

**Written submissions relating to the Outline
of the draft General Comment on article 5 – equality and non-discrimination**

7 July 2017

These comments were prepared by the International Lesbian, Gay, Trans and Intersex Association (ILGA) in consultation with Transgender Europe (TGEU), InterACT: Advocates for Intersex Youth, Organisation Intersex International Australia, and the Russian LGBT Network.

The purpose of this document is to provide input on intersectional forms of discrimination based on both disabilities and sexual orientation, gender identity and expression and/or sex characteristics (SOGIESC), as well as to suggest specific proposals for the CRPD draft General Comment on article 5 to reflect experiences of lesbian, gay, bisexual, trans and intersex (LGBTI) persons.

In this document we referred to three types of situations, namely discrimination and other violations against: (1) intersex persons, (2) LGBTI persons who consider themselves persons with disabilities, and (3) persons perceived by others to have a disability due to their SOGIESC.

I. Introduction

While there is no precise calculation on the total number of LGBTI persons with disabilities worldwide, studies from several countries provide some data. For instance, research conducted in Britain suggested that there were 255,000 lesbian, gay and bisexual people with disabilities in the country¹. A Russian study estimated the number of gay and lesbian persons with disabilities at 650,000². Research by ILGA-Europe and TGEU showed that 15.4% of trans respondents identified themselves as having a disability, which is comparable to the figures obtained from other national and European studies³. Independent sociological research in Australia found that 27% of respondents born with atypical sex characteristics had a disability⁴.

These people face discrimination and other violations of their rights because of both their real or perceived SOGIESC and disability. For example, the Russian study showed that 66.4% of LGBT persons with disabilities experienced discrimination on the ground of disability, and 62.1% on the ground of sexual orientation⁵. The study from the UK also showed the extensive discrimination faced by lesbian, gay and bisexual people with disabilities⁶. The results of the survey of the European Agency for Fundamental Rights demonstrate that out of 93,079 LGBT respondents, 4% had personally felt discriminated against or harassed in the 12 months before the survey on the ground of their disability⁷. Multiple studies show a higher rate of physical and mental health problems in groups of LGBT people compared to non-LGBT counterparts⁸.

The problem of violence, hatred, discrimination, exclusion, stigmatization and prejudice targeted at persons because of their actual or perceived SOGIESC and their disabilities have been highlighted by different international bodies and human rights experts. For example, UN Special Procedures mandate holders, including the *Special Rapporteur on the rights of persons with disabilities*, have referred to this problem in their thematic reports⁹. The *CRPD Committee* itself has developed its own approach starting from addressing specific forms of violations faced by intersex people¹⁰, and then broadening the framework of the

general principle of non-discrimination to LGBTI people in its Lists of Issues, Concluding Observations and General Comments¹¹. The Preamble of the CRPD Convention itself, while not mentioning SOGIESC explicitly, stressed the problem of multiple or aggravated forms of discrimination experienced by persons with disabilities. And in principle 2 of the *Yogyakarta Principles* (on the rights to equality and non-discrimination) this is also addressed¹².

We warmly welcome these developments and firmly believe that more systematic and comprehensive inclusion of a SOGIESC dimension into the CRPD's standards and, particularly, the new General Comments on equality and non-discrimination would ensure stronger protection for those LGBTI people from different parts of the world who face multiple forms of discrimination and who are frequently stigmatized even within their own communities.

II. Normative content

Comments to para 7.b of the Outline – Personal Scope

In the Outline, the CRPD Committee has already referred to “assumed impairment” and “intersectional discrimination” (para 7.b). At the same time, as is noted in literature, “disability-based prejudice and stigma are always related to an actual or **presumed abnormality called impairment or chronic illness** [emphasize added]”¹³, and the wider legal approach to disability in the context of discrimination “might also include persons who are not disabled but are treated as if they were disabled”¹⁴.

Notwithstanding the fact that the World Health Association has nominally removed “homosexuality” from its classification of diseases (and is on the path to remove the pathologization of trans persons and their identities) many lesbian, gay, bisexual and trans individuals all over the world frequently continue to be perceived by their governments, medical professionals, societies and even family members as having a mental illness, abnormality or assumed impairment. In some cases this results in them being subjected to so-called “conversion therapies”¹⁵. This also extends to the medicalization and pathologisation that intersex people face. As was noted by the *UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, “the pathologisation of [LGBTI] persons reduces their identities to diseases, which compounds stigma and discrimination”¹⁶.

This has been addressed by the CRPD Committee in its review of Iran where the Committee expressed its concerns on “discrimination against persons perceived to have a disability, including on the grounds of gender identity and sexual orientation, being forced to undergo medical treatment”¹⁷ and recommended that the State Party “tackle discrimination against persons perceived to have a disability due to their gender identity and sexual orientation, by prohibiting forced medical treatment and providing appropriate remedies and redress”¹⁸ and also that it “initiate dialogue among society and prevent the confusion between having different sexual orientation and being a person with disabilities”¹⁹.

Therefore, we ask the honorable Committee to consider mentioning discrimination against persons **perceived** to have a disability due to their SOGIESC characteristics explicitly in the new General Comment.

Comments to para 7.c of the Outline – Grounds of discrimination

We welcome the inclusion of gender identity and sexual orientation, as some of the protected grounds, into the Outline (para 7.c). However, we believe it is equally important to explicitly mention **gender expression** and **sex characteristics** in this list as well.

Gender expression: Although gender identity and gender expression are often related, the two notions are distinct. While gender identity generally is something internal to a person, their gender expression is external. The latter refers to “external manifestations of gender, expressed through one’s name, pronouns, clothing, haircut, behaviour, voice, or body characteristics”²⁰. The UN Treaty Bodies and other human rights mechanisms are developing their language and increasingly mention gender expression alongside gender identity²¹.

Discrimination and other violations can be based on a person’s gender expression specifically. UN Treaty Bodies have already addressed such violations. For example, a number of countries still criminalise cross-dressing²². Persons with disabilities who also cross-dress will disproportionately face multiple violations and challenges under such laws and as they are implemented. Another situation related to gender expression is in Russia, where the government included cross-dressing practices in the list of medical conditions constituting grounds for prohibiting a person from driving, based on false assumptions that these persons’ psychological conditions could prevent them from controlling their behaviour²³.

Sex characteristics: Sex characteristics “include primary sex characteristics (for example, inner and outer genitalia and/or the chromosomal and hormonal structure) and secondary sex characteristics (for example, muscle mass, hair distribution and stature)”²⁴. Intersex people are born with sex characteristics that do not fit typical binary notions of male or female bodies²⁵, and discrimination and other violations towards intersex persons could be based on their sex characteristics. In other words, referring to discrimination against intersex persons implies sex characteristic as a ground for discrimination.

Intersex persons face both very specific forms of violations, such as intersex genital mutilation and other forms of medical intervention because of their non-normative sex characteristics, and also discrimination, violence and harassment similar to those experienced by LGBT persons²⁶. The CRPD Committee has already examined both types of violations.

For various reasons, including innate characteristics and those acquired through forced medical interventions, some intersex people may benefit from reasonable accommodations.²⁷

III. Interrelation with specific other articles

Comments to para 10 of the Outline – Article 6 (Women with disabilities)

Comments to para 11 of the Outline – Article 7 (Children with disabilities)

LGBTI women and children with disabilities may face multiple and aggravated forms of discrimination based on their real or perceived SOGIESC or disability, and also their gender and age.

Even if governments implement programs aimed at ending discrimination on some of these grounds, the effect of the combination of all these factors may unfortunately be missed in such activities. For instance, in the review of Lithuania, the CRPD Committee expressed its concerns on the absence in the action plan for the National Programme on Equal Opportunities for Women and Men 2015-2021 of concrete measures to prevent and eradicate the multidimensional discrimination faced by women and girls with disabilities but based on other grounds, especially on the grounds of sexual orientation and gender identity. The Committee recommended that the State party include measures to prevent and eradicate discrimination based on sexual orientation and gender identity in the action plan²⁸. However, efforts to combat discrimination on grounds of sexual orientation and gender identity will not necessarily benefit or even acknowledge discrimination experienced by intersex infants, children and adolescents; explicit mention of “sex characteristics” can address this gap.

New heading – Article 8 (Awareness-raising)

Awareness-raising activities are crucial to prevent discrimination faced by persons based on their real or perceived SOGIESC and disabilities. This was particularly noted by civil society actors and researchers.

A civil society report to the CRPD Committee on Uruguay described the gaps in public education anti-discrimination campaigns regarding such variables as gender identity, ethnic-racial identity and sexual orientation²⁹. A Russian study suggested that awareness-raising activities on different types of disabilities and sexuality be conducted to ensure that all measures aimed at LGBTI persons with disabilities actually fit their needs. For example, the respondents in this study evidenced that persons with hearing difficulties were provided with texts produced in Braille³⁰!

Any awareness-raising measures should take into account all factors, including persons’ bodies and identities, and address multiple and intersecting discrimination. For instance, as was noted in a Scottish report on LGBT people and disability, “there needs to be good general awareness that there is a whole collection of identities and experience. It is important that the awareness focuses on the fact that several identities can intersect [...]. Better awareness that protected characteristics intersect contributes to a greater visibility where it is accepted that people can be both LGBT and disabled”³¹.

The CRPD Committee referred to SOGIESC-related awareness-raising campaigns in its reviews of Canada, where it expressed concerns on the absence of information about awareness campaigns to combat attitudinal barriers and prejudices against LGBTI persons with disabilities³². Similarly in its review of Iran, where the Committee recommended the initiation of dialogue with society, and efforts to prevent the confusion of person having a different sexual orientation and being a person with disabilities³³.

We highly appreciate developments of the CRPD Committee’s practice on article 8 of the Convention regarding explicit references to LGBTI persons in its review of periodic country reports, and we believe that this approach should be supported by relevant provisions in the new General Comment. In this light, we wish to highlight that populations within LGBTI should be disaggregated, acknowledging the distinct (and intersecting) needs and issues faced by, in particular, intersex persons, transgender persons, and lesbian or bisexual women.

Comments to para 12 of the Outline – Article 9 (Accessibility)

While access to their physical environment, to transportation and information and communications is crucial for all persons with disabilities, those who are LGBT may face issues with access to community premises that fully restrict their opportunities to establish relations and express themselves.

As was noted by one participant in the UK study, *“if you can’t get into a building at all, if you can’t get into a bar or into a place of work because of your impairment, or rather because the place is inaccessible to people with your impairment, then you can’t express anything. So in a sense it may be that the disability is the first barrier so therefore it’s more important, you know, people don’t have the luxury of being able to express their sexuality because they don’t have the basic right of access to the same places as other people”*³⁴.

Similar issues may be experienced by persons with non-conforming gender identities or expressions. One specific challenge that trans and gender non-conforming persons with mobility restrictions face is access to equipped gender-neutral toilets³⁵.

New heading – Article 12 (Equal recognition before the law)

Early medical interventions towards intersex children, amounting to restriction on their legal capacity, directly contravenes article 12 of the Convention³⁶. As has been already stated by the CRPD Committee in its General recommendation no. 3, restricting or removing legal capacity can facilitate forced interventions, such as treatment performed on intersex children without their informed consent³⁷.

Comments to para 15 of the Outline – Article 16 (Freedom from exploitation, violence and abuse)

LGBTI persons with disabilities may be particularly vulnerable to different forms of violence and abuse from strangers, but also from their carers and families on which they are dependent. This is evidenced by data collected in different countries. For example, a research study conducted in Russia showed that 48.3% of respondents (LGBTI persons with disabilities) experienced psychological violence, 16.4% economic violence, and 11.2% physical violence on the ground of their disability. At the same time, 49.1% of the respondents faced psychological violence, 12.1% physical violence and 6% economic violence because of their sexual orientation^[34]. In a study of LGBT persons in Brighton, UK, it was revealed that 51% of LGBT persons with physical disabilities and 42% of deaf LGBT persons reported experiencing domestic violence, as opposed to 36% of LBT women and 27% of GBT men overall³⁸.

New heading – Article 17 (Protecting the integrity of the person)

Intersex children in different parts of the world continue to be subjected to intersex genital mutilation, irreversible sex assignment and sterilization, medical display and photography of the genitals, and medical experimentation. People with intersex traits may also be denied

necessary medical treatment. As a result of such treatment, intersex individuals suffer life-long physical and emotional injury³⁹.

The CRPD Committee, in line with approaches developed by other UN Treaty Bodies⁴⁰, is addressing the specific challenges faced by intersex persons in its practice framing related violations in all cases under article 17 of the Convention⁴¹.

We consider it crucial to maintain this approach in the new General Comment and to incorporate in the text specific measures to be taken by State parties, including, in particular, ensuring that no one is subjected to non-urgent medical or surgical treatment during infancy or childhood; guaranteeing bodily integrity, autonomy and self-determination to the children concerned; and providing families with intersex children with adequate counselling and support. All these recommendations have been made by the CRPD Committee previously in country periodic reviews, and this list could be supplemented by other measures recommended by other Treaty Bodies, such as undertaking investigation of instances of surgical interventions or other medical procedures performed on intersex people without effective consent, and providing adequate redress for the physical and psychological suffering caused by such practices to intersex persons⁴².

Comments to para 16 of the Outline – Article 19 (Living independently and being included in the community)

Inclusion in the community, being so important for full and effective participation of persons with disabilities in society, may pose specific challenges for LGBTI people with disabilities. Negative stereotypes and prejudices and lack of information about different SOGIESC characteristics and disabilities affect members of communities of LGBTI persons and persons with disabilities as well. As a result, LGBTI persons with disabilities can be excluded by either or both communities.

For example, research conducted in Russia showed that 23.3% of respondents (LGBTI persons with disabilities) experienced discrimination within the LGBT community, and 19.8% were discriminated within the community of persons with disabilities⁴³. The same findings were made with regards to Germany⁴⁴ and Britain⁴⁵.

For LGBTI persons with disabilities it could be difficult to be integrated in the community of people with disabilities because of negative attitudes towards LGBTI. As was noted by a respondent in a research done in the UK, *“there are a lot of people I know in the disability movement who daren’t come out in their organization”*⁴⁶. In May 2016, D., an activist from Russia came out on his social network page, and after that almost all representatives of NGOs who had worked together with him ceased contact. He received a lot of messages from his former colleagues advising him to “be cured or to stop propagating his disease”⁴⁷.

Often, people familiar with issues of sexual orientation only may express ignorance towards intersex and/or transgender people. Similarly, lesbian women and bisexual persons are often invisibilized within their own communities.

At the same time, LGBTI communities could be reluctant to accept persons with disabilities. Specifically, exclusion of persons with disabilities could be based on widespread assumptions of unacceptability of certain types of bodies in gay club spaces or in the gay and lesbian press⁴⁸.

Organizing support and self-help groups has proved to be one of the most effective methods of socialization for LGBTI persons with disabilities⁴⁹. Therefore, governments should be encouraged to facilitate and fund such initiatives.

The barriers described above also affect involvement of LGBTI people with disabilities into the defence of human rights, and, as was noted by ILGA-Europe, lead to their decreased participation and representation in political and public life. This creates a vicious cycle where the specific needs of LGBTI people with disabilities are first not voiced and therefore not taken into account⁵⁰. Additionally, it is particularly challenging for LGBTI persons with disabilities to fulfil the high emotional or physical demands posed by being a human rights defender. As one person explained, *"I would like to be an LGBT activist, but as a person with disability or a person with mental disorders, I usually feel fear and cannot trust others, therefore it is very difficult for me"*⁵¹.

New heading – Article 22 (Respect for privacy)

LGBTI persons with disabilities, especially those institutionalized or depending on carers, may suffer from violations of their right to the protection of private life.

For example, in one Russian case, a director of a specialized institution, after learning about romantic relationships between two young men with disabilities, called one of them on the carpet and told him that what they were doing was "disgusting and should be stopped"⁵².

Comments to para 17 of the Outline – Article 24 (Education)

LGBTI persons with disabilities face increased risks of school bullying and segregation in specific schools. For instance, Russian research showed that 52.6% of respondents (LGBTI persons with disabilities) faced different forms of discrimination based on their sexual orientation and gender identity in educational institutions, and 50.9% of respondents were discriminated there on ground of disability⁵³.

LGBTI pupils with disabilities may be segregated and bullied in schools and abandoned by their families. Intersex and trans students may be bullied on the basis of their physical characteristics, and in the case of intersex students medical interventions during puberty may impact ability to attend and participate in school, with Australian sociological research showing that 18% of 272 survey respondents failed to complete secondary school (compared to an average of 2% in the Australian population as a whole)⁵⁴. Intersex infants, children and adolescents experience specific forms of violations in other social settings, and in medical settings, related to their physical characteristics, including violation of bodily integrity.

Harassment campaigns against teachers could affect those of them who work in specialized schools and, as a result, the children attending such schools could suffer as well. For instance, in 2014, a director of a school in Saint Petersburg fired a lesbian music teacher after revealing pictures of her with her partner that were published on her private social network page and accessible only by her friends. All the attempts of the woman to seek justice in the courts was unfruitful, and the pupils, mostly children with disabilities, lost a talented teacher who helped them to develop their abilities⁵⁵.

New heading – Article 23 (Respect for home and the family)

Lack of legal recognition of same-gender families affect specifically those members of such families who have disabilities. They may not be able to designate their partners as their legal representatives, or their partners and children could be denied benefits otherwise provided to family members. Consequently, one of the main needs of gay, lesbian and bisexual people with disabilities identified by a Russian study, were consultations on how to achieve any legal recognition of families formed by gay, lesbian and bisexual persons with disabilities⁵⁶.

New heading – Article 25 (Health)

We appreciate country-specific recommendations under article 25 of the CRPD Convention already made by the CRPD Committee with regards to the situation of LGBTI persons with disabilities. For example, following its review of Colombia, the Committee recommended the State party to provide the financial and human resources necessary to extend healthcare to all persons with disabilities, in particular LGBTI persons⁵⁷. Similarly, in the review of Canada, the Committee suggested that the Government establish special measures to ensure that persons with disabilities, including trans- and gender-diverse persons with disabilities, have equal access to health services including gender-affirming comprehensive health care⁵⁸.

We would strongly support inclusion of specific references to LGBTI persons with disabilities in the context of article 25 of the CRPD Convention on health, into the new General Comment. However, we believe that some other health-related concerns should be taken into account as well.

One particularly worrying issue is that services and information about sexual health and rights may not be accessible for LGBTI persons with disabilities.

As was evidences by a participant in a British research, *“there is a lack of sexual health information, even general health information aimed at disabled women and disabled lesbians. What is produced in Braille and tapes seems to go like hotcakes”*⁵⁹. Another study conducted in the UK showed that 46% of lesbian and bisexual women with disabilities have never been screened for a sexually transmittable infection⁶⁰.

Lack of information may be accompanied by personal prejudices by medical professionals. For example, one of the respondents in the British study told a story of something that happened with her: *“I was having a well-woman check and I said to the practice nurse, I’d like you to show me how to examine my breasts and so she waved this leaflet – at a blind woman, you know, I’m obviously blind. So I asked her to show me and she was literally going poke, poke with her finger. It was like she was miles away. (What was making her uncomfortable?) The fact that I was blind and I’m a lesbian yeah, both, both counts. They’re usually quite keen to show you how to do it”*⁶¹.

Trans people with disabilities may be subjected to specific forms of violations with regard to requirements related to processes for gaining legal gender recognition, such as medical examinations (if required to undergo gender reassignment surgery). Further violations may occur if such surgeries are not covered by public health funding, if they have to provide evidence of their “effective socialization” in order to get recognition of their identities by psychiatrists or sexologists, or if they are told that other conditions, such as mental health diagnosis, diabetes or HIV status prevent them from being suitable for any gender

reassignment procedures. In addition, trans people who suffer of mental health difficulties unrelated to their gender identity, may face barriers when trying to access support by mental health providers, or have their mental health needs subsumed under gender identity related mental health.

Many specific violations experienced by intersex persons also concern medical treatment, as was demonstrated above with regard to article 17 of the CRPD Convention. Many intersex persons face lifelong consequences of sterilisation and other medical interventions, giving rise to health risks such as osteoporosis.

Comments to para 18 of the Outline – Article 27 (Work and employment)

LGBTI persons with disabilities could face particular risks in work and employment environment. For instance, a research conducted in Russia showed that 52.6% of respondents, LGBT persons with disabilities, faced discrimination in labour, and only 26.7% were employed⁶².

Comments to para 22 of the Outline – Statistics & Research

We would like to emphasize specifically the lack of comprehensive data on intersectional forms of discrimination faced by persons based on their real or perceived SOGIESC and disability. This problem has been also mentioned by civil society in a number of submissions to the CRPD Committee⁶³. Apart from broad research, there is also a need for collection and analysis of data disaggregated by different identities (for example, trans persons or lesbian women with disabilities, or intersex persons).

¹ Brothers, M. (2003). It's Not Just about Ramps and Braille: Disability and Sexual Orientation. *Re-Thinking Identity: The Challenge of Diversity*, p. 51.

² Queer-Peace (2017), *Monitoring of discrimination of representatives of LGBT community with disability*, p. 2.

³ Whittle, S., Turner, L., Combs, R., & Rhodes, S. (2008). *Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care*. Brussels: ILGA-Europe, p. 44.

⁴ Jones, T. et al. (2016). *Intersex: Stories and Statistics from Australia*. Cambridge, UK: Open Book Publishers.

⁵ Queer-Peace (2017), p. 5.

⁶ Brothers, M. (2003), pp. 49-67.

⁷ See e.g.: Conron, K.J. et al. (2010). A Population-Based Study of Sexual Orientation Identity and Gender Differences in Adult Health. *The American Journal of Public Health*, 100(10), pp. 1953-1960; Fredriksen-Goldsen, K.I. et al. (2012). Disability Among Lesbian, Gay, and Bisexual Adults: Disparities in Prevalence and Risk. *The American Journal of Public Health*, 102(1), pp. e16-e21; Dilley, J.A. et al. (2010). Demonstrating the Importance and Feasibility of Including Sexual Orientation in Public Health Surveys: Health Disparities in the Pacific Northwest. *The American Journal of Public Health*, 100(3), pp. 460-467; Jorm, A.F. et al. (2002). Sexual orientation and mental health: results from a community survey of young and middle-aged adults. *The British Journal of Psychiatry*, 180(5), pp. 423-427; Meyer, I.H. (2003). Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence. *Psychological Bulletin*, 129(5), pp. 674-697.

⁸ FRA (2014). *EU LGBT survey, European Union lesbian, gay, bisexual and transgender survey: Main results*, p. 28.

⁹ See e.g., Reports of the Special Rapporteur on the rights of persons with disabilities: 20 December 2016, [A/HRC/34/58](#), para 42; 12 January 2016, [A/HRC/31/62](#), para 60; 7 August 2015, [A/70/297](#), para 40.

¹⁰ See List of Issues for the United Kingdom ([CRPD/C/IRN/Q/1](#), paras 11 and 12), Concluding Observations on Chile ([CRPD/C/CHL/CO/1](#), paras 41-42), Germany ([CRPD/C/DEU/CO/1](#), paras 37-38), Italy ([CRPD/C/ITA/CO/1](#), paras 45-46) and Uruguay ([CRPD/C/URY/CO/1](#), paras 43-44), and General Comment No. 3 (2016) on women and girls with disabilities refers to LBT women and intersex persons addressing multidimensional discrimination and the diversity of women with disabilities ([CRPD/C/GC/3](#), paras 32 and 44). See also a joint [statement](#) made by a number of Treaty Bodies devoted to the Intersex Awareness Day calling for end of violence and harmful medical practices on intersex children and adults.

¹¹ See e.g., Lists of Issues for Cyprus ([CRPD/C/CYP/Q/1](#), para 6) and Iran ([CRPD/C/IRN/Q/1](#), para 7), Concluding Observations on Armenia ([CRPD/C/ARM/CO/1](#), para 6), Canada ([CRPD/C/CAN/CO/1](#), para 9c), Colombia

([CRPD/C/COL/CO/1](#), para 57), Iran ([CRPD/C/IRN/CO/1](#), paras 12-13), Italy ([CRPD/C/ITA/CO/1](#), para 8), Lithuania ([CRPD/C/LTU/CO/1](#), paras 15-16) and Uganda ([CRPD/C/UGA/CO/1](#), paras 8-9), and General Comment No. 3 (2016) on women and girls with disabilities refers to LBT women and intersex persons addressing multidimensional discrimination and the diversity of women with disabilities ([CRPD/C/GC/3](#), paras 4c and 5) and General comment No. 4 (2016) on the right to inclusive education refers to issue of intersectional discrimination mentioning sexual orientation in the context of education and disability ([CRPD/C/GC/4](#), para 13).

¹² The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. Available at: <http://www.yogyakartaprinciples.org>.

¹³ Degener, T. (2006). The Definition of Disability in German and Foreign Discrimination Law. *Disability Studies Quarterly* 26(2).

¹⁴ Ibid.

¹⁵ So-called “conversion therapy,” sometimes known as “reparative therapy,” is a range of dangerous and discredited practices (that could involve electric shock, medication, psychotherapy or “faith healings” and “casting-out demons” in religious settings), that falsely claim to change a person’s sexual orientation or gender identity or expression. Such practices have been rejected by every mainstream medical and mental health organization for decades, but due to continuing discrimination and societal bias against LGBT people, some practitioners continue to conduct conversion therapy. Minors are especially vulnerable, and conversion therapy can lead to depression, anxiety, drug use, homelessness, and suicide. See e.g., Human Rights Campaign, [The Lies and Dangers of Efforts to Change Sexual Orientation or Gender Identity](#).

¹⁶ *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, 28 March 2017, [A/HRC/35/21](#), para 48.

¹⁷ [CRPD/C/IRN/CO/1](#), para 12b.

¹⁸ Ibid, para 13c.

¹⁹ Ibid, para 19c.

²⁰ GLAAD, [Media Reference Guide – Transgender Issues](#). The basic terminology is also explained in the Annex below.

²¹ See e.g.: Concluding Observations by the Human Rights Committee on Slovakia ([CCPR/C/SVK/CO/4](#), para 14), South Africa ([CCPR/C/ZAF/CO/1](#), para 3) and Sweden ([CCPR/C/SWE/CO/7](#), para 3); UNESCO (2016). [Out in the Open: Education sector responses to violence based on sexual orientation and gender identity/expression](#).

²² See e.g., Concluding Observations by the Human Rights Committee on Kuwait ([CCPR/C/KWT/CO/3](#), paras 12-13), Sri Lanka ([CCPR/C/LKA/CO/5](#), para 8); Concluding Observations by the Committee on Economic, Social and Cultural Rights on Guyana ([E/C.12/GUY/CO/2-4](#), paras 24-25).

²³ [CCPR/C/RUS/CO/7](#), para 10.

²⁴ ARC International, the International Bar Association and the International Lesbian, Gay, Bisexual, Trans and Intersex Association, [Sexual Orientation, Gender Identity and Expression, and Sex Characteristics at the Universal Periodic Review](#) (November 2016), p. 15.

²⁵ Free and Equal: United Nations for LGBT Equality. [Fact Sheet: Intersex](#).

²⁶ See, e.g.: Free and Equal: United Nations for LGBT Equality. [Fact Sheet: Intersex](#); OII Australia. [Intersex for Allies](#); OII United States. [Brief Guidelines for Intersex Allies: Information to help you spread awareness about intersex people](#); InterACT. [What We Wish Our Doctors Knew](#), [What We Wish Our Parents Knew](#) & [What We Wish Our Friends Knew](#); ILGA-Europe: Ghattas, D.C. (2015). [Standing Up for the Human Rights of Intersex People: How Can You Help?](#); [Normalizing Intersex](#); VOICES; A [compilation](#) of resources on intersex by the Astraea Foundation; [United Nations for Intersex Awareness](#) – Free & Equal; Astraea. [We Are Real: The Growing Movement Advancing the Human Rights of Intersex People](#); Jones, T. et al. [Intersex: Stories and Statistics from Australia](#).

²⁷ Victorian Gay and Lesbian Rights Lobby. [Guide for union and employer representatives on LGBTI issues](#).

²⁸ [CRPD/C/LTU/CO/1](#), paras 15-16.

²⁹ Alianza de Organizaciones por los Derechos de las Personas con Discapacidad del Uruguay (2016). [Informe Alternativo – Uruguay](#), p. 13.

³⁰ Kondakov, A. (2017). *LGBTIQ with Disabilities in Russia*, p. 22.

³¹ Inclusion Scotland’s response to COSLA’s UN CRPD Local Government Delivery Plan consultation, p. 4.

³² [CRPD/C/CAN/CO/1](#), paras 19-20.

³³ [CRPD/C/IRN/CO/1](#), para 19.

³⁴ Brothers, M. (2003), p 56.

³⁵ The problem of access of trans persons to toilets was highlighted in a number of sources. See e.g.: *Report of the Special Rapporteur on the human right to safe drinking water and sanitation*, 27 July 2016, [A/HRC/33/49](#), paras 2, 4, 9, 30, 48, 50 & 58.

³⁶ See e.g.: OII Australia (2017). [Shadow Report submission to the Committee on the Rights of Persons with Disabilities on the situation of intersex people in Australia](#), p. 20.

³⁷ [CRPD/C/GC/3](#), para. 44.

³⁸ Sisters of Frida (2017). *Shadow Report on the UK Initial Report on the UN Convention on the Rights of Persons with Disabilities*, p. 6.

³⁹ See specific report on intersex, e.g.: InterACT (2016) [Recommendations from interACT: Advocates for Intersex Youth regarding the List of Issues for the United States for the 59th Session of the Committee Against Torture](#); OII Australia: Carpenter, M. (2017) [Shadow Report submission to the Committee on the Rights of Persons with Disabilities on the situation of intersex people in Australia](#); Zwischengeschlecht.org (International Intersex Human Rights NGO) (2015). [NGO Report on the Answers to the List of Issues \(LoI\) in Relation to the Initial Periodic Report of Germany on the Convention on the Rights of Persons with Disabilities \(CRPD\)](#).

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- ⁴⁰ Committee against Torture (CAT), Committee on the Elimination of Discrimination against Women (CEDAW), Committee on the Rights of the Child (CRC).
- ⁴¹ See Concluding Observations on Chile ([CRPD/C/CHL/CO/1](#), paras 41-42), Germany ([CRPD/C/DEU/CO/1](#), paras 37-38), Italy ([CRPD/C/ITA/CO/1](#), paras 45-46) and Uruguay ([CRPD/C/URY/CO/1](#), paras 43-44).
- ⁴² See e.g., Concluding Observations by CAT on Austria ([CAT/C/AUT/CO/6](#), paras 44-45), Denmark ([CAT/C/DNK/CO/6-7](#), paras 42-43), France ([CAT/C/FRA/CO/7](#), paras 34-35), Hong Kong, China ([CAT/C/CHN-HKG/CO/5](#), paras 28-29) and Switzerland ([CAT/C/CHE/CO/7](#), para 20); Concluding Observations by CRC on Chile ([CRC/C/CHL/CO/4-5](#), paras 48-49), Ireland ([CRC/C/IRL/CO/3-4](#), paras 39-40), Nepal ([CRC/C/NPL/CO/3-5](#), paras 41-42) and New Zealand ([CRC/C/NZL/CO/5](#), para 25).
- ⁴³ Queer-Peace (2017), p. 6.
- ⁴⁴ BRK-Allianz (Eds.) (2015). *For Independent Living, Equal Rights, Accessibility and Inclusion! First Civil Society Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities in Germany*, p. 14.
- ⁴⁵ Brothers, M. (2003), pp. 57-59.
- ⁴⁶ Ibid, p. 56.
- ⁴⁷ Queer-Peace (2017), p. 7.
- ⁴⁸ See e.g.: Brothers, M. (2003), p. 56; Kondakov, A. (2017), p. 19.
- ⁴⁹ Brothers, M. (2003), p 57.
- ⁵⁰ ILGA-Europe's contribution to the civil society shadow report on the implementation by the EU of the UN Convention on the Rights of Persons with Disabilities, May 2014.
- ⁵¹ Kondakov, A. (2017), p. 21.
- ⁵² Queer-Peace (2017), p. 7.
- ⁵³ Ibid, p. 6.
- ⁵⁴ Jones T, Hart B, Carpenter M, Ansara G, Leonard W, Lucke J. *Intersex: Stories and Statistics from Australia*. Cambridge, UK: Open Book Publishers; 2016.
- ⁵⁵ See e.g.: Union of Independent LGBT Activists of Russia (2015). *Written submission to CEDAW related to discrimination and violence against lesbian, bisexual and transgender women in Russia*, p. 6-7.
- ⁵⁶ Kondakov, A. (2017), p. 23.
- ⁵⁷ [CRPD/C/COL/CO/1](#), para 57d.
- ⁵⁸ [CRPD/C/CAN/CO/1](#), para 46.
- ⁵⁹ Brothers, M. (2003), p 55.
- ⁶⁰ Disability, Stonewall Health Briefing, Stonewall, https://www.stonewall.org.uk/documents/disability_1.pdf.
- ⁶¹ Brothers, M. (2003), p 61.
- ⁶² Queer-Peace (2017), p. 6.
- ⁶³ See e.g.: Civil society coalition (2016). *Shadow report for the review of the State of Chile before the Committee on the Rights of Persons with Disabilities in the 15th session*, p. 6; Egale Canada Human Rights Trust (2017). *Canada: Discrimination and Violence against LGBTQI2S Persons with Disabilities*, p. 5; BRK-Allianz (Eds.) (2015). *For Independent Living, Equal Rights, Accessibility and Inclusion! First Civil Society Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities in Germany*, p. 14.

ANNEX – Basic terminology

Sexual orientation – ‘Sexual orientation is understood to refer to each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.’⁶⁴

Gender identity – ‘Gender identity is understood to refer to each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.’⁶⁵

Gender expression – ‘External manifestations of gender, expressed through one’s name, pronouns, clothing, haircut, behaviour, voice, or body characteristics. Society identifies these cues as masculine and feminine, although what is considered masculine and feminine changes over time and varies by culture. Typically, transgender people seek to make their gender expression align with their gender identity, rather than the sex they were assigned at birth.’⁶⁶

Sex characteristics – ‘Include primary sex characteristics (eg, inner and outer genitalia and/or the chromosomal and hormonal structure) and secondary sex characteristics (eg, muscle mass, hair distribution and stature).’⁶⁷

Gay – ‘Men who sexually, physically and romantically feel attracted to individuals of the same gender.’⁶⁸

Lesbian – ‘Women who sexually, physically and romantically feel attracted to individuals of the same gender.’⁶⁹

Bisexual – ‘Individuals who sexually, physically and romantically feel attracted to individuals of more than one gender.’⁷⁰

Trans – ‘Trans people have a gender identity that is different from the gender assigned at birth. This includes people who might or might not undergo gender reassignment, as well as those who prefer or choose to present themselves differently from the expectations of the gender assigned to them at birth.’⁷¹

Intersex – ‘Intersex refers to people who are born with any of a range of characteristics that may not fit traditional conceptions about male or female bodies. The term intersex is an umbrella term that refers to people who have one or more of a range of variations in sex characteristics that fall outside of traditional conceptions of male or female bodies. For example, intersex people may have variations in their chromosomes, genitals, or internal organs like testes or ovaries.’⁷²

⁶⁴ Definition adapted from the [Yogyakarta Principles](#) on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity (2007), fn 1.

⁶⁵ Yogyakarta Principles (2007), fn 2.

⁶⁶ GLAAD, [Media Reference Guide – Transgender Issues](#).

⁶⁷ ARC International, the International Bar Association and the International Lesbian, Gay, Bisexual, Trans and Intersex Association, [Sexual Orientation, Gender Identity and Expression, and Sex Characteristics at the Universal Periodic Review](#) (November 2016), p. 15.

⁶⁸ Definition adapted from the Yogyakarta Principles.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Transgender Europe: Köhler, R. & Ehrh, J. (2016). [Legal Gender Recognition in Europe](#), p. 9.

⁷² InterACT (Advocates for Intersex Youth). [Intersex 101: Everything you want to know!https://oii.org.au/18106/what-is-intersex](#).