Society of
Gender Professionals

Breaking Gender & Sex Binaries Circle

Submission on the Draft Guidelines on addressing multiple and intersectional forms of discrimination against women and girls with disabilities

Pathologization of LGBTQI+ people with disabilities

I. Introduction

1. The Society of Gender Professionals Breaking Gender & Sex Binaries Circle welcomes the opportunity to provide input to the Committee on the Rights of Persons with Disabilities ('the Committee') regarding the Draft Guidelines on addressing multiple and intersectional forms of discrimination against women and girls with disabilities. In this submission, we highlight the need for measures to prevent and address compounding discrimination against people with disabilities who are also lesbian, gay, bisexual, transgender, queer, intersex, and of other marginalized sexual orientations and gender identities (LGBTQI+) as experienced through pathologization. This scope includes a specific focus on women and girls in all their diversity while recognizing and analyzing the experiences of other marginalized genders, such as non-binary people and trans men, because they are frequently erased or excluded from consideration in a cisgender, implicitly heterosexual construction of a gender lens.
2. Compounding discrimination against LGBTQI+ people with disabilities sometimes results in exclusion even by groups and services working specifically with LGBTQI+ people and people with disabilities.[1] Services and community spaces dedicated to one group or the other have been deemed "alienating" or "not accessible" because they reject peoples' dual identities as simultaneously LGBTQI+ people and people living with disabilities (not to mention other potential identity dimensions that are also marginalized).[2] One research project noted how, "this history of negative labelling [of diverse sexual orientations and gender identities as disabilities] may discourage potential alliances between disability and diverse sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) communities."[3] This compounding institutionalized discrimination leaves LGBTQI+ people with disabilities in a position where they cannot seek support either from mainstream service providers or those claiming to be dedicated to specific marginalized groups.

[1] Los Angeles LGBT Center, Justice Work at the Vaid Group, and Emory University, *"We Never Give Up the Fight": A Report of the National LGBTQ+ Women's Community Survey*, by Jaime M. Grant, Ph. D. and Alyasah Ali Sewell et al, Ph. D. (2023), 96.
[2] Ibid.
[3] CBM Australia, Edge Effect, and Nossal Institute for Global Health at the University of Melbourne, *Out of the Margins: An intersectional analysis of disability and diverse sexual orientation, gender identity, expression & sex characteristics in humanitarian and development contexts*, by Jen Blyth, Karen Alexander, and Lana Woolf (Canberra, 2020), 21.

II. Pathologization

3. Previous examination of the incorrect portrayal by States Parties that non-binary, non-cishetero diverse SOGIESC constitutes a disability[4] exemplifies the importance of dedicated attention to the intersection of discrimination based on SOGIESC and on disability status. Pathologization is rooted in a long history of stigma, medical models applied to both LGBTQI+ people and people with disabilities, and language that establishes and upholds ableism. Pathologization exemplifies institutionalized discrimination - it is instrumentalized to label LGBTIQ+ people as having disabilities, then to coercively treat them under a medical rather than human rights-based model. As one scholar framed it, "Defining gender diversity as an illness or otherwise abnormal is unfounded, discriminatory, and without demonstrable clinical utility. The fact that only gender diverse people are pathologized constitutes unequal treatment, resulting in a violation of the right to non-discrimination."[5] Looking at the experiences of LGBTQI+ people—especially trans people and intersex people—with pathologization, alone and in conjunction with disability status, reveals how the legal framework and medical standards perpetuate ongoing violation of their human rights.

A. Pathologisation of Non-Heterosexual Sexual Orientations

4. Anti-discrimination laws tend to focus on a singular area of marginalization, and consequently, policy and action reflect the one-dimensional approach of legal frameworks. Progress has been made in recognizing the dearth of analysis on intersectional discrimination based on gender and disability.[6] Grounds for intersectional respect for, protection of, and fulfillment of the rights to substantive equality and non-discrimination of LGBTQI+ people with disabilities can be read in international hard and soft law instruments, especially when using the Yogyakarta Principles as a guide.[7]

5. The medical model of disability has long been used to pathologize LGBTQI+ people.[8] Medical standards regarding pathologization have informed domestic and regional laws. Homosexuality was depathologized in the United States of America in 1973 under the Diagnostic and Statistical Manual of Mental Disorders II. International depathologization of homosexuality was not achieved until 1990 when the World Health Organization's (WHO) 10th International Classification of Diseases (ICD-10) came into effect, reflecting an important shift in global medical consensus. Homosexuality was completely removed from ICD-11.[9] Many jurisdictions resisted this change in global standards: the Inter-American Commission on

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[4] Committee on the Rights of Persons with Disabilities, *Concluding observations on the initial report of the Islamic Republic of Iran*, (Aug. 2, 2011), U.N. Doc. CPRD/C/IRN/CO/1, ¶13(c), 19(c).
[5] Maria Elisa Castro-Peraza et al, *Gender Identity: The Human Right of Depathologization*, 18 International Journal of Environmental Research and Public Health 978 (2019).
[6] European Parliament Directorate-General for Internal Policies: Policy Department on Citizens' Rights and Constitutional Affairs, *Discrimination Generated by the Intersection of Gender and Disability*, by Dr. Konstantina Davaki, Dr. Claire Marzo, Elisa Narminio, and Maria Arvanitidou (Brussels, 2013), 25.
[7] *The Yogyakarta Principles: Principles on the application of international human rights law in relation to sexual orientation and gender identity*, (Mar. 2007), https://yogyakartaprinciples.org/wp-content/uploads/2016/08/principles_en.pdf; *The Yogyakarta Principles Plus 10: Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles*, (Geneva, Nov. 10, 2017), https://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf. Specifically consider Principles 3, 17, 18, 31, 32, and 37.
[8] CBM Australia, Edge Effect, and Nossal Institute for Global Health, *supra* note 3.
[9] Outright International, *Harmful Treatment: The Global Reach of So-Called Conversion Therapy*, by Amie Bishop (New York, 2019), 11.

Human Rights noted how homosexuality was still pathologized in law and medical systems in many States across the Americas more than 20 years after WHO adopted ICD-10.[10]

6. Research initiatives have shown that heteronormative assumptions and homophobia[11] remain pervasive amongst disability service providers, and that ableism is institutionalized in LGBTQ+ spaces, leading to double discrimination for LGBTQ+ people with disabilities.[12] The challenges this raises are particularly deterrent for "women with disabilities and diverse sexualities", discouraging health-seeking behavior and creating fear of violence from their social support systems if they try to find assistance.[13]

B. Pathologization of Trans People

7. ICD-11 recategorized trans identities from being a mental illness to "gender incongruence" being a sexual health condition.[14] This was considered a positive step by many human rights activists,[15] with the United Nations Independent Expert on Sexual Orientation and Gender Identity (IE SOGI) noting that, "this reclassification will have a significant impact on the wrong perception of some forms of gender as a pathology, will promote the visibility of those forms of gender and will allow individuals to access better health care."[16]

8. The ICD-11 update is not a comprehensive change and it reflects how international guidelines have not advanced beyond a cisgender, heterosexual, binary ableist construction of what is deemed a 'normal' body and identity. The historic and present-day pathologization of people with disabilities and trans people relies on social norms that maintain a specific concept of what constitutes a 'normal' body.[17] The category of 'gender incongruence' raises the important question of the meaning and implications of 'incongruence'[18]. The terminology chosen alludes to retained consideration of trans people as 'abnormal'[19] and reinforcement of a hierarchy of power and privilege based on differences in gender, sexuality, and (dis)ability.[20] Furthermore, pathologization of 'gender incongruence of childhood' is maintained in ICD-11, despite clear

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[10] Press Release, Inter-American Commission on Human Rights, Pathologization: Being Lesbian, Gay, Bisexual and/or Trans is Not an Illness, OAS No. 064/16 (May 12, 2016). Also available online at https://www.oas.org/en/iachr/media_center/PReleases/2016/064.asp.

[11] Jan Burns and Danielle Davies, *Same-sex relationships and women with intellectual disabilities*, 24 Journal of Applied Research in Intellectual Disabilities 351-360 (2011).

[12] GALFA, Australian Research Centre in Sex, Health and Society, and GLHV, *The everyday experiences of lesbian, gay, bisexual, transgender and intersex (LGBTI) people living with disability*, by William Leonard and Dr. Rosemary Mann (Victoria, 2018)

[13] CBM Australia, Edge Effect, and Nossal Institute for Global Health, *supra* note 3, at 21-22.

[14] World Health Organization, International Classification of Diseases, 11th Revision (ICD-11), https://icd.who.int (2024).

[15] Press Release, Transgender Europe (TGEU), World Health Organisation Moves to End Classifying Trans Identities as Mental Illness, (Jun. 18, 2018). Also available online at https://tgeu.org/world-health-organisation-moves-to-end-classifying-trans-identities-as-mental-illness/; Press Release, LGBTIQ+ Intergroup, Trans identities no longer considered a mental disorder in WHO's ICD-11, (Jun. 19, 2018). Also available online at https://lgbti-ep.eu/2018/06/19/6901/.

[16] UN General Assembly, *Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity*, (Jul. 12, 2018), U.N. Doc. A/73/152, ℙ14.

[17] Gen Eickers, "Pathologizing Disabled and Trans Identities: How Emotions Become Marginalized," in *The Bloomsbury Guide to Philosophy of Disability* (London: Bloomsbury Academic, 2024), 375.

[18] Castro-Peraza et al, *supra* note 5.

[19] Press Release, Council of Europe Commissioner for Human Rights, ICD11 is a stride toward depathologisation of trans people, but more is needed, (May 27, 2019). Also available online at https://www.coe.int/en/web/commissioner/-/icd11-is-a-stride-toward-depathologisation-of-trans-people-but-more-is-needed.

[20] Eickers, *supra* note 17, at 361.

guidance otherwise from the Committee on the Rights of the Child (issued prior to adoption of ICD-11).[21] The IE SOGI raised concerns regarding the instrumentalization of pathologization of trans and gender-diverse children to undermine their full enjoyment of human rights.[22]

9. Domestic legal progress on depathologizing trans people has emerged in some jurisdictions,[23] but change is inconsistent and has not been thoroughly and directly addressed in international human rights law.[24] Even after ICD-11 came into effect, transgender people have continued to face discrimination in their perception as being "mentally ill" and through State requirements that *de facto* treat them as requiring medical intervention.[25] For instance, pathologization of transgender children has raised concerns from the Committee on the Rights of the Child, pointing to "attempts to pathologize gender incongruence as a psychiatric disease" alongside "coercive treatment of homosexual and transgender persons".[26]

10. Laws and policies that mandate medical intervention for trans people perpetuate their pathologization and run contrary to international human rights law.[27] The non-consensual subjugation of a person to forced medical procedures can result in disability. Research from Iran highlighted how incomplete disclosure of information about sex reassignment surgeries and discriminatory treatment by medical professionals materializing as alleged disregard for patient outcomes has resulted in chronic pain for trans surgical patients.[28] One scholar examined how discrimination faced by trans people and its consequent harms, "are the result of society's failure to embrace body diversity,"[29] revealing root causes and their manifestations which are mirrored in the experiences of people with disabilities. Scholarship illustrates how "the system of compulsory ablebodiedness, which in a sense produces disability, is thoroughly interwoven with the system of compulsory heterosexuality that produces queerness: [...] compulsory heterosexuality is contingent on compulsory ablebodiedness, and vice versa."[30] This analysis reveals the theoretical underpinnings of compounding discrimination faced by LGBTQI+ people with disabilities.[31] UN Special Procedures Mandate Holders have drawn out how "mental health diagnoses have been misused to pathologize identities and other diversities" and that "the pathologization of [LGBTI] persons reduces their identities to diseases, which compounds stigma and discrimination".[32]

11. Regional human rights bodies have made noteworthy calls for ending pathologization of trans people. The Inter-American Commission on Human Rights called for depathologization of trans people and recognized the need for coordinated progress on law, policy, and medical

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[21] Committee on the Rights of the Child, *General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence*, (Dec. 6, 2016), U.N. Doc. CRC/C/GC/20, ¶34.
[22] A/73/152, ℙ16.
[23] GATE, *Depathologizing Gender Identity Through Law*, by S Kara (New York, 2020).
[24] Castro-Peraza et al, *supra* note 5.
[25] CBM Australia, Edge Effect, and Nossal Institute for Global Health, *supra* note 3, at 6.
[26] Committee on the Rights of the Child, *List of issues in relation to the combined sixth and seventh periodic reports of the Russian Federation*, (Feb. 10, 2023), U.N. Doc. CRC/C/RUS/Q/6-7, ¶8(c).
[27] Zowie Davy, Anniken Sørlie, and Amets Suess Schwend, *Democratising diagnoses? The role of the depathologisation perspective in constructing corporeal trans citizenship*, 38 Critical Social Policy 13 (2017).
[28] 6Rang Iranian Lesbian & Transgender Network, *Submission to the UN Committee on the Rights of Persons with Disabilities (CRPD): 17 Session (20 Mar 2017 - 12 Apr 2017)*, (2017), 8.
[29] Castro-Peraza et al, *supra* note 5.
[30] Robert McRuer, "Introduction: Compulsory Able-Bodiedness and Queer/Disabled Existence," in *Crip theory: cultural signs of queerness and disability* (New York : New York University Press, 2006), 2.
[31] Eickers, *supra* note 17, at 360-379.
[32] A/73/152, ℙ11, quoting Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, (Mar. 28, 2017), U.N. Doc. A/HRC/35/21, ¶48.

standards to uproot enduring stigma and discriminatory attitudes.[33] Echoing the medical model historically applied to people with disabilities, the Council of Europe's Commissioner for Human Rights reflected on how pathologization of trans people has been used to justify their subjugation to so-called 'conversion practices' in an attempt to 'cure' them.[34] The European Parliament has called on its Member States to advocate for full depathologization of trans people, trans children included, and alluded to domestic health systems being more advanced in this regard than the guidance provided in ICD-11.[35]

12. Compounding discrimination against trans people with disabilities is acute in access to trans-specific healthcare, where they may be denied 3AQ model-compliant assistance due to their disability.[36] Experts focused on Europe have noted the discrimination that queer disabled people face, particularly trans people in accessing affirmative treatments,[37] in part due to harassment and discriminatory attitudes of healthcare providers.[38]

C. Pathologization of Intersex People

13. Variations in sex characteristics remain categorized as "disorders of sex development" in medical guidelines, including ICD-11.[39] These are associated with and reinforce "unnecessary medical procedures that fail to meet human rights norms."[40] Pathologization by medical authorities persists despite important legal progress. For instance, the European Parliament resolution on the rights of intersex people importantly distinguishes between intersex children and intersex individuals with disabilities. By doing so, it reinforces the depathologization of intersex people and ensures an intersectional consideration of marginalized identity dimensions, counteracting discrimination based on body diversity.[41]

14. Pathologization of intersex people overlaps with harmful medicalized approaches to people with disabilities. As the Committee has noted in the past, gender-based violence committed against people with disabilities includes medically unnecessary surgeries conducted on

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[33] Press Release, Inter-American Commission on Human Rights, Pathologization: Being Lesbian, Gay, Bisexual and/or Trans is Not an Illness, OAS No. 064/16 (May 12, 2016). Also available online at https://www.oas.org/en/iachr/media_center/PReleases/2016/064.asp.
[34] Council of Europe Commissioner for Human Rights, *supra* note 19.
[35] *European Parliament resolution of 14 February 2019 on the rights of intersex people (2018/2878(RSP))*, Feb. 14, 2019, https://www.europarl.europa.eu/doceo/document/TA-8-2019-0128_EN.html, ¶7-8.
[36] Council of Europe Steering Committee on Anti-Discrimination, Diversity and Inclusion's Committee of Experts on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics, *Right to the highest attainable standard of health and access to healthcare for LGBTI people in Europe*, (Strasbourg, 2024), ¶47.
[37] European Disability Forum (EDF), "Bridging Identities: Navigating life at the Intersection of Disability and LGBTQI+," (Jun. 28, 2023) accessed Aug. 27, 2025, https://www.edf-feph.org/blog/bridging-identities-navigating-life-at-the-intersection-of-disability-and-lgbtqi/.
[38] EDF, "Interview with ILGA Europe: 'We need a renewed Disablity and EU LGBTIQ Equality strategy that work hand-in-hand'," (Jun. 24, 2024) accessed Aug. 27, 2025, https://www.edf-feph.org/blog/interview-with-ilga-europe-we-need-a-renewed-disablity-and-eu-lgbtiq-equality-strategy-that-work-hand-in-hand/; EDF and ILGA Europe, *Policy recommendations on intersectionality between disability and Lesbian, Gay, Bisexual, Trans, and Intersex (LGBTI)*, (Brussels, Dec 2024), 3.
[39] World Health Organization, International Classification of Diseases, 11th Revision (ICD-11), https://icd.who.int (2024).
[40] Morgan Carpenter, *Intersex Variations, Human Rights, and the International Classification of Diseases*, 1 Heath and Human Rights Journal (2018).
[41] *European Parliament resolution of 14 February 2019 on the rights of intersex people (2018/2878(RSP))*, Feb. 14, 2019, https://www.europarl.europa.eu/doceo/document/TA-8-2019-0128_EN.html.

intersex children[42]—sometimes called "sex 'normalizing' surgeries"[43]—undertaken from the viewpoint that intersex bodies are disabled since they do not conform to binary constructions of sex.[44] Attempts to force intersex bodies into conforming with heteronormative ideas of what masculine or feminine bodies should look like reinforces the false idea that sex exists and a binary and replicates ableism instead of combatting rejection of difference.[45] Sex 'normalization' surgeries stem from medical models of disability and a history of attempting to 'cure' people with disabilities through unnecessary medical interventions. Intersex people and people with disabilities both experience discrimination because of social and medical norms that treat them as unhealthy due to their difference.[46]

15. Intersex people may identify as being a person with a disability if they consider that the differences in how their body functions constitute an impairment.[47] Medically unnecessary surgery or other non-consensual medical treatment that intersex people may be forced to undergo can also result in disability.[48] The pathologization of intersex people with disabilities creates reticence to seeking support, and since not all intersex people are part of the LGBT community, they may be disregarded by both disability and LGBT movements.[49]

16. Human rights activists and organizations have spoken to the utility of a social model of disability for advancing the rights of intersex people while expressing concern about a full application of disability frameworks to intersex people precisely because it may increase discrimination and stigma.[50] Intersex people can access tailored assistance through disability schemes in States Parties to the UNCRPD, yet identifying as a person with a disability in non-States Parties can increase difficulty in accessing necessary, affirming healthcare in addition to creating social barriers because of stigma.[51] These challenges demonstrate how intersex status and disability compound to put intersex people in a position of high risk of denial of their human rights.

D. Shared Challenges

17. Although ICD-11 has moved away from pathologization of non-heterosexual sexual orientations, domestic legal models often lag behind (especially related to if diverse sexual orientations are reflected in equality and non-discrimination legislation, or if compound

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[42] Committee on the Rights of People with Disabilities, *General Comment No. 3 (2016) on women and girls with disabilities*, (Nov. 25, 2016), U.N. Doc. CRPD/C/GC/3, ¶32
[43] Council of Europe Commissioner for Human Rights, *supra* note 19.
[44] Press Release, The Committee on the Rights of Persons with Disabilities, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child, and the Special Rapporteur on the Rights of Persons with Disabilities, Taking action to eliminate gender-based violence against women and girls with disabilities, NOW, (Nov. 25, 2021). Also available online at https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2021/12/CRPD-Statement-25_11_2021-End-violence-against-Women-1.pdf.
[45] Carpenter, *supra* note 40.
[46] OHCHR, *Background Note on Human Rights Violations against Intersex People*, (2019), 6; CBM Australia, Edge Effect, and Nossal Institute for Global Health, *supra* note 3, at 17.
[47] Carpenter, *supra* note 40.
[48] OHCHR, *supra* note 46, at 6.
[49] CBM Australia, Edge Effect, and Nossal Institute for Global Health, *supra* note 3, at 28.
[50] OHCHR, *supra* note 46, at 6.
[51] OII Europe, *Statement of OII Europe on Intersex, Disability and the UN Convention on the Rights of People with Disabilities*, (Apr. 2015), 12.

discrimination is acknowledged[52]) and have not been coupled with sufficient efforts to change social attitudes.[53] There is a paradox created by pathologization and difficulties in accessing health care. Real or perceived discriminatory attitudes by healthcare workers against both people with disabilities and LGBTQI+ people create compounding barriers to health-seeking behavior and accurate health information responsive to an individual's unique needs.[54] Abuse and ill treatment of people of diverse SOGIESC by health professionals has been denounced by UN human rights experts and the Pan American Health Organization since the early 2010s,[55] yet still persists today.[56]

18. Sterilization is a human rights violation risk and reality for trans people, intersex people, and people with disabilities.[57] In part, this is due to discriminatory loopholes in laws against such practices from applying to people with disabilities and intersex people in particular.[58] Misperceptions about the sexualities of people with disabilities—including that they are asexual or hypersexual[59]—undermine their enjoyment of social rights[60]. Sterilization risk is compounded when a person belongs to more than one of these marginalized groups. UN agencies have previously called attention to how, "Forced, coercive and otherwise involuntary sterilization may reflect multiple forms of discrimination, as such practices are often directed towards women because of their biological role in reproduction and also because of their

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[52] Consider that Malta's laws only allow for claims of multiple discrimination to be made on the ground of disability. See Council of Europe Steering Committee on Anti-Discrimination, Diversity and Inclusion's Committee of Experts on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics, *Right to the highest attainable standard of health and access to healthcare for LGBTI people in Europe*, (Strasbourg, 2024), ¶69.

[53] CBM Australia, Edge Effect, and Nossal Institute for Global Health, *supra* note 3, at 6.

[54] Committee on the Rights of People with Disabilities, *General Comment No. 3 (2016) on women and girls with disabilities*, (Nov. 25, 2016), U.N. Doc. CRPD/C/GC/3, ¶43; OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF, and WHO, "Eliminating forced, coercive and otherwise involuntary sterilization: an interagency statement" (WHO, 2014), p.10, https://www.unaids.org/sites/default/files/media_asset/201405_sterilization_en.pdf..

[55] Human Rights Council, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez,* (Feb. 1, 2013), U.N. Doc. A/HRC/22/53, ¶76; Human Rights Council, *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity Report of the United Nations High Commissioner for Human Rights,* (Nov. 17, 2011), U.N. Doc. A/HRC/19/41, ¶56; Committee on the Elimination of Discrimination against Women*, Concluding observations of the Committee on the Elimination of Discrimination against Women: Costa Rica*, (May 10, 2017), U.N. Doc. CEDAW/C/CRI/CO/5-6, ₱40; Pan-American Health Organization, *"CURES" FOR AN ILLNESS THAT DOES NOT EXIST: Purported therapies aimed at changing sexual orientation lack medical justification and are ethically unacceptable*, (May 15, 2012), 3.

[56] Committee on the Elimination of Discrimination against Women*, Concluding observations on the eighth periodic report of Costa Rica*, (Mar. 2, 2023), U.N. Doc. CEDAW/C/CRI/CO/8, ₱22(b), 23(b), 24(b), 41, 42.

[57] OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF, and WHO, *supra* note 54, at 7, https://www.unaids.org/sites/default/files/media_asset/201405_sterilization_en.pdf.

[58] Anne Tamar-Mattis, "Medical Treatment of People with Intersex Conditions as Torture and Cruel, Inhuman, or Degrading Treatment or Punishment," in *Torture in Healthcare Settings: Reflections on the Special Rapporteur on Torture's 2013 Thematic Report* (Washington: Center for Human Rights and Humanitarian Law, 2013), 91-104; General Assembly, *Report of the Special Rapporteur on violence against women, its causes and consequences: Advancement of women - violence against women with disabilities*, (Aug. 3, 2012), U.N. Doc A/67/227, ¶36; OHCHR, *supra* note 46, at 6.

[59] A/67/227, ¶36.

[60] Ingrid Thunem, Anna Chalachanová, and Kristina Areskoug Josefsson, *Personal Assistance Services and Sexual Health in Norway—a Cross-Sectional Study of Disabled People's Experiences and Attitudes regarding Sexuality and Personal Assistants*, 26 Scandinavian Journal of Disability Research 173 (2024), referring to Mikael M. Karlsson, *Gå eller rulla – alla vill knulla!': funktionsrättsaktivism i nyliberala landskap*. Lund: Arkiv förlag (2020).

ethnicity, disability, health, gender identity and expression, or other status."[61] Understanding both how deviation from social norms around gender and reproduction (including through innate characteristics such as a person's diverse SOGIESC) can trigger retaliatory violence and discrimination, as well as the enduring harmful stereotypes and misconceptions about disability, are essential to identifying and addressing the drivers of intersectional discrimination against LGBTQI+ people with disabilities.

19. Furthermore, the issue of pathologization relates to equality before the law as an LGBTQI+ person with disabilities.[62] When States Parties deny rights to people with disabilities, and a non-binary, non-cishetero SOGIESC is seen as a disability, the importance of unifying improvements in equality and non-discrimination law, policy, and practice for LGBTQI+ people and people with disabilities comes to the fore. Trans and intersex people with and without disabilities face compounding barriers in accessing and enjoying their rights to self-determination and bodily autonomy. Since legal gender recognition is predicated on medical diagnosis and medical (often surgical) intervention in many jurisdictions,[63] trans people's identity documentation may not reflect their true, lived gender. Since valid identity documentation is a conduit to the enjoyment of a spectrum of other human rights, these legal requirements undermine their equality before the law.

E. Data collection and utilization

20. Eliminating discrimination against people with disabilities requires having robust data to evidence their diverse identities and experiences. Data systems maintained by States Parties—particularly their health systems when monitoring a shift away from pathologization—must reflect the multiple facets of peoples' identities that can contribute to intersectional and compounding discrimination. Social barriers including continued marginalization combined with gender inequality have a unique discriminatory impact on lesbians and sexual minority women with disabilities, yet they have been obfuscated within research and treatment.[64] Especially when pathologized treatments occur that constitute violence, collecting data on the victim and perpetrator's SOGIESC and their relation is important to analyzing and taking coordinated action toward gender equality and justice.[65]

21. Without disaggregated data collection, State Party policy maintains and advances the institutionalized erasure and discrimination against LGBTQI+ people with disabilities. One example of this was how a USA-focused study on the impact of abortion policies could not include analysis of how abortion policies affected LGBTQI+ people generally or LGBTQI+ people with disabilities specifically due to a lack of disaggregation in the data sets available.[66] Comprehensive data encompassing different disability domains as well as diverse SOGIESC positions government entities and civil society to develop and monitor improved policy that advances a substantive, intersectional understanding of equality and non-discrimination. Moreover, by government actors or their conduits collecting this disaggregated information, it

[61] Ibid, at 12.
[62] A/73/152, ℙ16: " [… pathologized] classifications have been shown to be obstacles to the full enjoyment of human rights by trans people, especially when they are applied in a way to restrict legal capacities or choice."
[63] Council of Europe Commissioner for Human Rights, *supra* note 19.
[64] A/67/227, ¶27.
[65] Sharita Gruberg, Katherine Gallagher Robbins, Jessica Mason, *How a lack of LGBTQI+ data harms gender justice*, National Partnership for Women and Families, Jun. 6, 2024, https://nationalpartnership.org/lack-of-lgbtqi-data-harms-gender-justice/.
[66] Ibid.

signals that LGBTQI+ people with disabilities are recognized as part of the community, accepted, and the State Party strives to support them.[67]

22. Progress, or lack thereof, on data collection and analysis is apparent in European contexts. It has been nearly twenty years since the European Parliament drew attention to the need for increased understanding and evidence on the intersection of gender and disability in preventing and eliminating discrimination.[68] Recent reports show that the EU has continued to lack sufficient data to take concrete policy action at domestic or regional levels, at least in relation to the right to the highest attainable standard of health.[69]
23. Civil society initiatives can inspire inclusive, disaggregated data collection facilitating intersectional analysis of substantive equality and non-discrimination.[70] Replication at scale by government actors is required to embed accountability in State Party authorities.

III. Recommendations

24. Accordingly, the following recommendations may be considered in the Committee's guidance drafting relating to preventing and eliminating discrimination against LGBTQI+ persons with disabilities:
    - Develop, implement, monitor, and evaluate policy measures and complementary action plans to increase visibility and tailored services for LGBTQI+ people with disabilities.
    - Fully depathologize all forms of SOGIESC for all adults and children—with a special focus on effort to end pathologization for all forms of intersex variation and bodily diversity—in law, policy, and practice including but not limited to healthcare.
    - Collaborate with medical experts to revise diagnostic terminology related to intersex variations to neutralize language and eliminate unnecessary medicalization that upholds harmful ideas about sex, gender, and social norms.[71]
    - Prohibit medically unnecessary, non-consensual treatment of LGBTQI+ people, including those with disabilities, and establish proportionate deterrence measures for *de jure* or *de facto* continued pathologization of LGBTQI+ SOGIESC.
    - Develop and promote public information campaigns that seek to eliminate discriminatory norms and practices against LGBTQI+ people with disabilities; integrate human rights training addressing ableism and diverse SOGIESC into mandatory curricula and re-accreditation for healthcare professionals. Create and roll out State-led or -sponsored, community-informed social change initiatives to unearth discriminatory attitudes within society at large.

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[67] European Commission High Level Group on Non-Discrimination, Equality and Diversity Subgroup on Equality Data, *Guidance note on the collection and use of data for LGBTIQ equality*, (Brussels, Mar. 2023), 8; National Academies of Sciences, Engineering, and Medicine, *Measuring Sex, Gender Identity, and Sexual Orientation*, by Nancy Bates, Marshall Chin, and Tara Becker, eds. (Washington: The National Academies Press, 2022), 6.
[68] European Parliament Directorate-General for Internal Policies: Policy Department on Citizens' Rights and Constitutional Affairs, *supra* note 6, at 33.
[69] Council of Europe Steering Committee on Anti-Discrimination, Diversity and Inclusion's Committee of Experts on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics, *Right to the highest attainable standard of health and access to healthcare for LGBTI people in Europe*, (Strasbourg, 2024), ¶31.
[70] Los Angeles LGBT Center, Justice Work at the Vaid Group, and Emory University, *supra* note 1, at 96-110.
[71] Carpenter, *supra* note 40.

- Move to eliminate law, policy, and practice that constitutes medicalized discrimination against LGBTQI+ people with disabilities, especially related to their sexual and reproductive health and rights—such as through required genital surgeries, coercive medical treatments, or sterilization—and perpetuation of cishetero binary normative assumptions.
- Combat wrongful and harmful stereotypes about people with disabilities and LGBTQI+ people, focusing on where compounding discrimination perpetuated through such stereotypes and related social norms create unique protection gaps or heightened risk of violations of human rights.
- Establish and strengthen harmonized systems to collect, monitor, and analyze disaggregated data related to SOGIESC, disability status, and other marginalized personal characteristics.