



Inputs on Upcoming Country Visit to the United States of America

*Submission to the UN Independent Expert on protection against violence and discrimination
based on sexual orientation and gender identity
10 May 2022*

Report submitted by:

International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA World)
&
United Territories of Pacific Island Alliance- Washington.

With the support of:

SAGE- Advocacy & Services for LGBTQ+ Elders

Table of contents

Table of contents	2
Introduction	3
Background Note on Current Advancements and Challenges	3
Priority Issues	4
Violence and Discrimination against LGBTQ+ People.....	4
Violence and Discrimination against Racial and Ethnic Minorities with Diverse SOGIESC	4
Violence against 2SLGBTIQ+ People and Lack of Basic services for Indigenous Communities with Diverse SOGIESC	5
Religious Exemption Laws and the Backlash against LGBTQ+ Equality in the US	5
The Backlash against Trans Rights	5
LGBTQ+ People and the Right to Health.....	6
LGBTQ People and Economy	6
LGBTQ+ Older People Rights.....	7
LGBTQ Rights in Washington	8
Recommendations	11

Introduction

This document has been prepared by ILGA World as a response to the [call for submissions](#) published by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. It explores the current priorities for lesbian, gay, bisexual, trans, queer and questioning (LGBTQ+) people in the United States of America. ILGA World carried out qualitative research of human rights reports, legal documents, and media reports in April 2022. In addition, UTOPIA Washington partnered with ILGA-World to provide information on violence and discrimination based on sexual orientation and gender identity in Washington and more, and SAGE supported ILGA World in providing information on the issues and challenges faced by LGBTQ+ older people.

Background Note on Current Advancements and Challenges

In June 2020, the Supreme Court of the United States ruled in its conclusions on the *Bostock v. Clayton* case that the federal law prohibition of sex discrimination in employment is inclusive of discrimination based on sexual orientation and gender identity.¹ However, Congress has not yet enacted the Equality Act, a bill that would expressly prohibit discrimination based on sexual orientation and gender identity under a wide range of federal civil rights laws².

The current USA government administration has instructed federal agencies to address discrimination based on sexual orientation and gender identity.³ It has also repealed the transgender military ban, a discriminatory policy enacted under the former administration.⁴ In April 2022, a new X gender marker on US passports was announced⁵, and in March 2022, congress reauthorized the Violence Against Women Act, which includes provisions for LGBTQ+ survivors of violence.⁶ However, the challenges for LGBTQ+ people in the USA persist. In 2021, more than a dozen states considered bills that would prohibit gender-affirming health care⁷. Many LGBTQ+ people continue experiencing barriers to accessing health care, violence against ethnic and racial minorities in the country, such as indigenous, African-American, hispano, black and latinx communities with diverse SOGIESC⁸ is widespread and LGBTQ+ older people are subjected to discrimination or violence and are not fully protected by public policies and laws.

¹Supreme Court of the United States, No. 17–1618. Argued October 8, 2019, Decided June 15, 2020, https://www.supremecourt.gov/opinions/19pdf/17-1618_hfci.pdf

² Human Rights Watch, Human Rights Watch Country Profiles: Sexual Orientation and Gender Identity, Word Report 2021, <https://www.hrw.org/video-photos/interactive/2021/04/23/country-profiles-sexual-orientation-and-gender-identity>

³³ Human Rights Watch, United States Events of 2021, <https://www.hrw.org/world-report/2022/country-chapters/united-states#e81181>

⁴ Ibid

⁵ GCN, Biden Administration announces new X gender marker on US passports, 2022, <https://gcn.ie/x-gender-marker-us-passports/>

⁶ Violence Against Women Act Reauthorization Act of 2022, session 3623, 117th congress(2021-2022), <https://www.congress.gov/bill/117th-congress/senate-bill/3623/text>

⁷ Human Rights Watch, United States Events of 2021, <https://www.hrw.org/world-report/2022/country-chapters/united-states#e81181>

⁸ Sexual Orientation, Gender Identity and Expression and Sex Characteristics

Priority Issues

Violence and Discrimination against LGBTQ+ People

Many trans persons and gender non-conforming people (GNC) face marginalization, stigma, and violence in the country. The surge in violence against trans persons has reached a critical point; at least 44 trans and gender non-conforming people in 2020 were killed in the United States,⁹ a number that reached at least 57 in 2021.¹⁰ According to the data collected, victims are mainly trans women, many of whom are black and Latinx.¹¹ From 2016 to 2021, at least 88 percent of the trans people killed in Florida, 91 percent of the trans people killed in Ohio, and 90 percent of the trans people killed in Texas were people of color.¹²

Moreover, the 2015 USTS (United States Trans Survey) is the largest survey examining the experiences of transgender people in the United States, with 27,715 respondents from all fifty states, the District of Columbia, American Samoa, Guam, Puerto Rico, and U.S. military bases overseas. Conducted in the summer of 2015 by the National Center for Transgender Equality, the USTS was an anonymous, online survey for transgender adults (18 and older) in the United States, available in English and Spanish.

The findings reveal disturbing patterns of mistreatment and discrimination and startling disparities between transgender people in the survey and the U.S. population when it comes to the most basic elements of life, such as finding a job, having a place to live, accessing medical care, and enjoying the support of family and community.¹³

Violence and Discrimination against Racial and Ethnic Minorities with Diverse SOGIESC

In 2019, during the two months of Pride season (15 May to 15 July), the National Coalition of Anti-Violence Programs recorded 14 homicides of LGBTQ+ people. Ten of these victims were Black, and seven were Black trans women. They also recorded two fatalities in detention, both victims were trans women of color.¹⁴

Moreover, Black LGBTQ+ individuals experience heightened levels of discrimination in the workplace healthcare systems, and police interactions, leading to gaps in economic improvement and mental and physical health outcomes.¹⁵ Likewise, LGBTQ+ people of color living in rural areas may experience even further isolation and lack of support structures. They are at risk of multiple types of discrimination, further limiting their chances to access quality services, legal support, health care, and employment. Further amplifying this problem, many service providers in United States rural areas are religiously affiliated and are covered under religious exemption laws that may allow them to discriminate.¹⁶

⁹Human Rights Campaign, Violence Against the Transgender and Gender Non-Conforming Community in 2020, <https://www.hrc.org/resources/violence-against-the-trans-and-gender-non-conforming-community-in-2020>

¹⁰Human Rights Campaign, Fatal Violence Against the Transgender and Gender Non-Conforming Community in 2021, 2021, <https://www.hrc.org/resources/fatal-violence-against-the-transgender-and-gender-non-conforming-community-in-2021>

¹¹ National Centre for Transgender Equality, Murders of Transgender People in 2020 Surpasses Total for Last Year in Just Seven Months, 2020, <https://transequality.org/blog/murders-of-transgender-people-in-2020-surpasses-total-for-last-year-in-just-seven-months>

¹² HRW (2021) "I Just Try to Make It Home Safe": Violence and the Human Rights of Transgender People in the United States

¹³ Information provided by UTOPIA- Washington

¹⁴ NCAVP (2019), [Pride and Pain: A Snapshot of Anti-LGBTQ Hate and Violence During Pride Season 2019](#)

¹⁵ For more information see CAP (2021) [Black LGBTQ experience heightened levels of discrimination](#) and [CAP \(2020\) The State of the LGBTQ community in 2020](#)

¹⁶ For more information see Equality Federation Institute (2019) [Where we call home: LGBT people of color in rural America.](#)

Violence against 2SLGBTIQ+ People and Lack of Basic services for Indigenous Communities with Diverse SOGIESC

There is still significant violence towards 2SLGBTIQ+¹⁷ in the country. Discrimination against 2SLGBTIQ+ has persisted for centuries in the US¹⁸ as a result of the colonial past and the combination of hetero-patriarchal violence and racism, which puts these communities at elevated risks.¹⁹ For instance, trans Native American women are particularly subject to violence.²⁰ According to the National Congress of American Indians, four in five Native women have experienced violence in their lifetime, which also includes statistics on trans women.²¹ The 2015 US Transgender Survey²², the largest survey focused on the trans community, indicated that 65 percent of the 319 respondents who identified as American Indian or Alaska Native had been sexually assaulted. In the previous year, 60 percent were denied equitable treatment, verbally abused, and/or physically assaulted, according to the study.²³ A 2020's report conducted in New Mexico called "Missing and Murdered Indigenous Women and Relatives", in addition to violence against 2SLGBTIQ+, identified major service gaps as the lack of advocacy and legal services, the need for safe resources, and the need for sensitivity training needed health care, education and other services.²⁴

Religious Exemption Laws and the Backlash against LGBTQ+ Equality in the US

As marriage equality gained ground in state and federal courts, there have been drafted bills and filed lawsuits to exempt people who claim that their religious or moral convictions are irreconcilably at odds with what generally applicable anti-discrimination laws require of them.²⁵ At the state level, lawmakers presented dozens of proposals in 2016 and 2017 that would grant religious believers broad exemptions in a variety of areas.²⁶ These laws are frequently couched in religious liberty rhetoric. They are, however, a significant shift from the traditional approach to balancing religious believers' rights with the generally applicable laws that safeguard the rights, safety, health, and welfare of others.²⁷

The Backlash against Trans Rights

Conservative state lawmakers presented more than 110 anti-trans bills in an unprecedented campaign against trans rights in 2020, spanning 37 states and affecting practically every corner of the country. The bills mainly targeted children and younger adults.²⁸ Although most of the bills failed, at least 13 laws passed and the backlash against trans people remains a threat in the country.

¹⁷ The acronym refers to two spirit, lesbian, gay, bisexual, trans, intersex, queer and others, and therefore also includes indigenous communities with diverse SOGIESC.

¹⁸ Guardian, 'Targeted for violence': the dangers LGBTQ+ Native Americans face, 2021, <https://www.theguardian.com/us-news/2021/jun/17/native-americans-lgbtq-violence-survey-california>

¹⁹ Ibid

²⁰ Advocate, Saving Indigenous Trans Women (2020): <https://www.advocate.com/crime/2020/10/10/saving-indigenous-trans-women>

²¹ See <https://www.advocate.com/crime/2020/10/10/saving-indigenous-trans-women>

²² Recourse Center for minority Data, 2015 U.S. Transgender Survey (USTS) (ICPSR 37229), <https://www.icpsr.umich.edu/web/RCMD/studies/37229#:~:text=The%20purpose%20of%20the%202015,disparities%20faced%20by%20transgender%20people> & Guardian, 'Targeted for violence': the dangers LGBTQ+ Native Americans face, 2021, <https://www.theguardian.com/us-news/2021/jun/17/native-americans-lgbtq-violence-survey-california>

²³ Ibid

²⁴ Report to the Governor and Legislature on the Task Force Findings and Recommendations In Partnership with the Native American Budget Policy Institute, December 2020, https://www.iad.state.nm.us/wp-content/uploads/2020/12/NM_MMIWR_Report_FINAL_WEB_v120920.pdf

²⁵ Human Rights Watch, "All we want is equality" Religious Exemptions and discrimination against LGBT people in the United States, 2018, <https://www.hrw.org/report/2018/02/19/all-we-want-equality/religious-exemptions-and-discrimination-against-lgbt-people>

²⁶ Ibid

²⁷ Ibid

²⁸ Guardian, Mapping the anti-trans laws sweeping America: 'A war on 100 fronts', June 2021, <https://www.theguardian.com/society/2021/jun/14/anti-trans-laws-us-map>

The ratified laws include prohibiting trans girls from participating in girls' sports teams and outlawing gender-affirming healthcare.²⁹ In 2021, more than a dozen states considered bills that would prohibit gender-affirming health care for children, bar trans students from high school athletics, and restrict support for trans kids in schools, putting their health and rights at risk.³⁰

LGBTQ+ People and the Right to Health

According to Human Rights Watch, research indicates that lesbian, gay, bisexual, and trans (LGBT) populations across the United States encounter significant barriers to health care. Many LGBT people experience difficulties finding health care providers who are knowledgeable about their needs, encounter discrimination from insurers, or delay or forego care because of concerns about how they will be treated.³¹ There are limited antidiscrimination protections in healthcare and there are a limited number of LGBT-friendly healthcare providers in specific areas, including rural areas. Moreover, poverty and unemployment make healthcare unattainable for many LGBTQ+ people. Many experience mistreatment and discriminatory language while accessing healthcare services, and some experience refusal of service.³²

During the Covid-19 pandemic as people go back to work while measures are lifted, LGBTQ+ people continue to face elevated health risks associated with the virus, as they are more likely to have compromised respiratory and immune systems. This brief provides additional confirmation of what has long been known: the most vulnerable communities are being hit hardest by the pandemic, even in the reopened economy.³³

LGBTQ People and Economy³⁴

New data now show that while some states have reopened their economies amidst the ongoing threat of the Covid-19 virus, LGBTQ+ people, especially LGBTQ+ people of color and transgender people, are still being left behind. Through a series of reports, Human Rights campaign have been able to document the disparate economic impact COVID-19 has had on LGBTQ+ people, especially transgender, Black and LGBTQ people of color:

- LGBTQI Communities.³⁵
- LGBTQI Communities of Color.³⁶
- Transgender Communities.³⁷
- Black LGBTQI Communities.³⁸

²⁹ Ibid

³⁰ Human Rights Watch, United States Events of 2021, <https://www.hrw.org/world-report/2022/country-chapters/united-states#e81181>

³¹ Human Rights Watch, "You Don't Want Second Best" Anti-LGBT Discrimination in US Health Care, 2018, <https://www.hrw.org/report/2018/07/23/you-dont-want-second-best/anti-lgbt-discrimination-us-health-care>

³² Ibid

³³ Information provided by UTOPIA-Washington

³⁴ Information provided by UTOPIA-Washington

³⁵ Human Rights Campaign, The Economic Impact of COVID-19 on the LGBTQ Community, <https://www.hrc.org/resources/the-economic-impact-of-covid-19-on-the-lgbtq-community>

³⁶ Bibi, Elizabeth, HRC and PSB Research Release Data on the Economic Impact of COVID-19 on LGBTQ Communities of Color, Human Rights Campaign, 2020, <https://www.hrc.org/news/hrc-and-psb-research-release-data-on-economic-impact-of-covid-19-on-lgbtq>

³⁷ Mcbright, Sarah, HRC, PSB Research Release Data On Disproportionate Economic Impact of COVID-19 on Trans Community, 2020, Human Rights Campaign, <https://www.hrc.org/news/hrc-and-psb-research-release-data-on-economic-impact-of-covid-19-on-lgbtq>

³⁸ Human Rights Campaign, The Economic Impact of COVID-19 on Black LGBTQ People, 2020, <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/files/assets/resources/COVID19-EconImpact-Black-August2020.pdf>

LGBTQ+ Older People Rights³⁹

The challenges faced by LGBTQ+ older people are complicated and diverse; they range from housing, health care, and government benefits discrimination to anti-LGBTQ+ violence. Older LGBTQ+ people are at risk of "elder abuse" as well as homophobic/ transphobic-specific abuse. These types of mistreatment are perpetrated primarily by their caregivers and in nursing homes. Similarly, LGBTQ+ older people are more likely to face housing discrimination; they are also more likely to face discrimination while receiving aging-related services, health-care and other types of community-based discrimination and stigmatization.

Housing Discrimination

One of the leading challenges that impacts LGBTQ+ older people rights is discrimination in housing. For example, in the United States, LGBTQ+ older people face numerous forms of housing discrimination, ranging from discriminatory treatment in the application process to complete denial of housing services. Particularly, trans older people face greater discrimination than other members of the LGBTQ+ community.

Abuse and Mistreatment

LGBTQ+ older people are victims of "elder abuse" and mistreatment because of their SOGI. A U.S.-based national study on abuses in skilled nursing facilities⁴⁰ found that both residents and staff discriminated against and mistreated lesbian, gay, bisexual, and trans residents solely on the basis of SOGI.⁴¹ Religious-based discrimination, along with other forms of harassment and abuse, and discriminatory discharge, were also documented.⁴² Respondents to the study gave personal examples of being verbally abused and harassed by staff as well as other residents of the community.

After a lifetime of discrimination, many older LGBTQ+ people have an expectation of abuse and harassment. In the same study, a majority of respondents said that they would expect staff and other residents to discriminate against LGBTQ+ residents in the forms of isolation, abuse, or neglect.⁴³

Discrimination in Health Care and Services

Despite the growth of the population of LGBTQ+ older people, discrimination in healthcare and basic services persists as a serious problem. Many LGBTQ+ older people have reported discrimination or abuse by care takers or providers because of SOGI. Several studies report that LGBTQ+ older adults, despite having specific health risks and needs, avoid or delay health care and conceal their SOGIESC to health care providers and social service professionals for fear of discrimination.⁴⁴ A United States study found that in some instances, LGBTQ+ older people had

³⁹ Information on this section was provided by SAGE

⁴⁰ Justice in Aging. LGBT Older Adults in Long-Term Care Facilities: Stories from the Field, 2015, https://www.justiceinaging.org/wp-content/uploads/2011/04/RE_LGBT-Stories-from-the-Field.pdf

⁴¹ Ibid

⁴² Ibid

⁴³ Ibid

⁴⁴ Soon Kyu Choi e Ilan H Meyer, LGBT Aging: A Review of Research Findings, Needs, and Policy Implications (Williams Institute, UCLA School of Law 2016), available at: <https://williamsinstitute.law.ucla.edu/wpcontent/uploads/LGBT-Aging-Aug-2016.pdf>

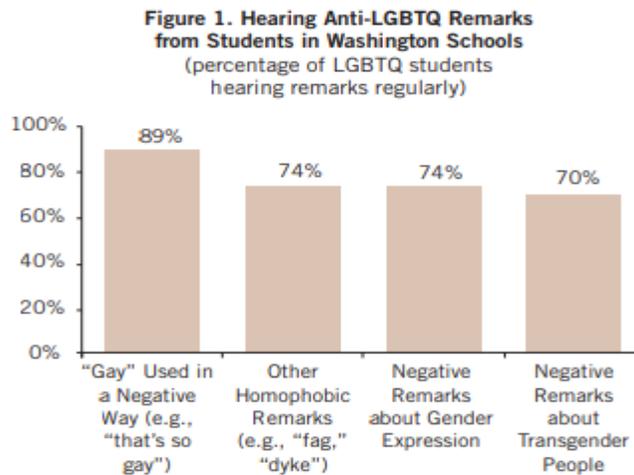
difficulty giving power of attorney to their partner to make important decisions on their behalf, because of their sexual orientation.⁴⁵

Lastly, in a study from the Center for American Progress on the LGBTQ+ community, four out of ten LGBTQ+ adults on a range between 57-75 years old reported that discrimination had moderate or significant impacts on their psychological well-being.⁴⁶ The report, which included respondents from multiple generations of LGBTQ+ people, discovered that 15% of the total respondents did not seek medical assistance due to discrimination, and 20% avoided doctors' offices for the same reason.⁴⁷

LGBTQ Rights in Washington⁴⁸

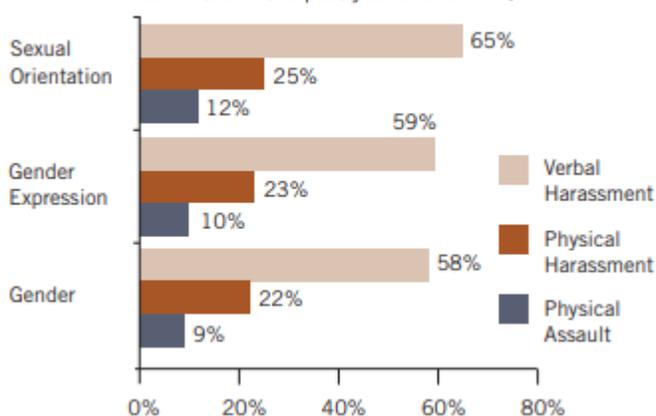
Recent analytical reports or surveys on LGBT people in the United States of America.

One survey demonstrates that Washington schools were not safe for most lesbian, gay, bisexual, transgender, and queer (LGBTQ) secondary school students. In addition, many LGBTQ students in Washington did not have access to important school resources, such as an LGBTQ-inclusive curriculum, and were not protected by supportive and inclusive school policies.



FACT: Many LGBTQ students in Washington regularly (sometimes, often, or frequently) heard anti-LGBTQ remarks (Fig. 1). Many also regularly heard school staff make homophobic remarks (11%) and negative remarks about someone's gender expression (32%).

Figure 2. Anti-LGBTQ Harassment & Assault in Washington Schools
(percentage of LGBTQ students harassed or assaulted in the past year based on...)



LGBT Adults, 2017, <https://www.lgbtmap.org/policy-and-issue-Community-in-2020>. Center for American Progress, 2020,

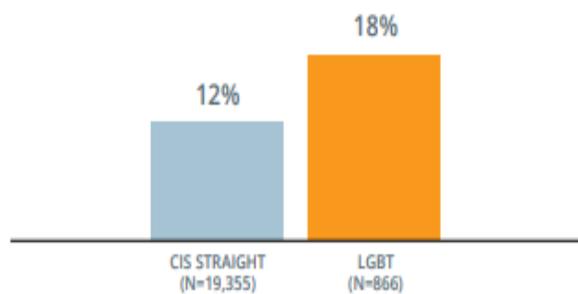
FACT: Most LGBTQ students in Washington experienced anti-LGBTQ victimization at school (Fig.2). They also experienced victimization at school based on disability (38%), religion (18%), and race/ethnicity (17%). Half never reported the incident to school staff (51%). Only 35% of students who reported incidents said it resulted in effective staff intervention.⁴⁹

The BRFSS (Behavior Risk Factor Surveillance System) includes a module asking about self-identified sexual orientation and gender identity (SOGI) that 35 states chose to include in their state-level survey in at least one of those years, allowing us to estimate poverty rates at the state level. A companion national report, *LGBT Poverty in the United States*, provides details on the dataset and measures used here.

Washington

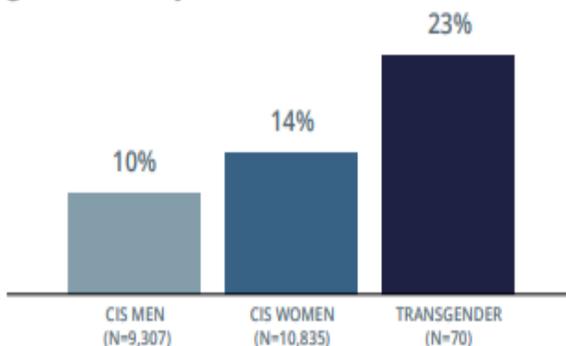
In the 2016–2017 BRFSS survey in Washington, 1,009 people identified as LGBT and 22,630 identified as cis straight. LGBT people had a higher poverty rate than cis straight people (Figure 109). Given the relevance of SOGI to poverty, we also examined SOGI poverty rates by gender identity, race, age, and urbanicity.

Figure 109. Poverty rates in Washington by SOGI



- Across all sexual orientations, transgender people had a higher poverty rate than cis men. Cis women also had a higher poverty rate than cis men (Figure 110). However, the difference in poverty rates by transgender people and cis women was not statistically significant.

Figure 110. Poverty rates in Washington by gender identity



⁴⁹ Washington-Snapshot-2019.pdf (glsen.org) Findings from the GLSEN 2019 National School Climate Survey demonstrate that Washington schools were not safe for most lesbian, gay, bisexual, transgender, and queer (LGBTQ) secondary school students

- White LGBT people had a higher poverty rate than White cis straight people. On the other hand, the poverty rate of LGBT people of color did not differ statistically from that of cis straight people of color (Figure 111).
- LGBT and cis straight people of color had a higher poverty rate than their White counterparts.
- Of those aged 18–44, LGBT people (22%) had a higher poverty rate than cis straight people (16%). However, LGBT and cis straight people in the 45 or older age group had statistically the same poverty rate.
- A higher proportion of younger LGBT people (22%) than older LGBT people (10%) were in poverty. We see the same pattern among cis straight people.

Figure 111. Poverty rates in Washington by SOGI and race

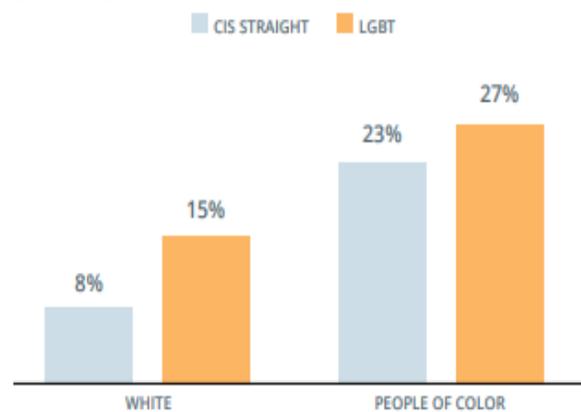
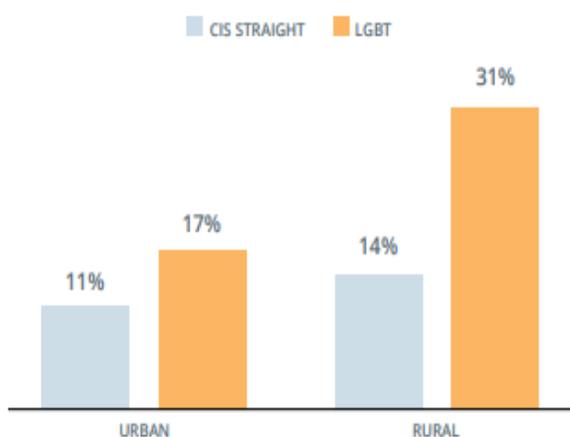


Figure 112. Poverty rates in Washington by SOGI and urbanicity



- Most LGBT people (90%) lived in urban areas of Washington state compared to rural areas (10%). Similarly, most cis straight people (89%) also lived in urban areas than rural areas (11%).
- In both urban and rural areas, LGBT people had a higher rate of poverty compared to their cis straight counterparts (Figure 112).
- Additionally, LGBT people in rural areas had a higher poverty rate than LGBT people in urban areas.

More of these resources are available on the link below.⁵⁰

Recommendations

1. Extensive federal anti-discrimination laws and regulations are required to protect LGBTQ+ individuals from violence, discrimination, and stigma.
2. Policy and law reforms must address the systemic racism and specifically transphobia that keep so many LGBTQ+ people and in particular trans indigenous people/people of color out of stable housing, employment and health-care.
3. Increased access to safe and affordable housing, education, and in particular SOGIESC training to security, administration and health-care personnel is also needed to stop violence against LGBTQ+ people.
4. Establish LGBTQ+-inclusive practices, such as education, and socio-cultural inclusion for LGBTQ+ older people.
5. Address the lack of legal recognition of relationships formed by LGBTQ+ people, as it may leave LGBTQ+ older people partners without decision-making power and inheritance and survivorship benefits.
6. We kindly suggest the Independent Expert to arrange meetings with UTOPIA Washington office and SAGE New York Office and contact the following people:
 - Taffy Johnson, UTOPIA Washington Executive Director⁵¹
 - Agaiotupu Viena, UTOPIA Washington Deputy Director
 - Tepatasi Vaina, UTOPIA Washington Program Director
 - Amasai Jeke, UTOPIA Washington Regional Community Organizer
 - Michael Adams, Chief Executive Officer SAGE⁵²

⁵⁰ Demographics | Washington State LGBTQ Commission We draw on recent state-level data from the Behavior Risk Factor Surveillance System (BRFSS) survey collected in 2014–2017. The BRFSS includes a module asking about self-identified sexual orientation and gender identity (SOGI) that 35 states chose to include in their state-level survey in at least one of those years, allowing us to estimate poverty rates at the state level

⁵¹ <https://utopiawa.org/contact/>

⁵² <https://www.sageusa.org/about-us/contact-us/>