



# ***Bargaining demands for LGBTI Workers' Rights***



*A Recipe for a stronger*



5<sup>th</sup> Congress Zagreb 6-7 November 2019



# Ending **LGBTQI** Discrimination at Work

## **An IUF and EFFAT joint Declaration**

Exactly 50 years ago, beginning in the Stonewall Inn Bar Christopher Street in Manhattan, New York City, gay, lesbian and transgender people, drag queens, and other members of the LGBTQI community rose up in protest at the recurring police harassment, raids and arrests to which they had been continually subjected. They were no longer going to tolerate this humiliating abuse, and answered years of repression with liberation and resistance.

This is not to say that there was no resistance before 1969. But this broad uprising marks the beginning of the LGBTQI “liberation movement” in modern (Western) historiography, a cause which remains every bit as relevant now as it was then: even Pride and the rainbow parade, for example, is still not accepted in many countries.

In recent years, the fight against gender persecution and discrimination based on sexual orientation has developed into mass movements in many countries. We have seen huge protests expressing anger and rebellion - built up over decades - against an oppressive, intrusive system, which not only forces people to fight daily to make ends meet, but also claims the

right to decide what a person can or cannot do in their private life, with whom they can have a relationship, whether they may or may not raise a child, etc., and socially and legally excludes and discriminates against anyone who deviates from the norms of the so-called “traditional family”.

With their demands for liberation and their mass movement, these protests carry a revolutionary potential. At the same time, a conscious attempt is made to reduce these themes to a question of culture and to limit the aims of the movement to the struggle for small concessions compatible with the normal (i.e. oppressive) functioning of the system.

Today, homosexual relations are still officially illegal in 70 UN member states, with sentences ranging from one month to 15 years in prison, to life imprisonment and even in 7 of these countries the death penalty. In countries such as Saudi Arabia, the death penalty is carried out by stoning, while in other countries forms of corporal punishment such as whipping are imposed.

And even where there are forms of legal protection, systemic discrimination still takes many forms. For example, in several US states there are laws against the “promotion” of homosexuality that restrict certain behaviours or provide proscriptive guidelines on how sexual morals should be taught in schools and other public institutions.

### ***New millennium, new hope***

The turn of the millennium gave hope that global progress would continue. Denmark was the first country in the world to recognise same-sex partnerships in 1989, and in 2001, the Netherlands was the first country to reform its marriage laws to allow for same-sex unions.

28 countries worldwide have now recognised marriage for same-sex couples. This includes South Africa, which passed legislation permitting same-sex marriage in 2006, but it is thus far the only country in Africa to have done so. Progressive governments in Argentina (2010), Brazil





and Uruguay (2013) led the way on this issue in Latin America; Colombia then followed suit in 2016, having already recognised same-sex civil partnerships in 2007 and passed a 2015 law guaranteeing lesbian and gay couples the right to adopt children. However, despite these steps forward, 115 LGBTQI persons were murdered there in 2016.

In Mexico, same-sex marriage is permitted in some states. Earlier this year, Taiwan legalised same-sex marriage and following a 2018 Supreme Court ruling, Costa Rica is set to do likewise by early 2020. The Supreme Court of Costa Rica's decision was in turn based on the Inter-American Court of Human Rights' historic ruling of January 2018 which decreed same-sex marriage to be a human right.



## ***The Last Hiding Place***

Employees spend a lot of time in the workplace - and there you are never just a worker, but always a human being. No one should have to hide who they are or who they love.

Because that is not only what makes us human, it is also what enriches our relationship with our colleagues and generates a good working atmosphere. Only in that environment can employees fully dedicate themselves to their work with joy and commitment - not having to waste their energy on hiding or defending themselves.

## ***It is therefore also in the interests of companies that openness and mutual respect prevail and that nobody is treated unfairly***

A non-discriminatory working atmosphere creates high job satisfaction, stronger employee loyalty and promotes collegial cooperation. This leads to better communication, less sick leave and employee fluctuation. Works councils and staff representatives are therefore the primary contact persons when it comes to sexual discrimination in the workplace. Trade unions must also emphasise more actively the seriousness of LGBTQI equality in collective agreements.

## ***Trade unions are key to the fight for justice and protection in the workplace***

At the 2017 IUF Congress, structures for LGBTQI rights in the workplace were also created. But it is also the task of trade unions to dismantle prejudice not only within companies but within their own structures as well.

Trade unions can and will be at the forefront of promoting an open, inclusive workplace culture – one that does not tolerate bigotry, discrimination or harassment, and that ensures the safety and dignity of all workers irrespective of their sexual orientation and/or gender identity. We must show employers that creating a positive and dignified workplace culture will help to recruit and retain staff, improve performance and ensure that every worker can reach their potential. Self-determination and the ability to live freely as an LGBTQI person is only possible once workplace agreements have been established.



## **LGBTQI Glossary: Terms, Concepts and Organisations You Need to Know**

**Agendered** — Person is internally ungendered.

**Ally** — Someone who confronts heterosexism, homophobia, biphobia, transphobia, heterosexual and gender-straight privilege in themselves and others; a concern for the well-being of lesbian, gay, bisexual, trans, and intersex people; and a belief that heterosexism, homophobia, biphobia and transphobia are social justice issues.

**Androgyne** — Person appearing and/or identifying as neither man nor woman, presenting a gender either mixed or neutral.

**Asexual** — Person who is not sexually attracted to anyone or does not have a sexual orientation.

**Bigendered** — A person whose gender identity is a combination of male/man and female/woman.

**Biphobia** — The fear, unreasonable anger, intolerance or/and hatred toward bisexuality and bisexual people.

**Bisexual** — A person emotionally, physically, and/or sexually attracted to males/men and females/women. This attraction does not have to be equally split between genders and there may be a preference for one gender over others.

**Cisgender** — Describes someone who feels comfortable with the gender identity and gender expression expectations assigned to them based on their physical sex.

**Drag** — The performance of one or multiple genders theatrically.

**Dyke** — Derogatory term referring to a masculine lesbian. Sometimes adopted affirmatively by lesbians (not necessarily masculine ones) to refer to themselves.

**Fundamental Rights Agency (FRA)** — The FRA is an EU body tasked with collecting and analysing data on fundamental rights and as such LGBTQI rights. The FRA's primary methods of operation are, inter alia, surveys and reports, provision of expert assistance to EU bodies, and others, and raising awareness about fundamental rights.

**Gay** — 1. Term used in some cultural settings to represent males who are attracted to males in a romantic, erotic and/or emotional sense. Not all men who engage

in “homosexual behaviour” identify as gay, and as such this label should be used with caution. 2. Term used to refer to the LGBTQI community as a whole, or as an individual identity label for anyone who does not identify as heterosexual.

**Gender** — Refers to people's internal perception and experience of maleness and femaleness, and the social construction that allocates certain behaviours into male and female roles.

**Gender Expression** — How a person represents or expresses one's gender identity to others, often through behaviour, clothing, hairstyles, etc.

**Gender Identity** — A person's internal sense of being masculine, feminine, or other gendered, which may or may not be visible to others.

**Genderqueer** — A person whose gender identity is neither male nor female, is between or beyond genders, or is some combination of genders.

**Gender reassignment** — Refers to the process through which people redefine the gender in which they live in order to better express their gender identity. This process may, but does not have to, involve medical assistance including hormone therapies and any surgical procedures that Trans people undergo to align their body with their gender.

**Gender recognition** — A process whereby a trans person's preferred gender is recognised in law, or the achievement of the process.

**Heteronormativity** — The assumption, in individuals or in institutions, that everyone is heterosexual, and that heterosexuality is superior to homosexuality and bisexuality.

**Heterosexual Privilege** — Those benefits derived automatically by being heterosexual (straight) that are denied to homosexuals and bisexuals. Also, the benefits homosexuals and bisexuals receive as a result of claiming heterosexual identity or denying homosexual or bisexual identity.

**Homophobia** — The irrational fear or hatred of homosexuals, homosexuality, or any behaviour or belief that does not conform to rigid sex role stereotypes. It is this fear that enforces sexism as well as heterosexism.

**Homosexual** — A person primarily emotionally, physically, and/or sexually attracted to members of the same sex

**Intergender** — A person whose gender identity is between genders or a combination of genders.

**Intersex** — A term that relates to a range of physical traits or variations that lie between stereotypical ideals of male and female. Intersex people are born with physical, hormonal or genetic features that are neither wholly female nor wholly male; or a combination of female and male; or neither female nor male. Many forms of intersex exist; it is a spectrum or umbrella term, rather than a single category.

**Lesbian** — Term used to describe female-identified people attracted romantically, erotically, and/or emotionally to other female-identified people. The term lesbian is derived from the name of the Greek island of Lesbos and as such is sometimes considered a Eurocentric category that does not necessarily represent the identities of people from non-European ethnic groups.

**LGBTQI** — A common abbreviation for lesbian, gay, bisexual, transgender, queer and intersex community.

**Out** — Being openly gay, lesbian, bisexual, trans or intersex. Also verb, ‘to out (somebody)’: prohibited, to reveal (against their wishes) the sexual or gender identity of someone.

**Pansexual** — A person who is sexually attracted to all or many gender expressions.

**Queer** — An umbrella term that includes lesbians, gay men, bisexuals, transpeople, intersex persons, and radical sex communities. This term is sometimes used instead of ‘bisexual’ as a way of acknowledging that there are more than two genders to be attracted to. For decades ‘queer’ was used solely as a slur for gays and lesbians but was reclaimed by activists as a term of self-identification. However, some still hold ‘queer’ to have a negative connotation, and its use by heterosexuals is often considered offensive.

**Sex** — A medical term designating a certain combination of sex glands, chromosomes, external gender organs, secondary sex characteristics and hormonal balances. Because usually subdivided into ‘male’ and ‘female’, this categorisation does not recognize the existence of intersexed bodies.

**Sex Identity** — How a person identifies physically: female, male, in between, beyond, or neither.

**Sexual Orientation** — The desire for intimate emotional and/or sexual relationships with people of the same gender/sex, another gender/sex, or multiple genders/sexes. Everyone's sexual orientation is personal and it's up to them to decide how – and if – they want to define it, and for some people this changes over time.

**Transgender** — An individual whose gender identity or gender expression is different from typical expectations



of the gender they were assigned at birth. Not all transgender people identify as male or female – some identify as more than one gender or no gender at all. The term “Trans” is often used as shorthand. Notes: the terms “transgenders” or “transsexuals” can often be viewed as disrespectful; Being transgender has nothing to do with a person’s sexual orientation.

**Transgender Man** — A person who was assigned female at birth but identifies and lives as a male.

**Transgender Woman** — A person who was assigned male at birth but identifies and lives as a female.

**Transition** — The time when a person begins to live as the gender with which they identify rather than the gender they were assigned at birth. Transition often includes adopting new pronouns, changing one’s first name and presenting differently. It can include medical and legal steps, such as hormone therapy, sex reassignment surgery, and changing identification papers. Note: there is no single transitioning process.

**Transphobia** — Refers to negative cultural and personal beliefs, opinions, attitudes and behaviours based on prejudice, disgust, fear and/or hatred of transpeople or against variations of gender identity and gender expression.

**Ze / Hir** — Alternate pronouns that are gender neutral and preferred by some gender variant persons. Pronounced [zee] and [here], they replace “he”/“she” and “his”/“hers” respectively.

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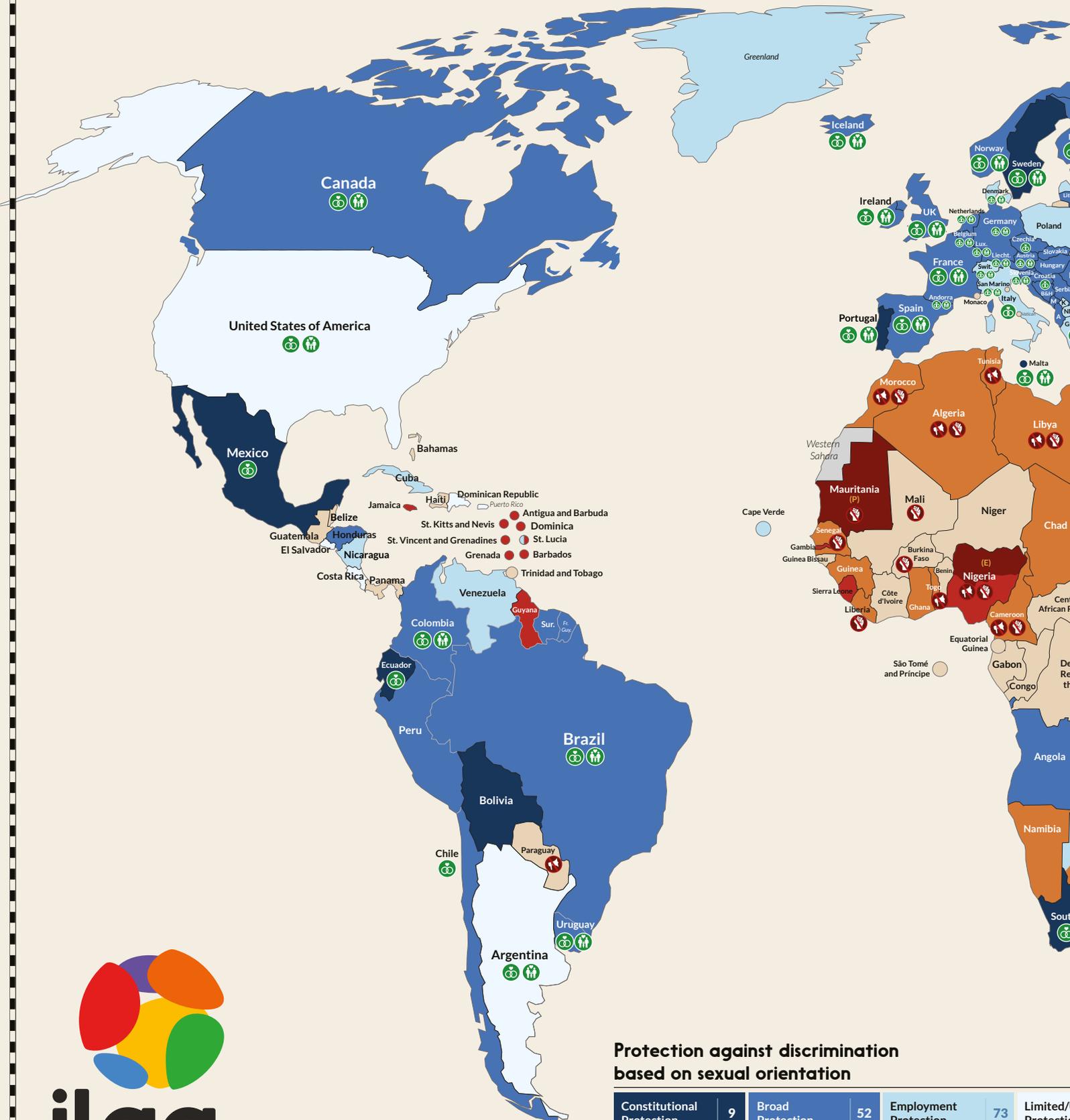
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ILGA Europe: [https://www.ilga-europe.org/sites/default/files/glossary\\_october\\_2015\\_edition.pdf](https://www.ilga-europe.org/sites/default/files/glossary_october_2015_edition.pdf)  
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# SEXUAL ORIENTATION LAW

From criminalisation of consensual same-sex sexual acts between adults



The data presented in this map is based on *State-Sponsored Homophobia*, an ILGA report by Lucas Ramón Mendos. This map can be reproduced and printed without permission as long as ILGA is properly credited and the content is not altered. [ilga.org](http://ilga.org)

## Protection against discrimination based on sexual orientation

Constitutional Protection	9	Broad Protection	52	Employment Protection	73	Limited/Protection	
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## Legal recognition of families



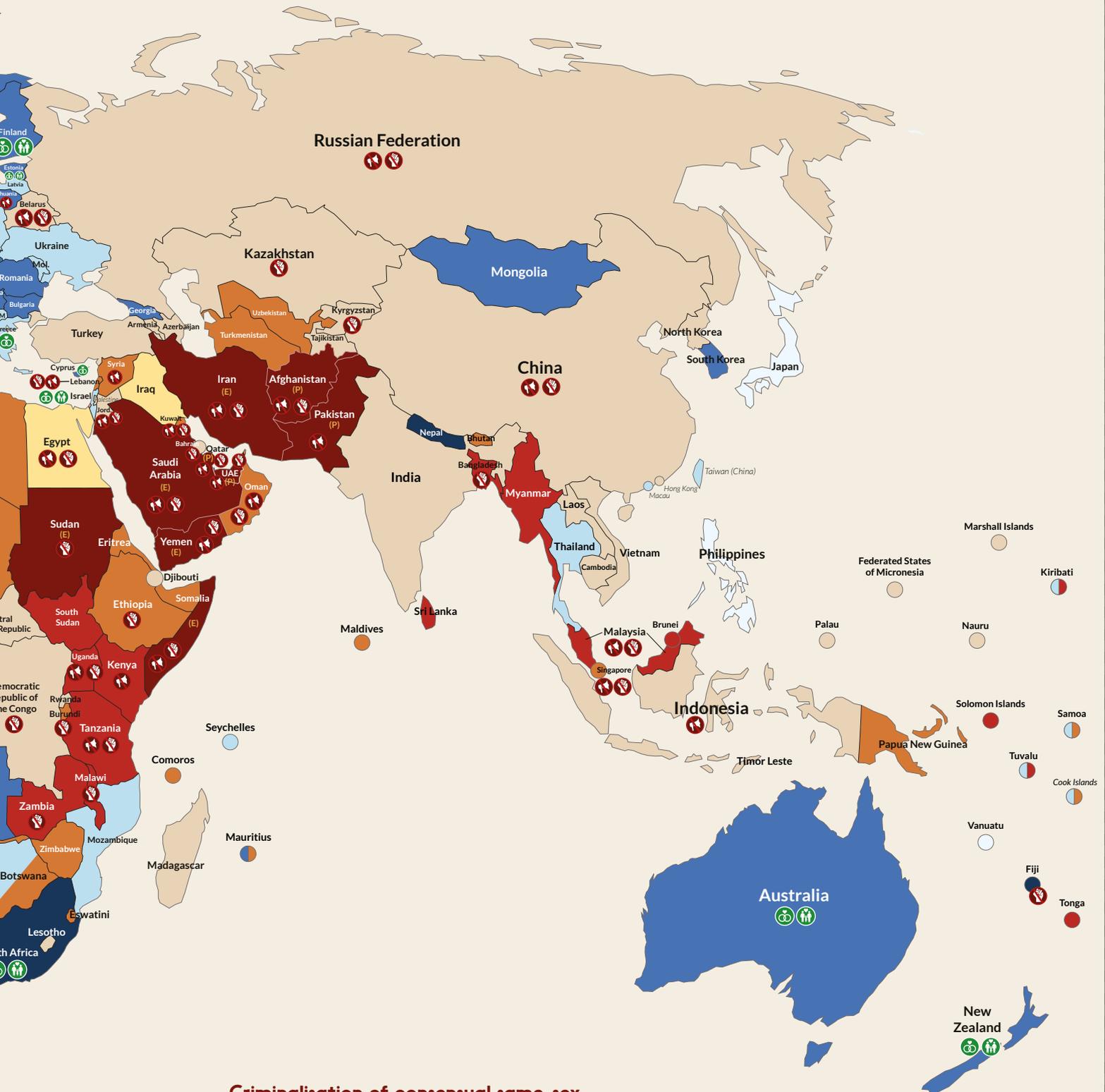
Marriage or other forms of legal union for same-sex couples



Adoption open to same-sex couples

# LEGAL BARRIERS TO PROTECTION AGAINST DISCRIMINATION BASED ON SEXUAL ORIENTATION

## Legal barriers to protection against discrimination based on sexual orientation



### Criminalisation of consensual same-sex sexual acts between adults

Uneven Protection	8	No Prot. / No Crim.	55	De Facto Criminalisation	2	Up to 8 Years Imprisonment	31	10 Years to Life in Prison	26	Death Penalty	6 (E) Effective 5 (P) Possible
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### Legal barriers to the exercise of rights



Legal barriers to freedom of expression on SOGIESC issues



Legal barriers to the registration or operation of sexual orientation related CSOs

Uniting Food, Farm and Hotel Workers  
Worldwide



# BARGAINING DEMANDS FOR **LGBTI** WORKERS' RIGHTS

**A RESOURCE FOR IUF AFFILIATES**

Collective bargaining has been a vital tool for securing rights in the labour movement's long fight for equality and justice. Collective bargaining can protect and advance the rights of lesbian, gay, bisexual, transgender and intersex people we represent – and have a positive impact on advancing these rights more widely.

In this brochure, we identify key issues to include when negotiating a collective agreement to secure and advance the rights of LGBTI workers.



A short video of  
the meeting was  
produced by PRO-GE  
and can be found at  
[https://youtu.be/  
zjeuVcNecbM](https://youtu.be/zjeuVcNecbM)



The first meeting of the LGBTI  
Workers and Allies' Steering  
Group was held in Vienna,  
Austria, 18 + 19 October 2018.

**PRO-GE**  
DIE PRODUKTIONSGEWERKSCHAFT



## KEY GOALS FOR COLLECTIVE BARGAINING AGREEMENTS:

- Include gender identity, gender expression and sexual orientation as prohibited grounds of discrimination and harassment.
- Include strong anti-harassment and violence prevention and zero tolerance language that addresses homophobia, transphobia and heterosexism.
- Treat same-sex and opposite-sex relationships the same. LGBTI workers and their families should have entitlements equal to other workers under benefits, pensions, leave (family, bereavement, marriage, parental), tuition subsidies, relocation expenses, travel passes, legal services and other policies, programs and clauses related to partners and dependents. Qualifying rules like proof of relationship and length of cohabitation must not discriminate.
- Cover prescribed medication, treatments and medical leave for in vitro fertilization, insemination, hormone therapy and other reproductive health issues.
- Provide safe change rooms, washrooms and other spaces.
- Use gender-neutral or gender-inclusive language where appropriate. Ensure that the worker's chosen name and pronoun are used in the workplace and workplace-related documents.
- Ensure that dress codes, uniforms and other clothing rules do not have a negative impact on LGBTI workers.
- Develop and implement mandatory training for co-workers and managers on LGBTI workers' rights.
- Protect the confidentiality of LGBTI workers, prohibiting anyone from sharing information about a worker's identity without the express permission of the individual.

## EXAMPLES OF THE EXPANSION OF NON-DISCRIMINATION LANGUAGE IN COLLECTIVE AGREEMENTS

IUF affiliates are increasingly negotiating the insertion of gender identity, gender expression and sexual orientation in existing non-discrimination clauses and thus expanding references to gender, age, race, color, religion, creed and political views.

### **UFCW — Cargill in the US**

“The Company and the Union agree that they will not discriminate against any employee or applicant for employment because of race, sex, color, creed, nationality, age, religion, veteran status, handicaps, national origin, sexual orientation, gender identity and gender expression.”

### **Unite Here — TNC’s in the hotel sector in the US and Canada**

“Equal Opportunity: Neither the Employer, the Union nor any employee shall in any manner discriminate against any employee or applicant for employment on the basis of race, color, religion, creed, sex, sexual orientation, marital status, national origin, age, sensory or physical handicap, gender identity, or any other reason prohibited by applicable law.

Gender: Where masculine or feminine gender is used in this Agreement, it is used solely for the purpose of illustration and shall not be construed to indicate the sex of any employee or job applicant.”

### **UFCW 832 – Granny’s poultry hatchery**

“Harassment means any improper behaviour by a person that is directed at and is offensive to another individual and which the person knew or ought reasonably to have known to be unwelcome. It comprises objectionable conduct, remarks, gestures, and displaces made on either a one (1) time or continuous basis that demean, belittle, intimidate, or cause personal humiliation or embarrassment to an individual. Without limiting the forgoing, harassment includes discrimination based on race, national or ethnic origin, colour, religion, age, sex (including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy), gender determined characteristics, marital status, sexual orientation, political belief, physical or mental disability, family status and conviction for an offense for which a pardon has been granted, and any act of intimidation or threat.”

### **Unite the Union — Model language for agreements on Lesbian, Gay and Bisexual Equality in the UK**

The Union and the Employer are committed to equality and opposed to discrimination on the grounds of sexual orientation. Lesbians, gay men and bisexuals will be treated equally and with dignity and respect by Management and work colleagues. This is in line with Employment Equality (Sexual Orientation) Regulations 2003.

We believe that lesbians, gay men and bisexuals have the right to be openly ‘out’ at work and will work positively to encourage a work environment that welcomes this. We also recognise the right of lesbians, gay and bisexual workers not to have their sexuality disclosed, without their permission by others in the organisation.



# TRANSGENDER WORKERS

Transgender workers are a particularly vulnerable group in workplaces. Collective bargaining language can provide practical and clear protections of their rights and dignity. Examples of language for use in collective bargaining agreements is shown below.



## Goals for collective bargaining:

Health insurance policies must address and protect the needs of all workers, including transgender workers.

In the absence of inclusive public health coverage standards and policies, the employer and the union shall mutually agree on the following measures to apply to transgender workers and workers intended or going through a gender affirming transition, with or without surgery or therapy:

- Utilizing the latest version of the WPATH (World Professional Association for Transgender Health) protocols in designing standards of care and clinical guidance;
- A way to notify co-workers of the worker's status or transition (the parties' discussions will include the worker);
- Creating safe work areas for the worker;
- Designating at least one unisex restroom; and
- If either party considers it advisable, developing a training for co-workers and managers, including the schedule for and frequency of the training.

## The Company will issue instructions:

- Notifying all workers that transgender workers may use the restrooms and changing rooms designated for the gender they identify with; and
- Requiring everyone at the workplace or engaged in the Company's business to speak or refer to transgender workers by the names they choose and the pronouns they identify with.

In consultation with the transgender workers:

- The company will change all records to reflect the name and pronoun transgender workers identify with.
- The Company will also update any photographs, including identification badges.

The Company will also administer the jointly-agreed training for managers, supervisors and workers.



LGBTI workers are in all IUF sectors. The IUF calls on affiliated organizations to organize, fight and win on LGBTI workers' rights and union issues and to speak out against injustice against LGBTI workers. The ad hoc IUF LGBTI Workers and Allies Committee will continue to add its voice, collective power and resources to the movement for full LGBTI equality for all workers and their families.



We encourage you to spread this document and share your experiences in bargaining with companies on LGBTI workers' rights with the IUF Secretariat at [iuf@iuf.org](mailto:iuf@iuf.org)



# Workplace challenges

Even though employment is ostensibly an area which provides people with quite broad legal protection from discrimination, according to a 2013 study by the Fundamental Rights Agency (FRA), 20% of LGBTQI people surveyed reported experiencing workplace discrimination. Specific challenges include (but are not restricted to):

**Benefits** — In many European countries, LGBTQI people do not have equal rights to leave (family, bereavement, marriage, parental etc.) or are denied dependents' benefits and pension arrangements. This unequal treatment can and does also apply in respect of access to tuition subsidies, relocation expenses, travel passes, legal services etc.

**Facilities** — LGBTQI workers, especially Trans and intersex people may experience gender or sex discrimination in relation to their ability use gender-segregated facilities, such as toilets or changing rooms. Unfair and/or unreasonable imposition of gender-specific uniforms can and does also cause serious problems for LGBTQI workers.

**Harassment** — LGBTQI workers experience harassment in the form of 'jokes' or LGBTQI-phobic comments and/or threats to 'out' them.

**Recruitment** — Conscious or unconscious heteronormative bias in employers/recruiters; this results in anti-LGBTQI discrimination during external recruitment procedures and/or in relation to internal promotions etc.

**Self-expression** — LGBTQI persons might simply not feel comfortable coming out to work colleagues and live in fear of exposure, discrimination or harassment. This can lead to poor work performance and attendance, which in turn can lead to dismissal – with the root cause, homophobia/transphobia etc., never acknowledged. For this reason, many LGBTQI people seek to avoid discrimination by concealing their sexual orientation. But repressing who one truly is comes at great personal cost. A fear of 'coming out' at work can mean that LGBTQI people miss out on opportunities for promotion and career development.

## Rainbow flag

The rainbow flag was designed by the American artist Gilbert Baker for Gay Freedom Day 1978, the precursor of later Gay Prides. It is a symbol for lesbian and gay pride, as well as for the diversity of lesbian and gay lifestyles.

### Colours

**Red = Life**

**Orange = Healing**

**Yellow = Sunshine**

**Green = Nature**

**Blue = Harmony**

**Purple = Spirit**



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IUF LGBTI Workers Rights  
[www.iuf.org](http://www.iuf.org)



[www.effat.org](http://www.effat.org)



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A short video of the meeting was produced by PRO-GE and can be found at <https://youtu.be/zjeuVcNecbM>



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