

Key issues from the 3rd UPR cycle

Israel accepted two recommendations concerning safeguarding the rights of, and combating violence and discrimination against, lesbian, gay, bisexual, transgender and intersex persons (Chile and Greece). These recommendations were only partially implemented.

National Framework

Major anti-discrimination provisions include sexual orientation as protected grounds but only one law explicitly mentions gender identity (the Pupil's Rights Law). Most provisions for trans rights, including legal gender recognition, are addressed in government regulations and are highly vulnerable to the political inclination of the government in power. Conversion practices are not illegal.

Challenges

Impact, cases and comments

Discrimination against LGBTI people, especially trans and gender diverse persons, is prevalent and rising due to inadequate anti-discrimination protections



8-fold increase in reports on SOGI-based discrimination in services in 2022.¹

1 in 4 employers is unwilling to employ a trans person and only 25% of trans people have full-time jobs with half of them earning less than minimum wage.²



40% of trans people reported medical staff refused to treat them because of their gender identity, and 57% refrained from seeking medical treatment due to fear of mistreatment.³



77% of LGBTI students hear 'homo' used as a slur frequently. LGBTI high-school students reported, in the past month: 53% were verbally harassed, 10% physically assaulted, 15% boycotted.⁴ 68% of trans students could not participate in school sports or other activities in a manner aligned with their gender identity, 48% skipped classes.⁵

Most advances in LGBTI rights in Israel were achieved through the courts. **New legislation threatens to weaken human rights protections and roll back LGBTI rights**

UN Human Rights Chief warned that the government's judicial reforms '**pose serious risks to the effectiveness of the judiciary to defend the rule of law, human rights and judicial independence.**'⁶ The legislative changes will enable lawmakers to pass discriminatory laws and vote down LGBTI rights achieved through Supreme Court rulings.

Anti-LGBTI proposed bills already submitted to the Knesset: amendment to the Anti-Discrimination Act allowing 'faith-based' discrimination (also included in the coalition agreements) and amendment to the Pupil's Rights Act restricting lessons on sexual orientation and gender identity and banning them before 9th grade. **Anti-LGBTI legislation and rhetoric since the last elections sparked a rise in anti-LGBTI hate incidents.**¹

Anti-LGBT hate speech and moral panic over trans children are not challenged publicly, creating an environment conducive to violence and abuse

A record of 3,309 anti-LGBT hate incidents were reported in 2022, an 11% increase from 2021, and **53% increase in transphobic reports.**¹ This surge in violence is a result of sustained, coordinated campaigns by anti-rights groups, religious leaders, gender critical actors and politicians. Current government representatives were involved in a virulent 6-months long **campaign against a 3rd grade trans student.** Deputy minister Michal Woldiger participated in a protest outside his school, and minister Bezalel Smotrich wrote to the former education minister: 'such confusion' harms the 'natural health' and 'has no place in our school.'⁷ In January, 2023, the Education Ministry's district chief decided to transfer the student. The court revoked the decision after an appeal by the student's family.

Limited access and availability of publicly-funded gender affirmative medical care

The process of accessing publicly funded gender affirmative surgeries includes a year-long assessment and waiting times of up to 4 years after approval. Most publicly-funded surgeries are only available in the Tel Aviv metropolitan area. Many trans people forgo publicly funded surgeries and undergo surgeries abroad, covering the costs on their own. Asylum seekers do not have access to gender affirmative care.

Legal gender recognition is based on a pathologizing diagnostic framework

In a 2019 survey, **only 25% of trans people said they changed the sex marker on their ID.**³ Changing sex markers in IDs requires the approval of a medical committee composed of a psychiatrist, endocrinologist and psychologist. The committee is authorized to condition its approval on consent to hormone replacement therapy. Israeli law stipulates that after a name change the previous name remains on the ID's addendum for 7 years.

Challenges

Impact, cases and comments

3rd cycle recommendations on strengthening HRDs were not implemented; **LGBTI rights defenders and civil society organizations are facing an increasingly hostile environment**

LGBTI rights activists & organizations and physicians treating trans youth are subject to smear campaigns, harassments and threatening messages. Leading anti-trans actors filed defamation lawsuits against Havrutua's CEO in 2022 and against Ma'avarim's advocacy coordinator in 2021. These attacks cause psychological harm to activists and endanger their safety, drain CSOs' resources and create a chilling effect on freedom of expression. Threats increasingly come from the government and coalition parties: MK Avi Maoz keeps blacklists of LGBTQ people in public roles;⁸ Minister Bezalel Smotrich, self-identified 'fascist homophobe',⁹ said human rights organizations pose an 'existential threat to the state of Israel.'¹⁰ Proposed legislation to tax donations to nonprofits by foreign governmental entities, included in the coalition agreement, threatens the freedom of association of LGBTI rights organizations.

Question for review

What mechanisms are being developed and implemented, under the new legislative framework, to protect and promote human rights especially for vulnerable groups, including LGBTI people, Arab citizens, asylum seekers and undocumented children?

Recommendations

- ◇ Explicitly prohibit discrimination on the basis of gender identity by passing the Interpretation Law (amendment – discrimination on the grounds of sexual orientation and gender identity) 5783-2023.
- ◇ Develop and implement legal measures, public policies and social awareness campaigns to eliminate violence, hate speech and discrimination based on sexual orientations and gender identity.
- ◇ Implement a de-pathologized administrative procedure for legal gender recognition based on self-definition and without medical assessments, in line with the Yogyakarta Principles.
- ◇ Enact effective legal measures to end all forms of so-called 'conversion therapy'.
- ◇ Adopt legislation that recognizes and protects all human rights defenders, as previously recommended, and take further measures to ensure that lesbian, gay, bisexual, transgender and intersex persons and other vulnerable groups are able to exercise their rights to freedom of expression, association and assembly.
- ◇ Ensure free and timely access to gender affirmative healthcare for all who need it, and revise regulations and operating procedures to align with the Israeli Public Health Insurance Law, human rights standards and international best practice.
- ◇ Expand resources for the Tolerance Education Ordinance to provide programs about sexual orientation and gender identity in schools throughout the country and implement guidelines and a monitoring mechanism to ensure safe and inclusive school environments for LGBTI individuals (SDG4).

Additional information and list of submitting organizations: maavarim.org/upr4

¹ Aguda LGBT-phobia reports: <https://user-1723486.cld.bz/aguda-lgbtphobia>

² <https://www.davar1.co.il/384119/>

³ Goldin, S. (2020) Characteristics and Needs of the Trans* Community with Emphasis on Health and Welfare. Tel Aviv Department of Health.

⁴ Pizmony-Levy, O. Rogel, A. & Vesnuf-Pilpul, A. (2022). School Climate Survey: The high-school related experiences of Israeli LGBT. Tel Aviv: IGY.

⁵ Rogel, A. & Pizmony-Levy, O. (2023). School Climate Survey: School related experiences of Israeli trans students. Tel Aviv: IGY.

⁶ <https://news.un.org/en/story/2023/02/1133782>

⁷ <https://www.jpost.com/israel-news/article-717806>

⁸ <https://www.jpost.com/israel-news/article-725728>

⁹ <https://www.thepinknews.com/2023/01/18/bezalel-smotrich-israel-minister-fascist-homophobe-kan/>

¹⁰ <https://www.timesofisrael.com/smotrich-says-human-rights-organizations-are-existential-threat-to-israel/>



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