicated. I have to restrict myself and the things I enjoy doing. Since the [state of emergency] started, ... my family fears for me, they know I am at greater risk than others. I used to play soccer with friends, I used to go out and take walks. I can no longer [do those things] because I know I am in danger when I step outside looking the way I look. My sister told me to stop dressing the way I do, stop cutting my hair the way I do, that the police may throw me in jail for a few years just for looking the way I do.



I only go out for work. I can't go on dates and play soccer. Police will come to the football field. I have many friends who look like me, and we all fear the police.<sup>268</sup>

The financial burden of needing to purchase a new wardrobe just to walk to work without being detained demonstrates the class-based challenges that masculine-presenting LBQ+ people face. (See Whitney Bunt's account below). In an attempt to avoid further police violence under El Salvador's state of emergency, Lucia had to put her already impoverished household under additional financial strain, purchasing clothing that would allow her to look "less like a gang member" without sacrificing her gender expression.<sup>269</sup>

## Racialized Masculinity

Violence, harassment, and discrimination against masculine-presenting LBQ+ people is compounded by a variety of social markers, including race. Transgressing gender norms frequently renders these individuals hyper-visible and, as a result, prone to greater discrimination. Additionally, femininity and masculinity are frequently written across racial (as well as other) axes; the legibility and permissibility of one's gender expression is therefore predicated not only on clothing, hairstyles, and mannerisms, but also on race.<sup>270</sup>

As American sociologist Mignon Moore wrote:

White masculinity in butch women ... gives them an outsider status relative to traditional notions of White femininity and White respectability. The masculinity portrayed by Black women, however, is particularly feared in society and tends to be associated with violence, so transgressive

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<sup>268</sup> Human Rights Watch video interview with Lucia, lesbian woman in San Salvador, El Salvador. August 8 2022.

<sup>269</sup> Ibid.

<sup>270</sup> Queer of color critique is an intersectional framework which pays attention to how various social structures, including race, class, gender, sexuality, influence how individuals are differently placed and perceived in society. This framework largely emerges from the work of black feminists such as Audre Lorde, Barbara Smith, Demita Fraizer and Beverly Smith. For more contemporary readings on this topic, please see the works of Roderick Ferguson, Sarah Ahmed, Patricia Hill, José Esteban Muñoz, Emma Perez, Jasbir Puar, Shreeta Lakhan, among others.

[masculine-presenting] women become problematized and feared by others because of the masculinity they portray.<sup>271</sup>

Whitney Bunts, a Black lesbian and policy analyst at the Center for Law and Social Policy in the US, told Human Rights Watch that the various forms of discrimination Black women face<sup>272</sup> manifest in unique, sometimes heightened ways for masculine presenting Black LBQ+ women in the US.<sup>273</sup>

Black women are unemployed at higher rates than Black men; Black women are incarcerated at higher rates than white women; Black girls are suspended at higher rates than Black boys and white boys. When we think about these things in conjunction with other identities, it comes to a deeper level of marginalization for Black masculine-presenting people.<sup>274</sup>

Racialized gender binaries force masculine-presenting Black LBQ+ women like Bunts to negotiate various systems of oppression at once, complicating an analysis and untangling of the origins of the discrimination they face. In an encounter with the police at a protest in Missouri, in 2020, Bunts was beaten by an officer. It is difficult to decipher whether this violence was carried out because the police officer perceived Bunts to be a Black man, a Black lesbian, or a Black woman, but she said it was clear to her that this violence was disproportionate and targeted.<sup>275</sup>

Discrimination and violence against masculine-presenting Black LBQ+ people starts early in life: A 2015 study found that gender nonconformity is a key “push factor” for LBQ+ youth

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<sup>271</sup> Mignon Moore, *Invisible families: Gay identities, relationships, and motherhood among black women*, (Los Angeles: University of California Press, 2011).

<sup>272</sup> For more on racial discrimination against Black women in the US see: Human Rights Watch, *US: Dismantle Structures of Racism Now: UN Review of US Record on Racial Justice Should Prompt White House Action* (New York: Human Rights Watch, 2022).

<sup>273</sup> For a more comprehensive analysis of the racialization of femininity and masculinity in the U.S. see: Evelyn Hammonds, "Toward a Genealogy of Black Female Sexuality: The Problematic of Silence," in *Feminist Genealogies, Colonial Legacies, Democratic Futures*, ed. M. Jacqui Alexander and Chandra Talpade Mohanty (New York: Routledge, 1997); Patricia Hil Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* (New York, Routledge, 2000); Siobhan B. Sommerville, *Queering the Color Line: Race and the Invention of Homosexuality in American Culture* (Durham: Duke University Press, 2000); Kaila Aida Story, "Not Feminine as in Straight, But Femme as in Queer #AF: The Queer & Black Roots of My Femme Expression/Experience," for *Mouths of Rain: An Anthology of Black Lesbian Thought* (New York: The New Press, 2021).

<sup>274</sup> Human Rights Watch video interview with Whitney Bunts, Chicago. August 8, 2022.

<sup>275</sup> Ibid.

who find themselves in the school-to-prison pipeline,<sup>276</sup> a phrase used to describe how education and public safety policies in the US funnel children, predominantly Black children,<sup>277</sup> into the criminal justice system. The study explicitly stated that youth were punished for violating gender norms. One adult from Louisiana interviewed for the study said:

I'm thinking of a young Black woman who identifies as gay, but has a really short haircut, like people would see on a boy, what you would call a fade. That's in people's face, and I think it's almost okay to discriminate or talk about or relegate to a different status because it's like "well she chose to put that in my face," you know and "she didn't have to."<sup>278</sup>

A Black woman's masculine gender expression being "in your face" is similar to what Bunts described as "being particularly vulnerable to being seen as the 'angry Black woman,'" a harmful trope rooted in sexist and racist notions of aggression. The "angry Black Woman," according to a 2022 Harvard Business Review study is a "pervasive stereotype [that] characterizes Black women as more hostile, aggressive, overbearing, illogical, ill-tempered and bitter" which leads to discrimination in the workplace not experienced by other women or Black men.<sup>279</sup> Bunts told Human Rights Watch that she has been unable to wholly express herself in school, at work, or elsewhere as a result.

Future research should look at violence endured by masculine-presenting Black LBQ+ people. For example, a 2020 HRW report noted the leadership role and high presence of Black and brown women at the June 4, 2020 protests against police brutality.<sup>280</sup> Although the report highlighted the centrality of Black and brown women in the protest, it did not address their gender expressions and if that correlated with differential police treatment, such as the experience Bunts recounted above. Similarly, a 2017 report on LGBTQ Youth in

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<sup>276</sup> Snapp, S. D., Hoenig, J. M., Fields, A., & Russell, S. T. (2015). Messy, butch, and queer: LGBTQ youth and the school-to-prison pipeline. *Journal of Adolescent Research*, 30(1), 57–82. <https://doi.org/10.1177/0743558414557625>

<sup>277</sup> For more on the origins and consequences of the school to prison pipeline please see: Megan French-Marcelin et al., *Bullies in Blue: The Origins and Consequences of School Policing*, (New York: American Civil Liberties Union, 2017).

<sup>278</sup> Snapp, S. D., Hoenig, J. M., Fields, A., & Russell, S. T, *Messy, butch, and queer: LGBTQ youth and the school-to-prison pipeline*, (Journal of Adolescent Research, 2015).

<sup>279</sup> Daphna Motro, Jonathan B. Evans, Aleksander P.J. Ellis, and Lehman Benson III, "The 'Angry Black Woman' Stereotype at Work," *Harvard Business Review*, January 31, 2022, <https://hbr.org/2022/01/the-angry-black-woman-stereotype-at-work> (accessed February 2, 2023).

<sup>280</sup> Human Rights Watch, *"Kettling" Protesters in the Bronx: Systemic Police Brutality and Its Costs in the United States* (New York: Human Rights Watch, 2020), p. 22.

the Juvenile Justice System noted that 40 percent of incarcerated girls in the US identified as LGB and 85-90 percent of incarcerated LGBTQ youth were youth of color.<sup>281</sup> While this report clearly demonstrates the overrepresentation of LBQ+ girls of color, it did not collect data on these girls' gender expressions. These examples indicate that future research is needed into the impact of gender expression on racialized violence.

In Bunts' capacity as a policy analyst focused on intersectional research into poverty, criminal justice, and other social concerns, she has found that the currently available research has largely failed to examine the barriers, discrimination, and violence faced by masculine-presenting Black women.<sup>282</sup> Moore observed in 2006 that there was "very little published research analyzing gender presentation in Black lesbian communities during and after the 1970s women's movement."<sup>283</sup> She ascribed this gap in research to a variety of issues, including white feminist and queer scholars' lack of interest, Black feminist scholars' increasing tendency to prioritize issues of race, and the fear of not being published or being pigeonholed as "gay, queer, funny, or a bulldagger."<sup>284</sup> The lack of available research on masculine-presenting Black women can also be attributed to the wider, systemic issue of underreporting on LGBT subpopulations.<sup>285</sup>

## Sexual Violence

The prominence given to sexual orientation as the top motivating factor in attacks on LBQ+ people is evident in research and human rights and media reports on "corrective rape."<sup>286</sup> News reports covering violence against LBQ+ people have tended to focus on sexual violence against lesbians and lesbian couples. The most media coverage by far is from

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<sup>281</sup> "Unjust: LGBTQ Youth Incarcerated in the Juvenile Justice System," *Center for American Progress*, July 2017. <https://www.lgbtmap.org/file/lgbtq-incarcerated-youth.pdf> (accessed February 2, 2023).

<sup>282</sup> Human Rights Watch video interview with Whitney Bunts, Chicago. August 8, 2022.

<sup>283</sup> Mignon R. Moore, *Lipstick or Timberlands? Meanings of Gender Presentation in Black Lesbian Communities*, (UCLA: California Center for Population Research, 2006).

<sup>284</sup> Mignon R. Moore, "Lipstick or Timberlands? Meanings of Gender Presentation in Black Lesbian Communities," 2006, UCLA: California Center for Population Research.

<sup>285</sup> Burwick, Andrew, Gary Gates, Scott Baumgartner, and Daniel Friend, *Human Services for Low Income and At-Risk LGBT Populations: An Assessment of the Knowledge Base and Research Needs*, OPRE Report Number 2014-79 (Washington, DC: Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services, 2004), p. 76.

<sup>286</sup> Human Rights Watch, *"We'll Show You You're a Woman": Violence and Discrimination against Black Lesbians and Transgender Men in South Africa*, (New York: Human Rights Watch, 2011), <https://www.hrw.org/report/2011/12/05/well-show-you-youre-woman/violence-and-discrimination-against-black-lesbians-and>

South Africa, though cases in Jamaica and Tanzania have also been covered in international news outlets.<sup>287 288 289 290 291</sup>

Most understandings of “corrective rape” hold that perpetrators assert, whether sincerely or not, that the victim’s actual or perceived queerness will change or “be corrected” if they experience, even non-consensually and violently, heteronormative sex.<sup>292 293</sup> A 2011 Human Rights Watch report on attacks in South Africa defined “corrective rape” as “a phenomenon in which men rape people they presume or know to be lesbians in order to ‘convert’ them to heterosexuality.”<sup>294</sup> In 2011, the UN defined it as “men raping gay women in order to ‘cure’ them of their lesbianism.”<sup>295</sup> A 2013 *New York Times* feature, also on South Africa, defined it as “the rape of gay men and lesbians to ‘cure’ them of their sexual orientation.”<sup>296</sup> As in these definitions, most analyses that accompany “corrective rape” accounts have placed a primacy on the victim’s actual or perceived lesbian sexual orientation.

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<sup>287</sup> A Lock Swarr, “Paradoxes of butchness: Lesbian masculinities and sexual violence in contemporary South Africa,” *Signs: Journal of Women in Culture and Society*, 2012, 37(4), 961–986.

<sup>288</sup> “Raped and Killed for Being a Lesbian: South Africa Ignores ‘Corrective’ Attacks,” *The Guardian*, March 12, 2009. <https://www.theguardian.com/world/2009/mar/12/eudy-simelane-corrective-rape-south-africa?msclkid=f55f7da3b08b11ec89ad29d6f7df8aca> (accessed February 2, 2023).

<sup>289</sup> Kelleher, Patrick. “Lesbian Violently Gang Raped by Teenage Boys Who Wanted to “Correct” Her Sexuality.” PinkNews. March 4 2020. [www.thepinknews.com/2020/03/04/south-africa-lesbian-corrective-rape-cape-town-dog-pound-gang-sexual-assault/?msclkid=f55f9d82b08b11ec9d716440e61915fd](http://www.thepinknews.com/2020/03/04/south-africa-lesbian-corrective-rape-cape-town-dog-pound-gang-sexual-assault/?msclkid=f55f9d82b08b11ec9d716440e61915fd). Accessed 9 Dec. 2022.

<sup>290</sup> “Corrective Rape: ‘I Was Raped to ‘Cure’ Me of Being a Lesbian,’” *Marie Claire*, October 6, 2019, [www.marieclaire.co.uk/news/corrective-rape-6626](http://www.marieclaire.co.uk/news/corrective-rape-6626) (accessed February 2, 2023).

<sup>291</sup> Kiara Ethan, “‘You Can’t Be a Lesbian in Tanzania,’” *OPENLY*, May 19, 2019, [www.openlynews.com/i/?id=484f8b49-878f-47a0-9d88-ccf9a97c1fb&utm](http://www.openlynews.com/i/?id=484f8b49-878f-47a0-9d88-ccf9a97c1fb&utm) (accessed February 2, 2023).

<sup>292</sup> Human Rights Watch, *“We’ll Show You You’re a Woman”: Violence and Discrimination against Black Lesbians and Transgender Men in South Africa*, (New York: Human Rights Watch, 2011), <https://www.hrw.org/report/2011/12/05/well-show-you-youre-woman/violence-and-discrimination-against-black-lesbians-and>

<sup>293</sup> “Human Rights Watch Submission to the UN Special Rapporteur on Violence Against Women,” Human Rights Watch news release, May 22, 2020. <https://www.hrw.org/news/2020/05/22/human-rights-watch-submission-un-special-rapporteur-violence-against-women>

<sup>294</sup> Human Rights Watch, *“We’ll Show You You’re a Woman”: Violence and Discrimination against Black Lesbians and Transgender Men in South Africa*, (New York: Human Rights Watch, 2011), <https://www.hrw.org/report/2011/12/05/well-show-you-youre-woman/violence-and-discrimination-against-black-lesbians-and>

<sup>295</sup> “South African Story ‘Corrective Rape’ to Receive Top Television Award, 12 April, at United Nations Public Information Department-New York Festivals Event,” *UN Press*, April 11, 2011, [press.un.org/en/2011/note6301.doc.htm](http://press.un.org/en/2011/note6301.doc.htm) (accessed February 2, 2023).

<sup>296</sup> Carter, Clare, et al. “The Brutality of “Corrective Rape.”” *The New York Times*. July 27 2013. [archive.nytimes.com/www.nytimes.com/interactive/2013/07/26/opinion/26corrective-rape.html](http://archive.nytimes.com/www.nytimes.com/interactive/2013/07/26/opinion/26corrective-rape.html).

In fact, the focus on sexual orientation as the motivation for “corrective rape” is so strong that it is often applied to trans men, as well. An international organization’s report contains the following analysis:

In Bukavu trans men are targets of sexual violence because of their gender expression. People perceive them to be lesbians and so subjected to rape for example which the offenders perceive to be a “corrective” measure.<sup>297</sup>

Though the sentence opened with a reference to gender expression, it went on to relegate gender expression to a subcategory or indicator of sexual orientation, demonstrating what LBQ+ activists call a “hyperfocus” on sexuality as the root cause of abuse.<sup>298</sup>

One of the many problems with the “corrective rape” discourse is its ambiguity around what exactly is the subject of supposed correction. Research and accounts collected for this report indicate that the gender expression of LBQ+ women, non-binary people, and trans men who experienced “corrective rape” is not adequately analyzed in reporting. (The categories of sexual orientation, gender identity, and gender expression are artificial constructs, but relevant here as they assist marginalized, victimized communities in claiming rights. An analysis of gender expression, in particular, is relevant for LBQ+ victims of corrective rape in ways that have thus far been largely usurped by a focus on sexual orientation.)

In some rape cases such as the experience of Tamara,<sup>299</sup> an intersex lesbian activist in Malawi, the perpetrators sexually assaulted lesbians apparently using the crude logic that they “had not had” sex with a man before. This largely follows traditional narratives of “corrective rape.” In contrast, a report authored by five LGBT organizations in the Democratic Republic of Congo found that in several instances, perpetrators of “corrective rape” against masculine-presenting LBQ+ women, non-binary people, and trans men said the assault would “make them a real man.” The report includes the following case:

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<sup>297</sup> UHAI EASHRI, *Landscape Analysis of the Human Rights Situation of LGTI People and Sex Workers in the Democratic Republic of Congo*, (Nairobi: UHAI EASHRI, 2017) <https://globalphilanthropyproject.org/wp-content/uploads/2017/09/UHAI-DRC-baseline-ENG.pdf> (accessed February 2, 2023).

<sup>298</sup> In Human Rights Watch video interviews with Nadia, Lebanon (May 24, 2022) and Sofía, Mexico (August 8, 2022), both activists spoke of a “hyperfocus” on sexual orientation in analysis of attacks on LBQ+ women, to the detriment of a gender expression-focused analysis.

<sup>299</sup> See Tamara’s Story, Malawi. Section VII. Freedom of Movement and The Right to Appear.

A transgender man, A., was raped by four young men from his neighborhood the night of June 24, 2017. In his own words: ‘It started with insults every time I walked by. They had already attacked twice in the past, trying to rape me. They told me all the time: “we are going to rape you and you are going to become a normal man.” That night, when he was arriving home, ... “they threw themselves on me, while hitting me. They showed me two knives while telling me that they would kill me if I cried. They ripped my pants and the four of them raped me. I bled and when they had finished, they told me we just turned you into a normal man.”’<sup>300</sup>

The process by which the rape of a trans man results in real manhood (in the mind of the perpetrator) undermines traditional understandings of “corrective rape,” which hold that the violence is intended to “correct” gender and sexual deviance by making LBQ+ women, non-binary people, and trans men into proper heterosexual, cisgender subjects.<sup>301</sup> In cases such as the above from the Democratic Republic of Congo, however, the survivor’s accounts *do not* center the correction of sexual orientation in recounting the violence. Citing the words of the perpetrator himself, the survivor says the violence was directed at his gender identity, to make him a “normal man.”

Despite substantial media coverage of “corrective rape,” stories that eschew the traditional narrative (about what exactly is being corrected) are not properly included in the development of knowledge on the subject. Analysis should be expanded to include the “correction” of gender identity and gender expression and to consider transgression of the norms of each as equal affronts to patriarchal structures. Even newer definitions of

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<sup>300</sup> Mouvement pour la promotion du respect et égalité des droits et santé (MOPREDS); Jeunialissime; Oasis Club Kinshasa; Rainbow Sunrise Mapambazuko; Mouvement pour les libertés individuelles (MOLI); Synergía - Initiatives for Human Rights, *Human Rights Violations Against Lesbian, Gay, Bisexual and Transgender (LGBT) People in the Democratic Republic of the Congo (DRC)*, (Kinshasa: Mouvement pour la promotion du respect et égalité des droits et santé, 2017), [https://www.ecoi.net/en/file/local/1411473/1930\\_1507798258\\_int-ccpr-css-cod-29078-e.pdf](https://www.ecoi.net/en/file/local/1411473/1930_1507798258_int-ccpr-css-cod-29078-e.pdf) (accessed February 2, 2023).

<sup>301</sup> See for example Section III, in which corrective rape is conceptualized of as a form of conversion practice.

“corrective rape” (some of which now account for gender identity and attacks on trans people) do not explicitly mention gender expression.<sup>302 303</sup>

The current analytical insistence that “corrective rape” of LBQ+ people is fundamentally an attack on sexual orientation is problematic for several reasons:

- It reifies the reduction of trans men to their sex assigned at birth by insisting they were attacked because a perpetrator believed the victim was a lesbian woman;
- it denies how gender presentation in and of itself can, and does, elicit violence from men who do not believe people assigned female at birth deserve to hold masculine space;
- it denies the political power and agency of masculine-presenting LBQ+ people and erases the fact that for both victims and perpetrators, gender expression is as worthy of living *and policing* as sexuality.

As Nadia explained, attacks on masculine-presenting LBQ+ people, including “corrective rape,” are attacks not only on lesbian sexuality, but also on LBQ+ people’s rights to take space, including visual space, that men believe is theirs alone. Determining that rapes of butch women, masculine-presenting LBQ+ people, and trans men—who present as they do in the world at great personal risk—were motivated by sexuality alone ignores masculine-presenting LBQ+ people’s multidimensional identities, political agency, and experiences. It fails to address root causes of sexual violence against LBQ+ people.

Given all the above, it is illogical to center “corrective rapes” solely on the perpetrator’s perception of the victim’s sexuality without unpacking the nuances of their gender expression and gender identity.

The fact that LBQ+ people and trans men are attacked for “thinking they are men,” with “corrective rape” among other tactics, is an important consideration in conceptualizing

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<sup>302</sup> The United Nations Economic and Social Commission for Western Asia states: “Corrective rape is a form of rape of perpetrated against someone on the basis of their sexual orientation or gender identity. It is intended to force the victim to conform to heterosexuality or normative gender identity.” See: “Corrective rape,” *United Nations Economic and Social Commission for Western Asia (UN ESCWA)*, <https://www.unescwa.org/sd-glossary/corrective-rape> (accessed February 2, 2023).

<sup>303</sup> Indian legal resource Law Corner states: “Corrective rape, also known as curative or homophobic rape, is a hate crime in which one or more people are raped because of their gender identity or sexual orientation.” See: “Corrective Rape In The Era Of Transformative Constitutionalism,” *Law Corner*, May 19, 2022, <https://lawcorner.in/corrective-rape-in-the-era-of-transformative-constitutionalism/> (accessed February 2, 2023).



violence against LBQ+ people. It decouples LBQ+ identity from essentialized victimhood, moving away from the understanding that attacks are perpetrated primarily because of sexual orientation—the risk of which may simply be heightened for masculine-presenting women due to their “visible” queerness—to one that better encompasses gender expression as a motivating factor. This shift has implications for the direction that public education, advocacy, and policy reform must go. To address “corrective rape” and other forms of sexual violence against LBQ+ people, human rights researchers and advocates need to better recognize what UCLA researchers call the “particular importance [of] the role of gender expression among LBQ women in its impact on economic outcomes, health, and well-being,” which is a call echoed by LBQ+ advocates globally.<sup>304</sup>

## Key Next Steps

States should:

- Pass comprehensive anti-discrimination legislation that prohibits discrimination based on sexual orientation, gender identity, or gender expression.
- Explicitly add gender expression to legislation that already prohibits discrimination based on of sexual orientation and gender identity.
- Introduce legal protections for gender non-conforming primary and secondary students, the absence of which can impact a lifelong trajectory of violence and discrimination for masculine-presenting LBQ+ people.
- Institute mandatory SOGIE trainings for educators and other school staff at all levels that explicitly train teachers on concepts related to sexual orientation, gender identity, and gender expression.
- Immediately investigate and end violent policing and arrest tactics that discriminatorily impact the lives of masculine-presenting LBQ+ people.
- Decriminalize sex work, a profession that LBQ+ people, including masculine-presenting LBQ+ people, sometimes enter due to discriminatory hiring practices in other fields of work.

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<sup>304</sup> Wilson, B.D.M, Gordon, A.R., Mallory, C., Choi, S.K., Badgett, M.V.L., & LBQ Women’s Report Team, *Health and Socioeconomic Well-Being of LBQ Women in the U.S.*, (Los Angeles: Williams Institute, UCLA school of law, 2021), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LBQ-Women-Mar-2021.pdf> (accessed February 2, 2023).

Opportunities for LBQ+-centered research include:

- Analyze the role of gender expression in violence against masculine-presenting LBQ+ people in ways that eschew the construction of gender expression as merely a signifier of sexual orientation or gender identity.
- Recognize the role of LBQ+ people’s gender expression in impacting economic outcomes, health, and well-being, which will also help address “corrective rape” and other forms of sexual violence against LBQ+ people.
- Research how gender is constructed, perceived, and policed across racial and class lines, and how this may render masculine-presenting LBQ+ people who are also racially and economically marginalized more vulnerable to various forms of violence.
- Investigate rates of incarceration among LBQ+ people as well as their experiences of violence while incarcerated and how these experiences intersect with the other key issues identified in this report, including violence against incarcerated masculine-presenting LBQ+ people and LBQ+ parents.

## VI. Violence and Discrimination at Work

Violence and harassment against LBQ+ workers are widespread and rampant. This violence contributes to the economic precarity of LBQ+ individuals, couples, and families (see Section I. “Background: Poverty and Economic Marginalization”) by making it dangerous or impossible for them to work. During interviews with Human Rights Watch:

- in Kenya, two LBQ+ activists reported masculine-presenting lesbians being threatened by male colleagues for receiving promotions before them;
- in Argentina, an LBQ+ lawyer reported receiving regular emergency calls from lesbian farm workers subjected to “corrective rape” by the land-owning families they work for;
- in Tunisia, a lesbian activist reported “extreme defensiveness,” threats, and sexual harassment from male co-workers;
- in Kyrgyzstan, LBQ+ researchers reported that many masculine-presenting lesbians find work in auto shops where they can express their gender more freely but endure low pay and a high risk of sexual violence;
- LBQ+ women in El Salvador, Ghana, and Kenya as well as a regional network in Central Asia spoke of the multiple forms of economic marginalization that force LBQ+ women, non-binary people, and trans men into sex work, where many are denied basic labor rights.<sup>305</sup>

Their testimonies echo those featured in past Human Rights Watch investigations which found instances of sexual violence and threats of sexual violence against LBQ+ employees in a range of labor fields, including the United States military,<sup>306</sup> furniture stores in

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<sup>305</sup> Front Line Defenders, *Sex Worker Rights Defenders at Risk*, (Dublin: Front Line Defenders, 2021), [https://www.frontlinedefenders.org/sites/default/files/fld\\_swrdr\\_final\\_english.pdf](https://www.frontlinedefenders.org/sites/default/files/fld_swrdr_final_english.pdf) (accessed February 2, 2023).

<sup>306</sup> Human Rights Watch, *Uniform Discrimination: The “Don’t Ask, Don’t Tell” Policy of the U.S. Military*, (New York: Human Rights Watch, 2003) <https://www.hrw.org/report/2003/01/05/uniform-discrimination/dont-ask-dont-tell-policy-us-military#7739>.

Namibia,<sup>307</sup> and NGOs and coffee shops in South Africa.<sup>308</sup>

## LBQ+ Labor Rights Research and Policy Gap

Substantive research and policy on the labor rights of LBQ+ workers are scarce. Analysis of sexual and gender-based violence against LBQ+ workers is even harder to find. For example, the proliferation of International Labour Organization (ILO) handbooks, guidelines, recommendations, projects,<sup>309</sup> statements,<sup>310</sup> and conventions<sup>311</sup> over the past decade that address (separately) LGBT people's rights and women's rights in the workforce contain little to no information on the unique forms of physical, sexual, psychological, and financial violence LBQ+ workers face. Additionally, these documents largely refer to LGBT people and women as two distinct groups of workers and rights-holders, ignoring or erasing the significant overlap. This, combined with the accounts collected for this report, point to the need for LBQ+-specific research, case studies, and analysis to then inform LBQ+-specific policy and advocacy goals vis-à-vis their rights at work. Violence against LBQ+ people at work has direct ties to other key issues arising from this scoping, including economic marginalization, forced labor, and discrimination against masculine-presenting LBQ+ people.

In 2019, the ILO adopted the Violence and Harassment Convention (No. 190) and its accompanying Recommendation (No. 206.57), which recognizes the “right of everyone to a world of work free from violence and harassment, including gender-based violence and

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<sup>307</sup> Human Rights Watch, *More Than a Name: State-Sponsored Homophobia and its Consequences in Southern Africa*, (New York: Human Rights Watch, 2003), <https://www.hrw.org/report/2003/05/13/more-name/state-sponsored-homophobia-and-its-consequences-southern-africa>

<sup>308</sup> Human Rights Watch, *"We'll Show You You're a Woman": Violence and Discrimination against Black Lesbians and Transgender Men in South Africa*, (New York: Human Rights Watch, 2011), <https://www.hrw.org/report/2011/12/05/well-show-you-youre-woman/violence-and-discrimination-against-black-lesbians-and>

<sup>309</sup> International Labour Organization, *Discrimination at work on the basis of sexual orientation and gender identity: Results of the ILO's PRIDE Project*, (Geneva: International Labour Organization, 2015), [https://www.ilo.org/wcmsp5/groups/public/-dgreports/-gender/documents/briefingnote/wcms\\_368962.pdf](https://www.ilo.org/wcmsp5/groups/public/-dgreports/-gender/documents/briefingnote/wcms_368962.pdf)

<sup>310</sup> “LGBT workers entitled to equal rights and benefits at the workplace: Statement by ILO Director-General Guy Ryder on the occasion of the International Day against Homophobia and Transphobia,” *International Labour Organization*, May 17, 2015, [https://www.ilo.org/moscow/news/WCMS\\_369786/lang-en/index.htm](https://www.ilo.org/moscow/news/WCMS_369786/lang-en/index.htm)

<sup>311</sup> ILO Convention No. 190 concerning Violence and Harassment in the World of Work (Violence and Harassment Convention), adopted June 21, 2019, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C190](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190) (accessed February 2, 2023).

harassment.”<sup>312</sup> It defines “gender-based violence and harassment” to mean violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.”<sup>313</sup> It acknowledges “that gender-based violence and harassment disproportionately affects women and girls” and calls on states to:

adopt laws, regulations and policies ensuring the right to equality and nondiscrimination in employment and occupation, including for women workers, as well as for workers and other persons belonging to one or more vulnerable groups or groups in situations of vulnerability that are disproportionately affected by violence and harassment in the world of work.<sup>314</sup>

Amani, a lesbian activist, writer, and human rights defender in Tunisia who has been repeatedly detained, beaten, and harassed by police for her human rights work told Human Rights Watch:

It’s not just policemen who get threatened by me. It’s straight men I work with. It’s like they [male colleagues] think “she’s trying to get our girls. She’s more charming probably.” They get super defensive. If you politely ask them at work, “can you just do this one thing?,” their reaction is super weird. “I know my job! I know this!” But they don’t do this with men. They are calm. And with straight women, they are flexible and smiley and nice. But with me, they get super defensive. Or they start talking about homosexuality. They’ve started to speak more sexually about women in front of me and are more openly homophobic. They say, okay, you like women and date women, what can you do about it, can you have babies? Can you marry? They put pressure on deep wounds, but I won’t show this. If

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<sup>312</sup> Ibid.

<sup>313</sup> ILO Recommendation No. 206 concerning Violence and Harassment in the World of Work, adopted June 21, 2019, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:R206](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R206), (accessed February 2, 2023). ILO Recommendations are non-binding. Art. 1.1(b).

<sup>314</sup> Ibid. Art. 6

you like a girl he likes, they get crazy and start doing everything to get her attention. Men at work have the same tension around me as the police.<sup>315</sup>

In May 2022, the ILO launched<sup>316</sup> a 108-page guide “aimed at representatives of governments, employers’ and workers’ organizations and other relevant stakeholders ... [to] help in the process of identifying and designing tailor-made local responses to ensure equal opportunities and treatment for LGBTIQ+ persons at work.” It does not include examples of the specific types of violations that LBQ+ workers experience, which occur at the intersection of their gender, sexuality, race, class, ethnicity, and other factors. Nor does it consider the barriers to reporting violence that LBQ+ women and organizations have reported to Human Rights Watch. One lawyer captured how gender, sexuality, and class play out in Argentina:

As a lesbian lawyer, I receive many reports on sexual violence against queer women working on farms in rural areas of Argentina. The women almost never want to report. The police agencies lack LBQ+-specific knowledge and wouldn’t even have a way to record that the violence was committed against a queer person even if the woman wanted to disclose that. Even more than that, the high rates of corruption and collusion between businesses and states in many rural areas make reporting to police dangerous or impossible for most women. The police are directly tied to the family that owns the land. Men from those families are the ones assaulting women. How could they report?<sup>317</sup>

The ILO’s LGBT guide also presents LGBT people and women as distinct rather than intersecting groups.<sup>318</sup> While it is true that the “passing of legal protections for *LGBTIQ+*

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<sup>315</sup> Human Rights Watch video interview with lesbian activist and writer Amani, Tunisia. July 15, 2022.

<sup>316</sup> International Labour Organization, *Inclusion of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) persons in the world of work: A learning guide*, (Geneva: International Labour Organization, 2022), [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms\\_846108.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_846108.pdf) (accessed February 2, 2023).

<sup>317</sup> Human Rights Watch video interview with lesbian activist and lawyer Andrea Rivas, Argentina. May 20, 2022.

<sup>318</sup> International Labour Organization, *Inclusion of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ+) persons in the world of work: A learning guide*, (Geneva: International Labour Organization, 2022), [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms\\_846108.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_846108.pdf) (accessed February 2, 2023).

*persons*, for example, seems to have an impact on the integration of *other groups, such as women*, in the labour force” (emphasis added), this language reifies the idea that women are not “LGBTIQ+ persons” and that “other groups, such as women” are inherently heterosexual.

## Labor Rights and Anti-LBQ+ Violence

In 2012, the ILO launched its “Gender Identity and Sexual Orientation: Promoting Rights, Diversity and Equality in the World of Work (PRIDE)” project to investigate anti-LGBT discrimination at work and good practices in nine countries. Reports from Argentina, Hungary, and Thailand have been published, and research is ongoing in Costa Rica, France, India, Indonesia, Montenegro, and South Africa. The 77-page Thailand study, published in 2015, remains one of the strongest recent bodies of work in terms of including examples and accounts from LBQ+ women about their unique experiences of violence at work.<sup>319</sup> This is likely due to the author’s decision to work with two lesbian organizations on the study’s design, which contributed to the relatively high number of lesbian and bisexual women interviewed for the report (19 of the 54 respondents in focus groups were lesbian and bisexual women).

The report discussed the experience of masculine-presenting lesbian factory workers in Lamphun province, northern Thailand:

Supervisors of the production lines at the female-dominated Japanese and German factories preferred tomboy workers because, they said, unlike regular women workers, toms generally took very few days off and had no long-extended leave like maternity leave, and they were also generally punctual and willing to do any type of work.

With preferential hiring of toms, a huge increase of the tom population in the Japanese and German factories (the author estimated 40 per cent of 3,000 workers in the two factories combined to be tom, and 17 per cent

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<sup>319</sup> Busakorn Suriyasarn, *PRIDE at work A study on discrimination at work on the basis of sexual orientation and gender identity in Thailand*, Working Paper No. 3 / 2015 (Geneva: International Labour Organization, 2015), [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_368644.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_368644.pdf) (accessed February 2, 2023).

men and 43 per cent women at the time of the study) had an impact on the factory culture: tom-di (butch-femme) relationships became increasingly common and tolerated (more so at the German factory than the Japanese factory which has stricter rules governing conduct of workers). Generally they were also tolerated by their male co-workers as long as they did not act in an exaggerated “macho” fashion. There were, however, occasional tensions with single men in competition for female attention. Given increasingly widespread romantic pairing up of women workers within a confined space, relationship-related brawls and altercations also broke out sometimes among tom workers. Moreover, unlike the traditional “obedient” women workers tom workers began to organize and demanded higher pay and benefits and other rights at work.

These new changes in the factory culture were undesirable for the factory management and resulted in falling demand for tom workers by the factories and many tom workers became unemployed. For a period the factories reversed to preferring traditional feminine women. Interestingly, the tom workers adjusted and re-applied as women, putting on feminine dress and make-up. Some even resorted to hair extension and putting on high heels. Some were hired back, while others were not.<sup>320</sup>

Despite a high level of detail in unpacking the experience, the Thailand case study leaves several critical themes unaddressed and in need of further investigation. The references to “tensions with single men in competition for female attention” and male hostility in the face of ambiguously “exaggerated ‘macho’” behavior reinforces two key trends also seen in the LBQ+ interviews conducted for this report:

1. Butches, studs, transmasculine, and other masculine-presenting LBQ+ people face particular kinds of violence and harassment at work; and
2. LBQ+ people are at risk when they are perceived to be taking up space that men believe is theirs alone.

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<sup>320</sup> Ibid.



The ILO's analysis of the case downplayed the two instances in which masculine-presenting lesbians angered their male colleagues in the factory by acting too masculine and pursuing other women. In effect, both their gender expression and sexuality are "tolerated" only when the men around them do not perceive either to be "exaggerated." Drawing on other themes discussed in this report, this points to the potential for masculine-presenting LBQ+ employees<sup>321</sup> and openly LBQ+ couples<sup>322</sup> who work in the same environment or company to be especially at risk.

Despite the Thailand study's strong focus on LBQ+ workers as rights-holders who experience harassment and hiring discrimination, its discussion of physical and sexual violence largely generalizes the experience of LGBT people. The study stated:

Transgender persons and toms (masculine lesbian women) are particularly subjected to intrusive questions about their private lives, and to insinuations, and slurs and insults about their sexuality. LGBT persons face many forms of violence including taunting and bullying, to other forms of physical and sexual violence, including groping, physical assault, and rape.<sup>323</sup>

After mentioning the uniquely intrusive nature of questions that trans people and masculine-presenting lesbians are subjected to at work, the subsequent sentence returns to discussing LGBT people *en masse*. It misses the opportunity to explore the unique forms of violence, such as those reported to Human Rights Watch in Argentina, El Salvador, Malawi, Kyrgyzstan, and Tunisia, and that may have been present in the case of the Kenya murder discussed below.

The family of Sheila Lumumba, a non-binary lesbian murdered in Kenya, told Human Rights Watch that Lumumba had expressed fear of potential violence from three male colleagues

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<sup>321</sup> For analysis of violence and harassment of masculine-presenting LBQ+ people, see Section V. "Butches Get Punched": Violence Against Masculine-Presenting LBQ+ People.

<sup>322</sup> For analysis of violence and harassment of LBQ+ couples, see Section VII. Freedom of Movement and the Right to Appear.

<sup>323</sup> Busakorn Suriyasarn, *PRIDE at work A study on discrimination at work on the basis of sexual orientation and gender identity in Thailand*, Working Paper No. 3 / 2015 (Geneva: International Labour Organization, 2015), [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_368644.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_368644.pdf) (accessed February 2, 2023).

prior to their death.<sup>324</sup> Lumumba had been promoted above them and had reported them for behaviors that violated company policy, and the three men had been subsequently fired. On the night Lumumba was murdered, they were last seen walking with three men. From an LBQ+ research perspective, the case should be considered against the widespread hostility toward LBQ+ people at work. Accounting for hostility from colleagues does not impugn the evidence that Lumumba was targeted, raped, and murdered because they were a non-binary lesbian; instead, analyzing the case through the lens of workplace violence against LBQ+ people *affirms* that if Lumumba’s colleagues murdered them, the crime was deeply tied to their sexuality.

In 2019, UN Women and the ILO jointly published the 124-page *Handbook: Addressing violence and harassment against women in the world of work*, which asserts that violence against women at work is often “an expression of power and control (by co-workers, employers and supervisors, and third parties)” that “can include a range of overt and covert action.”<sup>325</sup> The document does not explicitly discuss gendered and sexualized workplace violence against LBQ+ women or mention queer women or non-binary people beyond an opening paragraph that affirms “the presence of discrimination based on other factors such as race, social origin, migration status, disability, maternity, family responsibilities, *sexual orientation and gender identity*, may also influence how, and in what ways, women experience violence and harassment” (emphasis added). Despite the explicit LBQ+ gap in the handbook, its power analysis of how gender violence manifests at work provides an opening for research, analysis, and advocacy that examines the unique ways in which this “expression of power and control” targets masculine-presenting women, unmarried women, feminine queer women who are out at work, non-binary people assigned female at birth, and trans men.

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<sup>324</sup> Erin Kilbride, “Inadequate Kenyan Police Response to Brutal Killing of Non-Binary Lesbian,” Human Rights Watch new release, April 29, 2022, <https://www.hrw.org/news/2022/04/29/inadequate-kenyan-police-response-brutal-killing-non-binary-lesbian>

<sup>325</sup> UN Women, *Handbook: Addressing violence and harassment against women in the world of work*, (Geneva: UN Women, 2019) <https://www.unwomen.org/en/digital-library/publications/2019/03/handbook-addressing-violence-and-harassment-against-women-in-the-world-of-work> (accessed February 2, 2023).

## Key Next Steps

Although there is a marked absence of LBQ+ workers from many recent labor rights documents, the increasingly strong gendered power analysis in these spaces has provided a space for better LBQ+ documentation that builds on this work.

States should:

- Enact labor rights laws that explicitly protect LBQ+ workers from violence, harassment, and discrimination at work.
- Enact labor rights laws that explicitly prohibit violence, harassment, and discrimination at work based on sexual orientation, gender identity and gender expression.

Opportunities for LBQ+-centered research include:

- Research and analyze the unique ways in which male coworkers, employers, supervisors, and third parties' "expression of power and control" targets masculine-presenting women, unmarried women, and feminine queer women who are out at work.
- Research economic marginalization, forced labor, and discrimination against masculine-presenting LBQ+ workers.
- Working with LBQ+ movements, investigate labor rights violations in fields of work that LBQ+ leaders say are important, popular, or common among their community members. This will allow for labor rights reform in fields critical to the economic survival of LBQ+ individuals, couples, and communities, without necessitating the sort of radical "outing" that often makes including LBQ+ workers in workplace research dangerous.

## VII. Freedom of Movement and The Right to Appear

In 1997, then UN Special Rapporteur on Violence Against Women Radhika Coomaraswamy wrote “to strive to live and work outside the watchful gaze of the family and community is to risk becoming a target for male violent behavior.”<sup>326</sup> In other words, as women seek freedom from repressive, sexist policies that confine them to the home, they become “a target” for other forms of violence.

LBQ+ interviewees in El Salvador, Lebanon, Kyrgyzstan, Malawi, Sri Lanka, Tanzania, Turkey, Tunisia, and the US reported gendered constraints on their freedom of movement and safety in public, which are closely linked. As Empower Women, UN Women’s platform on women’s economic empowerment, states:

Even though the right to freedom of movement is set out in Article 13 of the Universal Declaration of Human Rights, women in many parts of the world find that their mobility is restricted – whether by legislation, by social or cultural norms, or by their communities’ toleration of threatening or even violent behaviour towards them.<sup>327</sup>

LBQ+ women interviewed by Human Rights Watch said restrictions on their freedom of movement stemmed from several sources. In addition to those discussed in past sections, such as forced marriage and economic inequality, restrictions reported include:

- the application of sexist, patriarchal legal regimes, which impact LBQ+ women’s ability to live and move freely;
- violence against LBQ+ couples in public, which cause them to limit when and how often they leave the house and if they do so with their partner; and
- impunity for violence against LBQ+ people.

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<sup>326</sup> UN Commission on Human Rights, Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Radhika Coomaraswamy, E/CN.4/1997/47, February 12, 1997.

<sup>327</sup> “Freedom of movement and women’s economic empowerment,” *Empower Women*, February 2016, <https://www.empowerwomen.org/en/who-we-are/news/2016/2/freedom-of-movement-and-womens-economic-empowerment> (accessed February 2, 2023).

Victims and activists who spoke to Human Rights Watch explained that violence and impunity cause LBQ+ women themselves to restrict their movements to avoid attacks. Violence, impunity, and legal restrictions are discussed in this section as interconnected issues which impact LBQ+ women's freedom of movement.

Freedom of movement is of immense consequence for LBQ+ individuals and organizations. The inability to move and appear in public—whether due to legal restrictions, fear of violence, or self-policing to avoid attack—violates LBQ+ women's rights to freedom of expression, association, and assembly.<sup>328</sup> Feminist organizations like Nazra for Feminist Studies in Cairo, Egypt, have advocated for what they call the right of women to “the public sphere,” explicitly naming the linkages between the “right to appear” and the ability to partake in public, political life. Nazra's writings<sup>329</sup> and campaigns<sup>330</sup> call on the Egyptian government to abolish policies prohibiting women's full engagement as political and social subjects outside the home, while continuously insisting that the alleged public and private spheres “become part of one political and cultural system, that cannot be understood without reading the two spaces in relation to each other and their impact on women.”<sup>331</sup> For example, in June 2013, following a series of brutal security crackdowns on public demonstrations in Cairo, Nazra wrote:

Policies and laws adopted by different institutions of the state ... affect the abilities of women to take part in the public space especially [the] mass demonstrations of the 30th of June [which] witnessed huge female participation ...

[W]omen paid double price for such participation, as they were exposed to brutal mass sexual assaults and rapes ... violence and lack of safety and security in public spaces [which limits the] ability of female citizens to

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<sup>328</sup> Universal Declaration of Human Rights (UDHR), adopted December 10, 1948; International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966.

<sup>329</sup> For a collection of Nazra publications on the public sphere, see: <https://nazra.org/en/terms/public-sphere>

<sup>330</sup> “Launching ‘A Shattered Public Sphere’ Campaign,” *Nazra for Feminist Studies*, November 25, 2019, <https://nazra.org/en/2019/11/launching-shattered-public-sphere-campaign> (accessed February 2, 2023).

<sup>331</sup> “Analytical Paper: the Right of Women to Public Political Space,” *Nazra for Feminist Studies*, July 28, 2013, <https://nazra.org/en/2013/07/analytical-paper-right-women-public-political-space> (accessed February 2, 2023).

exercise their basic rights including the right to political participation [and] freedom of movement.<sup>332</sup>

The following sub-sections analyze the three types of barriers to participation in public life that LBQ+ people described to Human Rights Watch: sexist legal regimes, violence against LBQ+ couples, and impunity for violence. Each contributes to a culture of restriction and fear that limits the political agency and violates the rights of LBQ+ people as individuals, couples, and movements.

## Sexist, Patriarchal Legal Regimes

A 2019 study from the World Bank found “legal provisions limiting women’s freedom to decide where to go, travel and live still exist in 30% of the 187 economies examined.”<sup>333</sup> The study found that 11 out of 19 MENA economies discriminatorily restrict women’s freedom of movement with at least one legal restriction, as compared to those limiting men’s freedom of movement.

Discriminatory laws and regulations controlling women’s freedom of movement globally impact LBQ+ women in ways that have yet to be adequately studied.<sup>334</sup> The following are examples of recent restrictions on women’s freedom of movement around the world include:

- In April 2020, Panama introduced a gender-based lockdown in response to the Covid-19 pandemic in which women and men were assigned alternate days to do essential shopping. Police and private security guards singled out transgender people for shopping “on the wrong day.” Sometimes, they arrested and fined trans people or prevented them from buying essential items, such as food and medication.<sup>335</sup>

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<sup>332</sup> Ibid.

<sup>333</sup> Souad Adnane, “Moving freely: Moving closer to gender equality,” *World Bank*, May 28, 2019, <https://blogs.worldbank.org/opendata/moving-freely-moving-closer-gender-equality#:~:text=Freedom%20of%20movement%20may%20be,2019%3A%20A%20Decade%20of%20Reform> (accessed February 2, 2023).

<sup>334</sup> “Time to Take Action for Women in the United Arab Emirates,” Human Rights Watch news release, March 8, 2015. <https://www.hrw.org/news/2015/03/08/time-take-action-women-united-arab-emirates>; “For Saudi Women, Freedom to Drive Masks New Crackdown,” Human Rights Watch new release, June 22, 2018. <https://www.hrw.org/news/2018/06/22/saudi-women-freedom-drive-masks-new-crackdown>.

<sup>335</sup> Cristian González Cabrera, “Panama’s Gender-Based Lockdown and the Resilience of Transgender Activism,” Human Rights Watch new release, July 21, 2021. <https://www.hrw.org/news/2021/07/21/panamas-gender-based-lockdown-and-resilience-transgender-activism>

- In February 2021, Gaza’s Supreme Judicial Council issued a decision that a male guardian may prevent an unmarried woman from traveling if he believes the travel will cause “absolute harm,” a term undefined by the council. The decision provides that a woman can be prevented from traveling as soon as the guardian applies for a court-ordered ban, before a judge has even granted a decision.<sup>336</sup>
- In 2021, Iraqi security forces denied identity cards for thousands of Iraqi women and families whose family members were accused of joining ISIS, therefore violating their rights to freedom of movement, education, work, social benefits, and birth and death certificates needed to inherit property or remarry.<sup>337</sup>
- In May 2022, five women in temporary housing for Afghan refugees in London recounted experiencing “a heightened risk of domestic violence, surveillance, and constraints on their freedom of movement” in their new living situation.<sup>338</sup> The women told Human Rights Watch that aggression and domestic violence against women trapped in these confined spaces had increased, and that victims were being pressured by fellow refugees not to report abuse by their husbands.
- Also in May 2022, the Taliban announced that women and girls in Afghanistan must not leave their homes unless necessary and if they do, they must cover their faces and entire bodies.<sup>339</sup>

Male guardianship policies, such as the one mentioned in the February 2021 Gaza example, is present in varying degrees across the Middle East and North Africa region and beyond. Policies in countries such as Afghanistan, Iran, Iraq, Jordan, Kuwait, Oman, Qatar, Saudi Arabia, the United Arab Emirates, Yemen, and others significantly impede women’s freedom of movement. For example, a 2021 Human Rights Watch report on male guardianship laws and policies in Qatar found:

Qatari government rules prohibit unmarried Qatari women under age 25 from traveling outside the country without the permission of their male guardian: typically, their father, brother, uncle or grandfather. A married

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<sup>336</sup> Rothna Begum, “Woman in Gaza Fights Travel Ban Imposed by Her Father,” Human Rights Watch news release, November 2, 2021, <https://www.hrw.org/news/2021/11/02/woman-gaza-fights-travel-ban-imposed-her-father>

<sup>337</sup> Human Rights Watch, *World Report 2022: Iraq*, (New York: Human Rights Watch, 2022) <https://www.hrw.org/world-report/2022/country-chapters/iraq>

<sup>338</sup> “UK: Afghan Women Evacuees in Limbo,” Human Rights Watch news release, May 12, 2022, <https://www.hrw.org/news/2022/05/12/uk-afghan-women-evacuees-limbo>

<sup>339</sup> Heather Barr, “Speak Up on Behalf of Afghan Women,” Human Rights Watch news release, June 7, 2022, <https://www.hrw.org/news/2022/06/07/speak-behalf-afghan-women>

woman can travel abroad without her husband's permission, but her husband can apply to a court to ban her travel... It is not just travel that is restricted. Women must obtain permission from their male guardians—who may be fathers, brothers, uncles, grandfathers, and, when married, their husbands—to exercise many of their basic rights, including to marry, obtain a government scholarship to pursue higher education, work in many government jobs, and obtain some reproductive health care. Women also cannot act as guardians to make choices about their children's lives. At the root of these discriminatory rules are laws, policies, and practices that deem men as heads of households and as legal and social guardians of women.<sup>340</sup>

Future research into the specific impacts of patriarchal legal systems, such as male guardianship laws, policies, and practices, on LBQ+ women is critically needed. However, even in its absence, the inability to travel, work, study or seek health care without the permission of a male guardian is a violation of the rights of all women, including LBQ+ women.

Restrictions on women's freedom of movement have also created gendered avenues to attack, punish, and limit LBQ+ women's queerness. Amani, a lesbian activist and writer from Tunisia, said that after she was beaten by police at a protest in 2021, she “spent a lot of time not able to go out” because police would harass her in gendered ways.

Legally, they don't have anything against me, but they know my face because they were taking our pictures with the drone at the protest. Four times since then, when I was walking to work or home, police stopped me and asked for my ID card. My ID card is from another town, so they ask if I escaped home and my parents are looking for me, because I'm a woman and I don't have the freedom to travel without this kind of suspicion. They ask: “How is it possible you're not in your family's town? What are you hiding?” They questioned me in the street for hours. If I get annoyed or

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<sup>340</sup> Human Rights Watch, *“Everything I Have to Do is Tied to a Man”: Women and Qatar's Male Guardianship Rules*.



react, they take you to the station to run your name and see if you escaped your family.<sup>341</sup>

While Amani was originally targeted for her visible LGBT activism at the 2021 protest, the police currently harass her in a way that weaponizes her gender as a woman in a country with patriarchal laws and travel norms.

In the case studies from Malawi, Sri Lanka, and Tunisia, the parents of LBQ+ women forced them to stay home, took their cell phones, and limited their communications with support networks in an attempt to curb the growth of their identities as queer women. LBQ+ activists indicated that research is needed into the experiences of LBQ+ women who are not explicitly out to their families but who are known to have LBQ+ friends are locked in the house, cut off from outside communication, forcibly married, pulled out of school, or forced to attend different universities in an attempt to limit their interaction with friends whom their families perceive as queer influences.

## Violence against LBQ+ Couples

In addition to discriminatory laws and policies that restrict LBQ+ women's freedom of movement, LBQ+ interviewees repeatedly cited the extreme danger of appearing in public with an LBQ+ partner as a reason to stay home, refrain from holding their partners' hand, or otherwise limit their movement and queer signaling.

Over the past decade, LBQ+ couples have been murdered and physically assaulted in Italy, Mexico, South Africa, the UK, and the US. Given the barriers to reporting and accessing justice, as well as the historical under-documentation of violence against LBQ+ people, similar attacks on LBQ+ couples have likely occurred in other countries as well. The following are some attacks on LBQ+ couples and relevant legal actions reported in the media since 2015:

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<sup>341</sup> Human Rights Watch video interview with lesbian activist and writer Amani, Tunisia. July 15, 2022.

- In June 2015, in the US, James Cosby was sentenced to life in prison for the March 2014 murder of his daughter, Britney Cosby (24), and her girlfriend, Crystal Jackson (24). Their bodies were found in a dumpster.<sup>342</sup>
- In February 2017, a man was sentenced to 28 months in prison for physically assaulting and urinating on a lesbian couple on a train in Manchester, UK.<sup>343</sup>
- In June 2017, a lesbian couple was hospitalized after an attack on the subway in New York City, US, left them with broken bones and other injuries.<sup>344</sup>
- In December 2017, married couple Joey van Niekerk (32) and Anisha van Niekerk (30) were raped, murdered, and posthumously set on fire in South Africa. They had been married for three years when they were murdered. Same-sex marriage has been legal in South Africa since 2006. The North Gauteng High Court convicted four people on August 26, 2020.<sup>345</sup>
- In May 2019, four teenagers physically attacked a lesbian couple, Melania Geymonat and Chris Hannigan, on a bus in London, UK, after the couple refused to kiss for the teenagers to watch. Geymonat's nose was broken, and both women's faces were covered in blood due to the attack. Three of the teenagers, ages 15, 16 and 17, later admitted to public order offences after having denied charges of harassment. Hannigan told the court, "They wanted us to show them how lesbians have sex."<sup>346</sup>

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<sup>342</sup> "Houston Dad Charged with Killing Daughter, Her Girlfriend," *Khou*, June 16, 2015, [www.khou.com/article/news/crime/houston-dad-charged-with-killing-daughter-her-girlfriend/148546558](http://www.khou.com/article/news/crime/houston-dad-charged-with-killing-daughter-her-girlfriend/148546558) (accessed February 2, 2023); "Two Causes of Death Ruled in Bolivar Homicides," *The Daily News*, March 11, 2014, [www.galvnews.com/free/article\\_c2e8648e-a8d8-11e3-9634-001a4bcf6878.html](http://www.galvnews.com/free/article_c2e8648e-a8d8-11e3-9634-001a4bcf6878.html) (accessed February 2, 2023); Angelica N. Sumter, "James Cosby: Case of the Father Who Murdered His Daughter, Britney Cosby, and Her Girlfriend, Crystal Jackson," *The Criminal Journal*, October 12, 2021, [www.thecriminaljournal.com/britney-cosby-and-crystal-jackson-the-murders-of-a-24-year-old-woman-and-her-girlfriend-by-her-father-james-cosby/](http://www.thecriminaljournal.com/britney-cosby-and-crystal-jackson-the-murders-of-a-24-year-old-woman-and-her-girlfriend-by-her-father-james-cosby/) (accessed February 2, 2023).

<sup>343</sup> Andrew Bardsley, "Thug Punched and Urinated on Lesbian Couple on Train," *Manchester Evening News*, February 13 2017, [www.manchestereveningnews.co.uk/news/greater-manchester-news/thug-punched-urinated-lesbian-couple-12598774](http://www.manchestereveningnews.co.uk/news/greater-manchester-news/thug-punched-urinated-lesbian-couple-12598774) (accessed February 2, 2023).

<sup>344</sup> Meka Beresford, "Lesbian Couple Attacked in NYC Subway Left Unconscious," *PinkNews*, June 4, 2017, [www.pinknews.co.uk/2017/06/04/lesbian-couple-attacked-in-nyc-subway-left-unconscious/](http://www.pinknews.co.uk/2017/06/04/lesbian-couple-attacked-in-nyc-subway-left-unconscious/) (accessed February 2, 2023).

<sup>345</sup> Josh Jackman, "Lesbian Couple Tortured, Killed and 'Raped in Front of Each Other'," *PinkNews*, March 28, 2018, [www.pinknews.co.uk/2018/03/28/lesbian-couple-who-were-tortured-and-killed-were-raped-in-front-of-each-other/](http://www.pinknews.co.uk/2018/03/28/lesbian-couple-who-were-tortured-and-killed-were-raped-in-front-of-each-other/) (accessed February 2, 2023).

<sup>346</sup> "London Bus Attack: Boys Told Couple 'to Show How Lesbians Have Sex,'" *BBC News*, November 29, 2019, [www.bbc.com/news/uk-england-london-50600887](http://www.bbc.com/news/uk-england-london-50600887) (accessed February 2, 2023).

- In July 2021, a queer couple, Francesca and Martina, was physically assaulted in Naples, Italy, by man who reportedly told them they were “bothering the children.”<sup>347</sup>
- In August 2021, in the US, the bodies of a married lesbian couple, Kylen Carol Schulte (24) and Crystal Michelle Turner (38) were found in a Utah campsite. The sheriff’s office stated “the preliminary investigation conducted by the Medical Examiner’s Office determined the cause of death to be from gunshot wounds.”<sup>348</sup><sup>349</sup>
- In May 2022, two men assaulted a lesbian couple, Robyn Deane (22) and Kate McCabe (25), while they were waiting at a bus stop in Dublin, Ireland. Both women went to the hospital for facial injuries, and Deane sustained “severe tissue damage to her face, a sinus and eye tear, and bruising on her arm,” according to local news reports.<sup>350</sup>
- In June 2022, authorities in Ciudad Juárez, Mexico, confirmed they found the dismembered body parts of a married lesbian couple, Julissa Ramírez and Nohemí Medina Martínez, from El Paso, Texas, in plastic bags on the side of a highway.<sup>351</sup>

Except for one of the four people convicted in the December 2017 South Africa murder, all known perpetrators of the above attacks and murders were cisgender men.

The risk of lethal physical assaults endangers LBQ+ individuals while forcing them to bear the emotional and psychological burden of worrying about their partner’s safety as well.

Feminine-presenting LBQ+ people, who may be perceived and treated as straight in the absence of their partner, have had to decide between remaining “invisible” for safety or expressing their queerness and putting themselves and their partners at risk.

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<sup>347</sup> “Lesbian Couple Attacked on Naples Beach,” *Agenzia Anza*, July 19, 2021, [www.ansa.it/english/news/2021/07/19/lesbian-couple-attacked-on-naples-beach\\_a09f87bf-d0b1-452c-8caf-a665913bd240.html](http://www.ansa.it/english/news/2021/07/19/lesbian-couple-attacked-on-naples-beach_a09f87bf-d0b1-452c-8caf-a665913bd240.html) (accessed February 2, 2023).

<sup>348</sup> Alex Bollinger, “Lesbian Couple Found Shot to Death as Investigators Wonder If ‘Weirdo’ Killed Them,” *LGBTQ Nation*, 20 Aug. 2021, [www.lgbtqnation.com/2021/08/lesbian-couple-found-shot-death-investigators-wonder-weirdo-killed/](http://www.lgbtqnation.com/2021/08/lesbian-couple-found-shot-death-investigators-wonder-weirdo-killed/) (accessed February 2, 2023).

<sup>349</sup> Pat Reavy et al., “Moab Couple Was Shot, Sheriff Says; Homicide Investigation Underway,” *Www.ksl.com*, 19 August 19, 2021, [www.ksl.com/article/50226073/2-women-found-dead-were-moab-couple-family-says](http://www.ksl.com/article/50226073/2-women-found-dead-were-moab-couple-family-says) (accessed February 2, 2023).

<sup>350</sup> “‘We Worry Every Day’ – Woman and Partner Beaten in Alleged Homophobic Attack in Dublin,” *Independent*, May 18, 2022, [www.independent.ie/regional/dublin/dublin-news/we-worry-every-day-woman-and-partner-beaten-in-alleged-homophobic-attack-in-dublin-41662486.html](http://www.independent.ie/regional/dublin/dublin-news/we-worry-every-day-woman-and-partner-beaten-in-alleged-homophobic-attack-in-dublin-41662486.html) (accessed February 2, 2023).

<sup>351</sup> Michael K. Lavers, “Lesbian Couple Murdered, Dismembered in Mexico Border City,” *Washington Blade*, January 21, 2022, [www.washingtonblade.com/2022/01/20/lesbian-couple-murdered-dismembered-in-mexico-border-city/](http://www.washingtonblade.com/2022/01/20/lesbian-couple-murdered-dismembered-in-mexico-border-city/) (accessed February 2, 2023).

Ukrainian lesbian activist Olena Shevchenko echoed this point. She told Human Rights Watch:

LBQ+ femmes have some chance of staying invisible for safety as long as you don't leave the house with your partner. So those are the options for femme people. Have your identity denied perpetually or put your partner at risk by leaving the house with them.<sup>352</sup>

The inability to be safe in public also limits the possibilities for LBQ+ networking and community building, by requiring that LBQ+ “hide” to maintain their physical safety, thus implicating LBQ+ rights to freedom of association and assembly. For additional barriers LBQ+ people face as human rights defenders and community organizers, see Section X. “LBQ+ Human Rights Defenders.”

## Impunity for Violence against LBQ+ People

A third barrier to LBQ+ people's ability to move freely and appear safely in public, according to interviews, was impunity for violent crimes committed against LBQ+ people including physical attacks, rape, and murder. The following case studies highlight the lack of political will of police to properly investigate violence against LBQ+ people, sometimes putting the onus on the LBQ+ people's loved ones to seek justice. (See Section XI for a more in-depth discussion of the barriers LBQ+ people face in accessing justice.)

### *Sheila's Story, Kenya*

In April 2022, Human Rights Watch reported on the murder of Sheila Adhiambo Lumumba, a 25-year-old non-binary lesbian found naked and murdered in their bedroom in Karatina, north of Nairobi, on April 17. A postmortem examination conducted at Karatina Sub-County Hospital the day after her murder revealed that Lumumba was sexually assaulted, hit on the head with a blunt object, and stabbed in the chest, face, neck, and eyes.<sup>353</sup>

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<sup>352</sup> Human Rights Watch video interview with lesbian activist and chairperson of the Ukrainian LGBT organisation Olena Shevchenko. April 28, 2022.

<sup>353</sup> Erin Kilbride, “Inadequate Kenyan Police Response to Brutal Killing of Non-Binary Lesbian.” Human Rights Watch news release, April 29, 2022, <https://www.hrw.org/news/2022/04/29/inadequate-kenyan-police-response-brutal-killing-non-binary-lesbian>

Sheila’s cousin, Brenda Akinyi, said her family was investigating the murder themselves because police failed to update them on developments in the investigation. When three cousins went to collect Sheila’s belongings from the room they were murdered in, the group found a bloody knife and razor blade, disproving the police’s claim that they had thoroughly searched the crime scene. A family friend found CCTV footage of Sheila leaving a bar with three men on their last night alive; police had neglected to even ask local restaurant and bar owners for such footage.<sup>354</sup>

Sheila’s case highlights the lack of political will of police to properly investigate abuses—even killings—of LBQ+ people, putting the onus on the LBQ+ people’s loved ones to seek justice. At the same time, several LBQ+ activists in Kenya told Human Rights Watch that they’ve felt torn between the need to organize a campaign for justice for Sheila, and the heightened sense of danger they feel leaving the house. Her murder has caused some LBQ+ women, non-binary people, and trans men to limit their appearances in public, according to several who spoke to Human Rights Watch.

### *Tamara’s Story, Malawi*

Tamara, an intersex lesbian activist in Malawi and founder of a queer foundation, dedicated her life to ending SGBV against LBQ+ women after surviving what she called “corrective rape” at the age of 19.<sup>355</sup> She told Human Rights Watch that police repeatedly refused to investigate the attack.

I didn’t know the men who raped me well, but they weren’t strangers. My friend was with me, she was a fellow lesbian. The men were taking turns on us. They had planned it out. I went to the police and was taken to the hospital for testing with my friend. After they raped me, at the hospital the woman from the Victim Support Unit (VSU) said, “if you could just date men, this wouldn’t happen.”

I was told I needed to give more proof, apart from rape report I gave and the examination the doctors did. “Can you call the guy?” the police asked.

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<sup>354</sup> Ibid.

<sup>355</sup> Human Rights Watch video interview with Tamara, intersex lesbian, women human rights defender, and leader of an LBQ+ organization in Malawi. July 15, 2022.

I asked my colleague for the man’s number and I texted him, asking why he did it. He responded, “People like you have not experienced good dick. I hope you enjoyed it because I did.” The police saw it and said it could just be me texting myself on another phone to incriminate an innocent man.

Because I was “out” as a lesbian, people thought it was contagious or something. The colleague I experienced this with, the lesbian friend who was raped with me, killed herself. We couldn’t sit down and have a conversation about it. People I tried to talk to would just say, “why can’t you change?”

The police never did an investigation, so the humiliation at the hospital was for nothing. I pressured them to actually do it, but at the time I didn’t have any resources or SGBV organizations supporting me. After following up on the case, they would say were going to arrest them, but I would see the attacker in public and he would point and laugh at me. I followed up months later and was told the records didn’t exist—my rape report literally didn’t exist—and I could start again if I wanted.<sup>356</sup>

Tamara told Human Rights Watch that after the attack, she limited her movement, stayed in her home “most hours of the day,” and for “many years, spent most of my time alone, and drinking by myself.”<sup>357</sup> Tamara’s struggle with alcohol use and the inability to find quality mental health support is detailed in Section IX. “The Right to Health.”

## Key Next Steps

States should:

- Conduct thorough, transparent investigations into reports of violence against LBQ+ individuals and couples.

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<sup>356</sup> Human Rights Watch video interview with Tamara, intersex lesbian, women human rights defender, and leader of an LBQ+ organization in Malawi. July 15, 2022.

<sup>357</sup> Human Rights Watch video interview with Tamara, intersex lesbian, women human rights defender, and leader of an LBQ+ organization in Malawi. July 15, 2022.

- Reform and enact gender-based violence policies that explicitly protect the rights of LBQ+ women, non-binary people, and trans men.
- Establish human rights desks at police stations to provide a safe environment for LGBT persons to report police abuses and for complaints to be processed and investigated without delay.
- End patriarchal legal systems, such as male guardianship laws and requirements for a male guardian's permission for decisions relating to women's rights, including rules that restrict women's rights to marry, study, work, rent or own property, and travel without the permission of a male guardian.
- Refrain from issuing laws, policies, decrees, and emergency measures that discriminatorily restrict women's freedom of movement.

Opportunities for LBQ+-centered research include:

- Research the specific impacts of patriarchal legal systems, such as male guardianship laws, policies, and practices on LBQ+ women.
- Research the experiences of LBQ+ women who are not explicitly "out" to their families and whose families control their freedom of movement in an attempt to limit their exposure to actual or perceived queer influences.
- Incorporate an analysis of women's freedom of movement into future mappings, analyses, and policy reports documenting LGBT rights progress. Develop a conceptualization of LGBT rights that foregrounds the ability of adult LBQ+ women to marry, travel, work, study, and seek health care without the permission of a male family member or guardian.
- Document and map violence against LBQ+ couples to better understand how and in what couples LBQ+ people are punished for appearing in public together, and how this violates their rights not only as LGBT people, but also their rights to freedom of assembly and association.

## VIII. Parental Rights

LBQ+ people create and protect their families in a variety of ways. The phrase “to create a family” may mean partnership; marriage; biological reproduction; seeking fertility treatments; single-parent adoption; adopting as a couple; caring for children in one’s home without legally adopting them; participating in community care practices for people of the same age, younger, or older; legally adopting a partner’s biological children; raising a partner’s children without legally adopting them; blending families after previous relationships with men; and other formations of family and care. According to the activists interviewed for this report, the right to create a family is central to their struggles for LBQ+ justice, which is why they seek to bring about legal and policy changes that protect the rights of LBQ+ families in their many different forms.

The right to create a family is enshrined in the Universal Declaration of Human Rights (UDHR);<sup>358</sup> the International Covenant on Civil and Political Rights (ICCPR);<sup>359</sup> the Convention on the Rights of Persons with Disabilities (CRPD);<sup>360</sup> and some regional human rights treaties such as the European Convention on Human Rights;<sup>361</sup> and the American Convention on Human Rights.<sup>362</sup> These instruments also afford family units particular protection, protections also provided for, and in some cases elaborated on, in other treaties including the International Covenant on Economic, Social and Cultural Rights (ICESCR);<sup>363</sup> the Convention on the Rights of the Child (CRC); the International Convention

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<sup>358</sup> Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948), art. 12.

<https://www.un.org/en/about-us/universal-declaration-of-human-rights>

<sup>359</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976

<sup>360</sup> UN Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, G.A. Res. 61/106, Annex I, UN GAOR, 61st Sess., Supp. (No. 49) at 65, UN Doc. A/61/49 (2006), entered into force May 3, 2008, art. 11.

<sup>361</sup> “European Convention on Human Rights, as amended by Protocols Nos. 11, 14 and 15, supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16,” October 2, 2013, [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf)

<sup>362</sup> American Convention on Human Rights (“Pact of San José, Costa Rica”), adopted November 22, 1969, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, entered into force July 18, 1978

<sup>363</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976



on the Protection of the Rights of All Migrant Workers and Members of Their Families;<sup>364</sup> and the regional African Charter on Human and Peoples' Rights.<sup>365</sup>

Parental rights and reproductive rights were raised as key concerns among LBQ+ women, organizers, and lawyers in Argentina, El Salvador, Kenya, Malawi, Mexico, Poland, Ukraine, and the US. Notably, there is existing reporting on violations of LBQ+ peoples' parental rights, as documented by Human Rights Watch in Bulgaria,<sup>366</sup> China,<sup>367</sup> France,<sup>368</sup> Hungary,<sup>369</sup> Mexico,<sup>370</sup> and the United States.<sup>371</sup>

LBQ+ movements globally are advocating for a range of issues related to parental rights and the right to create a family, including:

- Racial and class inequities in LBQ+ parental rights;
- Adoption rights and protections for adoptive LBQ+ parents;
- Equal access to safe, legal, affordable fertility treatment for LBQ+ individuals and couples;
- Protections for non-gestational LBQ+ parents;
- Education, programming, and support for viable paths to LBQ+ parenthood, including in contexts in which same-sex conduct is criminalized;
- Unification protections for LBQ+ families fleeing conflict and seeking asylum.

LBQ+ people want to create and protect their families, regardless of the criminalization of same-sex conduct or legalization of same-sex marriage. In fact, LBQ+ women in several

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<sup>364</sup> UN OHCHR, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, GA 45/158, December 18, 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers> (accessed February 3, 2023).

<sup>365</sup> African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986

<sup>366</sup> Anjelica Jarrett, "Child of Lesbian Mothers Has Right to Bulgaria Citizenship," Human Rights Watch news release, February 11, 2021. <https://www.hrw.org/news/2021/02/11/child-lesbian-mothers-has-right-bulgaria-citizenship>

<sup>367</sup> Michael Garcia Bochenek and Kyle Knight, "China's Lesbian Parenting Case is a Children's Rights Issue," Human Rights Watch news release, June 1, 2020. <https://www.hrw.org/news/2020/06/01/chinas-lesbian-parenting-case-childrens-rights-issue>

<sup>368</sup> Anjelica Jarrett, "Everyone in France Should Have a Right to a Family," Human Rights Watch news release, October 9, 2019. <https://www.hrw.org/news/2019/10/09/everyone-france-should-have-right-family>

<sup>369</sup> "Hungary: Intensified Attack on LGBT People," Human Rights Watch news release, November 18, 2020. <https://www.hrw.org/news/2020/11/18/hungary-intensified-attack-lgbt-people>

<sup>370</sup> "Mexico: Landmark Adoption Ruling for Same-Sex Couples," Human Rights Watch news release, August 16, 2010. <https://www.hrw.org/news/2010/08/16/mexico-landmark-adoption-ruling-same-sex-couples>

<sup>371</sup> Erin Kilbride, "Lesbian Parents in the US Should Not Need to Adopt Their Own Children," Human Rights Watch news release, June 30, 2022. <https://www.hrw.org/news/2022/06/30/lesbian-parents-us-should-not-need-adopt-their-own-children>

countries where same-sex conduct is criminalized, such as Kenya and Malawi, told Human Rights Watch that creating families was a top priority. For example, a lesbian activist in Malawi said that she legally adopted the child of a sex worker in her community in 2018. Both women signed adoption paperwork and had it notarized, but because there are no laws protecting LGBT adoption in Malawi and because same-sex conduct is criminalized there, she fears she would lose her child if her sexual orientation were discovered.

I don't necessarily wake up afraid of being arrested for being gay, although I could be. And marriage isn't our main fight [in Malawi]. But I do worry every single day about losing my son because I'm gay. I wonder how we could protect mothers like me, even if my sexual orientation is still a crime. Does one really have to come before the other?<sup>372</sup>

She also wondered why decriminalization had to precede her adoption rights. In addition to accounts like this, LBQ+ interviewees repeatedly stressed that explicitly anti-LGBT laws are not the only hindrance or threat to their ability to adopt.<sup>373</sup> Criminalization is just one of *many* barriers standing between them and creating a family. Issues raised in our interviews included discriminatory second-parent adoption policies, barriers to single-parent adoption, cultural taboos around adoption, access to fertility treatment, lack of information on how LBQ+ people can create their families, racial and economic inequalities, and barriers to asylum for LBQ+ families.

## Adoption and Second-Parent Adoption

Article 24(a) of the Yogyakarta Principles affirms “States shall take all necessary legislative, administrative and other measures to ensure the right to found a family, including through access to adoption.” According to the 2020 annual report of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), 28 countries have laws allowing LGBT people to adopt, 28 have legalized same-sex marriage, and 31 recognize second-parent adoptions. LBQ+ women’s inability to legally adopt children as

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<sup>372</sup> Human Rights Watch video interview with a lesbian activist in Malawi whose name has been withheld for her privacy. July 20, 2022.

<sup>373</sup> “For China’s Same-Sex Couples, Even Guardianship Is Often out of Reach,” *Sixth Tone*, June 30, 2022, [www.sixthtone.com/news/1010676/for-chinas-same-sex-couples%2C-even-guardianship-is-often-out-of-reach?source=recommend](https://www.sixthtone.com/news/1010676/for-chinas-same-sex-couples%2C-even-guardianship-is-often-out-of-reach?source=recommend) (accessed February 2, 2023).

individuals or couples is a key barrier to creating families that can be addressed via the creation of laws in line with the Yogyakarta Principles.

Second-parent adoption is a more complicated issue. While the ability to adopt the children of one's partner is important and has several benefits, including better protections for the family, the concept of second-parent adoption has also been used against LBQ+ parents.

### *Kris' Story, United States*

A lesbian couple, Kris Williams and Rebekah Wilson, used a sperm donor and conceived their child in 2019; Wilson gave birth. When the couple filed for divorce two years later, Wilson petitioned the court to remove Williams from the birth certificate. In January 2022, the judge ruled in favor of the petition, stating that, as the non-gestational mother, Williams had "failed to pursue a legal remedy to establish parental rights." In other words, the judge asserted that Williams had failed to adopt her own child and could therefore be removed from the birth certificate.<sup>374</sup> Williams' name was removed and replaced with the name of the sperm donor who is now petitioning for custody of Williams' son.<sup>375 376</sup>

Williams' lawyer, Robyn Hopkins, told Human Rights Watch:

Mothers should not have to adopt their own children. My client and her ex-wife decided to have this child while they were married. Legal parenthood should have been firmly a part of the constellation of rights accompanying the 2015 marriage equality ruling.<sup>377</sup>

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<sup>374</sup> Maggie Baska, "Judge Reverses Ruling Erasing Lesbian Mum from Son's Birth Certificate," *PinkNews*, June 9, 2022, [www.pinknews.co.uk/2022/06/09/oklahoma-judge-kris-williams-rebekah-wilson-divorce-lesbian-2/](http://www.pinknews.co.uk/2022/06/09/oklahoma-judge-kris-williams-rebekah-wilson-divorce-lesbian-2/) (accessed February 2, 2023).

<sup>375</sup> Erin Kilbride, "Lesbian Parents in the US Should Not Need to Adopt Their Own Children," Human Rights Watch news release, June 30, 2022. <https://www.hrw.org/news/2022/06/30/lesbian-parents-us-should-not-need-adopt-their-own-children>

<sup>376</sup> "Lesbian Mom Removed from Child's Birth Certificate Fights Ruling," *Advocate*, May 23, 2022, [www.advocate.com/news/2022/5/23/lesbian-mom-oklahoma-removed-childs-birth-certificate-fights-ruling](http://www.advocate.com/news/2022/5/23/lesbian-mom-oklahoma-removed-childs-birth-certificate-fights-ruling) (accessed February 2, 2023).

<sup>377</sup> Human Rights Watch phone interview with Robyn Hopkins, lawyer for Kris Williams. June 3, 2022.

Williams’ lawyer filed a successful appeal to reinstate Williams on the birth certificate, but this does not guarantee Williams’ legal status as her child’s parent;<sup>378</sup> parentage will be decided in January 2023, when the judge is set to issue a written order.<sup>379</sup> Williams’ predicament flies in the face of US Supreme Court rulings in 2015<sup>380</sup> and 2017<sup>381</sup> that afford same-sex couples the same parental rights and responsibilities as different-sex couples. The Oklahoma court’s assertions—that Williams should have adopted her child, that a sperm donor replace her on the birth certificate, and that her child’s parentage be tried in court—denied Williams the rights granted to different-sex married couples.

In recognition of the precarity of LBQ+ parenthood, the National Center for Lesbian Rights in the US advised all LBQ+ “non-biological and non-adoptive parents to get an adoption or parentage judgment, even if you are named on your child’s birth certificate,” regardless of their marital status.<sup>382</sup>

This is good, practical advice, but it should not be necessary in Williams’ case or for other married LBQ+ couples. Any person who had a child with their spouse, including the non-gestational parent in an LBQ+ couple, should have the right to legal parenthood of that child. Williams’ case highlights the need for several strands of research and advocacy related to adoption in addition to strengthening the ongoing struggle to introduce stronger LGBT adoption protections more generally. LBQ+-specific research should include: the precarity of the legal rights of non-gestational LBQ+ parents and the ways in which second-parent adoption can be weaponized against them; the failure of courts to recognize the parental rights afforded to married LBQ+ couples in countries that have legalized same-sex marriage; and the need for stronger laws protecting LBQ+ parents.

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<sup>378</sup> Maggie Baska, “Judge Reverses Ruling Erasing Lesbian Mum from Son’s Birth Certificate,” *PinkNews*, June 9, 2022, [www.pinknews.co.uk/2022/06/09/oklahoma-judge-kris-williams-rebekah-wilson-divorce-lesbian-2/](http://www.pinknews.co.uk/2022/06/09/oklahoma-judge-kris-williams-rebekah-wilson-divorce-lesbian-2/) (accessed February 2, 2023).

<sup>379</sup> Human Rights Watch email exchange with Robyn Hopkins, lawyer for Kris Williams. December 5, 2022.

<sup>380</sup> *Obergefell v. Hodges*, Judgment of 26 June 2015, U.S. Supreme Court, 576 U.S. 644, available at [https://www.supremecourt.gov/opinions/14pdf/14-556\\_3204.pdf](https://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf); *Case 0011-18-CN*, Judgment of 12 June 2019, Ecuador Constitutional Court, available at <http://sgc.corteconstitucional.gob.ec:8494/FichaRelatoria.aspx?numdocumento=11-18-CN/19>.

<sup>381</sup> “Pavan v. Smith,” *National Center for Lesbian Rights*, <https://www.nclrights.org/our-work/cases/pavan-v-smith/> (accessed February 2, 2023).

<sup>382</sup> National Center for Lesbian Rights, *Legal Recognition of LGBT Families*, (San Francisco: National Center for Lesbian Rights, 2013), [https://www.nclrights.org/wp-content/uploads/2013/07/Legal\\_Recognition\\_of\\_LGBT\\_Families.pdf](https://www.nclrights.org/wp-content/uploads/2013/07/Legal_Recognition_of_LGBT_Families.pdf) (accessed February 2, 2023).

## Single-Parent Adoption and Cultural Taboos

Other examples of barriers to creating families include laws that prevent single women from adopting or cultural taboos that make adoption very uncommon in general. Such laws, policies, or norms are not explicitly anti-LGBT, but they still harm LBQ+ parents or would-be parents and present opportunities for research and reform that do not depend on a cultural or legal acceptance of “LGBT rights.”

For example, in Japan, only married couples can adopt. Consequently, LGBT couples cannot adopt not because of an explicit ban on same-sex adoption, but because Japan has not legalized same-sex marriage.<sup>383</sup> The ban on unmarried people adopting impacts all single and unmarried people of any sexuality wishing to adopt one of Japan’s more than 45,000 reported children in need of a home.<sup>384</sup> The right to adopt should not depend on marriage equality. Instead, simply removing the requirement that a woman be married to a man in order to adopt would benefit not only LBQ+ women, but all women, could be a cross-cutting, intersectional campaign that draws on many segments of Japan’s feminist movements.

In Zimbabwe, single women may adopt if they are at least 21 years older than the adopted child. Despite this allowance, adoption is extremely uncommon in Zimbabwe, according to government, academic, and media reports.<sup>385</sup> A 2020 report from the Faculty of Medicine at Midlands State University in Gweru, Zimbabwe, found:

Unfortunately, adoption is not a popular practice in Zimbabwe. In Zimbabwe, the Department of Social Services, Head Office, indicated that there were 70 registered children’s homes with an enrolment of 3200 children by 31st December 2011. On average per year, there are only 15 adoptions that take place. This slow uptake is caused by the cultural

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<sup>383</sup> “Japan: Same-Sex Couples Face Resistance to Adoption,” *Deutsche Welle*, June 6, 2022, [www.dw.com/en/japan-same-sex-couples-face-resistance-to-adoption/a-62043706](https://www.dw.com/en/japan-same-sex-couples-face-resistance-to-adoption/a-62043706) (accessed February 2, 2023).

<sup>384</sup> Ibid.

<sup>385</sup> “More Couples Defy Tradition — and Their Families — to Adopt,” *Global Press Journal*, June 1 2022, [globalpressjournal.com/africa/zimbabwe/couples-defy-tradition-families-adopt/](https://globalpressjournal.com/africa/zimbabwe/couples-defy-tradition-families-adopt/) (accessed February 2, 2023); Sheron Gomera and Julia Mutambara, *When Home is not Home: Challenges Faced by Children from Orphanage after being Reintegrated back into Society*, (Gweru: Faculty of Medicine, Midlands State University, 2020) <https://www.omicsonline.org/open-access-pdfs/when-home-is-not-home-challenges-faced-by-children-from-orphanage-after-being-reintegrated-back-into-society.pdf> (accessed February 2, 2023).

beliefs of people. People are afraid of avenging spirits in the event that the child dies in his or her adoptive family and due to the prevailing socioeconomic challenges confronting families.<sup>386</sup>

Recent news reports have indicated that even heterosexual, married Zimbabwean couples face immense criticism and stigmatization from their families for breaking with biological reproductive norms and choosing to adopt. According to one news article:

[Married couples] are having to contend with fierce opposition from members of their communities, including their extended families, who like many Zimbabweans believe that adoption could contaminate the purity of their ancestry and attract evil spirits....

Accurate statistics on adoptions are hard to come by because Zimbabwean law prohibits publication of information about children and the parents who adopt them, said Caleb Mutandwa, a family law attorney and partner at Machinga Mutandwa Legal Practitioners, in Harare. But Mutandwa, who is also the co-founder of Justice for Children, which provides legal aid to minors, says data from his legal practice shows that the number of black Zimbabweans adopting children is increasing, albeit slowly.

“Many do so because they face challenges having their own biological children,” he says, “but religion seems to be an influence, too.”<sup>387</sup>

The movement to destigmatize adoption is a queer issue, even if the people publicly driving it do not identify as LGBT. The normalization of adoption by all individuals and couples in countries like Zimbabwe has the potential to positively impact LBQ+ individuals and couples who want to create a family.

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<sup>386</sup> Sheron Gomera and Julia Mutambara, *When Home is not Home: Challenges Faced by Children from Orphanage after being Reintegrated back into Society*, (Gweru: Faculty of Medicine, Midlands State University, 2020) <https://www.omicsonline.org/open-access-pdfs/when-home-is-not-home-challenges-faced-by-children-from-orphanage-after-being-reintegrated-back-into-society.pdf> (accessed February 2, 2023).

<sup>387</sup> “More Couples Defy Tradition — and Their Families — to Adopt,” *Global Press Journal*, June 1 2022, [globalpressjournal.com/africa/zimbabwe/couples-defy-tradition-families-adopt/](https://globalpressjournal.com/africa/zimbabwe/couples-defy-tradition-families-adopt/) (accessed February 2, 2023).

Research is needed into the full breadth of barriers to LBQ+ adoption, beyond the criminalization of same-sex conduct, lack of marriage equality, and lack of explicit protections for LGBT adoption. In particular, future research should examine LBQ+ experiences in countries that prevent single women from adopting, such as Japan, or where large cultural taboos limit the vast majority of people of all sexualities from adopting, such as Zimbabwe.

## Fertility and the Queer Tax

Discriminatory laws, insurance policies, and cost are three major barriers that prevent LBQ+ individuals and couples from accessing fertility treatments, such as in vitro fertilization (IVF), egg freezing, and sperm donation, to create their families. In the US and parts of the UK, this discrimination—namely in the form of having to “prove infertility” to access insurance or state-funding care—amounts to tens of thousands of dollars that LBQ+ singles and couples are expected to spend to create a family that their heterosexual counterparts are not.

Recently, there have been positive trends in France and the UK.

### *France*

On June 29, 2021, the French Parliament adopted a new bioethics law that allows single women and lesbian couples to access the same medical help for having children as heterosexual couples, such as IVF.<sup>388</sup> In doing so, France became the 13th country in Europe to extend fertility treatments to LBQ+ people and to respect the rights of women and lesbian couples to privacy, nondiscrimination, and the highest attainable standard of health. This is in keeping with the ICESCR, which provides that “[t]he widest possible protection and assistance should be accorded to the family.”<sup>389</sup>

Previously, such procedures were only legal for infertile heterosexual couples in France, forcing lesbian couples to seek this costly medical treatment abroad. The new bill was contentious: opponents stoked fears that lesbian parents and single mothers will undermine traditional notions of the family, but supporters won by arguing the existing law

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<sup>388</sup> Anjelica Jarrett, “Everyone in France Should Have a Right to a Family,” Human Rights Watch news release, October 9, 2019, <https://www.hrw.org/news/2019/10/09/everyone-france-should-have-right-family>

<sup>389</sup> Ibid.

at the time was unfair and discriminated against people based on sexual orientation or marital status.

### *United Kingdom*

In August 2022, the first ever Women's Health Strategy for England committed the UK's Department of Health and Social Care to a 10-year strategy which will, among other goals, end discrimination against "female same-sex couples" seeking fertility services.<sup>390</sup> <sup>391</sup> In October 2021, married couple Megan and Whitney Bacon-Evans launched a legal case against their local National Health Service (NHS) board on the basis that its fertility policy discriminated against lesbians. In their area, heterosexual couples seeking one cycle of NHS-funded in vitro fertilization (IVF) must prove infertility by attesting to two years of unprotected sex. Same-sex female couples must prove infertility by self-funding 12 rounds of artificial insemination, including 6 in a clinical setting, costing approximately £26,000 (US\$31,873).

LBQ+ access to fertility services varies widely across the UK, according to a June 2021 investigation by charity British Pregnancy Advisory Service (BPAS).<sup>392</sup> While fertility care is administered by devolved health authorities in Scotland, Wales, and Northern Ireland, Clinical Commissioning Groups (CCGs) manage access for patients in England, in a system overseen by the UK's central government. According to the BPAS investigation, female same-sex couples in England and Northern Ireland face a "significant financial burden" which heterosexual couples do not. BPAS Director of Embryology, Marta Jansa Perez, said that the "barriers faced by these patients amount to a tax on LGBT+ families."<sup>393</sup>

In Northern Ireland, female same-sex couples are eligible for [government]-funded fertility care, but only if they first self-fund four rounds of artificial

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<sup>390</sup> Department of Health and Social Care, *Women's Health Strategy for England*, (London: Department of Health and Social Care, August 2022),

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1100721/Womens-Health-Strategy-England-web-accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1100721/Womens-Health-Strategy-England-web-accessible.pdf) (accessed February 2, 2023).

<sup>391</sup> Erin Kilbride, "England To End LBQ+ Discrimination in Access to Fertility Services," Human Rights Watch news release, September 22, 2022. <https://www.hrw.org/news/2022/09/22/england-end-lbq-discrimination-access-fertility-services>

<sup>392</sup> Olivia Marshall, *BPAS Fertility Investigation: NHS-funded fertility care for female same-sex couples*, (London: British Pregnancy Advisory Service, 2021) <https://www.bpas.org/media/3484/bpas-fertility-investigation-nhs-funded-fertility-care-for-female-same-sex-couples.pdf> (accessed February 2, 2023).

<sup>393</sup> "Research finds significant barriers to NHS-funded fertility treatment for female same-sex couples," *British Pregnancy Advisory Service*, June 15, 2021, <https://www.bpas.org/about-our-charity/press-office/press-releases/research-finds-significant-barriers-to-nhs-funded-fertility-treatment-for-female-same-sex-couples/> (accessed February 2, 2023).



insemination. ... In both Wales and Scotland, artificial insemination is funded by the NHS: female same-sex couples are not required to self-fund any treatments in order to qualify for care.

...

The majority of CCGs [in England] place a significant financial burden on female same-sex couples ... likely to mean that only wealthy patients can access NHS-funded fertility treatment, effectively creating a two-tier system of care.<sup>394</sup>

The 2022 Women’s Health Strategy for England committed the government to improving transparency and removing discriminatory policies to ensure “female same-sex couples are able to access NHS-funded fertility services in a more equitable way.” However, ambiguities persist on both the timeline for implementation and the scope of who will be covered. Because the strategy does not define “same-sex” or “couple,” it remains unclear if partners must be married or in a civil partnership, and if treatment will be available to transgender, non-binary, or gender non-conforming LBQ+ people, either as individuals or as part of a couple.

Additionally, experts who submitted to the strategy process highlighted the need to extend services to “single women who want to start a family,” but the strategy does not explicitly mention single women.<sup>395</sup> This gap could potentially discriminate against both heterosexual and queer single women, including LBQ+ people.

### *United States*

In the US, three large insurance companies cover fertility treatments for heterosexual couples who demonstrate an inability to get pregnant after a set amount of time, usually approximately a year. For LBQ+ couples, demonstrating that neither partner produces

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<sup>394</sup> Olivia Marshall, *BPAS Fertility Investigation: NHS-funded fertility care for female same-sex couples*, (London: British Pregnancy Advisory Service, 2021) <https://www.bpas.org/media/3484/bpas-fertility-investigation-nhs-funded-fertility-care-for-female-same-sex-couples.pdf> (accessed February 2, 2023).

<sup>395</sup> Department of Health and Social Care, *Results of the written evidence submitted by organisations and experts to inform the Women’s Health Strategy for England*, (London: Department of Health and Social Care, 2022) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1068832/Womens\\_Health\\_Strategy\\_written\\_responses\\_from\\_organisations\\_and\\_experts.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1068832/Womens_Health_Strategy_written_responses_from_organisations_and_experts.pdf) (accessed February 2, 2023).

sperm is usually insufficient proof of an “inability to get pregnant.” Instead, LBQ+ couples are often asked to “show receipt of multiple failed rounds of fertility treatments to qualify for insurance coverage,”<sup>396</sup> meaning the price of proving “inability” can be up to US\$30,000 higher for LBQ+ couples than for heterosexual ones.<sup>397</sup> Aetna, for example, explicitly discriminates against non-heterosexual people and non-partnered people in its definition of infertility:<sup>398</sup>

For purposes of this policy, a member is considered infertile if he or she is unable to conceive or produce conception after 1 year of frequent, unprotected heterosexual sexual intercourse, or 6 months of frequent, unprotected heterosexual sexual intercourse if the female partner is 35 years of age or older. Alternately, a woman without a male partner may be considered infertile if she is unable to conceive or produce conception after at least 12 cycles of donor insemination (6 cycles for women 35 years of age or older).<sup>399</sup>

In September 2021, the National Women’s Law Center and law firm of Emery Celli Brinckerhoff Abady Ward & Maazel filed a class action lawsuit against Aetna, alleging the company’s policy violates the Affordable Care Act’s Section 1557, which bans health care discrimination based on “race, color, national origin, sex, age or disability.”<sup>400</sup> <sup>401</sup> A second, similar suit was filed in February 2022, in which the plaintiff, Tara Kulwicki, alleged that her Aetna medical plan is “facially discriminatory against non-heterosexual individuals assigned female sex at birth.”<sup>402</sup>

Emma Goidel, one of the plaintiffs in the 2021 case, told a health journalist that “she and her spouse spent \$8,500 on two rounds of intrauterine insemination (IUI) before giving

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<sup>396</sup> “Same-Sex Couples Face Insurance Discrimination for Fertility Treatments,” *Verywell Health*, November 18, 2021, [www.verywellhealth.com/fertility-treatment-same-sex-couple-discrimination-aetna-5210121](https://www.verywellhealth.com/fertility-treatment-same-sex-couple-discrimination-aetna-5210121) (accessed February 2, 2023).

<sup>397</sup> “IVF Egg Retrieval: Process, Recovery, Cost, Results,” *Ro*, December 6, 2021, [modernfertility.com/blog/lesbian-ivf-costs-precious-ares/](https://modernfertility.com/blog/lesbian-ivf-costs-precious-ares/) (accessed February 2, 2023).

<sup>398</sup> For more on the intersection of compulsory heterosexuality, partnership, and LBQ+ rights, see Section III.

<sup>399</sup> “Medical Clinical Policy Bulletins; Infertility,” *Aetna*, [www.aetna.com/cpb/medical/data/300\\_399/0327.html](https://www.aetna.com/cpb/medical/data/300_399/0327.html) (accessed February 2, 2023).

<sup>400</sup> “It Really Feels like a Queer Tax,” *Time*, September 14, 2021, [time.com/6097850/aetna-lgbtq-fertility-lawsuit/](https://time.com/6097850/aetna-lgbtq-fertility-lawsuit/) (accessed February 2, 2023).

<sup>401</sup> *Goidel v. Aetna Inc.*, U.S. District Court, Southern District of New York, No. 21-cv-07619, September 13, 2021, <https://www.classaction.org/media/goidel-v-aetna-inc.pdf> (accessed February 2, 2023).

<sup>402</sup> *Kulwicki v. Aetna*, U.S. District Court, District of Connecticut, No. 3:22-cv-00229, February 9, 2022.

birth to their first daughter in 2019,” which felt like a “queer tax” that heterosexual couples would not have had to pay.<sup>403</sup>

States should extend equal rights to create a family using fertility treatments to single women, lesbian women, and all LBQ+ couples, regardless of gender identity or expression. They should also be protected from non-clinical barriers to fertility services. Critical steps toward this goal include mapping where fertility treatments are safe, legal, and accessible for LBQ+ individuals and couples; researching and reforming discriminatory insurance policies; and developing model policies that explicitly extend fertility treatment to these communities.

## Lack of Information on Creating Families

LBQ+ women need more and better access to information on how they can create families. In 2019, US scholar Bianca Wilson was invited to Nairobi, Kenya, to present her LBQ+ research to a group of LBQ+ activists and community members. Once there, the audience started asking her questions not about her professional research, but about how she, as a Black lesbian, had managed to have children. She said:

They wanted specifics about fertility treatment, sperm donors, costs, IVF, at-home insemination—they wanted to have kids. The idea that decrim[inalization] has to come before marriage, which has to come before babies, is flawed. It doesn’t represent the reality of what many LBQ+ people want, which is to have a family. Not in twenty years when same-sex conduct is decriminalized, but now, this year.<sup>404</sup>

Future research should examine the barriers that prevent LBQ+ women from starting a family, such as the lack of information available to LBQ+ women in Kenya. This is just one of the many obstacles faced by LBQ+ women that, even though they are not explicitly rooted in anti-LGBT laws and policies, greatly impact or define their ability to start a family.

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<sup>403</sup> “Same-Sex Couples Face Insurance Discrimination for Fertility Treatments,” *Verywell Health*, November 18, 2021, [www.verywellhealth.com/fertility-treatment-same-sex-couple-discrimination-aetna-5210121](https://www.verywellhealth.com/fertility-treatment-same-sex-couple-discrimination-aetna-5210121) (accessed February 2, 2023).

<sup>404</sup> Human Rights Watch video interview with Dr. Bianca Wilson, Senior Scholar of Public Policy at the Williams Institute, School of Law, UCLA. April 27, 2022.

## Racial and Economic Inequalities

In addition to the lack of laws protecting and information regarding LBQ+ parental rights and family creation, socioeconomic and racial inequalities compound difficulties in adopting and accessing reproductive treatments. Andrea Rivas, a lawyer and lesbian activist in Argentina, told Human Rights Watch about the disparity between the assisted reproduction techniques available in the public and private health care systems, which affect poor people's access:<sup>405</sup>

We have great laws in Argentina that are owed in large part to LBQ+ activism. For example, assisted reproduction techniques are included in the public health care system, including three free attempts at insemination per year, regardless of the person's [sexual] orientation or gender, meaning trans men and trans masc lesbians can access this. Despite these incredible laws, most LBQ+ people still have a mountain of structural barriers to accessing these rights.

There aren't enough sperm banks in the public health care system. This means that while you technically have a right to assisted reproduction, the system doesn't have the capacity to provide it. If you have formal work—which most people in Latin America do not—your employer covers private health care for you. There are plenty of sperm banks in the private system. So, in effect there are two systems. The fast, good, private one, and the slow, ineffective, public one.

Poor women, women without formal employment, end up using informal methods to become pregnant, such as using a friend's sperm, so that they don't have to wait. When they do that, they end up facing the same legal issues we all used to face, that we worked so hard to put laws in place to address. When you don't use the formal system, it's harder to register your child. If you are not the pregnant partner, the law requires both of you to have a free and informed consent prior to starting the first treatment. You need to write down your consent to being the mom. If you don't have that,

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<sup>405</sup> Human Rights Watch video interview with Andrea Rivas, lawyer and lesbian activist, Argentina. May 20, 2022.

you can't register the baby as your child. The legal techniques we fought for protect not only the parents, but also guarantee the legal identity of the baby. If you do it at home, you are going to have legal problems. Race, class, socioeconomic status, literacy, and many other factors make it so that Argentina's excellent LBQ+ laws don't actually work for everyone. The law is not enough.<sup>406</sup>

Relatedly, in the US, the impact of adoption laws and requirements (discussed above) are felt with radical disparity based on race. In the Oklahoma birth certificate case, the judge's assertion that Williams should have adopted her own child—or risk being removed from the birth certificate—highlights the precarity of LBQ+ parenthood for racialized communities in particular. Though Williams is a white woman, the judge's standard that non-gestational LBQ+ parents must adopt their own children reifies racial and class inequities given the financial resources,<sup>407</sup> legal representation,<sup>408</sup> and background checks,<sup>409</sup> which disproportionately negatively affect LBQ+ people of color, required to adopt in the US. As Human Rights Watch reported in June 2022:

Systemic racism and racist policing have produced an overrepresentation of lesbian, bisexual, and queer (LBQ+) women of color in the criminal justice system, who are subjected to high rates of police violence, denied their rights to adequate legal representation and fair trial, caught in cycles of incarceration, and discriminatory treatment by institutions such as Child Protective Services if they do become parents.<sup>410</sup>

Laws and policies related to the parental rights of LBQ+ women—and their implementation—need to be explicitly developed to address rather than reify structural racism and classism in the given country context. Research into this area should explicitly

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<sup>406</sup> Human Rights Watch video interview with Andrea Rivas, lawyer and lesbian activist, Argentina. May 20, 2022.

<sup>407</sup> "Average Adoption Costs in the United States," *Family Equality*, [www.familyequality.org/resources/average-adoption-costs-in-the-united-states/#:~:text=The%20costs%20for%20this%20type%20of%20adoption%20vary](http://www.familyequality.org/resources/average-adoption-costs-in-the-united-states/#:~:text=The%20costs%20for%20this%20type%20of%20adoption%20vary) (accessed February 2, 2023).

<sup>408</sup> "Do I Need an Adoption Attorney?", *Considering Adoption*, October 2, 2015, [consideringadoption.com/pregnant/who-can-help-with-adoption/adoption-attorneys/](http://consideringadoption.com/pregnant/who-can-help-with-adoption/adoption-attorneys/) (accessed February 2, 2023).

<sup>409</sup> "Criminal Background Checks for Adoption by State," *Adoption Network*, October 13, 2020, [adoptionnetwork.com/adoption-laws-by-state/criminal-background-checks/](http://adoptionnetwork.com/adoption-laws-by-state/criminal-background-checks/) (accessed February 2, 2023).

<sup>410</sup> Erin Kilbride, "Lesbian Parents in the US Should Not Need to Adopt Their Own Children," Human Rights Watch dispatch June 30, 2022, <https://www.hrw.org/news/2022/06/30/lesbian-parents-us-should-not-need-adopt-their-own-children>.

seek to investigate how laws and policies impact racialized or economically marginalized parents, such as Black LBQ+ mothers in the US or LBQ+ mothers working precarious jobs in Argentina, with the aim of reforming those that reinforce these systems of marginalization.

## Key Next Steps

States should:

- Revoke laws that prevent single women and unmarried couples from adopting.
- Pass LGBT-inclusive parental recognition bills that explicitly recognize the legal parenthood of non-gestational LBQ+ parents and protect them from discriminatory demands that they adopt their own children.
- Reform discriminatory adoption laws and policies that make adoption unfairly difficult for racialized and economically marginalized LBQ+ parents.
- Reform discriminatory fertility laws and introduce anti-discrimination legislation prohibiting insurance policies that prevent LBQ+ individuals and couples from accessing reproductive treatments, such as IVF, egg freezing, and sperm donation.
- Provide adequate funding to national health systems to ensure that people of all economic classes can access reproductive rights and that no one's desire to start a family is prohibited by their lack of access to private health care.
- Provide public information on paths to parenthood for queer and single women, including information on adoption and reproductive services.

Opportunities for LBQ+-centered research include:

- Research the wide range of LBQ+ parental rights areas including fertility, barriers to adoption, and economic and racial inequalities, including the specific topics below.
- Research barriers to adoption, including:
  - the precarity of the legal rights of non-gestational LBQ+ parents and the ways in which second-parent adoption can be weaponized against them;
  - the failure of courts to recognize the parental rights afforded to married LBQ+ couples in countries that have legalized same-sex marriage;
  - LBQ+ experiences in countries that prevent single women from adopting or where large cultural taboos prevent many people of all sexualities from adopting.

- Research barriers to fertility, including by:
  - mapping where fertility treatments are safe, legal, and accessible for LBQ+ individuals and couples;
  - analyzing discriminatory insurance policies;
  - and developing model policies that explicitly extend fertility treatment to LBQ+ individuals and couples;
  - examining the barriers that prevent LBQ+ individuals and couples from starting a family, such as the lack of information available.
- Investigate how laws and policies differentially impact racialized or economically marginalized LBQ+ parents.

## IX. Asylum

A thorough review of LBQ+ issues in crisis, conflict, migration, and asylum was not conducted for this report, but our mapping illustrated that such research is needed. Interviews conducted for this report indicate that LBQ+ couples, parents and their children fleeing situations of conflict or seeking asylum for a range of other reasons face unique and potentially life-threatening barriers. Additionally, LBQ+ families also face unique barriers to being resettled abroad as a family unit. Across 60 interviews conducted in 20 different countries, when interviewees discussed migration and asylum issues, they most often spoke about threats to family unity during resettlement. As such, this report discusses issues related to both seeking asylum and refugee resettlement in the context of family rights.

Olena Shevchenko, chairperson of the Ukrainian LGBT NGO InSight, said that of the hundreds of LBQ+ people her organization has helped flee the war, many LBQ+ families were terrified that their children would be taken away after crossing the border into Poland.<sup>411</sup> Other LBQ+ activists supporting the humanitarian effort in Ukraine and on the Ukraine-Poland border echoed Olena's point: LBQ+ families are facing the impossible decision of staying under occupation<sup>412</sup> to avoid losing their children to refugee relocation schemes that may not recognize their family as legitimate, knowing that the occupation itself could lead to homophobic violence against their family.

Lesbians coming to our shelter are able to cross the border... From our experience, it is mostly queer women couples with children. In Ukraine, there are so many lesbian couples with children. They lived relatively workable lives; precarious, but they made it work until the war. They are scared that under occupation, it won't be possible for them to keep their children [if] restrictive LGBT laws in Russia [are applied to Ukrainians territories]. We know stories of lesbian families in Russia: there is a lot of violence and children being taken. But crossing the border, they are also

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<sup>411</sup> Human Rights Watch video interview with lesbian activist and chairperson of the Ukrainian LGBT organization InSight, Olena Shevchenko. April 28, 2022.

<sup>412</sup> Parts of Kherson and Kharkiv regions that had been occupied by Russia at the time of this interview were later re-taken by Ukrainian forces.



scared. Not just of sexual violence, but that once they cross, their family won't be considered legitimate as a family unit, and only the birth mom will get to stay with the kids.<sup>413</sup>

“Only the birth mom will get to stay with the kids” echoes the legitimate, worries of LBQ+ parents throughout this chapter, who in many different circumstances—and with good reason—fear that they will be separated from their children simply because they did not birth them.

LBQ+ parents such as those seeking relocation support from InSight in Ukraine face two mutually reinforcing sets of barriers to being relocated as a family unit:

- First, these parents face the barriers to family unity that all LGBT families face (such as the inability to provide a marriage certificate). Existing literature on these hurdles largely treats “LGBT families” as a monolith, occasionally disaggregating for transgender experience.<sup>414 415</sup>
- Second, as two LBQ+ women, these parents face the economic, social, and legal barriers to asylum claims that are endemic to queer women and non-binary people. Research on these obstacles is severely lacking, save for one report from the National Center for Lesbian Rights.

These two dynamics are briefly explored below.

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<sup>413</sup> Human Rights Watch video interview with lesbian activist and chairperson of the Ukrainian LGBT organization InSight, Olena Shevchenko. April 28, 2022.

<sup>414</sup> Mark Bell, *Protecting LGBT People Seeking Asylum: Guidelines on the Refugee Status Directive*, (Brussels: The European Region of the International Lesbian and Gay Association, 2005) <https://www.ilga-europe.org/files/uploads/2022/05/guidelines-refugee-status-directive-english.pdf> (accessed February 2, 2023).

<sup>415</sup> For a related critique of “monolithic approach[es] to the study of LGBT vulnerability during crisis” see: Graeme Reid and Samuel Ritholtz, *A Queer Approach to Understanding LGBT Vulnerability during the COVID-19 Pandemic*, Women, Gender, and Politics Research Section of the American Political Science Association (Cambridge: Cambridge University Press, 2020) [https://cectresourceibrary.info/wp-content/uploads/2021/07/Reid-and-Ritholtz\\_A-queer-approach-to-understanding-LGBT-vulnerability-during-COVID-19.pdf](https://cectresourceibrary.info/wp-content/uploads/2021/07/Reid-and-Ritholtz_A-queer-approach-to-understanding-LGBT-vulnerability-during-COVID-19.pdf) (accessed February 2, 2023).

## *Family Unity*

Meeting the criteria for relocation as a family unit or family reunification is incredibly difficult for LGBT families.<sup>416 417 418</sup> A 2021 paper on LGBT family unity in the *Migration Studies* journal noted that despite “the expansion of refugee status determination and the inclusion of LGBTQ asylum seekers ... [family unity is one of the] many areas of refugee policy that remain dependent on cisheteronormative assumptions and therefore exclude the queer and trans\* forcibly displaced.”<sup>419</sup> Many asylum regimes require refugee couples to be married, in civil partnerships, or able to provide proof of living together in a relationship akin to marriage for a certain period of time prior to applying for reunification. According to the *Migration Studies* paper:

Notability, the updated [UK] Home Office guidance does ask case workers to consider whether living together would have put the couple in danger, for instance in a country where same-sex relationships are criminalised. In the US, only legal spouses qualify for derivative asylee status, which allows individuals who have been granted asylum to have protection extended to their significant other or child. Therefore, if legal marriage is criminalised between same-sex couples or transgender identities are not recognised in the country of origin, then queer and trans\* people are barred from this extension of protection.<sup>420</sup>

Similarly, a 2019 report *Realizing Refugees’ Right to Family Unity*, examining Denmark, Norway, and Sweden, found that while under official policy, “same-sex couples have equal rights to family reunification as heterosexual couples,” in practice, the homophobic

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<sup>416</sup> Norsk organisasjon for asylsøkere, *Realizing Refugees’ Right to Family Unity The challenges to family reunification in Norway, Sweden and Denmark*, (Oslo: Norsk organisasjon for asylsøkere, 2019), [https://www.noas.no/wp-content/uploads/2019/11/Realizing\\_Refugees\\_Right\\_to\\_Family\\_Unity.pdf](https://www.noas.no/wp-content/uploads/2019/11/Realizing_Refugees_Right_to_Family_Unity.pdf) (accessed February 2, 2023).

<sup>417</sup> UNHCR, *Resettlement Assessment Tool: Lesbian, Gay, Bisexual, Transgender and Intersex Refugees*, (Geneva: United Nations High Commissioner for Refugees, 2013), <https://www.unhcr.org/51de6e5f9.pdf> (accessed February 2, 2023).

<sup>418</sup> Frances Nicholson, *The “Essential Right” to Family Unity of Refugees and Others in Need of International Protection in the Context of Family Reunification*, (Geneva: United Nations High Commissioner for Refugees, 2018) <https://www.unhcr.org/5a8c413a7.pdf> (accessed February 2, 2023).

<sup>419</sup> Samuel Ritholtz and Rebecca Buxton, “Queer kinship and the rights of refugee families,” *Migration Studies*, Vol. 9, Issue 3 (2021): Pages 1075–1095, <https://academic.oup.com/migration/article/9/3/1075/6179036> (accessed February 2, 2023).

<sup>420</sup> Ibid.

context from which LGBT families flee is often not considered in assessing their applications.<sup>421</sup> The report finds:

The majority of LGBT refugees originate from countries where it is not possible for same-sex couples to be married, and where cultural and legislative restrictions make it difficult for same-sex couples to live together as partners. They are unable to prove that family life existed in their home country and will be met with stricter criteria in order to be reunited.

Since couples in this group most often cannot provide evidence that they have been married, nor show that they have lived in an established partnership over time, they very often fall outside the circle of persons who normally are entitled to be reunited with close family members.<sup>422</sup>

States should develop clear guidance on the right to family unit of LGBT families, which accounts for the added barriers to LBQ+ asylum detailed below.

### *Barriers to LBQ+ Asylum Claims*

There is little research on the experiences of LBQ+ parents in refugee, migration, or asylum contexts that accounts for not only their sexuality, but also their experiences as women, non-binary people, and people assigned female at birth. What little targeted research there is, however, on the experiences of *individual* LBQ+ asylum seekers (rather than family units) offers insight into how the “barriers to successful lesbian asylum claims” could double when both parents are lesbians or other LBQ+ people.

A report from the US-based National Center for Lesbian Rights (NCLR) is one of the only known documents specifically addressing issues facing LBQ+ asylum seekers. Its report, *The Challenges to Successful Lesbian Asylum Claims*, primarily focuses on barriers to lesbians leaving their home countries, legal challenges, proof of membership in a persecuted group, given “lesbian invisibility,” family control, and fear of future

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<sup>421</sup> Norsk organisasjon for asylsøkere, *Realizing Refugees’ Right to Family Unity The challenges to family reunification in Norway, Sweden and Denmark*, (Oslo: Norsk organisasjon for asylsøkere, 2019), [https://www.noas.no/wp-content/uploads/2019/11/Realizing\\_Refugees\\_Right\\_to\\_Family\\_Unity.pdf](https://www.noas.no/wp-content/uploads/2019/11/Realizing_Refugees_Right_to_Family_Unity.pdf) (accessed February 2, 2023).

<sup>422</sup> Ibid.

persecution.<sup>423</sup> These barriers identified by NCLR closely reflect many of the key themes discussed in this report as they pertain to LBQ+ people more broadly in four ways.

First, similar to our discussion in Sections III “Compulsory Heterosexuality and Forced Marriage” and Section VII. “Freedom of Movement and the Right to Appear in Public,” the National Center for Lesbian Rights (NCLR) report notes that families exert control over women and make it harder for them to leave home and seek refuge abroad:

When a woman is a lesbian, her family may seek to control her even further, either as punishment or in a misinformed attempt to “cure” her lesbianism. To prevent a lesbian from developing a more independent life or to act on her attraction to other women, her family may restrict her movement, the challenges to successful lesbian asylum claims either by denying her permission to leave the house or simply by assigning her greater domestic responsibilities. Such a restricted life not only places practical limits on a lesbian’s financial resources and support network outside of the home, but also may limit her awareness of ways to end or escape the persecution she currently suffers.<sup>424</sup>

Second, the NCLR report found that gendered poverty and employment discrimination make travel within and outside of LBQ+ women’s countries immensely difficult. These topics are discussed in Section I “Background,” Section V. “Butches Get Punched”: Violence Against Masculine-Presenting LBQ+ People,” Section VI. “Violence and Discrimination at Work,” and Section VII. “Freedom of Movement and the Right to Appear.” LBQ+ women, non-binary people, and trans men who were previously married to men but were denied equal access to shared marital property in the divorce (Section IV “Land, Housing, and Property Rights”) face similar economic barriers to fleeing and seeking asylum. LBQ+ women are also affected by state-imposed restrictions on women’s freedom of movement, such as male guardianship rules or unequal access to acquiring travel documents. According to the NCLR report:

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<sup>423</sup> National Center for Lesbian Rights, *The Challenges to Successful Lesbian Asylum Claims*, (San Francisco: National Center for Lesbian Rights, 2013), [https://www.nclrights.org/wp-content/uploads/2013/04/Resources\\_Challenges\\_Lesbian\\_Asylum\\_Claims.pdf](https://www.nclrights.org/wp-content/uploads/2013/04/Resources_Challenges_Lesbian_Asylum_Claims.pdf) (accessed February 2, 2023).

<sup>424</sup> Ibid.

For women who often have restricted access to employment and education, travel may be beyond their limited means. Even those women who are permitted to work likely face a significant lack of economic opportunity as compared to male wage-earners (a gender gap that affects not only those in developing nations, of course, but women in the United States, Canada, and Europe as well). In some traditions, men may exclusively control family finances, giving women little or no access to their own assets or to their families' financial means. At the same time, family decisions (often made by the father or husband) may favor sending men abroad to study or work, while women stay closer to home. Often, in order to flee, a woman must hide money on the side—a dangerous and slow means of accumulating travel funds.<sup>425</sup>

Third, the lack of documentation of anti-LBQ+ violence—indeed, what has problematically been referred to as “lesbian invisibility” (see Section I “Background: Lesbian Invisibility”)—has directly contributed to the difficulty in proving membership in a persecuted group, which is necessary to mounting a successful asylum claim. The construction of “LGBT people” as a persecuted group is centered on a gay male experience, such that LBQ+ experiences of violence may not be recognized LGBT persecution as it is normatively constructed. The NCLR report stated, “Nearly all the precedential homosexual asylum cases, including all of those mentioned, have involved homosexual men. These cases have created a framework for decisions based primarily on the homosexual male identity and experience.”<sup>426</sup>

Consider, for example, the 2013 asylum case of a Salvadoran lesbian woman who was forced to marry a man 50 years her senior at the age of 14. A US judge originally ruled that forced marriage was not a form of persecution that warranted asylum, disregarding what is a common abuse LBQ+ women experience.<sup>427</sup> (The Center for Gender & Refugee Studies subsequent *amicus* brief that forced marriage was at the heart of the case, citing international treaties that protect women and girls against forced marriage. The woman

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<sup>425</sup> Ibid.

<sup>426</sup> Ibid.

<sup>427</sup> “Maldonado-Lopez V. Holder,” *AILA South Florida Litigation Committee*, <https://ailasflitigation.org/briefs/asylum/maldonado-lopez/> (accessed February 2, 2023).

ultimately won her case).<sup>428</sup> A 2016 report by the Human Rights Campaign on LGBT refugee experiences found that when violence against LBQ+ women is documented, a SOGIE analysis is often lacking. As such, future claims to asylum based on SOGIE-related persecution are harder to prove for LBQ+ women. It noted:

[L]esbians, bisexual women and transgender men also face extremely harsh conditions, although their suffering is often less visible and usually receives much less publicity, especially given the generally more private nature of many women's lives in the Middle East.... Often these crimes are categorized as gender-based violence, if they are even recorded at all, with the victim's sexual orientation or gender identity ignored or denied.<sup>429</sup>

The construction of violence against lesbian, bisexual women and transgender men as fundamentally “private” is again seen here (as in Section I “Background: Public/Private Binary”) as an impediment to understanding the range of violence against LBQ+ people that occurs not at home, but also in the public sphere. This in turn hinders the effective establishment of asylum claims.

Fourth and finally, the nature of LBQ+ women's oppression as one marked by violations of their freedom of movement, autonomy, and right to free and full consent to marriage is not fully appreciated or understood as qualifying evidence of persecution that establishes an LBQ+ person's claim in a manner that would satisfy an asylum application. The NCLR report cautioned against assuming all lesbian asylum seekers are “out”:

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<sup>428</sup> “Brief as Amici Curiae On Behalf Of Center For Gender & Refugee Studies, East Bay Community Law Center, East Bay Sanctuary Covenant, Florence Project, Public Counsel, Public Law Center, Immigration Equality, National Center For Lesbian Rights, Human Rights Center, International gay and Lesbian Human Rights Commission, International women's Human Rights Clinic, And Madre In Support Of Petitioner Yesenia Marisol Maldonado Lopez.” No. 12-72800. June 6, 2013, [https://cgrs.uchastings.edu/sites/default/files/Brief\\_only\\_CGRS\\_Amicus\\_Maldonado\\_06\\_06\\_2013\\_FINAL.pdf](https://cgrs.uchastings.edu/sites/default/files/Brief_only_CGRS_Amicus_Maldonado_06_06_2013_FINAL.pdf) (accessed February 3, 2023).

<sup>429</sup> Human Rights Campaign, *Helping Lgbtq Refugees And Asylum Seekers In The Age Of Isis*, (Washington: Human Rights Campaign, 2016), <https://assets2.hrc.org/files/documents/LGBTQRefugees-WhitePaper.pdf> (accessed February 2, 2023).

A lesbian's formerly closeted life, however, does not indicate the absence of persecution on account of sexual orientation. Rather, it may in fact substantiate persecution or a well-founded fear of persecution.<sup>430</sup>

This point is crucial since courts may doubt an LBQ+ person is queer if they had ever been married to a man. However, in reality, that marriage to a man may itself constitute a form of persecution that was committed due to the LBQ+ person's sexual orientation or gender identity (see Section III. "Forced Marriage and Compulsory Heterosexuality").

For LBQ+ couples and parents seeking asylum—one or both of whom may very well have been married to and had children with men—this more nuanced assessment of past experiences and membership in a persecuted group is critical.

## Key Next Steps

States should:

- Develop clear asylum and refugee resettlement family reunification guidance for LGBT family unity that allows LBQ+ asylee and refugee parents and families to reunite with separated children and other family members.
- Train asylum decision makers to recognize the intersection of membership in the LBQ+ social group with the risk of persecution in the context of a range of discriminatory economic, legal, and social issues faced by LBQ+ asylum applicants as individuals, parents, and families.

Opportunities for LBQ+-centered research include:

- Research the wide range of LBQ+ parental rights areas including fertility, barriers to adoption, and economic and racial inequalities, including the specific topics below.
- Research barriers to adoption, including:
  - the precarity of the legal rights of non-gestational LBQ+ parents and the ways in which second-parent adoption can be weaponized against them;

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<sup>430</sup> National Center for Lesbian Rights, *The Challenges to Successful Lesbian Asylum Claims*, (San Francisco: National Center for Lesbian Rights, 2013), [https://www.nclrights.org/wp-content/uploads/2013/04/Resources\\_Challenges\\_Lesbian\\_Asylum\\_Claims.pdf](https://www.nclrights.org/wp-content/uploads/2013/04/Resources_Challenges_Lesbian_Asylum_Claims.pdf) (accessed February 2, 2023).

- the failure of courts to recognize the parental rights afforded to married LBQ+ couples in countries that have legalized same-sex marriage;
  - LBQ+ experiences in countries that prevent single women from adopting or where large cultural taboos prevent many people of all sexualities from adopting.
- Research barriers to fertility treatments, including by:
  - mapping where fertility treatments are safe, legal, and accessible for LBQ+ individuals and couples;
  - analyzing discriminatory insurance policies; and
  - developing model policies that explicitly extend fertility treatment to LBQ+ individuals and couples;
  - examining the barriers that prevent LBQ+ individuals and couples from starting a family, such as the lack of information available.
- Investigate how laws and policies differentially impact racialized or economically marginalized LBQ+ parents.
- Document anti-LBQ+ violence and failure of state protection that could be used to support LBQ+ people's asylum claims. Provide evidence of how LBQ+ women are persecuted differently from gay men, for example, who are centered in LGBT persecution discourses, with an aim to reforming the conceptualization of the "LGBT asylum seeker" to be more inclusive of LBQ+ experiences.
- Research the unique and potentially life-threatening barriers to being resettled abroad as a family unit, including harms to LBQ+ refugee parents' children and treatment of refugee LBQ+ families in refugee camps, reception centers, and migration facilities.



## X. Health

LBQ+ communities globally lack consistent, safe access to a wide range of health services, including mental health support,<sup>431</sup> reproductive health care,<sup>432</sup> fertility treatment,<sup>433</sup> maternal health,<sup>434</sup> routine testing for cancer,<sup>435</sup> access to services for people living with HIV,<sup>436</sup> access to services during the Covid-19 pandemic,<sup>437</sup> and care for older LBQ+ people that is affirming of their SOGIE, including treatment in nursing and care facilities.<sup>438</sup>

A 2022 study on lesbian health by the EuroCentralAsian Lesbian\* Community (EL\*C) found that “in the EU, one in six (16%) lesbian and bisexual women responding to the 2019 LGBTI Survey of the Fundamental Rights Agency of the European Union (FRA) reported episodes of discrimination when interacting with health care or social services staff.”<sup>439</sup> The same report found immense gaps in available research on LBQ+ health, mirroring the gaps identified throughout this report. For example:

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<sup>431</sup> “IDAHOT 2021 - Together: Resisting, supporting and healing!,” *Hivos*. May 17, 2021, <https://hivos.org/news/idahot-2021-together-resisting-supporting-and-healing/> (accessed February 2, 2023).

<sup>432</sup> “Human Rights Campaign Fact Sheet: Lesbian, Bisexual, Queer Women Who Have Been Pregnant Are More Likely to Need Abortion Services; Demonstrates Impact Roe Reversal Would Have on LGBTQ+ People,” *Human Rights Campaign*, June 2, 2022, <https://www.hrc.org/press-releases/human-rights-campaign-fact-sheet-lesbian-bisexual-queer-women-who-have-been-pregnant-are-more-likely-to-need-abortion-services-demonstrates-impact-roe-reversal-would-have-on-lgbtq-people> (accessed February 2, 2023).

<sup>433</sup> Human Rights Watch, “*You Don’t Want Second Best*”: *Anti-LGBT Discrimination in US Health Care*, (New York: Human Rights Watch, 2018), <https://www.hrw.org/report/2018/07/23/you-dont-want-second-best/anti-lgbt-discrimination-us-health-care#7968>

<sup>434</sup> Wilson, B.D.M, Gordon, A.R., Mallory, C., Choi, S.K., Badgett, M.V.L., & LBQ Women’s Report Team, *Health and Socioeconomic Well-Being of LBQ Women in the U.S.*, (Los Angeles: Williams Institute, UCLA school of law, 2021), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LBQ-Women-Mar-2021.pdf> (accessed February 2, 2023).

<sup>435</sup> Greg Hernandez, “Silent No More: Demanding Equity in LBQ Women’s Health Care,” *LGBT News Now*, March 23, 2019, <https://lgbtnewsnow.org/silent-no-more-demanding-equity-in-lbq-womens-health-care/>

<sup>436</sup> “Uganda: ‘LBQ Womxn’ need equal access to health,” *Rights Africa*, April 9, 2021, <https://rightsafrika.com/2021/04/09/uganda-lbq-womxn-need-equal-access-to-health/> (accessed February 2, 2023).

<sup>437</sup> EuroCentralAsian Lesbian\* Community, *Resistance as a Way of Living: Lesbian Lives through the COVID-19 Pandemic*, (Novisad: EuroCentralAsian Lesbian\* Community, 2021), <https://europeanlesbianconference.org/resistance-as-a-way-of-living-lesbian-lives-through-the-covid-19-pandemic/> (accessed February 2, 2023).

<sup>438</sup> Human Rights Watch interview with Sabine Arnolds, Lesben Under Alter, in Budapest. October 1, 2022.

<sup>439</sup> EuroCentralAsian Lesbian\* Community, *Bitter Pill To Swallow: Gaps And Discrimination In Healthcare For Lesbians: EL\*c Submission To The Un Independent Expert On Sexual Orientation And Gender Identity*, (Novisad: EuroCentralAsian Lesbian\* Community, 2022), <https://europeanlesbianconference.org/wp-content/uploads/2022/02/ELC-SUBMISSION-IE-SOGI-health1.pdf> (accessed February 2, 2023).

In 2021, when EL\*C decided to conduct a study on the impact of COVID on lesbian communities, there were already studies focusing on the disproportionate effects of the pandemic on women and the LGBTIQ community as a whole. Unfortunately, most of the studies that we came across did not consider thoroughly the combinations of factors such as gender and sexual orientation in the experiences linked with the pandemic.<sup>440</sup>

This chapter analyzes several key health-related themes arising from our interviews that constitute necessary areas of future investigation. Interviewees highlighted the lack of access to sexual and gender-based violence (SGBV) services, including sexual and reproductive health care; testing and treatment for LBQ+ survivors; and LBQ+-informed therapy and addiction recovery. They also described how LBQ+ women married to men have difficulty accessing health care and how, as a result, health care service provision has fallen on LBQ+ activists.

Additionally, the need for greater research into the lives, experiences, and rights of LBQ+ older people is particularly striking. Sabine Arnolds of the German organization *Lesben Under Alter*, a group advocating for the rights of older lesbians, told Human Rights Watch:

The barriers to accessing health care with dignity that we have faced our whole lives are compounded in old age. Suddenly this generation of women who worked so hard for independence is robbed of it. Care don't recognize our relationships because many of us aren't married, but also our language, our ways of referring to ourselves and each other, the ways we dress. It is a sort of forced re-closeting, or sometimes older lesbians even choose to hide who they are to stay safe in the facility.<sup>441</sup>

International human rights law protects LBQ+ rights to the highest attainable standard of health, equal and affordable access to essential medicines, equal protection under the law, and an adequate standard of living. The International Covenant on Economic, Social

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<sup>440</sup> Ibid.

<sup>441</sup> Human Rights Watch interview with Sabine Arnolds, *Lesben Under Alter*, in Budapest, October 1, 2022.

and Cultural Rights (ICESCR) guarantees the rights to “an adequate standard of living, “the enjoyment of the highest attainable standard of physical and mental health,” and the “creation of conditions which would assure access to all medical service and medical attention in the event of sickness.”<sup>442</sup> According to the UN Committee on Economic, Social and Cultural Rights, which interprets the covenant, the right to health is indispensable to the exercise of many other rights.<sup>443</sup>

## Sexual and Reproductive Health Care

Restrictions on women’s access to sexual and reproductive health care impact LBQ+ people in multiple ways. In some countries, certain forms of sexual and reproductive health care are only available to married women and girls and laws that criminalize any form of sex outside of marriage also deters and punishes women who seek health care.<sup>444</sup> Studies have indicated the importance of increasing the accessibility and quality of sexual and reproductive health care, including abortion, for LBQ+ people.<sup>445 446</sup> Specifically regarding LBQ+ people’s access to abortion, most studies available online are US-focused. In 2017 to 2019, the National Survey for Family Growth found that more than 25 percent of bisexual women and more than 20 percent of lesbian women who had been pregnant have had abortions, compared with 15.4 percent of heterosexual women.<sup>447</sup> The same study found “bisexual women, and heterosexual women with a history of same-sex partnering [to be] each over twice as likely as exclusively heterosexual women to have ever had an abortion.”<sup>448</sup> Two studies published by the National Library of Medicine found that

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<sup>442</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAORR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

<sup>443</sup> UN Committee on Economic, Social and Cultural Rights, “General Comment No. 14, The Right to the Highest Attainable Standard of Health,” UN Doc. E/C.12/2000/4, August 11, 2000, <https://www.refworld.org/pdfid/4538838do.pdf>.

<sup>444</sup> “Everything I Have to Do is Tied to a Man”: Women and Qatar’s Male Guardianship Rules.” Human Right

<sup>445</sup> “Abortion Access Is an LGBTQ Issue.” National Center for Lesbian Rights (NCLR). October 1 2013.

<https://www.nclrights.org/abortion-access-is-an-lgbt-issue/>

<sup>446</sup> Saewyc, E. M., Bearinger, L. H., Blum, R. W., & Resnick, M. D. (1999). Sexual intercourse, abuse and pregnancy among adolescent women: does sexual orientation make a difference? *Family planning perspectives*, 127-131

<sup>447</sup> 2017-2019 NSFG: Public-Use Data Files, Codebooks, and Documentation. National Center for Health Statistics, CDC, U.S. Department of Health & Human Services. Available at: [https://www.cdc.gov/nchs/nsfg/nsfg\\_2017\\_2019\\_puf.htm](https://www.cdc.gov/nchs/nsfg/nsfg_2017_2019_puf.htm)

<sup>448</sup> “Human Rights Campaign Fact Sheet: Lesbian, Bisexual, Queer Women Who Have Been Pregnant Are More Likely to Need Abortion Services; Demonstrates Impact Roe Reversal Would Have on LGBTQ+ People,” Human Rights Campaign. June 2 2022. <https://www.hrc.org/press-releases/human-rights-campaign-fact-sheet-lesbian-bisexual-queer-women-who-have-been-pregnant-are-more-likely-to-need-abortion-services-demonstrates-impact-roe-reversal-would-have-on-lgbtq-people>

“[lesbian and bisexual] adolescents are at greater risk of unwanted pregnancies and terminations” (2017)<sup>449</sup> and that more than one-third of lesbians who needed an abortion had been physically abused by the person who impregnated them (2018).<sup>450</sup> A 2011 compilation study found that “across 75 different research reports, lesbian and bisexual women may be up to 3 times as likely as heterosexual women to report having been sexually assaulted in their lifetime,” increasing their risk of unplanned and unwanted pregnancy.<sup>451</sup>

Access to abortion was raised explicitly by five LBQ+ interviewees, all of whom indicated that more research into LBQ+ abortion access was needed. Additionally, several topics that may implicate a need for access to abortion, such as forced marriage, sexual assault, addiction, and therapy, were explicitly raised by many more interviewees. LBQ+ activists and their communities are working to address many of the reasons people need abortions, including rape, forced pregnancy, and forced marriage, and to support those who are consistently denied reproductive autonomy.<sup>452</sup>

Ugandan researcher Joaninne Nanyange spoke to a need to consider “root causes,” like rape and forced pregnancy, and not simply “symptoms,” like sexually transmitted diseases or unwanted pregnancy. She recommended that future research into LBQ+ people’s right to health, including abortion access, should take a similarly “feminist approach” that explores “root causes,” mirrors the work being done by LBQ+ communities themselves, and does not separate the right to health from dismantling systems of oppression.<sup>453</sup> She explained:

It is very hard to understand the problems of LBQ women when you take out the feminist lens. It’s not helpful. You’re going to get skewed findings and

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<sup>449</sup> Hodson K, Meads C, Bewley S. Lesbian and bisexual women's likelihood of becoming pregnant: a systematic review and meta-analysis. *BJOG*. 2017 Feb;124(3):393-402. doi: 10.1111/1471-0528.14449. Epub 2016 Dec 15. PMID: 27981741; PMCID: PMC5299536. Available at: <https://pubmed.ncbi.nlm.nih.gov/27981741/>

<sup>450</sup> Jones RK, Jerman J, Charlton BM. Sexual Orientation and Exposure to Violence Among U.S. Patients Undergoing Abortion. *Obstet Gynecol*. 2018 Sep;132(3):605-611. doi: 10.1097/AOG.0000000000002732. PMID: 30095763. Available at: <https://pubmed.ncbi.nlm.nih.gov/30095763/>

<sup>451</sup> Lisa Chedekel. “Lesbians, Gays, Bisexuals at Increased Risk for Sexual Assault.” *BU Today*, Boston University. April 13 2011. <https://www.bu.edu/articles/2011/lesbians-gays-bisexuals-at-increased-risk-for-sexual-assault>

<sup>452</sup> Forced pregnancy is when a person becomes pregnant without wanting to be, and abortion is inaccessible or denied.

<sup>453</sup> Human Rights Watch video interview with Joaninne Nanyange, researcher and expert in LBQ rights, Uganda, April 28, 2022.

recommendations because you aren't getting to the root causes, you're only dealing with the symptoms. Data and services for lesbian abortions, for example, are not enough. We need gender transformative recommendations that go beyond "we need more funding" and "doctors should not discriminate." We do and they shouldn't, of course, but that isn't the root of the problem. Researchers need to be properly educated on feminist research methodologies and what questions to ask. We need to center the voices and experiences of people who would normally be overlooked and ensure that questions being asked get to the root causes, not the symptoms. We need to do research on patriarchy and advocacy to dismantle it.<sup>454</sup>

## Post-Sexual Assault Health Care

Sexual and reproductive health care is essential for survivors of sexual assault, who require mental and physical health care, which can include initial therapy (such as for fractures and tissue injuries) and prophylaxis against HIV and other sexually transmitted infections (STIs). While STI treatment after sexual assault varies depending on local patterns of infection in each country, experts like the US Centers for Disease Control and Prevention (CDC) and the World Health Organization (WHO) recommend prioritizing STI prevention in order to avoid or mitigate long-term complications from STIs, such as pelvic inflammatory disease, infertility, and some cancers.<sup>455</sup> Studies in the US have found that bacterial vaginosis, gonorrhea, chlamydia, and trichomoniasis are the most frequently diagnosed infections among women who have been sexually assaulted,<sup>456</sup> <sup>457</sup> all of which are easily treatable. Hepatitis B can also be prevented through postexposure

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<sup>454</sup> Ibid.

<sup>455</sup> Sachs CJ, Ladd M, Thomas B. "Sexual Assault Infectious Disease Prophylaxis, [Updated 2022 Apr 30]" *StatPearls [Internet]*. Treasure Island (FL): StatPearls Publishing; 2021 Jan-. PMID: 29489253. (accessed February 3, 2023).

<sup>456</sup> Ibid.

<sup>457</sup> Centers for Disease Control and Prevention, *Sexual Assault and Abuse and STIs, Adolescents and Adults, Sexually Transmitted Infections Treatment Guidelines*, (Washington: U.S. Department of Health & Human Services, 2021), <https://www.cdc.gov/std/treatment-guidelines/sexual-assault-adults.htm> (accessed February 2, 2023).

vaccination,<sup>458</sup> and 95 percent of pregnancies can be prevented through emergency contraception when taken within five days.<sup>459</sup>

Unfortunately, LGBT people face a wide range of barriers to accessing health care. In the US, Human Rights Watch documented a lack of services in their area, discrimination or refusals of service in health care settings, or LGBT people's decisions to delay or forego care because they are concerned about mistreatment.<sup>460</sup> For LBQ+ survivors of sexual assault, these denials and delays can be deadly.

Tamara, an intersex lesbian activist in Malawi and founder of a queer foundation, dedicated her life to ending SGBV against LBQ+ women after surviving what she called “corrective rape” at the age of 19 (see below).<sup>461</sup> She recounted how LBQ+ women in her community are dying of untreated STIs and other complications related to sexual assault due to their inability to safely seek care at public hospitals in addition to the social stigma experienced by women rape survivors:

It is really hard getting something as simple as a pap smear if doctors think you're lesbian, bisexual, intersex, or queer. You're going to get violated, stigmatized, discriminated [against] at the hospital. We cannot afford private hospitals; we need the public ones, but they're very stigmatizing. So, after a sexual assault, we self-medicate instead.

Just recently [in our LBQ+ community], we had someone with meningitis after being raped. She was scared, she had no resources, and didn't want to talk about how she got the disease. She bought a Panadol and another basic pain killer. She didn't get treated, and she died. I know three LBIQ people who have died like this. One was HIV. Then the one found with meningitis. The other one never had a proper autopsy because the family

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<sup>458</sup> Seña AC, Hsu KK, Kellogg N, Girardet R, Christian CW, Linden J, Griffith W, Marchant A, Jenny C, Hammerschlag MR, “Sexual Assault and Sexually Transmitted Infections in Adults, Adolescents, and Children,” *Clin Infect Dis* (2015), Suppl 8:S856-64, accessed February 3, 2022, doi: 10.1093/cid/civ786.

<sup>459</sup> “Emergency contraception,” *World Health Organization*, November 9, 2021. <https://www.who.int/news-room/fact-sheets/detail/emergency-contraception> (accessed February 2, 2023).

<sup>460</sup> “US: LGBT People Face Healthcare Barriers,” Human Rights Watch news release, July 23, 2018. <https://www.hrw.org/news/2018/07/23/us-lgbt-people-face-healthcare-barriers>

<sup>461</sup> Human Rights Watch video interview with Tamara, intersex lesbian, women human rights defender, and leader of an LBQ+ organization in Malawi. July 15, 2022.

didn't have money. But the community knows she had a very severe STI. She couldn't walk, her private parts were falling apart. And she died.<sup>462</sup>

Research into the long-term, potentially fatal impacts of LBQ+ people's inability to seek care after a sexual assault is urgently needed. For Tamara, the most degrading, infuriating, and life-altering impacts of her rape occurred after the attack itself, which motivated her to fight for access to health services for LBQ+ survivors. Tamara told Human Rights Watch that "after they raped me, at the hospital the woman from the Victim Support Unit (VSU) said, 'if you could just date men, this wouldn't happen'."<sup>463</sup>

Police subsequently refused to investigate the attack (See Tamara's story, Section VII. "Freedom of Movement and the Right to Appear") and Tamara's heterosexual friends declined to speak about her rape with her. After her lesbian friend died by suicide months later, Tamara said she was left unable to process the attack with anyone else. She told Human Rights Watch that nurses at the hospital repeatedly told her to date men to avoid "corrective rape" in the future.

The wide range of physical, sexual, and mental health support denied to Tamara as a survivor led her to start her own LBQ+ organization and advocate for the inclusion of LBQ+ women in SGBV services in Malawi. According to Tamara, women's rights organizations in Malawi largely refuse to take up "corrective rape" as a women's rights issue and exclude LBQ+ women from SGBV services. These have become central organizing goals of Tamara's organization, which recognizes both the unique risks to LBQ+ women regarding specific types of sexual assault, such as "corrective rape," and the barriers to care, such as nurses themselves telling LBQ+ women to "just date men." Indeed, the attack itself and the denial of care stem from the belief that LBQ+ women ought to be having sex with men, so the analysis of both in tandem is critical.

Rima, a queer activist and writer from Tunisia, described how LBQ+ women are similarly excluded from SGBV services in Tunisia. She said most mainstream "violence against women" public education, policy reform, and advocacy failed to explicitly name and include the perspectives of LBQ+ women, relegating their stories to research focused

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<sup>462</sup> Ibid.

<sup>463</sup> Ibid.

specifically on “sexual violence against LGBT people, as though many of us aren’t also women.” She explained:

While new feminist organizations are more inclusive than older, post-independence ones, when you read about GBV, it is usually still only cases and examples of cishet [cisgender and heterosexual] women. LBQ+ is only ever a subsection of some research focused on sexual violence against LGBT people. But when we think about who’s legal and policy work could actually have the biggest impact on queer women’s access to health, reproductive rights, and GBV services, it’s women’s rights work. Because the violence we face is so much tied to our bodily and cultural realities as women. There is so much left to do on including queer women in this work, this work that is most relevant to our lives.<sup>464</sup>

## Mental Health Care

Activists in Canada, Indonesia, Kenya, Malawi, Mexico, Tanzania, Tunisia, and the US said their communities lacked accessible, affordable, and queer-informed mental health services.

To help fill the gap in available, appropriate, and affordable mental health services in Tanzania, Happy and several other LBQ+ activists trained as peer counselors.<sup>465</sup> She explained Eagle Wings’ work and their capacity struggles:

Since LBQ women have been left behind in LGBT programs and the movement overall, our main focus is trying to reach LBQ women. In self-awareness and self-acceptance work specifically, it is so important to reach LBQ women. Doing peer-to-peer counseling, the most common things women come to us to talk about are sexual and gender-based violence, particularly kinds of attacks they face because they are LBQ+ specifically, things that other women don’t experience. The other most common topics

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<sup>464</sup> Human Rights Watch video interview with writer Rima Sghaier, July 19, 2022.

<sup>465</sup> Human Rights Watch video interview with Happy, a lesbian human rights defender with LBQ+led organization Eagle Wings in Tanzania, April 21, 2022.



are rape or being beaten by family members, forced marriage, being forced to live with men and have children with them, and the endless mental suffering in those lives they were forced into. Some women who come to us for counseling did manage not to get married, but then they were disowned by their families and cut off and homeless. I am taking on as many cases as I can, but we need so much more support.<sup>466</sup>

In Toronto, Canada, queer women in the South Asian diaspora have emotional obstacles as well. According to activist and researcher Sonali Patel, the founder of the Queer South Asian Women's Network, the conflicting pressures on LBQ+ women in her diaspora community "to look queer in LGBT spaces and like nice Desi girls at home" have led to "extremely high numbers of girls wanting to commit suicide."<sup>467</sup> Patel explained that more research is needed into the psychological trauma experienced by people living at the intersection of being South Asian; queer, women, or non-binary; and part of a diaspora community.

The lesbian movement in the US and Canada has historically been very march-heavy. Marching in the street isn't necessarily safe for [South Asians]. Photos are taken at Pride [parades] without consent, and our families see these. This makes home unsafe.

Many of us don't want to come out to our families. People tell me, "Just come out to your parents, they'll love you anyway." They have no awareness of the many violations this could cause in the family. Not just being kicked out, but being forced to live at home, or being forced to marry.

In order to be [considered] valid as gay in this queer community, you need to be masculine-presenting and rainbow-loving. Having long hair is immediately perceived as heterosexual. There's no allowance for cultural difference. If I want to be masculine-presenting in the queer community in Toronto, I can do that. It's praised. But the second I enter my family's home,

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<sup>466</sup> Ibid.

<sup>467</sup> Human Rights Watch video interview with Sonali Patel, founder of the Queer South Asian Women's Network. May 26, 2022.

I would need to femme it up and pretend I was willing to marry the nice Indian boy they want me to. I need to somehow successfully pass as straight in my home and pass as queer in queer community.

If my parents find out I'm gay, it's emotional blackmail, shame, and guilt. Bringing shame upon the family name, being selfish, not thinking about the family's best interest. People will talk about our family. "We moved to this country for you, and this is how you repay us."

To address mental health issues in the community, the Queer South Asian Women's Network holds "Chai & Chill" workshops on different themes, and the most popularly requested ones cover wellness, spirituality-based healing, and journaling. She continued:

Suicide rates in our community are extremely high, but we don't have any research or concrete proof of this. Most queer south Asian women I know have attempted it at least once.

We are trying to do advocacy with bigger Pride orgs about how they can be more inclusive and less dangerous for us, but research into the immense mental stress we're under would help us prove it and be taken more seriously.

In Malawi, Tamara said her own mental health has suffered severely since she was raped at age 19.<sup>468</sup> More than a decade later, she has not found an LBQ+ informed therapist and, if she ever did, she likely could not afford the services. She developed a severe dependence on alcohol and described years of "drinking alone just to escape." She told Human Rights Watch about her personal struggles and the community's need for LBQ+ therapists:

I found solace in helping the next victim, in being there for people in ways no one was there for me. But it doesn't make the pain go away, everything

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<sup>468</sup> Human Rights Watch video interview with Tamara, intersex lesbian, women human rights defender, and leader of an LBQ+ organization in Malawi. July 15, 2022.

is still like it happened yesterday. And [without support,] you become an alcoholic. I started drinking at 22, about two years after the attack. I never drank before I was raped.

After, I didn't care what I was drinking as long as I was drunk and numb and passed out. I wasn't even at bars, that was too dangerous. I was in my room just trying not to feel anything. I'm in a better place now, but I'm still drinking too much. There are not many support services for addiction in Malawi. Addiction in Malawi very common among queer people.

We had a mental health expert in the organization for six months. We could only pay for five staff to have support, and I didn't prioritize myself. I did it for my staff because of the cases we get coming through, awful stories with no choice but to listen. I feel like I have to put on a strong face, I don't think I'm allowed to be vulnerable, but really, I want to see a therapist. I don't know where I'd find a lesbian therapist or how I'd pay for it.<sup>469</sup>

## Health Care for LBQ+ People Married to Men

Being married to men can produce negative health outcomes for LBQ+ women. A 2015 academic report on social support for “sexual minority women in Mumbai, India” found that forced marriages of LBQ+ women were “common” and negatively impacted a range of health outcomes for the women.<sup>470</sup> It noted:

Heterosexual marriage pressure is common for sexual minority women (Arasu 2011), as well as sexual minority men, in India (Khan 2001). Being forced into an undesired marriage can affect mental health, and physical health (Ashraf 2015). Fostering more dialogues for strategies as well as

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<sup>469</sup> Human Rights Watch video interview with intersex lesbian, women human rights defender, and leader of an LBQ+ organization in Malawi. July 15, 2022.

<sup>470</sup> Bowling, J., Dodge, B., Banik, S., Bartelt, E., Mengle, S., Guerra-Reyes, L., Anand, V., “Social support relationships for sexual minority women in Mumbai, India: a photo elicitation interview study,” *Culture, Health & Sexuality* (2017): 1–18, accessed February 3, 2023, <https://doi.org/10.1080/13691058.2017.1337928>.

raising awareness with parents about the negative effects of marriage pressure may reduce this stress.<sup>471</sup>

According to the report, “raising awareness” about the many harms caused by forcing women in “undesired” marriages has implications beyond ending forced marriage practices. Ending forced marriages of LBQ+ women, therefore, is intricately tied to supporting LBQ+ women’s right to health (See Section III. “Forced Marriage and Compulsory Heterosexuality”).

In Tanzania, Happy told Human Rights Watch that her organization gathered evidence based on counseling data that LBQ+ women married to men faced multiple barriers to accessing health services.<sup>472</sup>

According to Happy, LBQ+ women married to men are less likely to attend LBQ+ support groups where they could access a wide range of health resources and services for fear that they will be seen and reported to their husbands. She said:

Some of these women, the ones forced to marry, know Eagle Wings is working with LBQ+ women. We always know who is married and who is not, and we reach out to those who are married when we have LBQ+ legal, rights, and health workshops. We only invite a few people to maintain confidentiality so their husbands and families don’t find out. We mostly work with them in private counseling. Many don’t want to be publicly associated with us, which is understandable, but that limits their access to health and human rights information.

Our first concerns are their emotional health and physical safety. When the husband finds out about them being lesbian, it becomes very bad and very dangerous. For them and for us. So, we have to do this health outreach and counseling work very, very carefully.

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<sup>471</sup> Bowling, J., Dodge, B., Banik, S., Bartelt, E., Mengle, S., Guerra-Reyes, L., ... Anand, V., “Social support relationships for sexual minority women in Mumbai, India: a photo elicitation interview study.”

<sup>472</sup> Human Rights Watch video interview with Happy, a lesbian human rights defender with LBQ+-led organization Eagle Wings. Tanzania. April 21, 2022.

LBQ+ women married to men whose husbands and families suspect they might be queer are more likely to be forbidden to leave the house, as in the case of Amani's partner in Tunisia, who was forbidden to leave home when her parents began to have suspicions about her sexuality.<sup>473</sup> In addition to cutting them off from friends and partners, this prevents them from visiting doctors, dentists, gynecologists, and other medical professionals as well as LBQ+ support groups.

Dali Ramona, a bisexual activist from Indonesia, told Human Rights Watch that the husbands and families of LBQ+ women in Indonesia also often keep them away from queer community,<sup>474</sup> impacting the health and wellness of not only the individual, but also the broader LBQ+ community. She mentioned how the lack of visible queer women has fueled feelings of “isolation and suffering”:

Our families think it is sinning to still interact with queer people, especially if we are from and marry into very religious families. The high peak of queer women attending our [LGBT] gatherings is when they are my age, in college. I am worried that we won't have role models as a result of them all marrying and leaving the community. That's what happened to the queer women older than us. Eventually, they married men and stopped coming to community-building, mental health, and wellness events. There aren't queer women visible in society, so we don't know who to look up to. If there is a role model for queer women, it becomes less scary. It affects our mental health to not see ourselves.<sup>475</sup>

An additional reason LBQ+ women married to men may stay away from LBQ+ support groups is because increased queer visibility could injure not only themselves, but also their LBQ+ partners, as seen in the case of Asante who was attacked by their partner's husband (Section III. “Forced Marriage and Compulsory Heterosexuality”). To protect themselves or LBQ+ partners from physical and sexual violence, LBQ+ women married to

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<sup>473</sup> See Section III. Forced Marriage and Compulsory Heterosexuality, subsection “Bisexual Relationships and Threats to Partners.”

<sup>474</sup> Human Rights Watch video interview with bisexual activist Dali Ramona. Indonesia. July 12, 2022.

<sup>475</sup> Ibid.

men will limit their contact with their local LBQ+ community, foreclosing access to informal emotional support systems and friends.<sup>476</sup>

Further, the same India report found that the “diverse relationships that sexual minority women have in their social support networks may be used to guide programmes to improve health outcomes,” indicating that donors interested in the right to health should fund LBQ+ organizations and collectives who create spaces for LBQ+ gatherings and community building.<sup>477</sup>

## The Burden on Activists

LBQ+ leaders like Tamara, Happy, and Sonali are providing health and wellness services to their communities to fill a significant gap. The need for more and better support for both mental health services for LBQ+ women (as described by Happy and Tamara) and research into LBQ+ rates of suicide and self-harm (as described by Sonali) echo the findings of Mama Cash and Astraea’s *Vibrant Yet Under-Resourced*. The 2020 report on the state of LBQ+ movements globally found that “nearly two-thirds (63%) [of LBQ+-led organizations] offer direct health and social services, as well as mental health and wellness support to LBQ+ communities.” At the same time, the report found “direct services, including for mental health, was funded by the fewest donors (32%).”<sup>478</sup>

From Sonali’s online support groups to Happy’s peer counseling to Tamara’s SGBV advocacy, the interviews demonstrate that much of the support available to LBQ+ communities is provided by their friends, colleagues, and local leaders. Each activist spoke about the critical lack of funding available for this work, and the burnout they experience doing it for little to no pay and knowing their communities have few other places to turn to for support if they take a day off. The significant lack of support for health and mental health services for LBQ+ communities is not only impacting their physical and psychological well-being, but also putting an immense and unsustainable burden on individual activists and collectives to fill this gap using extremely limited resources.

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<sup>476</sup> For more on violence against LBQ+ people and their partners perpetrated by husbands, see Section III. Forced Marriage and Compulsory Heterosexuality.

<sup>477</sup> Bowling, J., Dodge, B., Banik, S., Bartelt, E., Mengle, S., Guerra-Reyes, L., ... Anand, V. (2017), “Social support relationships for sexual minority women in Mumbai, India: a photo elicitation interview study.”

<sup>478</sup> Saleh, L. and Sood, N., *Vibrant Yet Under-Resourced: The State of Lesbian, Bisexual, and Queer Movements*.

## Key Next Steps

States should:

- Enact policies and protocols supporting LBQ+ survivors of sexual assault.
- Introduce nondiscrimination protections for LBQ+ people in access to health care.
- Ensure adequate training for all health professionals, including mental health professionals, abortion providers, and SGBV service providers, on SOGIE issues and the specific needs of LBQ+ patients, and partner with LBQ+ organizations and collectives on these trainings.
- Broaden the range of practitioners qualified to perform abortions to include, for example, nursing assistants, nurses, midwives, and non-clinical doctors, to increase access to LBQ+-affirming medical professionals for LBQ+ people, per the World Health Organization's recommendations.
- Establish a complaints procedure through which LBQ+ people who experience human rights violations or abuses in a health care setting, including discrimination, denial of services, or conversion practices aimed at changing their SOGIE, can file complaints and seek support and redress.
- Work jointly with LBQ+ organizations to develop comprehensive guidelines on the guarantee and provision of free, safe, legal abortion services.
- Ensure that health policy and strategy documents are evidence-based, aligned with internationally recognized good practices, and explicitly provide for the provision of health care services to LBQ+ communities.
- Approve tailored, community-vetted health messaging for LBQ+ people that provides information regarding LBQ+ health issues, including access to comprehensive care for sexual assault survivors.
- Include ending forced marriage, including LBQ+ people, as well as its negative health impacts, as a component of public health programming, and ensure that women and LBQ+ people who have been forced into unwanted marriages are able to safely and confidentially access their right to health while still in the marriage.

Donors should:

- Support national government efforts to develop adequate, quality, and voluntary community-based mental health services. Encourage institutional partners to work

collaboratively with LBQ+-organizations and collectives to develop policies and protocols to support LBQ+ patients and survivors.

- Target support toward community-based support and services, including mental health services, and ensure LBQ+-led services have sustainable funding.

Opportunities for LBQ+-centered research include:

- Analyze the specific health needs of LBQ+ people, including:
  - the long-term, potentially fatal impacts of LBQ+ people's inability to seek care after a sexual assault;
  - barriers to accessing health for LBQ+ people married to men; and
  - LBQ+ people's lack of access to appropriate mental health services.
- Collaborate and learn from LBQ+ movements to adopt a feminist approach to documenting the "root causes" of health care needs (not just the symptoms).
- Ensure that documentation and advocacy tactics do not separate the right to health from dismantling systems of oppression.
- Examine the psychological trauma experienced by people living at the intersection of being queer, women, or non-binary and of living in a socially conservative diaspora community.



## XI. Human Rights Defenders

In Poland, I see queer women strongly leading refugee response, queer activism, animal rights, and reproductive justice [efforts].... We mobilized so quickly for Ukraine because we all knew each other from the abortion protests. People socialized as women are raised to care about things. Maybe that's part of it. But making the world slightly safer and slightly better is the core of it. Queer women usually don't feel safe in the world, we don't feel as comfortable as we could, and this is an attempt to change that. Somewhere deep within, all these different kinds of work are rooted in building safer communities. Queerness impacts all the work like this, even when you don't see it as "LGBT."<sup>479</sup>

– Danai, queer activist, Poland

LBQ+ activists interviewed for this report demonstrated active involvement in a wide range of social, political, land, environmental, economic, gender, and racial justice movements, beyond the bounds of what is typically conceptualized of as "LGBT rights" work.<sup>480</sup> The nature and type of this work varied depending on the context. In Sri Lanka, queer women are at the front of the ongoing economic justice protest movement and reported forming support networks for other queer women parents in need of childcare during mobilizations.<sup>481 482</sup>

In Lebanon, one LBQ+ artist explained:

It is impossible to separate queer women from feminist fights. Most queer women artists in Lebanon, for example, produce feminist works focused on

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<sup>479</sup> Human Rights Watch video interview with Danai, queer activist, Poland. May 9, 2022.

<sup>480</sup> Anya Jabour, "When lesbians led the women's suffrage movement," *The Conversation*, January 24, 2020, <https://theconversation.com/when-lesbians-led-the-womens-suffrage-movement-129867> (accessed February 2, 2023).

<sup>481</sup> Human Rights Watch phone interview with a lesbian activist in Sri Lanka, April 12, 2022.

<sup>482</sup> Tweet, Kaush\_A, April 10, 2022, [https://twitter.com/kaushi\\_a/status/151314390078069555?s=12&t=LIC4xQHFUzaSWIU1GuqR-A](https://twitter.com/kaushi_a/status/151314390078069555?s=12&t=LIC4xQHFUzaSWIU1GuqR-A) (accessed February 3, 2023).

reclaiming body and space. Very rarely do [LBQ+ activists] go straight to working on sexuality.<sup>483</sup>

In addition to their visible work as human rights defenders, LBQ+ people also support their communities in quieter but equally critical ways. In the case of the murder of Sheila Adhiambo Lumumba, a non-binary lesbian Kenyan, LBQ+ activists started a campaign for justice and circulated photographs of themselves on social media, creating the hashtag #JusticeForSheila, which later trended in Kenya. LBQ+ activists not only demanded an adequate investigation, but also called for reforms to Kenya's gender-based violence policies to protect the rights of LBQ+ people. Lumumba's (heterosexual) cousin, Brenda Akinyi, reported to Human Rights Watch that "the only thing getting me through the experience was the phone calls, food deliveries, and love coming from the queer community. They are constantly calling me, texting me to see how I am." Supporting Lumumba's family members during their crisis was a key part of how LBQ+ activists understood their role in the aftermath of the violent attack. And according to the family, this unexpected, private support from queer people—whom they had not previously met—enabled them to continue their public struggle for justice.

A growing body of international human rights law and protection mechanisms supports and affirms the peaceful, legitimate work of human rights defenders, including activists fighting for LBQ+ rights. This includes international, regional, and national frameworks:

- the UN Declaration on Human Rights Defenders (1998) and the UN special rapporteur on human rights defenders (established in 2000);<sup>484 485 486</sup>

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<sup>483</sup> Human Rights Watch video interview with Nadia, LBQ+ rights activist, Lebanon, May 24, 2022.

<sup>484</sup> UN OHCHR, Special Rapporteur on human rights defenders, "The declaration on human rights defenders in different languages," <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/declaration-human-rights-defenders-different-languages> (accessed February 3, 2023).

<sup>485</sup> UN OHCHR, Special Rapporteur on human rights defenders, <https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders> (accessed February 3, 2023).

<sup>486</sup> The mandate was most recently renewed by the Human Rights Council in 2020 with decision 43/115 and resolution 43/16. UNHRC, Decision: Extension of mandates and mandated activities, A/HRC/DEC/43/115, adopted March 13, 2020, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FDEC%2F43%2F115&Language=E&DeviceType=Desktop&LangRequested=False> (accessed February 3, 2023) and UNHRC, Resolution 43/16 (2020), A/HRC/RES/43/16 <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FRES%2F43%2F16&Language=E&DeviceType=Desktop&LangRequested=False> (accessed February 3, 2023).

- the G8 Declaration on Preventing Sexual Violence in Conflict, which explicitly acknowledges the vital role of women human rights defenders and commits to supporting them;<sup>487</sup>
- the Inter-American Commission on Human Rights' Functional Unit on Human Rights Defenders;<sup>488</sup>
- the African Commission on Human and Peoples' Rights Resolution 275, which calls on states to ensure that human rights defenders protecting sexual minorities work in environments free from reprisals and criminal prosecution (2014);<sup>489</sup>
- the European Union Guidelines on Human Rights Defenders (2004);<sup>490</sup>
- the European Union Human Rights Defenders mechanism, ProtectDefenders.eu (established in 2015);<sup>491</sup>
- the Council of Europe's Commissioner on Human Rights' mandate on human rights defenders (2009);<sup>492</sup>
- the Toolkit for the European Union on Women Human Rights Defenders (2020);<sup>493</sup>
- the EU Office for Democratic Institutions and Human Rights (ODIHR)'s Focal Point on Human Rights Defenders;<sup>494</sup>
- the Organization for Security and Co-operation in Europe (OSCE)'s Guidelines on the Protection of Human Rights Defenders;<sup>495</sup>

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<sup>487</sup> UK Foreign and Commonwealth Office, "Declaration on preventing sexual violence in conflict," April 11, 2013, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/185008/G8\\_PSVI\\_Declaration\\_-\\_FINAL.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/185008/G8_PSVI_Declaration_-_FINAL.pdf) (accessed February 3, 2023).

<sup>488</sup> OEA, "Defensoras y Defensores de Derechos Humanos y Operadores de Justicia," 2001, <http://www.cidh.org/defenders/defensores.htm> (accessed February 3, 2023).

<sup>489</sup> African Commission on Human and Peoples' Rights, Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity, ACHPR/Res.275(LV)2014, Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola, 2014, <https://www.achpr.org/sessions/resolutions?id=322a> (accessed February 3, 2023).

<sup>490</sup> European Union External Action, "EU Guidelines on Human Rights Defenders," June 6, 2016, [https://www.eeas.europa.eu/eeas/eu-guidelines-human-rights-defenders\\_en](https://www.eeas.europa.eu/eeas/eu-guidelines-human-rights-defenders_en) (accessed February 3, 2023).

<sup>491</sup> Protect Defenders, "The European Union Human Rights Defender Mechanism" <https://protectdefenders.eu/> (accessed February 3, 2022).

<sup>492</sup> The Council of Europe, Commissioner for Human Rights, "Human Rights Defenders," <https://www.coe.int/en/web/commissioner/human-rights-defenders> (accessed February 3, 2023).

<sup>493</sup> Front Line Defenders, "Toolkit for the European Union on Women Human Rights Defenders," 2020, [https://www.frontlinedefenders.org/sites/default/files/whrd\\_toolkit\\_en.pdf](https://www.frontlinedefenders.org/sites/default/files/whrd_toolkit_en.pdf) (accessed February 3, 2023).

<sup>494</sup> OSCE Office for Democratic Institutions and Human Rights, "Focal Point for Human Rights Defenders and National Human Rights Institutions," 2009 [https://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/droi/dv/droi\\_20100125\\_33fsosce\\_/droi\\_20100125\\_33fsosce\\_en.pdf](https://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/droi_20100125_33fsosce_/droi_20100125_33fsosce_en.pdf) (accessed February 3, 2023).

<sup>495</sup> OSCE Office for Democratic Institutions and Human Rights, "Guidelines on the Protection of Human Rights Defender," June 10, 2014, <https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders> (accessed February 3, 2023).

- national protection mechanisms<sup>496</sup> for human rights defenders established in Brazil,<sup>497</sup> Colombia,<sup>498</sup> and Mexico;<sup>499</sup>
- laws and policies on the protection of human rights defenders adopted by the governments of Brazil,<sup>500</sup> Burkina Faso,<sup>501</sup> Canada,<sup>502</sup> Colombia,<sup>503</sup> Côte d'Ivoire,<sup>504</sup> the Democratic Republic of the Congo,<sup>505</sup> Ecuador, Finland,<sup>506</sup> Honduras,<sup>507</sup>

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<sup>496</sup> For detailed analysis of protection mechanisms, see International Service for Human Rights, “National Protection,” <https://ishr.ch/defenders-toolbox/national-protection/> (accessed February 3, 2023).

<sup>497</sup> Decree No. 6044 of 2007, adopted February 12, 2007, [https://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2007/decreto/d6044.htm](https://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6044.htm) (accessed February 3, 2022); and Decree No. 9937 of 2019, adopted July 24, 2019, [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2019-2022/2019/Decreto/D9937.htm](http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2019/Decreto/D9937.htm) (accessed February 3, 2022).

<sup>498</sup> Decree 4065 of 2011, adopted October 31, 2011 and Decree 4912 of 2011, adopted December 26, 2011 <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=84635> (accessed February 3, 2022).

<sup>499</sup> Law for the protection of human rights defenders and journalists of 2012 and its Bylaw, adopted on April 30, 2012, establishing a comprehensive protection mechanism for human rights defenders, [https://www.oas.org/juridico/PDFs/mesicic5\\_mex\\_ane\\_12.pdf](https://www.oas.org/juridico/PDFs/mesicic5_mex_ane_12.pdf) and [https://ishr.ch/sites/default/files/documents/reglam\\_de\\_la\\_ley\\_para\\_la\\_proteccion\\_de\\_personas\\_defensoras\\_.pdf](https://ishr.ch/sites/default/files/documents/reglam_de_la_ley_para_la_proteccion_de_personas_defensoras_.pdf) (accessed February 3, 2022).

<sup>500</sup> Decree No. 6044 of 2007, adopted February 12, 2007, [https://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2007/decreto/d6044.htm](https://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6044.htm) (accessed February 3, 2022); and Decree No. 9937 of 2019, adopted 24 July 2019, [https://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2007/decreto/d6044.htm](https://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6044.htm) (accessed February 3, 2022).

<sup>501</sup> Law N° 039-2017/AN, on the Protection of Human Rights Defenders, adopted June 27, 2017.

<sup>502</sup> Government of Canada, “Voices at Risk: Canada’s Guidelines on Supporting Human Rights Defenders,” [https://www.international.gc.ca/world-monde/issues\\_development-enjeux\\_developpement/human\\_rights-droits\\_homme/rights\\_defenders\\_guide\\_defenseurs\\_droits.aspx?lang=eng](https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/human_rights-droits_homme/rights_defenders_guide_defenseurs_droits.aspx?lang=eng) (accessed February 3, 2023).

<sup>503</sup> Law 199 of 1995, adopted July 22, 1995, and Law 418 of 1997, adopted December 26, 1997, <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=6012> (accessed February 3, 2023) and <https://www.unidadvictimas.gov.co/sites/default/files/documentosbiblioteca/ley-418-de-1997.pdf> (accessed February 3, 2023).

<sup>504</sup> Law N° 2014-388 of June 20, 2014 on the promotion and protection of human rights defenders; Decree No. 2017-121 of February 22, 2017 on the modalities of application of Law No. 2014-388 of 20 June 2014 on the promotion and protection of human rights defenders and Council of Ministers decision of 20 October 2021; Inter-ministerial Order N°972/MJDH/MEMD/MIS of November 10, 2021 on the creation of the mechanism for the protection of human rights defenders, adopted on June 20, 2014; Decree adopted on February 22, 2017.

<sup>505</sup> Legislative protection in the DRC | ISHR

<sup>506</sup> Protecting Supporting Human Rights Defenders. Public Guidelines of the Foreign Ministry of Finland on the implementation of the European Union Guidelines on Human Rights Defenders. November 27, 2014. [protecting\\_and\\_supporting\\_human\\_rights\\_defenders\\_\\_\\_public\\_guidelines\\_of](#)

<sup>507</sup> Law for the Protection of the Defenders of Human Rights, Journalists, Social Communicators and Judicial Officers of 2015 and its General by law, adopted May 2015.

Bylaw adopted on 16 August 2016. Honduras Report Attachments - Immigration and Refugee Board of Canada ([irb-cisr.gc.ca](http://irb-cisr.gc.ca))

- Ireland,<sup>508</sup> Mali,<sup>509</sup> Mexico,<sup>510</sup> Mongolia,<sup>511</sup> Norway,<sup>512</sup> Paraguay,<sup>513</sup> Peru,<sup>514</sup> Switzerland,<sup>515</sup> the UK,<sup>516</sup> and the US;<sup>517</sup>
- additional draft laws and policies under review by the government or in the consultation phase with civil society in Benin,<sup>518</sup> the Central African Republic,<sup>519</sup> Congo,<sup>520</sup> Guinea,<sup>521</sup> Kazakhstan, Madagascar,<sup>522</sup> Mexico,<sup>523</sup> Nepal,<sup>524</sup>

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<sup>508</sup> Department of Foreign Affairs, “Guidelines for Irish Embassies and Missions on Human Rights Defenders,” [https://www.humanrights.ch/cms/upload/pdf/150415\\_irish\\_hrd\\_guidelines\\_en.pdf](https://www.humanrights.ch/cms/upload/pdf/150415_irish_hrd_guidelines_en.pdf) (accessed February 3, 2023).

<sup>509</sup> Law N°2018-003, adopted January 12, 2018

<sup>510</sup> Law for the protection of human rights defenders and journalists of 2012 and its Bylaw, adopted on April 30, 2012, establishing a comprehensive protection mechanism for human rights defenders, [https://www.oas.org/juridico/PDFs/mesicic5\\_mex\\_ane\\_12.pdf](https://www.oas.org/juridico/PDFs/mesicic5_mex_ane_12.pdf) (accessed February 3, 2023) and [https://ishr.ch/sites/default/files/documents/reglam\\_de\\_la\\_ley\\_para\\_la\\_proteccion\\_de\\_personas\\_defensoras\\_.pdf](https://ishr.ch/sites/default/files/documents/reglam_de_la_ley_para_la_proteccion_de_personas_defensoras_.pdf) (accessed February 3, 2023).

<sup>511</sup> Law of Mongolia on the legal status of human rights defenders. Adopted April 1, 2021.

<sup>512</sup> Norwegian Ministry of Foreign Affairs, “Norway’s Efforts to Support Human Rights Defenders,” December, 2010 <https://www.regjeringen.no/contentassets/b7384abb48db487885e216bf53d30a3c/veiledningmrforkjengelskfin.pdf> (accessed February 3, 2023).

<sup>513</sup> Resolution 538/17: Security Protocol for journalists at great risk, adopted on June 22, 2017

<sup>514</sup> Protocol to guarantee the protection of human rights defenders in Perú of 2019, adopted April 25, 2019.

<sup>515</sup> Federal Department of Foreign Affairs, *Swiss Guidelines on the Protection of Human Rights Defenders*. (Geneva: Federal Department of Foreign Affairs, 2019), <https://www.eda.admin.ch/publikationen/en/eda/menschenrechte-humanitaeres-migration/Leitlinien-zum-Schutz-von-HRD.html> (accessed February 3, 2023).

<sup>516</sup> Foreign and Commonwealth Office, “UK Support for Human Rights Defenders,” July, 2019, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/819299/UK-Support-for-Human-Rights-Defenders.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819299/UK-Support-for-Human-Rights-Defenders.pdf) (accessed February 3, 2023).

<sup>517</sup> US Department of State, Democracy, Human Rights, and Labor, “Guidelines for U.S. Diplomatic Mission Support to Civil Society and Human Rights Defenders,” <https://www.state.gov/wp-content/uploads/2021/11/Human-Rights-Defenders-Guidance.pdf> (accessed February 3, 2023).

<sup>518</sup> Draft law on the Recognition, Promotion and Protection of Human Rights Defenders of Benin, <https://drive.google.com/file/d/1sc7rRvooFBQc4Zo1OjQuZeGAnIH6o9NF/view> (accessed July 27, 2022).

<sup>519</sup> Draft law on the Promotion and Protection of Human Rights Defenders, <https://drive.google.com/file/d/1JASCN8bu63p3Y6aACmFcV6xXKDapJoGb/view> (accessed July 27, 2022).

<sup>520</sup> Democratic Republic of Congo, Proposed law on the protection and responsibility of human rights defenders, January 1, 2022, <https://ishr.ch/defenders-toolbox/national-protection/democratic-republic-of-the-congo/> (accessed February 3, 2023).

<sup>521</sup> “National Protection: Guinea,” International Service for Human Rights. <https://ishr.ch/defenders-toolbox/national-protection/guinea/> (accessed February 3, 2023).

<sup>522</sup> Draft law on the Recognition and Protection of Human Rights Defenders, <https://drive.google.com/file/d/13bLYooMVfZVNa8bHdyR97mbfQvXqal/view> (accessed July 27, 2022).

<sup>523</sup> Law for the protection of human rights defenders and journalists of 2012 and its Bylaw, adopted April 30, 2012, establishing a comprehensive protection mechanism for human rights defenders, [https://www.oas.org/juridico/PDFs/mesicic5\\_mex\\_ane\\_12.pdf](https://www.oas.org/juridico/PDFs/mesicic5_mex_ane_12.pdf) (accessed February 3, 2023) and [https://ishr.ch/sites/default/files/documents/reglam\\_de\\_la\\_ley\\_para\\_la\\_proteccion\\_de\\_personas\\_defensoras\\_.pdf](https://ishr.ch/sites/default/files/documents/reglam_de_la_ley_para_la_proteccion_de_personas_defensoras_.pdf) (February 3, 2023).

<sup>524</sup> “National Protection: Nepal,” International Service for Human Rights. <https://ishr.ch/defenders-toolbox/national-protection/nepal/> (accessed February 3, 2023).

Niger,<sup>525</sup> the Philippines,<sup>526</sup> Senegal,<sup>527</sup> Sierra Leon,<sup>528</sup> Togo,<sup>529</sup> Uganda,<sup>530</sup> and Zambia.<sup>531</sup>

Despite this global trend toward increasing visibility and protection for human rights defenders, LBQ+ activists interviewed for this report reported several risks related to their work as human rights defenders, barriers to being recognized as such, and access to these protection frameworks. Interviewees explained that if the international community, including donors, does not properly understand and recognize what constitutes LBQ+ human rights work and the risks LBQ+ defenders face for leading social movements, LBQ+ human rights defenders will continue to struggle with accessing funding, protection mechanisms, and other forms of needed services and support.

This report has identified three key challenges to the protection of LBQ+ human rights defenders: risks related to their intersectional work and identities; their lack of international visibility and perceived legitimacy; and lack of funding.

Future research is needed into the specific types of violence experienced by LBQ+ human rights defenders in a range of human rights movements, with particular attention paid to how gendered economic marginalization, the siloing of human rights funding, and LBQ+ activists' lack of access to international networks of support impacts their safety and sustainability as movement leaders.

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<sup>525</sup> Draft law on the Rights and Responsibilities of Human Rights Defenders, <https://drive.google.com/file/d/10xJxRrpTMBztYlgJDURsq4QhzmAftNW5/view> (accessed July 27, 2022).

<sup>526</sup> "National Protection: Philippines," International Service for Human Rights. <https://ishr.ch/defenders-toolbox/national-protection/philippines/> (accessed February 3, 2023).

<sup>527</sup> For information on civil society efforts to advance a human rights defender protection law, see International Service for Human Rights, "Sénégal | Vers une meilleure protection des défenseur.es des droits humains?" April 13, 2021 <https://ishr.ch/fr/actualites/senegal-vers-une-meilleure-protection-des-defenseur-es-des-droits-humains/> (accessed February 3, 2023).

<sup>528</sup> The Human Rights Defenders Bill 2017, <https://drive.google.com/file/d/1LSZkyCst5E8lUzQyf9yZRl1JokpMn1wB/view> (accessed July 27, 2022).

<sup>529</sup> Draft law on the Promotion and Protection of Human Rights Defenders of Togo <https://drive.google.com/file/d/1yABwKGR3wwqrIngQdBrr8eXTP7JTFZjg/view> (accessed July 27, 2022).

<sup>530</sup> Draft law, The Human Rights Defenders Protection Bill, 2018, <https://drive.google.com/file/d/1O76qSF8vZlCtF2TyGrjHQL4xNrD4pPHX/view> (accessed July 27, 2022).

<sup>531</sup> "National Protection: Zambia," International Service for Human Rights. <https://ishr.ch/defenders-toolbox/national-protection/zambia/> (accessed February 3, 2023).

## Amani's Story, Tunisia

Amani is a 27-year-old Lebanese-Tunisian lesbian activist, queer feminist, and woman human rights defender in Tunisia. She leads writing therapy workshops for people who have experienced trauma, human rights violations, and discrimination and for members of the queer community who have depression.

In 2021, police physically assaulted Amani. One of her ribs was broken, and she spent three days in the hospital.

I got beaten by police in a protest for an arrested human rights defender Rania Amdouni in 2021, and they broke one of my ribs. They were pushing us, they brought the baton and one of them beat me [with it]. I fell down and they stepped on my chest and kept kicking me. I was in the hospital for three days. I couldn't go to the public hospital because I didn't have social security due to lacking a work contract.<sup>532</sup>

Since the attack, the police have followed and stopped her three times on the street; each time, she was taken to a police station for questioning. She told Human Rights Watch that because she is a woman, the police have an “easy way” to harass her by asking if she ran away from home and if her family is looking for her, which is a gendered line of questioning that speaks to women's lack of freedom of movement and the control many families have over women (See more of Amani's case in Section VII. “Freedom of Movement and The Right to Appear”). During those instances of police harassment, police often touched her short hair and arm tattoos, demanding to know why she did not present as more feminine.

You get humiliated and yelled at. “Why do you have a tattoo, why is your hair cut in this way.” They gesture to and touch my hair, saying “you don't look like a girl.” There is a sense of “you want to be a man, like us.” They feel threatened. Masculinity is theirs. You can't just show signs of strength. It is them who should hold this power and all over everyone. You should be the feminine, nice, desirable body to look at and entertain.<sup>533</sup>

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<sup>532</sup> Human Rights Watch video interview with Amani, queer activist, Tunisia. July 15, 2022.

<sup>533</sup> Ibid.

Whenever they stopped her, they took her to the police station, where officers sexually harassed her.

Amani's biggest fear is that police will take her phone and find evidence of her LGBT activism.

If they accessed my phone and saw anything queer, they could take me to prison for three years. This is a risk, but honestly, I have to be at protests supporting other queer women because we only have each other ....

I'm also writing a semi-biographical book. We don't have enough women or feminist or queer writers. The visibility is so much for queer men in Tunisia. The queer community is marginalized, but queer feminists are [further] marginalized within this [queer space]. I want to show young queer women they are not alone. Homosexuality is punishable by three years here, so it is a risk to write. Homosexuals have special places in the prisons where they are raped by prisoners and policemen, and everyone sees it as a kind of 'conversion therapy.' Policemen can come to rape you to make you straight again, apparently. They do virginity tests for women and anal [exams] for men. They violate every human dignity. You don't feel you own your love life or body. They own it.

But I need queer girls to know they aren't freaks. So, I'm writing this book.<sup>534</sup>

Amani's experience is a layered one: she is targeted because she is queer and masculine-presenting; she is also at risk of threats and attacks as a lesbian activist, and legally precarious due to anti-LGBT laws; she is further at-risk of being discriminatorily stopped and harassed on the street for being a woman outside of her family's hometown, and repeatedly accused by police of running away.

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<sup>534</sup> Ibid.



## Intersectional Risks

On April 14, 2022, two unidentified individuals teargassed Olena Shevchenko, woman human rights defender and chairperson of a Ukrainian LGBT organization, on the streets of Lviv while she was delivering humanitarian aid.<sup>535</sup> Although the attack received widespread media and international attention, most coverage did not mention that Shevchenko had been the victim of a similar attack by two men on the street in Kyiv almost two years prior, long before the Russian invasion.<sup>536</sup> LBQ+ activists responding to the humanitarian crisis created by the Russian military assault on Ukraine face risks not only due to armed conflict that impact every aspect of their work and lives, but also due to their sexuality; the two cannot be decoupled.<sup>537</sup> This underscores the need for the media and other stakeholders to contextualize attacks that may be identity-based.

At least two international documents on human rights defenders have specifically addressed the risks facing LBQ+ human rights defenders, albeit briefly.

A 2019 report from the UN special rapporteur on human rights defenders found that “young lesbian defenders have been incarcerated and forced to undergo treatment to ‘correct’ their homosexuality” and that “gender ideology” is positioned as the attempt by defenders of the human rights of LGBT persons and those of other diverse orientations and gender identities, and by feminists, to destabilize the political and social order. This “gender ideology” rhetoric is thus used to shape political outcomes and justify discrimination.<sup>538</sup>

The EU Toolkit on Women Human Rights Defenders (2020) mentions the fear of non-heteronormativity, finding:

Based on their sexual orientation or gender identity, lesbian, bisexual, transgender and intersex (LBTI+) WHRDs [women human rights defenders]

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<sup>535</sup> “Woman Human Rights Defender Olena Shevchenko Tear Gassed in Lviv,” *Front Line Defenders*, April 14 2022, <https://www.frontlinedefenders.org/en/case/woman-human-rights-defender-olena-shevchenko-tear-gassed-lviv> (accessed February 3, 2023).

<sup>536</sup> “Ukrainian LGBTQ Activist Attacked,” *RFSL*, November 4, 2019, [www.rfsl.se/en/aktuellt/ukrainian-lgbtq-activist-attacked/](http://www.rfsl.se/en/aktuellt/ukrainian-lgbtq-activist-attacked/) (accessed February 3, 2023).

<sup>537</sup> Matthew Mpoke. “L.G.B.T.Q. Activists in Ukraine Share the Fight against Russia’s Invasion,” *The New York Times*, March 17, 2022, [www.nytimes.com/2022/03/17/world/russia-ukraine-queer-activists.html](http://www.nytimes.com/2022/03/17/world/russia-ukraine-queer-activists.html) (accessed February 3, 2023).

<sup>538</sup> UN Human Rights Council, Situation of women human rights defenders: report of the Special Rapporteur on the Situation of Human Rights Defenders, A/HRC/40/60, January 10, 2019, <https://digitallibrary.un.org/record/1663970#record-files-collapse-header> (accessed February 3, 2023).

also face discrimination in employment, health care, education, housing, social protection and legal gender recognition, and restrictions on freedoms of expression, association and assembly. LBTI+ women's very existence is an affront to heteronormative power structures which privilege cisgendered, straight, male-led family units, and the visibility of these women as activists often increases the likelihood of experiencing violence or discrimination based on their now public sexual identities.<sup>539</sup>

Women human rights defenders, including those who are LBQ+, face attacks, even killings, defamation, and smear campaigns that are particularly gendered (relying on gender stereotypes), sexualized, and intersectional in an attempt to limit their work.<sup>540</sup> The 2019 report from the UN special rapporteur on human rights defenders found that “young lesbian defenders have been incarcerated and forced to undergo treatment to ‘correct’ their homosexuality,” and that the term “lesbian” is itself used as a derogatory, defamatory slur for women human rights defenders in general:

Sexuality baiting is a tactic commonly used to attack women defenders. Comments and insinuations about their sexuality, sexual orientation and reproductive or marital status are used to discredit their work. They are falsely accused of being promiscuous or engaging in prostitution. They are referred to derogatorily as “divorcees” or “lesbians”.<sup>541</sup>

In a 2022 joint statement, two UN experts<sup>542</sup> identified the types of human rights violations and abuses endured by LGBT human rights defenders:

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<sup>539</sup> Front Line Defenders, “Toolkit for the European Union on Women Human Rights Defenders.”

<sup>540</sup> Rothschild, Cynthia, *Written Out: How Sexuality is Used to Attack Women's Organizing*.

<sup>541</sup> UN Human Rights Council, Situation of women human rights defenders: report of the Special Rapporteur on the Situation of Human Rights Defenders.

<sup>542</sup> The UN independent expert on protection against violence and discrimination based on sexual orientation and gender identity and the UN special rapporteur on the situation of human rights defenders issued the statement. See: UN Office of the High Commissioner on Human Rights, UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity and UN Special Rapporteur on the situation of human rights defenders, “Defenders of the human rights of LGBT persons constantly at risk, warn UN experts,” March 24, 2022, <https://www.ohchr.org/en/statements/2022/03/defenders-human-rights-lgbt-persons-constantly-risk-warn-un-experts> (accessed February 3, 2023).

LGBT HRDs are regularly attacked physically, arbitrarily arrested and detained, their homes and offices frequently raided and broken into, and they are the subject of intense smear campaigns. Between 2015 and 2019, the OHCHR tracked at least 45 killings of human rights defenders working for sexual orientation and gender identity rights - most of them happened in Latin America and the Caribbean (A/HRC/46/35). Impunity for attacks persists and stigmatising statements made by public officials creates an environment conducive to violence against SOGI defenders.<sup>543</sup>

Much of the available research and reporting on attacks against “LGBT HRDs,” as with the OHCHR report referenced above, covers violence against those who are advocating explicitly for LGBT rights, as they are normatively constructed.<sup>544</sup> However, LBQ+ activists work in a wide range of human rights areas, not just those traditionally classified as LGBT rights or women’s rights. Interviewed for this report, for example, were LBQ+ activists working on rights related to conflict and humanitarian crises (including asylum seekers, refugees, and international justice), disability, health, labor, land, migration, poverty, racial justice, and indigenous peoples. Many did not identify as “women’s rights” or “LGBT rights” activists. This underscores the need to recognize LBQ+ human rights defenders not only as people who work on LBQ+ rights, but also as activists who work on a range of human rights that may or may not be LBQ+-specific. This type of intersectional understanding already exists for women human rights defenders, who OHCHR defines as “all women and girls working on any human rights issue.”<sup>545</sup>

The strong presence and leadership of LBQ+ activists across many human rights movements puts them at risk of threats and attacks particular to those movements in addition to SOGIE-based ones. While risks to women’s rights defenders and LGBT rights defenders have been explored in various reports, further investigation is needed into the SOGIE-related risks faced by human rights defenders *not* explicitly working on LGBT rights. Our interviews particularly highlighted intersectional risks to LBQ+ land, environmental, and indigenous rights defenders and LBQ+ disability rights defenders and the need to

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<sup>543</sup> *ibid.*

<sup>544</sup> See Section I. Background, for analysis of rights commonly conceptualized as LGBT rights.

<sup>545</sup> UN Office of High Commissioner on Human Rights, “Women human rights defenders,” <https://www.ohchr.org/en/women/women-human-rights-defenders> (accessed February 3, 2023).

ensure the adoption of an intersectional lens to these human rights defenders and their work.

### *Land, Environmental, and Indigenous Rights Defenders*

Queer land, environmental, and Indigenous peoples' rights activists are leading radical movements for human rights and justice globally, but the risks they face for doing so are under-documented. Given the recent global focus on the killings of land and environmental rights defenders more generally, the human rights defender protection space could be strengthened by research and analysis into how SOGIE plays a role in the large number of attacks perpetrated against these defenders, and how homophobia within their own communities precludes them from reporting acts of violence against them.<sup>546 547 548 549</sup>

The Human Rights Defenders Memorial Project, which is a collaborative eight NGOs documenting the killing of human rights defenders around the world, reported 358 activists killed in 2021.<sup>550</sup> As with most other years on record, usually the majority of those killed worked on land, environmental, and indigenous rights: 59 percent in 2021,<sup>551</sup> 69 percent in 2020,<sup>552</sup> 40 percent in 2019,<sup>553</sup> 77 percent in 2018,<sup>554</sup> and so on. The extreme risks faced by land and environmental rights defenders—who, in many countries, confront a web of corporations, private security companies, extractive industries, and rampant corruption—are well-documented. However, a gap persists in documenting and making

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<sup>546</sup> Billy-Ray Belcourt and Lindsay Nixon “What Do We Mean by Queer Indigenous Ethics?,” *CanadianArt*, <https://canadianart.ca/features/what-do-we-mean-by-queerindigenousethics/> (accessed February 3, 2023).

<sup>547</sup> Samuel Rutter and Caitlin Youngquist, “10 Queer Indigenous Artists on Where Their Inspirations Have Led Them,” *New York Times Style Magazine*, <https://www.nytimes.com/2021/04/23/t-magazine/queer-indigenous-artists.html> (accessed February 3, 2023).

<sup>548</sup> The Zapatista Women, “Letter from the Zapatista Women to Women in Struggle Around the World,” February, 2019, <https://enlacezapatista.ezln.org.mx/2019/02/13/letter-from-the-zapatista-women-to-women-in-struggle-around-the-world/> (accessed February 3, 2023).

<sup>549</sup> The Red Nation, “Indigenous Feminism Does Not Discriminate,” June 6, 2019, <https://drive.google.com/file/d/1tycsCkFU7qmj-BA8-SB-pTxozqxAoic/view> (accessed February 3, 2023).

<sup>550</sup> Front Line Defenders, *HRD Memorial Report 2021* (Dublin: Front Line Defenders, 2022), [https://www.frontlinedefenders.org/sites/default/files/hrd\\_memorial\\_2021\\_report\\_final.pdf](https://www.frontlinedefenders.org/sites/default/files/hrd_memorial_2021_report_final.pdf) (accessed February 3, 2023).

<sup>551</sup> *Ibid*

<sup>552</sup> *Front Line Defenders Global Analysis 2020*. Front Line Defenders. February 9, 2021. [https://www.frontlinedefenders.org/sites/default/files/flid\\_global\\_analysis\\_2020.pdf](https://www.frontlinedefenders.org/sites/default/files/flid_global_analysis_2020.pdf)

<sup>553</sup> Front Line Defenders, *Global Analysis 2019* (Dublin: Front Line Defenders, 2020) [https://www.frontlinedefenders.org/sites/default/files/global\\_analysis\\_2019\\_web.pdf](https://www.frontlinedefenders.org/sites/default/files/global_analysis_2019_web.pdf) (accessed February 3, 2023).

<sup>554</sup> Front Line Defenders, *Global Analysis 2018* (Dublin: Front Line Defenders, 2019), [https://www.frontlinedefenders.org/sites/default/files/global\\_analysis\\_2018.pdf](https://www.frontlinedefenders.org/sites/default/files/global_analysis_2018.pdf) (accessed February 3, 2023).

visible how *queer* communities are among those fighting for the land rights, environmental justice, and indigenous rights.

A review of nine reports specifically documenting attacks and killings of land and environmental rights defenders between 2002 and 2019 found no explicit mention of LGBT people, SOGIE, or queerness.<sup>555</sup> One mentioned “gender-specific threats” against women human rights defenders in the context of land and environmental activism:

Whilst the recorded killings against women appear lower, those who act and speak out may also face gender-specific threats, including sexual violence. Women often have a twin challenge: the public struggle to protect their land, water and our planet, and the often invisible struggle to defend their right to speak within their communities and families. In many parts of the world, women are still excluded from land ownership and discussions about the use of natural resources.<sup>556</sup>

Another similarly flagged rural and urban marginalized groups, indigenous peoples, women, and poor people defending their land rights as “groups [that] particularly lack the capacity and resources necessary to protect and defend their rights and face societal discrimination, which render their efforts as defenders even more difficult and perilous.”<sup>557</sup>

LBQ+ women leading movements for land, environmental, and indigenous rights face a wide range of violence perpetrated by mining companies and private security companies against indigenous communities in addition to lesbophobic other bias motivated attacks.<sup>558</sup> Among local organizers, immense strides have been made toward

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<sup>555</sup> “Land and environmental defenders: annual report archive,” *Global Witness*.

<https://www.globalwitness.org/en/campaigns/environmental-activists/land-and-environmental-defenders-annual-report-archive/> (accessed February 3, 2023).

<sup>556</sup> Global Witness, *Last Line of Defence*, (Global Witness: September 13, 2021),

<https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/> (accessed February 3, 2023).

<sup>557</sup> The International Federation for Human Rights (FIDH) and the World Organisation

against Torture (OMCT), “*We are not afraid*”: *Land rights defenders: attacked for confronting unbridled development*. (Paris: FIDH and OMCT, 2014) [https://www.fidh.org/IMG/pdf/obs\\_2014-uk-web2.pdf](https://www.fidh.org/IMG/pdf/obs_2014-uk-web2.pdf) (accessed February 3, 2023).

<sup>558</sup> See: The UN Permanent Forum on Indigenous Issues, Together We Achieve, August 19, 2016

<https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2016/08/Indigenous-Human-Rights-Defenders.pdf#:~:text=Indigenous%20human%20rights%20defenders%20face%20severe%20risks%2C%20as,are%20covered%20by%20State%20and%20non-State%20actors%20alike> (accessed February 3, 2023).

acknowledging and affirming the role of queer organizers in the defense of land, territories, and indigenous rights. For example, La Vía Campesina, a global collective of agricultural workers, rural women, indigenous communities, and peasant farmers from Africa, the Americas, Asia, and Europe has been working to deepen its focus on the unique challenges and risks faced by queer members of its movement.<sup>559</sup> In July 2021, July 2022, and November 2022, La Vía Campesina members in Brazil held the collective's first seminars on "sexuality and sexual diversity"<sup>560</sup> addressing the unique struggles and risks faced by queer, rural organizers, which built on conversations begun in 2017. Mário Manzi, an activist with the Pastoral Land Commission (CPT) highlighted some interventions from the convening:

Dê Silva, from the LGBTI Collective of Vía Campesina Brazil, ... talked about the historical challenges of occupying the political space and keeping an active participation there, defending the demands as LGBTI+ political subjects. She also expressed the need to deconstruct and demystify the various oppressions and stigmas that currently exist in the Brazilian countryside. Karen Oliveira, from Comunidade Cidadã Livre (Comcil), discussed the importance of creating networks where politics may flow and where any LGBTI+ person may be welcomed, as if it were in the family circle, as a child or a father/mother.

Adding to the topic, Fabíola Ocampo, from the group called "Mães pela Diversidade" from Rondônia, shared the story and the difficulties that she and her daughter had to face, and the relevance of being welcomed by their families and loved ones to defend the guarantees of LGBTI+ people. Braian, from Levante Popular da Juventude (PJR), a bisexual trans man, spoke

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<sup>559</sup> Vía Campesina, <https://viacampesina.org/en/> (accessed December 11, 2022).

<sup>560</sup> The Via Campesina, "LGBTI Collective initiates its seminar on sexual and gender diversity," July 13, 2021, <https://viacampesina.org/en/the-via-campesina-lgbti-collective-initiates-its-seminar-on-sexual-and-gender-diversity/> (accessed February 3, 2022); Brazil: Via Campesina, "La Via Campesina's LGBTI+ Seminar addresses diversity in the rural areas," July 27, 2022, <https://viacampesina.org/en/la-via-campesinas-lgbti-seminar-addresses-diversity-in-the-rural-areas/> (accessed February 2, 2023); **MST**, "Via Campesina realiza II Seminário Diversidade Sexual e Identidade de Gênero," November 3, 2022, <https://mst.org.br/2022/11/03/via-campesina-realiza-ii-seminario-diversidade-sexual-e-identidade-de-genero/> (accessed February 2, 2023).

about the transition process and highlighted the importance of family and territorial aspects for his acceptance process.<sup>561</sup>

Sofía, an indigenous land defender and queer woman in Mexico, told Human Rights Watch that homophobia and sexism within her own community and other indigenous communities with which she works, is also a source of risk and a barrier to reporting acts of violence she has experienced. She says that women and LGBT people who speak about discrimination, sexual assault, and other gendered violations within the community are accused of being “disturbers” of the indigenous land movement.

When we speak about gender rights in the [indigenous] territories, some of the men tell us it is a western concept, a colonial imposition. It is a tool to silence us because it’s false. It completely erases our ancestors who fought to resist colonial violence as women and as gender expansive people, who found comfort and security and love in other women. This affects LGBT defenders who have to endure and resist threats against their land, while being accused of being disturbers of the movement for talking about the rights of women and queer people.<sup>562</sup>

In Sofía’s feminist collective, the women, many of whom are queer, “take turns” attending land council meetings depending on which men will be in attendance such that women are never in the space with a man who raped or abused her. She told Human Rights Watch:

We rotate, based on whose rapist or abuser will be in attendance. Speaking of this violence in general feels impossible, given how much people revere our men who defend the land. For queer women, it is impossible. Who can we report to, the state, who is attacking our territories? There is nowhere to safely turn.

Sofía’s account points to the need for in-depth, community-based research into the gendered violence faced by LBQ+ activists defending the land, environmental, and

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<sup>561</sup> MST, “Seminário LGBTI+ da Via Campesina aborda diversidade no campo,” July 12, 2022, <https://mst.org.br/2022/07/12/seminario-lgbti-da-via-campesina-aborda-diversidade-no-campo/> (accessed February 2, 2023).

<sup>562</sup> Human Rights Watch video interview with Indigenous land defender Sofía Blanco, Mexico. August 8, 2022.

indigenous people's rights as well as to the many intersecting barriers to justice and care that LBQ+ survivors face. Numerous investigations<sup>563</sup> have found what Transparency International called the “systematic corruption” that “underpins the illegal logging, drug trafficking and land grabbing that leads to indigenous communities being dispossessed of their lands, deprived of their natural resources, and coming under continuous aggressions, threats, including even the assassination of community leaders.”<sup>564</sup> For this reason, and as Sofa notes, LBQ+ land defenders who experience sexual violence are unlikely to report the violation to a local police station, given the possibility that the state is implicated in the corrupt acquisition of their communities' land.<sup>565</sup>

Research led by LBQ+ indigenous people and supported by both local and international NGOs is needed to identify concrete steps to protecting LBQ+ indigenous people from the wide range of attacks they face as well as to address the immense barriers to accessing justice and safely leading their movements.<sup>566</sup> In the short term, donors should ensure they fund LBQ+-led movements that focus on land, environmental, and indigenous rights defenders. This will ensure that LBQ+ activists are not forced to align with male-led movements in which they do not feel safe, supported, or valued, and at the same time provide them with the resources to engage strategically with more mainstream movements for land and environmental justice, when and how they choose.<sup>567</sup>

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<sup>563</sup> See for example: “Brazil: Indigenous Rights Under Serious Threat,” Human Rights Watch news release, August 9, 2022, <https://www.hrw.org/news/2022/08/09/brazil-indigenous-rights-under-serious-threat>; “Defending land and lives: Indigenous peoples fighting back against discriminatory corruption,” *Transparency International*, August 6, 2021, <https://www.transparency.org/en/blog/indigenous-world-day-corruption-discrimination-peru-guatemala> (accessed February 3, 2022).

<sup>564</sup> “Defending indigenous communities from the deadly effects of corruption,” *Transparency International*, October 2 2020, <https://www.transparency.org/en/blog/defending-indigenous-communities-from-the-deadly-effects-of-corruption> (accessed February 3, 2022).

<sup>565</sup> Ibid.

<sup>566</sup> The Count Me In! consortium published two documents with talking points for governments and national, regional, and international civil society organizations outlining necessary support of women land defenders. The document does not explicitly address LBQ+ people, but does call on both investigators and governments to ensure that protection mechanisms are established, stating these are “vital for the safety of women, particularly those in indigenous and land-based communities opposing extractive development.” See: Count Me In! *Public Investors and WHRDS: Responsibility, Rights and Resistance*, [https://www.mamacash.org/media/cmi\\_/cmi\\_\\_extractives\\_talking\\_points/government\\_talking\\_points\\_english\\_6.pdf](https://www.mamacash.org/media/cmi_/cmi__extractives_talking_points/government_talking_points_english_6.pdf) (accessed February 3, 2023).

<sup>567</sup> Human Rights Watch video interview with queer woman and Indigenous land defender Sofía Blanco, Mexico, August 8, 2022.



Future international research into the rights, risks, and challenges faced by LBQ+ activists within land, environmental, and indigenous rights struggles should also build on the creative, thoughtful work already being pursued by collectives such as La Via Campesina and seek to bridge the gap between these various strands of research and documentation.

### *Disability Rights Defenders*

Disability rights defenders have received markedly little visibility compared with other activist groups since the adoption of the UN Declaration on Human Rights Defenders in 1998. And within various movements for disability rights and justice, queer activists have written extensively about the need for research, advocacy, and movement-building that investigates the particular impact of ableism on queer people and of lesbophobia and transphobia on people with disabilities.

Events for the LGBTQIA+ community are wonderful, but when we look closer it becomes clear that they're often inaccessible. Pride routes aren't mapped out with wheelchair users in mind, for example, or Queer outreach videos aren't captioned. When we forget to include the disabled community in LGBTQIA+ spaces, we are effectively telling them that they don't belong here.

On the flip side of the coin, outreach for disabled individuals faces a similar issue. Seeing an increase in disabled initiatives is, of course, also great, but it's often both hetero- and cis- normative. Maybe a company says they are committed to employing more disabled people, but we see limiting gender identities on application forms. The "gender" field frequently gives us just two, binary options.<sup>568</sup>

Therefore, human rights defenders who are both LBQ+ and living with disabilities are often forced to prioritize or privilege one aspect of their identity over another. One such individual wrote:

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<sup>568</sup> Naomi Smart, "The Dangers of Putting People into Boxes," *Unite UK*, January 13, 2021, <https://uniteuk1.com/2021/01/the-dangers-of-putting-people-into-boxes/> (accessed February 3, 2022).

For years, I didn't think that these were relevant to one another. I didn't consider that they could overlap in any way...after all, one is my sexuality, discussed in LGBTQIA+ conversations, and [my experience as a deaf person] sits in the "disability" space.... It was like wearing a different outfit depending on the occasion.<sup>569</sup>

Despite the "different outfits" they are forced to wear in different rights spaces, there are strong, clear linkages between the violence and discrimination faced by LBQ+ human rights defenders and human rights defenders with disabilities, namely the concept of infantilization discussed elsewhere in this report (see Section III. "Forced Marriage and Compulsory Heterosexuality"). As highlighted in Section III, LBQ+ women's "failure" or refusal to marry men and participate in what queer theorists call "straight time" exposes them to a lifetime of infantilization. For example, Liliya, age 39, noted that her family still "saw her as a child" after she divorced her husband and did not remarry.

Dismantling the infantilization of people with disabilities is a central organizing principle of disability rights advocates, who demand the right to make decisions about their own lives.<sup>570</sup> According to a disability rights organization in Kolkata, India:

Our society has a tendency of considering Person with Disabilities [PwDs] as people who are not capable enough, dependent upon others, deserving of pity etc.... PwDs are regarded as not just less than others but less than their own age as well.....

The many ways through which we engage in infantilization consciously or sub-consciously include baby talking, addressing the able-bodied caretaker and not the person with disability him/herself, assuming a person to be dependent and taking decisions on their behalf ...

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<sup>569</sup> "Queer + Disabled: Exploring disabilities within the LGBTQ+ Community," *Unite UK*, November 23 2020, [https://uniteuk1.com/2020/11/queer\\_disabled/](https://uniteuk1.com/2020/11/queer_disabled/) (accessed February 3, 2022).

<sup>570</sup> "Everyone Deserves the Right to Make Decisions About Their Lives," Human Rights Watch news release, July 20, 2022. <https://www.hrw.org/news/2022/07/20/everyone-deserves-right-make-decisions-about-their-lives>.

[Infantilization of a person with disabilities] has far-reaching consequences for the person who is subjected to this kind of behaviour.<sup>571</sup>

People with disabilities frequently exist in legal systems that do not recognize their full legal capacity and right to supported decision-making in accordance with international human rights law, although there are legal reforms underway in some countries.<sup>572</sup> However, the queer dimension of problematic substitute decision-making models, like guardianships or conservatorships, require further exploration.

LBQ+ activists with disabilities are infantilized by a web of sexist, male-centric, and ableist systems that fail to recognize their right to make decisions about their own lives. For human rights defenders who are both LBQ+ and living with disabilities, these barriers multiply the visibility and legitimacy struggles that all LBQ+ human rights defenders confront. Future research should examine how intersecting systems of oppression uniquely target LBQ+ human rights defenders with disabilities and discriminatorily harm their activism.

## Visibility and Perceived Legitimacy

In addition to the intersectional risks they face, a second key barrier to the protection of LBQ+ human rights defenders is the lack of visibility, legitimacy, solidarity, and international support their work receives, including from LGBT NGOs. In fact, several LBQ+ defenders interviewed reported being hyper-scrutinized or viewed with a sense of suspicion or illegitimacy by international organizations for lacking strong connections to mainstream LGBT organizations in their countries.

In May 2022, Ireen Luwasa, a lesbian woman in Malawi, contacted Human Rights Watch to report that she had been attacked as a result of her visible human rights activities.<sup>573</sup> At that time, Luwasa was an LBQ+ rights defender and the Executive Director of Voices of Lesbians, an organization promoting the rights of LGBT people in Malawi. Voices of

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<sup>571</sup> “Infantilizing Disability – PwDs may not be able-bodied but they are not children either,” Discover A New Dawn (DAND), August 28, 2021, <https://www.dandability.org/infantilizing-disability-pwds-may-not-able-bodied-not-children-either/> (accessed February 2, 2023).

<sup>572</sup> See, for example: “Everyone Deserves the Right to Make Decisions About Their Lives,” Human Rights Watch news release, July 20, 2022, <https://www.hrw.org/news/2022/07/20/everyone-deserves-right-make-decisions-about-their-lives>

<sup>573</sup> Human Rights Watch phone interview with women’s rights activist Ireen Luwasa, Malawi, June 8, 2022.

Lesbians began as a set of queer-informed anti-trafficking programs that brought together feminists from across Malawi to address trafficking in women and girls, with a rare focus on the unique vulnerabilities of queer women and girls. “Child trafficking and [sexual exploitation of women] is an issue in our areas, and some of these victims are LBQ+ girls and women. We needed better programs and education to address that piece,” Luwasa told Human Rights Watch.

On May 26, 2022, Luwasa was walking home from an LGBTI rights workshop when a group of men began to follow her. The men shouted homophobic slurs at her before physically attacking her, beating her for about 30 minutes. She told Human Rights Watch she went to a hospital that refused to treat her injuries until she went to the police station and filed a report. Consequently, she went to the police station, filed the police report, returned to the hospital for treatment, and slept at a friend’s house. The following day, police officers went to Luwasa’s home, but since she was not home, they arrested her mother. When she arrived at the station to find her mother, an officer took her into a small room. She told Human Rights Watch what happened next:

One of the officers warned me if I wouldn’t stop doing lesbian activities, someone in the district would end up killing me. [Because I have been] in the front of marginalized groups accessing health care, religious communities have been saying that my human rights activities promote devilish activities. My life is under threat because I don’t have protection from the police or the public, and I need more support from other organizations.

Luwasa contacted different international NGOs, including Human Rights Watch, seeking support regarding her security concerns. As part of Human Rights Watch’s due diligence, we contacted sources to confirm Luwasa’s human rights work. The first two, who were “on the ground” gay male activists in Malawi, reported they had never heard of her. The second two sources, both international NGOs with strong connections to LGBTI movements globally, reported the same and that their contacts, including the gay men Human Rights Watch had initially reached out to, did not know Luwasa. Human Rights Watch then contacted a young queer activist in the capital who knew Luwasa, cited Voices of Lesbians without prompting, and had recently attended a women’s rights consultative gathering

aimed at addressing child trafficking and sexual exploitation in rural Malawi. This last activist's story matched Luwasa's, and Human Rights Watch then requested and received Voices of Lesbians' annual plan, donor reference, and photos of her recent anti-trafficking workshops. The international donor whose reference she provided also confirmed her work.

Luwasa's experience highlights some key challenges faced by LBQ+ human rights defenders seeking security support:

- She was not adequately connected with male-led LGBT organizations in the capital, which organizations in the human rights defenders protection space deemed suspicious.
- She did not know she needed to provide an annual plan, donor references, and photos of her organization's work when contacting international organizations for security support.
- She made identical requests for security support to multiple donors, not knowing that as donors in the human rights defenders protection space perceive identical requests to multiple donors—which they learn about by staying in close communication with each other about such requests—as fraudulent behavior, rather than a lack of capacity to tailor requests.

As discussed earlier in Section I. “Background” and later in Section XI. “Justice,” gendered linguistic and financial inequalities prevent LBQ+ women human rights defenders from submitting strong applications to funders; she provided the same text to many donors due to the lack of time, money, and formal education required to draft several, tailored versions of the same request.

## Funding

A third key barrier to the efforts of LBQ+ human rights defenders, as detailed in *Vibrant Yet Underfunded*, are the persistent demands they receive from donors to silo their work into predetermined funding categories.<sup>574</sup> A resounding call from the interviews we conducted is the need to fund LBQ+-led movements, organizations, and collectives, without dictating

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<sup>574</sup> Saleh, L. and Sood, N., *Vibrant Yet Under-Resourced: The State of Lesbian, Bisexual, and Queer Movements*.

exactly how they do their work and who their support goes to. Specifically, activists called for two forms of support:

1. Funding for LBQ+-led movements that are working on apparently “non-SOGIE” issues, such as land and environmental rights, or humanitarian crises, in which it makes neither political, practical, nor security sense to insist that the funding they receive only be used to support other queer people. (See Danai’s experience below.)
2. Funding for LBQ+-led movements that are working specifically to support and protect the rights of LBQ+ communities. For such organizations, demands from donors to support broader populations (to fit neatly into “LGBT rights” funding streams) deny the specificities of the LBQ+-focused work they do, and dilute their ability to respond to LBQ+ victims of human rights violations. (See Ilaria’s experience with EL\*C below).

Danai, a queer activist from Poland who works within and across several grassroots human rights movements, told Human Rights Watch that she particularly struggles with LGBT donors and international partners who “only want to fund gay projects, which doesn’t match the way we work.”<sup>575</sup> In the context of the Russian war in Ukraine and related humanitarian relief efforts, in which Danai is active, she explained:

Donors need to fund queer women doing humanitarian work even when our “target population” is not specifically gay people affected by the humanitarian disaster. It’s of course absurd to demand we only hand out food to gay people. But beyond that, funding our work now [in the context of the Russian war in Ukraine] builds and sustains connections between activists that are foundational to other movements, namely abortion and LGBT rights. Funding our work now, helping us demonstrate how critical we are to the humanitarian efforts, builds legitimacy for the role of queer women in society. It allows for the manifestation of our political beliefs at the practical level. To insist we only serve gays would be radically counter-productive, bad for our reputations, and a logistical nightmare.

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<sup>575</sup> Human Rights Watch video interview with Danai Chondrokouki, queer activist, Poland, May 9 2022.

Plus, this type of work is central to how queer women understand ourselves. We may not be able to articulate why this is a queer project, and we shouldn't have to. The role of funders is to negotiate that gap.<sup>576</sup>

Meanwhile, working in the same crisis on the border between Poland and Ukraine, activists from the EuroCentralAsian Lesbian\* Community had a related but different problem. They said they experienced pressure from donors to *broaden* their work, and support the “LGBT community overall,” despite the demonstrated need for services to be available specifically to LBQ+ Ukrainians fleeing the country. EL\*C's Ilaria Todde told Human Rights Watch:

We had to convince donors that it would make sense to have support focused on LBT women. We worked in strict collaboration with Insight and Olena, organizing borders pick up and safe housing at the border receiving the refugees that managed to cross the border thanks to Insight and organizing a lesbian hosting network in the rest of Europe. For the lesbians that we helped in these months – more than 100 – the fact that support was offered to LBT women by LBT women was really important and the only way they could feel safe.

The lesson from both Ilaria and Dania is the same: fund LBQ+-led movements, without dictation of how and to whom they provide support, trusting in the political and humanitarian expertise of the LBQ+ movement leaders.

## Key Next Steps

States should:

- Adopt human rights defender protection and recognition laws that explicitly affirm the rights of LBQ+ human rights defenders.
- Establish human rights defender protection mechanisms, with staff trained on the specific risks and needs of LBQ+ human rights defenders, that are explicitly available to LBQ+ defenders and have dedicated supports in place for the physical, sexual, digital, and verbal threats received by LBQ+ defenders.

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<sup>576</sup> Ibid.

- Ensure LBQ+ human rights defenders who report attacks and threats to police are not sexually, physically, or verbally harassed or assaulted by officers, and that defenders are able to file incident reports without fear of retaliation.

Donors should:

- Reform restrictive funding requirements that an LBQ+-led project must serve populations that identify as LGBT. Allow LBQ+-led organizations and collectives to apply and receive funding for intersectional work in a range of human rights areas including women's rights; land, environmental, and indigenous rights; disability rights; migrant rights; housing and homelessness; right to health and health care access; and humanitarian aid.
- Ensure that funding for LBQ+ organizations include budget lines for human rights defender security, and explicitly ask local LBQ+ organizers what their risks and protection needs are.
- Security permitting, offer or cover the costs of physical spaces for LBQ+ human rights defenders to gather for meetings, training, community-building, and wellness, including the costs of secure transportation to these spaces.
- Support programs and services for LBQ+ well-being and psychosocial care, and explicitly ask local organizations what their mental health needs are.

Opportunities for LBQ+-centered research include:

- Analyze the intersectional risks faced by LBQ+ human rights defenders, particularly the role of SOGIE in the rampant killings of environmental, land, and indigenous rights defenders.
- Proactively engage LBQ+ leaders in determining concrete steps to address these risks and foreground their perspectives in any evidence-based recommendations.
- Analyze how multiple marginalized LBQ+ activists are attacked and infantilized as a result of varying types of discrimination, such as discrimination against people with disabilities and unmarried women, and how this serves as yet another barrier they must surmount to protect their communities and continue their human rights work.
- Explore the queer dimension of problematic substitute decision-making models, like guardianships or conservatorships.
- Analyze the specific types of violence experienced by LBQ+ human rights defenders in a range of human rights movements, LBQ+-rights focused or otherwise, including



how gendered economic marginalization, the siloing of human rights funding, and LBQ+ activist's lack of access to international networks of support impacts their safety and sustainability.

## XII. Justice

LBQ+ people face multiple systematic barriers to accessing justice, including those that women and non-binary people face more generally—such as discrimination based on gender in state and non-state institutions, limitations on their time and resources due to care responsibilities, and violations of their rights to education and freedom of movement—and those that LGBT people face more generally, such as a lack of lawyers trained and willing to work with queer communities, courts that discriminate against LGBT people and families, and a wide range of homophobic laws that make reporting to police a dangerous act.

In addition to facing both these sets of barriers, Human Rights Watch found five other hurdles to accessing justice that stem from a lack of: laws and policies protecting LBQ+ rights, documentation of anti-LBQ+ violence, understanding of what constitutes anti-LBQ+ violence, sustainable funding, and research into specific structural barriers.

### Lack of Legal Protection for LBQ+ People

First, there exists a critical lack of laws and policies specifically aimed at protecting LBQ+ women. At the international level, several global reports and toolkits produced over the past 15 years address women’s access to justice, including the CEDAW’s General Recommendation on access to justice (2015) and the “Toolkit on Women’s Access to Justice” developed by the United Nations Development Programme (UNDP), UN Women, the United Nations Office on Drugs and Crime (UNODC), and the Office of the High Commissioner for Human Rights (OHCHR).<sup>577</sup> LBQ+ obstacles to redress are mentioned, albeit briefly, in only one of these reports (the CEDAW General Recommendation):

Grounds for intersecting or compounded discrimination may include ethnicity/race, indigenous or minority status, colour, socioeconomic status and/or caste, language, religion or belief, political opinion, national origin,

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<sup>577</sup> “Progress of the World’s Women: In Pursuit of Justice.” UN Women. July 2011. <https://www.unwomen.org/en/digital-library/publications/2011/7/progress-of-the-world-s-women-in-pursuit-of-justice>; General recommendation No. 33 on women’s access to justice. UN. Committee on the Elimination of Discrimination against Women. August 3 2015. Available at: <https://digitallibrary.un.org/record/807253?ln=en>; “A Practitioner’s Toolkit on Women’s Access to Justice Programming.” United Nations Development Programme. May 8 2018. <https://www.undp.org/publications/toolkit-womens-access-justice>

marital and/or maternal status, age, urban/rural location, health status, disability, property ownership and identity as a lesbian, bisexual or transgender woman or intersex person. These intersecting factors make it more difficult for women from those groups to gain access to justice....

Women are also disproportionately criminalized owing to their situation or status, such as being involved in prostitution, being a migrant, having been accused of adultery, identity as a lesbian, bisexual or transgender woman or intersex person, having undergone an abortion or belonging to other groups that face discrimination.

The lack of international guidance is reflected at the regional and national levels.

## **Lack of Documentation of Anti-LBQ+ Violence**

Second, the lack of documentation of violence against LBQ+ women and trans men (as discussed throughout this report) has led to state and international justice systems that are not capable of recognizing anti-LBQ+ violence. There exists a cyclical kind of “which came first: the chicken or the egg” relationship between LBQ+ research gaps and LBQ+ barriers to accessing justice. These barriers both result from and directly influence “lesbian invisibility.”<sup>5</sup> (See the Section I. “Background” for a deeper discussion of lesbian invisibility.) Policy makers point to the general lack of documentation that LBQ+ women are subjected to unique forms of violence as a reason not to propose or support legislation protecting them. Conversely, the lack of laws and policies that specifically protect LBQ+ women disincentivizes human rights researchers—who often undertake their work with the express goal of proving that specific violations of international human rights law occurred (for example, that violations were perpetrated because of sexual orientation or gender identity)—from framing their investigations and recommendations to specifically highlight the role of LBQ+ sexuality. Due to the lack of laws and policies that explicitly name LBQ+ women as rights-holders and validate the unique forms of violence they face, researchers have fewer strategic incentives to investigate, analyze, and record the role of LBQ+ identity in a particular human rights violation or abuse.

To address this gap, there is a need for research that:

- broadens the gendered scope of what is considered anti-LGBT violence by explicitly including the experiences of queer women and non-binary people in reports on LGBT rights;
- broadens the scope of what is considered a women's rights violation by explicitly including the experiences of queer women in reports on women's rights;
- investigates LBQ+ people's experiences of violence against a broader population's experiences (for example, violence against women or violence against an ethnic minority) and analyzes how LBQ+ people's pre-existing structural marginalization impacts their experience of such "generalized" violence; and
- aims to document these specific violations with an aim of supporting advocacy for LBQ+-specific protection, including and especially in contexts and countries without such specialized laws.

## Lack of Understanding of What Constitutes Anti-LBQ+ Violence

Several LBQ+ activists, lawyers, and advocates reported that the human rights field's historic emphasis on the perpetrator's overt motive in identity-based crimes is a third barrier to justice for LBQ+ people. This obstacle also fuels the lack of documentation of anti-LBQ+ violence. Common conceptualizations of how to document and prosecute identity-based crimes require an often unattainable level of evidence that the perpetrator "knew" their victims were LBQ+ and committed an act of violence exactly *because* of the victim's LBQ+ identity. Instead, a more productive framework for pursuing justice for LBQ+ victims would be to interrogate if an act of violence against an LBQ+ person was perpetrated as a way of violently enforcing cisgender and heterosexual norms (for example, of hairstyle, dress, relationships, employment, travel patterns, or living arrangements); if so, the violence should be considered anti-LBQ+.

In other words, if the violence was demonstrably tied to a gender expression or lifestyle that subverts gender norms, researchers and advocates may state that the violence was perpetrated because of SOGIE regardless of any homophobic admissions by the perpetrator. Indeed, if we view sexual orientation, gender identity, and gender expression as equal component of SOGIE (as Section V in particular argues we ought to), then the policing of gender expression constitutes violence perpetrated based on SOGIE, not just violence demonstrably perpetrated against a sexual orientation.

As such, the promotion of justice requires not only the development of laws and policies that explicitly name and protect LBQ+ rights, but also the production of knowledge regarding the many intersecting forms of violence that LBQ+ women, non-binary people, and trans men face due to their gender expression and other components of their “non-normative” lives.

## Lack of Sustainable Funding

Fourth, LBQ+ people’s disproportionate inability to access donor support directly is yet another obstacle to justice. The overall financial situation of women endangers LBQ+ human rights defenders and activists, who have less access to emergency funds than their male counterparts to flee their city or country, hire lawyers, seek emergency accommodation, or hide during situations of increased risk.

Many groups of marginalized human rights defenders—including lesbians, women of color, and sex workers—develop partnerships with allied lawyers to train community members to become paralegals and accompany crime victims to police stations to ensure the full realization of their rights to file police reports, for example.<sup>44</sup> However, such partnerships require flexible, consistent funding, and LBQ+ organizations struggle to secure the necessary money. Without this financial support, LBQ+ activists, communities, and organizations remain at risk of being further abused, harassed, or assaulted and either face difficulties while attempting to access justice or are outright denied their right to do so.

## *Lack of Research into Specific Structural Barriers*

Fifth and finally, the consultations conducted for this report revealed several specific structural barriers that LBQ+ people face in accessing justice. Each requires in-depth, localized investigations that should (1) assess the nature and the extent of the barrier as well as how gender and sexuality intersect with other identity markers to produce further barriers to justice for *certain* LBQ+ people, and (2) make concrete, evidence-based recommendations to reform state and non-state institutions supporting victims of human rights violations and abuses.

According to the consultations, specific barriers for LBQ+ people to access justice that require future investigation include:

- **Local, national, and international systems established to address violence against women or violence against LGBT people often exclude the experiences of LBQ+ women.** These include reporting mechanisms, international bodies, and state institutions. UN bodies dedicated to women's rights, for example, have historically ignored homophobic laws and policies as a violation of women's rights. Positively, in March 2022, the Committee on the Elimination of Discrimination against Women issued its first decision affirming that anti-homosexual conduct laws violate women's rights, affording LBQ+ women full personhood under the convention for the first time.<sup>578</sup>
- **Illiteracy of women.** Two-thirds of the world's 750 million people without basic literacy skills are women.<sup>579</sup> Illiteracy makes filing legal claims significantly more difficult or impossible. It makes women detainees more vulnerable to signing false and forced confessions in detention. These barriers are multiplied for indigenous, occupied, and ethnolinguistically marginalized people who do not understand the official state language. Our interviews with LBQ+ activists showed that, due to the low rates of literacy of the members of their organizations or collectives, they enlisted the support of gay male colleagues and partner organizations when submitting written funding applications. This not only adds an intermediary, but also creates a risk of rejection: One activist reported that an LBQ+-led organization was refused funding because the donor was explicitly interested in funding *women* organizers, but a *male* colleague who supported the organization's fundraising had submitted the grant application.
- **Business and their human rights mechanisms, such as project stakeholder consultations and company-implemented whistleblower hotlines, largely exclude SOGIE considerations and the impact of development projects, extractive industries, environmental crimes, and labor rights violations on LGBT people.** Since these mechanisms do, however, frequently account for the protection of indigenous communities and human rights defenders, LBQ+ activists have emphasized those elements of their identities in complaint filings and reports, often at the expense of documenting how they have been impacted as

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<sup>578</sup> UN Office of the High Commissioner on Human Rights, "Sri Lanka: Criminalisation of same-sex sexual activity breached rights of a LGBTI activist, UN women's rights committee finds," March 23, 2022, <https://www.ohchr.org/en/press-releases/2022/03/sri-lanka-criminalisation-same-sex-sexual-activity-breached-rights-lgbti> (accessed February 3, 2023).

<sup>579</sup> UNESCO, "Gender equality and education: From access to empowerment," <https://www.unesco.org/en/gender-equality/education> (accessed December 18, 2022).

queer people.<sup>580</sup> Additionally, in some contexts, low rates of literacy can impede LBQ+ women attempting to use the whistleblower system of foreign company complicit in rights abuses

- **Care responsibilities in family and social structures create practical and emotional barriers for LBQ+ women in deciding to report violations and abuses, leave their family, and relocate after an attack.**<sup>581</sup> Practical considerations in relocating with children include custody issues, school enrollment issues, and financial costs, which frequently cannot be defrayed by relocation funding because it often does not cover families. And the LBQ+ person must grapple with the shame, stigma, and guilt associated with being a woman, mother, daughter, or sister who leaves their family.
- **Media coverage of killings of LBQ+ people that erase their LBQ+ identities and thus omit their stories from potential inclusion in research and mappings.** This sort of media reporting effectively denies that sexual orientation played a role in the attack; hinders data collection, investigations, and prosecutions; and increases the lack of political will for sexual orientation-based hate crime legislation. An analysis of the 2014 murder of a lesbian couple found:

Most of the initial reports of the couple's murders referred to the women as "friends" rather than partners or a couple, even though their relationship was of long-standing and well-known. Murders of lesbians aren't rare, but the sexual orientation of the victims is often elided from news reports, making it harder to catalogue the extent of the violence against lesbians and also negating any chance of prosecuting these crimes as the hate crimes they are.<sup>582</sup>

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<sup>580</sup> Jonathan C. Drimmer, Tara K. Giunta, Nicola Bonucci, & Renata Parras, "The Integration of Business and Human Rights into International Regulatory Compliance: Reporting and Remediation," *Paul Hastings*, August 27, 2021. <https://www.paulhastings.com/insights/international-regulatory-enforcement/the-integration-of-business-and-human-rights-reporting-remediation#:~:text=It%20covers%20reporting%20concerns%20through%20%E2%80%99Operational-level%20grievance%20mechanisms%20C%E2%80%9D,the%20remediation%20of%20impacts%20and%20remedies%20to%20individuals> (accessed February 3, 2022); "Enhancing the accessibility, dissemination and implementation of the Accountability and Remedy Project." Report of the United Nations High Commissioner for Human Rights. April 25 2022. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/327/06/PDF/G2232706.pdf?OpenElement>; "Gender, Business & Human Rights," *Business & Human Rights Resource Centre*, <https://www.business-humanrights.org/en/big-issues/gender-business-human-rights/#WomenHRD/> (accessed December 18, 2022).

<sup>581</sup> "Care responsibilities and unpaid care work," *Social Protection and Human Rights*, <https://socialprotection-humanrights.org/key-issues/gender/care-responsibilities-and-unpaid-care-work>, (accessed December 18, 2022).

<sup>582</sup> Victoria Brownworth. "Violence Against Lesbians," *Curve*, March 18, 2014.

<https://www.curvemag.com/blog/blogger/violence-against-lesbians/> (accessed February 3, 2022).

## Joy and Non-Linear Rights Struggles

Many of themes and calls for future investigations voiced by LBQ+ people in this report underscore the need for human rights research and advocacy that center LBQ+ joy and liberation instead of just violence, violations, and abuses.

The fight for LBQ+ access to sexual and reproductive health services encompasses more than just their access to abortion, without which they could die; it also includes nondiscriminatory access to fertility treatments for LBQ+ couples or individuals who wish to create a family (Section VIII).

Similarly, activists have insisted that rape kits, STI testing, and immediately stopping the deaths of LBQ+ people from untreated post-rape infections (Section IX) are bare minimum reforms for supporting LBQ+ women in SGBV services. They demand SGBV services for LBQ+ people that include access to queer-informed and queer-led mental health services, long-term follow-up care, and funding for LBQ+ community spaces, all of which is important in crisis response and in ensuring survivors are adequately supported during their healing journey.

Violence against masculine-presenting LBQ+ women (Section V) was a critical theme underpinning the interviews. Interviewees also spoke about the “freedom,” “peace” and “excitement” they found in clothing and hair coded masculine. Several testimonies point to LBQ+ women’s refusal to cede this joy to appease teachers, families, or even police. Femme-presenting LBQ+ women, similarly, spoke not only of invalidation, invisibility, sexual harassment, and intimidation, but of power and reclamation in queering a gender presentation traditionally read as a signal of heterosexuality. Protecting the right to freely and safely express one’s gender is not only necessarily for the prevention of violence, but for the promotion of joy.

This report’s findings also point to the need for future work that eschews the normative progression of LGBT rights in ways that better align with LBQ+ priority issues. Such work is possible: ILGA’s 2020 annual report found that laws against discrimination based on



sexual orientation have been successfully passed in multiple countries that still criminalize same-sex conduct.<sup>583</sup> The report found:

One may be led to assume that after a jurisdiction has decriminalized consensual same-sex sexual conduct, the next step to be undertaken would be to adopt protections against hate crimes, incitement to hatred, and discrimination. Alternatively, if a jurisdiction already has protections against discrimination and hate crimes, some may presume that the end goal for activists should then be enshrining protections in the country's constitution, as the next natural step in this pathway to full legal equality.

We would like to issue a word of caution against this assumption. ... the complexities of local contexts show that progress can be achieved in ways that do not fit this theoretical linear trajectory.

While seemingly paradoxical, in several countries with criminalising laws, activists have been able to successfully advocate for protective laws against discrimination on the basis of sexual orientation. For example, while Barbados, Kiribati, Saint Lucia, Samoa, and Tuvalu have in place protections against employment discrimination, their legal frameworks also persist in criminalising same-sex sexual activity ... [demonstrating] the importance of approaching this issue without a “one size fits all” mindset.<sup>584</sup>

Interviews with LBQ+ leaders, as well as our background research into their movements and reports, affirmed that the struggle for LGBT rights is not “linear” in many countries. This kind of linear understanding is, in fact, out of sync with how LBQ+ people understand and protect their lives, families, and communities. This is most clearly seen in LBQ+ calls for family planning resources and parental rights in countries with legal contexts seemingly diametrically opposed to LGBT existence, let alone reproduction and family security (see Section VII. “Parental Rights”).

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<sup>583</sup> ILGA World: Lucas Ramon Mendos, Kellyn Botha, Rafael Carrano Lelis, Enrique López de la Peña, Ilia Savelev and Daron Tan, *State-Sponsored Homophobia 2020: Global Legislation Overview Update*.

<sup>584</sup> Ibid.

Social and legal struggles to decriminalize homosexuality, repeal colonial era anti-sodomy laws, and legalize marriage equality for queer couples are not prerequisites for obtaining parental rights, including the rights to adopt and to access fertility treatment, which this report found to be highly important to LBQ+ interviewees. Research and policy guidance produced by queer collectives themselves offer direction in overcoming the presumed normative order of LBQ+ rights. *Research on the Lived Experiences of LBQ Women in Kenya*<sup>585</sup>—a country that continues to criminalize same-sex conduct—calls on the government and public health officials to “inform LBQ women about the different pathways to starting a family as LBQ+ women in Kenya,” regardless of the status of same-sex conduct decriminalization efforts. The lives of LBQ+ people around the world would be markedly improved by the existence of LBQ+-centered reproductive education; the removal of discriminatory couples-only adoption laws in Japan; the creation of functioning reproductive health services in Argentina that allow LBQ+ people of all genders to avail themselves of the country’s model fertility laws; and campaigns to destigmatize adoption in general in Zimbabwe. None of these require or should be predicated on the decriminalization of same-sex conduct.

Creativity, and intentionally upending the presumed linear progression of LGBT rights, is critical for LBQ+-centered research and LBQ+ people’s ability to lead full, joyful lives.

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<sup>585</sup> Gay and Lesbian Coalition of Kenya, *Research on The Lived Experiences of Lesbian, Bisexual and Queer Women in Kenya*.

## Recommendations

### To Donors Supporting Civil Society Initiatives

- Ensure LBQ+ organizations and collectives supporting survivors of forced marriage and working to end the practice have access to and receive funding aimed at ending forced and coerced marriage, including child marriage, and proactively seek out and aim to support these groups.
- Encourage governments to develop a comprehensive national action plan to end forced and coerced marriage that explicitly includes the elimination of all forms of conversion practices through a broad consultative process.
- Participate in the development, and support the implementation, of government national action plans to end forced and coerced marriage.
- Reform restrictive funding requirements that an LBQ+-led project must serve populations that identify as LGBT, and allow LBQ+-led organizations and collectives to apply and receive funding for intersectional work in a range of human rights areas, including women's rights; land, environmental, and indigenous rights; disability rights; migrant rights; housing and homelessness; right to health and health care access; and humanitarian aid.
- Ensure that funding for LBQ+ organizations include budget lines for human rights defender security, and consult local LBQ+ organizers regarding their risks and protection needs.
- Security permitting, offer or cover the costs of physical spaces for LBQ+ human rights defenders to gather for meetings, trainings, community building, and wellness, including the costs of secure transportation to these spaces.
- Support programs and services for LBQ+ well-being and psychosocial care, and consult local organizations regarding their mental health needs.
- Support national government efforts to develop adequate, quality, and voluntary community-based mental health services.
- Target support toward community-based support and services, including mental health services, and ensure these programs are gender-sensitive.
- Fund LBQ+-led initiatives and civil society projects that focus on service provisions for their communities, including medical access, financial assistance, legal assistance, and employment.

## To Governments

- Produce a national action plan to end forced and coerced marriage practices that explicitly includes the elimination of all forms of conversion practices. Collaborate with local and national LBQ+ organizations at each stage of conceptualization, drafting, and implementation to ensure meaningful outreach to LBQ+ victims of forced and coerced marriage.
- Ensure that violent intimidation and retribution against people for refusal to marry are punishable under law and that survivors have access to adequate, gender- and SOGIE-sensitive legal, medical, and psychosocial services.
- Refrain from reinforcing narratives that LBQ+ people can or should change their sexual orientation, gender identity, or gender expression, and publicly condemn these harmful narratives and their disseminators when they occur.
- End male guardianship laws, policies, and practices that require a male guardian's permission for decisions relating to women's rights, including rules that restrict women's rights to marry, work, study, rent or own property, and travel without the permission of a male guardian.
- Establish human rights defender protection mechanisms, with staff trained in the specific risks and needs of LBQ+ human rights defenders, that are available to LBQ+ defenders and have dedicated support for the physical, sexual, and verbal threats received by LBQ+ defenders.
- Institute mandatory comprehensive SOGIE trainings for educators and other school staff at all levels that train teachers on gender-based violence against LBQ+ women, non-binary people, and trans men and concepts related to sexual orientation, gender identity, and gender expression.
- In collaboration with community-based organizations, ensure that training is available to health service professionals, including psychologists, psychiatrists, and general practitioners, as well as social workers, regarding sexual orientation, gender identity, and gender expression and the specific needs and rights of LBQ+ patients.
- Ensure that access to reproductive health care is provided by the public health system or, if not so provided, that the costs are covered or reimbursable under private and public health insurance schemes.
- Clarify the right to matrimonial property that can be at least jointly administered during marriage, equitably distributed after divorce, and mandatorily inherited after the death of the spouse, and provide for a common means of protection of

- women's property rights, in line with international obligations under article 16 of Convention on the Elimination of All Forms of Discrimination Against Women, which "provides for the elimination of discrimination against women at the inception of marriage, during marriage and at its dissolution by divorce or death."
- Upon passage of a labor law that protects against discrimination on the grounds of sexual orientation, gender identity, and gender expression, issue a circular informing all employers that discrimination against LBQ+ workers will be punished by law and allocate sufficient budgetary resources to give effect to the strategies.

## To National Legislatures

### *Freedom from discrimination*

- Pass comprehensive anti-discrimination legislation that prohibits discrimination based on gender, sex, sexual orientation, gender identity, or gender expression and includes effective measures to identify and address such discrimination.
- Explicitly add gender expression to legislation that prohibits discrimination based on sexual orientation and gender identity.
- Introduce legal protections for gender non-conforming primary and secondary students, the absence of which can impact a lifelong trajectory of violence and discrimination for masculine-presenting LBQ+ people.
- Ratify international human rights treaties that protect against discrimination based on sexual orientation, gender identity, and gender expression, including the:
  - International Covenant on Civil and Political Rights.
  - International Covenant on Economic, Social and Cultural Rights.
  - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
  - International Labour Organization Violence and Harassment Convention (C190).
- Align domestic laws with international legal obligations, including by drafting and proposing legislative reforms to decriminalize same-sex relations and gender diversity.
- Amend family law to remove language relating to the obedience of women to men.
- Pass legislation that prohibits employers, including government ministries and institutions, from demanding that women obtain the permission of a male guardian

in order to work or conduct any work-related activities, and impose penalties on employers that do so.

- Enact labor laws that include protections against discrimination, harassment, and violence on the grounds of gender, sex, sexual orientation, gender identity and gender expression in the workplace.

### *The right to free and full consent to marriage*

- Develop laws, policies, and protocols that protect LBQ+ people from forced marriage or coercive marriage practices.
- Clearly set the minimum age for marriage to 18, regardless of gender and without exceptions, and ensure that people subjected to forced marriages at any age can seek an annulment.
- Ensure that women have the equal right to divorce along with men.
- Amend family law to ensure that women can, on an equal basis as men, enter into and terminate a marriage, including by removing the requirement for a male guardian's permission for a woman to marry, and divorce.

### *The right to property*

- Revoke discriminatory property laws, restrictions on women's labor, and sexist family codes, including colonial-era laws that persist in several formerly colonized countries.
- Amend family law to articulate the concept of marital property and allow for its division on an equal basis between spouses at the time of dissolution of marriage for all communities, recognizing financial and non-financial contributions made by women.

### *The right to work*

- Enact labor laws that include protections against discrimination, harassment, and violence on the grounds of gender, sex, sexual orientation, gender identity and gender expression at work.
- Decriminalize sex work, a profession that LBQ+ people, including masculine-presenting LBQ+ women, non-binary people, and trans men, sometimes enter due to discriminatory hiring practices in other fields of work.

### *The right to health*

- Enact policies and protocols supporting LBQ+ survivors of sexual violence.
- Introduce policies that strengthen the availability, accessibility, and quality of mental health and psychosocial support services without discrimination, including specialized services and counseling for sexual violence survivors.
- Introduce nondiscrimination protections for LBQ+ people in access to health care.
- Introduce policies that strengthen the availability, accessibility, and quality of sexual and reproductive health services without discrimination.
- Develop voluntary and accessible community-based SOGIE-informed mental health and support services, including through psychosocial support services and the integration of mental health services in the primary health care system, in consultation with LBQ+ communities with lived experiences of mental health conditions and with the support of international donors and partners.
- Decriminalize abortion in all circumstances and regulate abortion in a manner that fully respects the autonomy of all pregnant people.
- Broaden the range of practitioners qualified to perform abortions to include, for example, nursing assistants, nurses, midwives, and non-clinical doctors, to increase access to LBQ+-affirming medical professionals.

### *Freedom of movement*

- Draft and pass legislation clarifying women's full legal capacity at 18 and ordering that all government rules and practices reflect women's legal capacity as equal to that of men's.
- Refrain from issuing laws, policies, decrees, and emergency measures that restrict women's freedom of movement and combat discrimination in practice relating to women's freedom of movement.

### *The right to family life and family unity*

- Revoke laws that prevent single women and unmarried couples from adopting.
- Pass LGBT-inclusive parental recognition bills that explicitly recognize the legal parenthood of non-gestational LBQ+ parents and protect them from discriminatory demands that they adopt their own children.
- Reform discriminatory fertility laws and introduce anti-discrimination legislation prohibiting insurance policies that create disproportionate barriers for LBQ+

individuals and couples accessing reproductive treatments, such as IVF, egg freezing, and sperm donation.

- Ensure that LBQ+ parents are treated as the guardians of their own children, on an equal basis as men, such that they possess the legal capacity to independently open bank accounts for them, enroll them in schools, make health decisions, or travel with them.

### *The rights of human rights defenders*

- Adopt human rights defender protection and recognition laws that explicitly affirm the rights of LBQ+ human rights defenders.
- Establish human rights defender protection mechanisms, with staff trained on the specific risks and needs of LBQ+ human rights defenders, that are explicitly available to LBQ+ defenders and have dedicated supports in place for the physical, sexual, digital, and verbal threats received by LBQ+ defenders.
- Ensure LBQ+ human rights defenders who report attacks and threats to police are not sexually, physically, or verbally harassed or assaulted by officers, and that defenders are able to file incident reports without fear of retaliation.
- Involve LBQ+ activists with disabilities, particularly those affected by the deprivation of their legal capacity, in the process of developing and implementing legal capacity reforms and specific measures that are necessary to accelerate or achieve de facto equality of LGBT persons with disabilities, as defined in article five of the Convention on the Rights of Persons with Disabilities.

### **To Security Forces**

- Conduct thorough, transparent investigations into reports of violence against LBQ+ individuals and couples.
- Establish Human Rights Desks at Police Stations to provide a safe environment for LGBT persons to report police abuses and for complaints to be processed and investigated without delay, and ensure staff responsible for these desks are properly trained on LBQ+ issues, including gender expression, forced marriage, corrective rape, and sexual assault.
- End the discriminatory and sexist harassment of LBQ+ individuals, couples, and human rights defenders, including by police and security forces at check-points.
- End arrests based on sexual orientation, gender identity, and gender expression.



- Immediately investigate and end violent policing and arrest tactics that discriminatorily impact the lives of masculine-presenting people assigned female at birth.
- Ensure that no crime victim is denied assistance, arrested, or harassed because of their sexual orientation, gender identity, gender expression, or their status as a sex worker. Safeguard the right of LBQ+ people to report crimes without facing the risk of arrest.
- Stop raiding meetings and workshops organized by LGBT rights defenders and health advocates.
- Ensure that LBQ+ groups can organize without official intimidation or interference.

## To National Health Departments

- Ensure comprehensive training for all health professionals, including mental health professionals, abortion providers, and SGBV service providers, on SOGIE issues and the specific needs of LBQ+ patients, and partner with LBQ+ organizations and collectives on delivering these trainings.
- Establish a complaints procedure through which LBQ+ victims of human rights violations in a health care setting, including discrimination, denial of services, or conversion practices aimed at changing their SOGIE, can file complaints and seek support and redress.
- Work jointly with LBQ+ organizations to develop comprehensive guidelines on the guarantee and provision of free, safe, and legal abortion services.
- Ensure that health policy and strategy documents are evidence-based, aligned with internationally recognized good practices, and explicitly provide for the provision of health care services to LBQ+ patients.
- Approve tailored, community-vetted health messaging for LBQ+ communities that provides information regarding LBQ+ health issues, including access to comprehensive care for sexual violence survivors.
- Publicly support and advocate for the decriminalization of consensual same-sex conduct and gender diversity.

## To Judiciaries

- Develop practice guidelines on the division of matrimonial property at the dissolution of marriage, ensure judges are trained on these guidelines, and partner

with LBQ+ organizations and collectives on the development of the guidelines and the trainings themselves.

- In divorce proceedings, include the following in contribution considerations:
  - the duration of the relationship;
  - the impact of childcare and household responsibilities on the education and earning capacity of the dependent spouse;
  - the current and likely future income of each spouse;
  - the dependent spouse's capacity to support themselves;
  - the health and age of each spouse;
  - the dependent spouse's needs and standard of living;
  - the dependent spouse's other means of support; and
  - contributions made by the dependent spouse to realize the other's career potential.
- Expedite joint petitions for divorce and the division of matrimonial property, and limit the necessity of frequent court trips, particularly where distance or financial constraints make such trips a burden.
- Cease issuing court decisions requiring non-gestational LBQ+ parents to adopt their own children.
- Train asylum decision makers to recognize the intersection of membership in the LBQ+ social group with the risk of persecution in the context of a range of discriminatory economic, legal, and social issues faced by LBQ+ asylum applicants as individuals, parents, and families.

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# “This Is Why We Became Activists”

## Violence Against Lesbian, Bisexual and Queer Women and Non-Binary People

Lesbian, bisexual, and queer (LBQ+) women around the world face widespread yet under-documented violence and discrimination from security forces, family members, and other private individuals, as well as discrimination at work, in land and property rights, health services, migration and resettlement, and unequal access to justice.

*“This Is Why We Became Activists”* is a groundbreaking investigation into violence and discrimination endured by LBQ+ women and non-binary people around the world, based on 66 interviews with LBQ+ leaders in 26 countries and extensive background research in both women’s rights and LGBT rights. The investigation found ten key areas of LBQ+ rights abuses for which there is immediate need for research, funding, and policy reform.

These include: forced and coerced marriage of LBQ+ women to men; labor rights and sexual violence at work; violence by law enforcement against masculine-presenting women; unequal property, inheritance, and land rights; legal restrictions on women’s movement; violent attacks on LBQ+ couples in public; parental rights and access to fertility treatment; access to sexual, reproductive, and mental health services; sexual assault and follow-up care; barriers to asylum; access to justice; and attacks against LBQ+ human rights defenders.



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