



CEDAW Shadow Report Guidelines

on the rights of
LBTI+ women,
nonbinary and
gender-diverse
people



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Introduction

Intentionality of the Term LGBTI+ Women, Nonbinary and Gender-Diverse People 1

Intended users of this guide 2

Article Specific Guidance

Articles 1 - 3: Definition of Discrimination Against Women, State Obligation & Substantive Equality 3

Legal Gender Recognition 4

Gender Machinery

Article 4: Temporary Special Measures 5

Article 5: Gender Roles and Stereotypes 6

General Recommendation 35 on Gender-Based Violence Against Women 7

Article 6: Sex Work and Trafficking 9

Sex Work

Trafficking

Articles 7 & 8: Equal Access to Public and Political Life & International Participation 10

Article 9: Citizenship 11

Article 10: Education 11

Article 11: Employment 12

Article 12: Right to Health 14

Articles 13 - 15: Economic and Social Life Equality Before the Law 16

Article 16: Equal Rights to and within the Family 17

General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations 18

General Recommendation 37 on gender-related dimensions of disaster risk reduction in a changing climate 19



Introduction

Intentionality of the Term LGBTI+ Women, Nonbinary and Gender-Diverse People

This NGO report guidelines intentionally and consistently uses the term ‘lesbian, bisexual, transgender, intersex (LBTI+) women, nonbinary, and gender-diverse people’ to recognise the complex social constructions of sex, gender, and gender-based discrimination experienced by those who navigate the world as women and/or girls as well as those who were raised, associated with, or socialised as women, girls, or ‘others’ in a colonial and cisheteropatriarchal society. This is also an acknowledgement that the binary understanding of gender and the application of human rights standards need to evolve in a manner that fully embraces gender diversity¹ to achieve substantive equality.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) plays an instrumental role² in combating the spiraling exclusion and marginalisation³ experienced by LGBTI+ women, nonbinary, and gender-diverse people.

CEDAW provides an abundant jurisprudence detailing that the elimination of sex and gender-based discrimination covers multiple historical and intersecting forms of discrimination⁴, including discrimination on the basis of women and girls’ sexual orientation, gender identity,

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1. Independent Expert on Sexual Orientation and Gender Identity (May, 2017). “Embrace diversity and protect trans and gender-diverse children and adolescents”. Retrieved from <https://www.ohchr.org/en/press-releases/2017/05/embrace-diversity-and-protect-trans-and-gender-diverse-children-and>
 2. IRAW Asia Pacific (February 2023). Universalising Gender Equality Norms: CEDAW’s critical role in protecting women’s SOGIESC rights. Retrieved from <https://www.iwraw-ap.org/resources/universalising-gender-equality-norms/>
 3. Independent Expert on Sexual Orientation and Gender Identity (n.d.). “The struggle of trans and gender-diverse persons”. Retrieved from <https://www.ohchr.org/en/special-procedures/ie-sexual-orientation-and-gender-identity/struggle-trans-and-gender-diverse-persons>
 4. CEDAW General recommendation 28, 30, 31, 32, 33, 35, 37, 38, 39

and sex characteristics. In CEDAW's concluding observations to State Parties, it has also provided specific recommendations for intersex persons⁵ and transgender persons⁶.

Gender diversity⁷ has existed since pre-colonial times. However, Indigenous gender-diverse identities are subjected to continuous discrimination and colonial oppression to this day⁸. Thus, the current challenge for CEDAW and other UN Treaty Bodies and Special Procedures is to envision a more progressive jurisprudence that considers rectifying the colonial legacy of the gender binary, while continuously providing appropriate measures, including reparative measures, to eliminate gender-based discrimination against LGBTI+ women, nonbinary, and gender-diverse people.

Intended users of this guide

This NGO report guidelines is a set of guide questions which aims to support national, local, community-based, and grassroots LGBTI women, nonbinary, and gender-diverse organisations to articulate the progress, recommendations, and possible violations of the rights of their constituents under the CEDAW Convention.

5. CEDAW Concluding Observations to Maldives, Russia, South Africa, Yemen, Sweden in 2021, Peru in 2022, Nicaragua and the Philippines in 2023, among others

6. CEDAW's Concluding Observations to Kyrgyzstan in 2021, Armenia and Belgium in 2022, among others

7. Manuela L. Picq and Josi Tikuna (August, 2019). "Indigenous Sexualities: Resisting Conquest and Translation". E International Relations. <https://www.e-ir.info/2019/08/20/indigenous-sexualities-resisting-conquest-and-translation/>

8. Independent Expert on Sexual Orientation and Gender Identity. "SOGI, colonialism and reparations". Retrieved from <https://www.ohchr.org/en/special-procedures/ie-sexual-orientation-and-gender-identity/sogi-colonialism-and-reparations>

Article 1: Discrimination Against Women

Article 2: State Obligation

Article 3: Substantive Equality

1. Is there a law defining gender-based discrimination? Does this law cover gender-based discrimination based on sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC)?

- If yes, is the law visible/well known? Is it accessible to lesbian, bisexual, transgender, intersex, asexual+ (LBTI+) women, nonbinary and/or gender-diverse people?
- Does the definition cover practices that are not explicitly discriminatory but are discriminatory in effect?
- What are the progress and barriers for the passage of an anti-discrimination law that addresses intersectional discrimination including on the basis of sexual orientation, gender identity and expression, and sex characteristics?

2. Are there laws, policies, and/or court decisions on rights pertaining to LBTI+ women, nonbinary and/or gender-diverse people? In reality, how do these laws/policies/court decisions impact LBTI+ women, nonbinary, and/or gender-diverse people? Are there any unintended outcomes resulting from these processes?

3. What are the legislative and policy measures to combat gender-based violence and discrimination against LBTI+ women, nonbinary and gender-diverse people?

4. How has the Yogyakarta Principles+ 10 been used to inform measures to eliminate intersectional discrimination on the basis of SOGIESC?

5. What measures are taken for the LGBTI+ community to be aware of CEDAW, its concluding observations, and its general recommendations? Does the community know that they are covered under the CEDAW Convention?

Legal Gender Recognition

Is there a Legal Gender Recognition (LGR) law available for trans, intersex, nonbinary, and gender-diverse people? If yes, is this law accessible to trans and intersex women, nonbinary and gender-diverse people regardless of their age, race, ethnicity, indigeneity, disability, employment, documentation, and refugee status, among others?

- Are there restrictions in accessing legal gender recognition? What are they?
- Is the right to identity⁹ and evolving capacities of trans,¹⁰ intersex, nonbinary and gender-diverse children, taken into consideration in the Legal Gender Recognition law?
- If there is no law on Legal Gender Recognition, what laws/policies/court decisions restrict and prohibit the recognition of the lived gender of trans, intersex, nonbinary, and/or gender-diverse people? What are the real life implications of having no legal gender recognition for trans, intersex, nonbinary, and/or gender-diverse people?

Gender Machinery

1. Is there a main government institution that is mandated to mainstream inclusion specifically on the basis of sexual orientation, gender identity and expression, and sex characteristics (SOGIESC)?

9. CRC General Comment 13, par 55

10. CRC General Comment 12, par 68

- Does the mandated government institution consider the unique position of LGBTI+ women, nonbinary, and gender-diverse people in the mainstream LGBTQIA+ community? Is this embedded in their strategic/action plans and/or monitoring and evaluation?
- How do you think government institutions should operate to fully address discrimination based on SOGIESC?

2. Does the National Human Rights Institution have the mandate to eliminate intersectional discrimination experienced by marginalised groups including LGBTI+ women, nonbinary, and gender-diverse people (e.g. conduct investigations on SOGIESC-based human rights violations; provide protection to human rights defenders; monitor compliance of the government to human rights standards; and/or enforce human rights decisions)? Has the mandate been carried out and what is its impact?

3. Does the National Human Rights Institution have adequate human, technical, and financial resources to discharge and strengthen its mandate effectively in combating intersectional discrimination that is independent and in compliance with the Paris Principles?

Article 4: Temporary Special Measures

1. Has the State implemented temporary special measures (TSMs)¹¹ for women? Are LGBTI+ women included in the TSMs? Are these measures available and/or inclusive for nonbinary and gender-diverse people?

2. If there are temporary special measures covering LGBTI+ women, nonbinary, and gender-diverse people, are they effective in the sense that they improve the situation of LGBTI+ women and/or nonbinary, and gender-diverse people?

¹¹ Temporary special measures are policies adopted/implemented to address structural barriers to achieve gender equality

3. Are there challenges in the implementation of TSMs?

4. Are there mechanisms to monitor the implementation of TSMs specific to LGBTI+ women, nonbinary, and gender-diverse people? Is there publicly available data on the implementation and monitoring of these TSMs?

Article 5: Gender Roles and Stereotypes

1. What are the harmful gender stereotypes perpetuated against LGBTI+ women, nonbinary, and gender-diverse people? How do these stereotypes impact their day-to-day lives and contribute to the gender-based stigma and discrimination they experienced?

2. Are there harmful and/or archaic laws/policies/programs/court decisions or practices that reflect harmful gender norms and stereotypes ie against LGBTI+ women, nonbinary, and gender-diverse people?

3. Who are the actors responsible for or complicit in perpetuating harmful gender stereotypes against LGBTI+ women, nonbinary, and gender-diverse people? How do these actors incite violence and discrimination against them?

4. What are the measures taken by the State to combat harmful gender stereotypes against LGBTI+ women, nonbinary, and gender-diverse people that result in systemic gender-based violence and discrimination? How are these measures effective/ineffective?

5. What is the role of the following institutions in combating and/or perpetuating gender stereotypes against LGBTI+ women, nonbinary, and gender-diverse people:

- Media
- Religious institutions
- Gender machinery
- Basic education and academic institutions
- Civil society groups
- Corporations and private companies
- Other relevant stakeholders

General Recommendation 35 on Gender-Based Violence Against Women

1. Is there a law to combat gender-based violence? Does the law cover violence perpetuated based on sexual orientation, gender identity, and sex characteristics?
2. Are there laws/policies prohibiting conversion therapy? If yes, how are they effective/ineffective?
3. Are there measures taken to train and inform law enforcement officials, lawyers, judges, and legislators on the gender-based violence experienced by LGBTI+ women and girls, nonbinary, and gender-diverse people?
4. How does the State respond to targeted violent attacks (e.g. corrective rape, transfemicide, trans-targeted killings, hate crimes, gay/trans panic, etc.) perpetuated against LGBTI+ women, nonbinary, and gender-diverse people?
5. What are harmful practices (societal, economic, and/or cultural) that perpetuate violence and discrimination against LGBTI+ women, nonbinary, and gender-diverse people? Who are the perpetrators of these harmful practices?

6. Do LGBTI+ women, nonbinary, and gender-diverse people who are victims/survivors of gender-based violence have access to legal mechanisms to hold their perpetrators to account?

7. Are there punitive laws that do not specifically target LGBTI+ women, nonbinary, and gender-diverse people but in effect criminalise and/or discriminate against them (e.g. laws on pathologisation, morality, vagrancy, drug possession, sex work, terrorism, security, activism, immigration, and compulsory HIV/STI testing, among others)?

8. What are the measures to prevent forced genital-normalising surgery or involuntary sterilisation that are administered without the free and informed consent of intersex children?

9. What targeted measures are in place to prevent gender-based violence, bullying, and hate speech towards LGBTI+, nonbinary, and gender-diverse children?

10. Are safe and inclusive shelters available and accessible to LGBTI+, nonbinary, and gender-diverse victims/survivors of gender-based violence?

- Are safe and inclusive shelters available for LGBTI+, nonbinary, and gender-diverse children who are victims/survivors of gender-based violence including those who have been forced to leave their homes? Are these shelters accessible?

Article 6: Sex Work and Trafficking

Sex Work

1. What is the status of sex worker rights in your country? What are laws/policies/court decisions that cover sex worker rights and their welfare?
2. Are laws pertaining to sex work separate from trafficking? How do these impact LGBTI+ women, nonbinary, and gender-diverse sex workers?
 - What are the unique issues or challenges that LGBTI+ women, nonbinary, and gender-diverse sex workers experience?

View our [*comprehensive CEDAW Shadow Report Guidelines on the Rights of Sex Workers*](#), developed in partnership with the Global Network of Sex Work Projects

Trafficking

1. Is there available data on trafficking experienced by LGBTI+ women, nonbinary, and gender-diverse people?
2. Are there provisions/policies/programs for the rehabilitation and reintegration of LGBTI+ women, nonbinary, and gender-diverse people who were trafficked?

Article 7: Equal Access to Public and Political Life

Article 8: International Participation

1. Are gender quotas available to reflect gender balance in government leadership positions? Are LGBTI+ women, nonbinary, and gender-diverse people also reflected in these gender quotas?
2. Are LGBTI+ women, nonbinary, and gender-diverse people elected to public office? What are the barriers in place that restrict them from running for and/or being elected to public office?
3. What are the barriers faced by LGBTI+ women, nonbinary, and gender-diverse people to participate in public life? Can they vote safely as they are? Are they respected and treated with dignity in judicial, quasi-judicial, legislative, and/or executive processes?
4. Are there security laws or policies that restrict activism, right to freedom of expression, and/or assembly? How do these laws affect and/or target LGBTI+ women, nonbinary, and gender-diverse people human rights defenders?
5. What is the status of LGBTI+ women, nonbinary, and gender-diverse people who are refugees and/or asylum-seekers? Are they granted refugee and/or asylum status on the basis of persecution/criminalisation based on their sexual orientation, gender identity and expression, and sex characteristics?
 - Are there appropriate measures and support to accommodate and integrate them into their new environment (e.g. ensuring access to documentation, jobs, and language courses, among others)?
 - Does the State observe the principle of non-refoulement wherein LGBTI+ women, nonbinary, and gender-diverse refugees and/or asylum seekers are not expelled/returned to the country they are fleeing from where they would face torture, or cruel, inhuman, or degrading treatment or punishment and other irreparable harm?

Article 9: Citizenship

1. Can LGBTI+ women, nonbinary, and gender-diverse people acquire citizenship in the same manner as cis-heterosexual men and women?
2. Are LGBTI+ women, nonbinary, and gender-diverse people able to pass their citizenship to their immediate family members (i.e. partners, children, parents)?
3. For those who have obtained legal gender recognition, is their lived gender and new name acknowledged in their citizenship documents (e.g. passport) by the State?
4. For dual citizenship, do LGBTI+ women, nonbinary, and gender-diverse people have the same access as cisgender heterosexual men and women in acquiring dual citizenship?
5. In States where there is no legal gender recognition, what is the status of one's dual citizenship if LGBTI+ women, nonbinary, and gender-diverse people acquire a new citizenship that provides legal gender recognition? Is their lived name and gender recognised in both citizenship documents? If not, what is the impact of this irregularity?

Article 10: Education

1. Is basic education free and accessible to all? Do LGBTI+, nonbinary, and gender-diverse students have the same access to basic education as other students?
2. Are school policies and curricula inclusive of LGBTI+, nonbinary, and gender-diverse students?

3. Is there an anti-bullying policy and/or measures to prevent and respond to bullying, harassment, and violence against LGBTI+, nonbinary, and gender-diverse students?
4. In cases where bullying, harassment, discrimination, and exclusion are rampant towards LGBTI+, nonbinary, and gender-diverse students, what are the measures taken to prevent and prohibit these behaviours? Are these measures effective?
5. Can LGBTI+, nonbinary, and gender-diverse students freely express themselves in schools without the fear of being outed outside school premises?
6. Is there age-appropriate and inclusive comprehensive sex education to understand gender diversity, and prevent early pregnancy and sexually transmitted infections (STI)?
7. What measures are in place to ensure a safe, inclusive, and affirming learning environment for all students including LGBTI+, nonbinary, and gender-diverse students? What are the barriers to putting these measures in place?

Article 11: Employment

1. Are LGBTI+ women, nonbinary, and gender-diverse people part of the labour force? Do they have the same access to the formal economy? If not, what are the barriers to access them?
2. What measures are in place to combat unemployment and/or underemployment of LGBTI+ women, nonbinary and gender-diverse people? Is there public data to support utilisation of these measures provided by the State?
3. If LGBTI+ women, nonbinary, and gender-diverse people are part of the informal economy, how does this affect them negatively/positively in their day-to-day life? Is there publicly available data on

the participation of LGBTI+ women, nonbinary, and gender-diverse people in the informal economy?

4. Are there measures in place to prevent sexual harassment, gender-based violence, homophobia, and transphobia in the workplace? Are these measures effective? Do these measures cover both public and private entities?

5. Are LGBTI+ women, nonbinary, and gender-diverse people experiencing a disproportionate burden of unpaid care work?

6. Are there requirements targeted towards LGBTI+ women, nonbinary, and gender-diverse people to access employment (e.g. negative HIV test results)?

7. Are LGBTI+ women, nonbinary, and gender-diverse people represented in managerial positions in public employment and private companies in the same manner as women and men? What are the attitudinal and structural barriers for them to occupy high-level positions?

8. Are there employment retention schemes specifically targeting marginalised groups including LGBTI+ women, nonbinary, and gender-diverse people?

9. Are there measures in place to ensure professional reinsertion and formal employment of LGBTI+ women, nonbinary, and gender-diverse people following major crises such as pandemics, disasters, and political turmoil among others?

10. Do LGBTI+ women, nonbinary, and gender-diverse people have access to decent conditions of work, receive equal pay for work of equal value, and receive pension/retirement benefits?

Article 12: Health

1. Can LGBTI+ women, nonbinary, and gender-diverse people access inclusive and appropriate healthcare? Are they accessible to LGBTI+ women, nonbinary, and gender-diverse people with disabilities? What are the barriers they experience in accessing healthcare?
2. What measures are taken to prevent discrimination against LGBTI+ women, nonbinary, and gender-diverse people in public and private healthcare settings?
3. Do LGBTI+ women, nonbinary, and gender-diverse people including trans men and transmasculine people have access to sexual and reproductive health services including pap smears, HPV vaccines, mammograms, breast exams, cancer screenings, and inclusive mental health support, among others?
4. What policies, laws, and programs are in place to combat HIV and sexually transmitted infections (STI)? Do these measures take in consideration how LGBTI+ women, nonbinary, and gender-diverse people are identified as key affected populations of HIV?
5. Are there effective, nondiscriminatory, and evidence-based drug prevention, harm reduction, and drug dependence treatment programmes that are inclusive and accessible to LGBTI+ women, nonbinary, and gender-diverse people?
6. Do trans, intersex, nonbinary, and gender-diverse people including children and older people have available, accessible, appropriate, and good quality gender-affirming healthcare¹³? Are they provided freely or are they covered under their social benefits and insurance schemes?

**View our comprehensive [CEDAW Shadow Report Guidelines on the Rights of Women and Girls with Disabilities](#) by Rangita de Silva de Alwis.*

13. World Professional Association on Transgender Health (2022). "Standards of Care for the Health of Transgender and gender-diverse People, Version 8". Retrieved from <https://www.wpath.org/publications/soc>

7. What are the appropriate measures taken to eliminate cases of gynaecological and obstetric violence¹⁴ including those experienced by LGBTI+ women, trans men, transmasculine, nonbinary, and gender-diverse people?

8. What are the measures in place to manage the health risks of trans, intersex, nonbinary, and gender-diverse people who self-medicate with gender-affirming hormone therapy due to expensive or lack of transgender healthcare?

9. How do LGBTI+ women, trans, nonbinary, and gender-diverse people access abortion services? Are abortion services inclusive and accessible?

10. What is the situation of LGBTI+ women, nonbinary, and gender-diverse people in relation to their mental health? Are there targeted measures for accessible and inclusive mental health services? What are the outpatient and in-patient facilities available for mental health care? Are they adequate with respect to the scale and need?

11. What measures are taken to prevent the pathologisation of LGBTI+ women, nonbinary, and gender-diverse people?¹⁵

12. What are the measures taken by the state to provide gender sensitivity and awareness trainings to medical and non-medical healthcare providers and stakeholders in the public health system?

14. International Planned Parenthood Federation (2022). "Gynaecological and Obstetric Violence - a form of gender-based violence". Retrieved from <https://europe.ippf.org/resource/gynaecological-and-obstetric-violence-form-gender-based-violence>.

15. Independent Expert on Sexual Orientation and Gender Identity. "Report on Gender Identity". Retrieved from https://www.ohchr.org/sites/default/files/GenderIdentityReport_SOGI.pdf

Article 13: Economic and Social Life

Article 15: Equality Before the Law

1. Are there targeted poverty alleviation programs for marginalised groups including LGBTI+ women, nonbinary, and gender-diverse people? Are LGBTI+ women, nonbinary, and gender-diverse people accessing them? If not, what are the barriers in accessing these programs?
2. Do LGBTI+ women, nonbinary, and gender-diverse people have equal access and opportunity to procure contracts and access property rights, land ownership, inheritance, and housing?
3. Can LGBTI+ women, nonbinary, and gender-diverse people travel freely without the fear of stigma, discrimination, and violence?
4. Are there available social and economic programmes, such as entrepreneurship opportunities, and support for small and medium enterprises that are accessible to LGBTI+ women, nonbinary, and gender-diverse people?
5. Do LGBTI+ women, nonbinary, and gender-diverse people have access to government support especially in times of crises?

Article 16: Equal Access to Family Life

1. How does the State provide equal recognition and protection to LGBTI+ women, nonbinary, and gender-diverse people's right to family? How do these measures, or the lack thereof, impact the family life of LGBTI+ women, nonbinary, and gender-diverse people?
2. Are LGBTI+ women, nonbinary, and gender-diverse people given the same right to adoption and/or surrogacy as cisgender heterosexual individuals/families? If not, what are the grounds used by the State to 'justify' the exclusion?
3. Do LGBTI+ women, nonbinary, and gender-diverse couples have the same parental rights as cisgender heterosexual couples? Do these parental rights also extend to solo parents?
4. Do LGBTI+ women, nonbinary, and gender-diverse people have the right to free and full consent to marriage? What are the measures in place to prevent forced marriages of LGBTI+ women, nonbinary, and gender-diverse people?
5. Do LGBTI+ women, nonbinary, and gender-diverse couples have access to same-gender unions and/or marriage equality laws? Do these laws affirm their lived gender? Are there any conditions or restrictions in accessing these laws?
6. Are divorce, annulment, and/or dissolution of marriage accessible to LBT+ women, nonbinary, and gender-diverse people? Are there provisions in the law or in practice that hamper the access of LGBTI+ women, nonbinary, and gender-diverse people to divorce, annulment, and/or dissolution of marriage?

General Recommendation 30 on women in conflict prevention, conflict and post-conflict situations

Women, Peace and Security

1. What is the situation of LGBTI+ women and girls, nonbinary, and gender-diverse people in conflict and post-conflict areas?
2. How are LGBTI+ women, nonbinary, and gender-diverse people meaningfully participating in transitional justice efforts?
3. Are LGBTI+ women, nonbinary, and gender-diverse people included in the Women, Peace and Security Plan/Agenda? How are they involved in shaping these plans?
4. What measures are in place to prevent gender-based violence and aggravated discrimination towards LGBTI+ women, nonbinary, and gender-diverse people during and post conflict?

View our comprehensive [*CEDAW Shadow Report Guidelines for CEDAW General Recommendation 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situation.*](#)

General Recommendation 37 on gender-related dimensions of disaster risk reduction in a changing climate

Climate Action

1. Do policies, legislation, plans, programs, budgets, and other activities relating to disaster risk reduction and climate change take into consideration the situation of marginalised groups including LGBTI+ women, nonbinary, and gender-diverse people?
2. Are LGBTI+ women, nonbinary, and gender-diverse people represented and engaged in local, national, and international decision-making and advocacy spaces related to climate justice?
3. How are LGBTI+ women, nonbinary, and gender-diverse people meaningfully participating in local and community planning and climate change and disaster preparedness, response, and recovery?



IWRAW Asia Pacific is a Global South-led, feminist organisation in Special Consultative Status with the Economic and Social Council of the United Nations. For over 30 years, we have been committed to the full realisation of women's human rights through the pursuit of equality. We work with women's rights organisations globally to monitor and facilitate the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) through movement and capacity building, advocacy and knowledge creation initiatives.

