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FOR INFORMATION

Discrimination at work on the basis of sexual orientation and gender identity: Results of pilot research

Summary: This document provides a summary of research on discrimination that workers may face on the basis of their sexual orientation and gender identity, and of an internal survey on attitudes toward lesbian, gay, bisexual and transgender workers at the ILO.

Author unit: Gender, Equality and Diversity Branch (GED) in collaboration with Fundamental Principles and Rights at Work Branch (FPRW) and HIV/AIDS and the World of Work Branch (ILOAIDS).

Related documents: None.

Background

1. The ILO, with funding from the Norwegian Ministry of Foreign Affairs, is undertaking research into the extent and type of discrimination that lesbian, gay, bisexual and transgender (LGBT) workers may face. The research is being undertaken through a project entitled *Gender Identity and Sexual Orientation: Promoting Rights, Diversity and Equality in the World of Work* (PRIDE).
2. The project is the first dedicated project on sexual orientation and gender identity (SOGI) in the ILO. Yet themes related to SOGI are not new to the ILO:
 - (a) Two ILO instruments, the Private Employment Agencies Recommendation, 1997 (No. 188), and the HIV and AIDS Recommendation, 2010 (No. 200), refer to prohibiting and preventing discrimination on the basis of SOGI.
 - (b) In the 1990s, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) drew attention for the first time to legislative provisions concerning discrimination based on sexual orientation, and highlighted, in its Special Survey of 1996 on Equality in Employment and Occupation, sexual orientation as an emerging motive for discrimination in the workplace. The CEACR considered that, with a view to ensuring specific protection against all discrimination based on sexual orientation, provision should be made for SOGI in national legislation.
 - (c) SOGI-related discrimination is covered in the 2003, 2007 and 2011 Global Reports under the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work.
 - (d) In its 2012 General Survey on the fundamental Conventions, the CEACR was encouraged by the increasing number of ILO member States that had included sexual orientation or gender identity in constitutional guarantees and legislative provisions on equality.
 - (e) The 2013 report of the CEACR made eight observations under Convention No. 111 regarding discrimination on the basis of SOGI.
 - (f) The Director-General affirmed the ILO's "commitment to strive for workplaces free of discrimination on all grounds, including on the basis of sexual orientation and gender identity" in his statement on 17 May 2013, the International Day against Homophobia and Transphobia.
3. The ILO's research on SOGI is anchored in the 2009 ILC resolution concerning gender equality at the heart of decent work. That resolution calls upon the ILO to "strengthen its research agenda and knowledge base on emerging issues". While LGBT rights are clearly not a new issue, it has undeniably emerged into the mainstream of societal debates over the past decade, including in United Nations (UN) forums, such as the Human Rights Council.
4. The PRIDE project is an important contribution to the wider UN effort to integrate SOGI into the human rights and non-discrimination framework. The UN Secretary-General has made clear the UN's position on the issue of SOGI, namely that "LGBT rights are human rights". The Office of the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees, the Joint United Nations Programme on HIV/AIDS and the United Nations Development Programme have all condemned discrimination and harassment against LGBT people.

Scope of the research

5. The research seeks to identify discrimination that LGBT workers may face, and to report good practices in preventing and eliminating inequalities facing them. The research is organized under the following pillars:
 - Pillar 1 (Fundamental principles and rights): Identify shortcomings in laws that lead to workplace discrimination against LGBT persons, and highlight law and practice where such rights are protected.
 - Pillar 2 (Employment promotion): Identify good practice workplaces where diversity and tolerance for LGBT persons is practised and promoted and, conversely, highlight where intolerance and harassment against LGBT workers occurs.
 - Pillar 3 (Social protection): Determine whether social security instruments such as medical benefits and pension entitlements are available to LGBT workers and their husbands, wives or partners on the same terms as heterosexual workers.
 - Pillar 4 (Social dialogue): Assess the extent of constituents' knowledge of and capacity to raise LGBT issues in tripartite social dialogue forums and collective bargaining processes, and the degree to which LGBT workers are represented in such forums.
 - Pillar 5 (HIV and AIDS): Assess the particular challenges faced by LGBT workers in relation to HIV and AIDS in the workplace.
6. The PRIDE project's first phase runs from January 2012 to December 2013, and is being coordinated by the Gender, Equality and Diversity Branch of the Working Conditions and Equality Department (WORKQUALITY). Following detailed consultations with headquarters and field offices, this phase comprises country studies in Argentina, Hungary, South Africa and Thailand. A second phase of research is currently under preparation, to be rolled out to another three countries that are yet to be determined. It is important to highlight that the selection of countries was, and will be, made in consultation with constituents and relevant ILO offices in the regions.

Preliminary research findings

7. While national contexts differ, there are nonetheless some common themes emerging from preliminary research findings in Argentina, Hungary, South Africa and Thailand, namely:
 - (a) Discrimination and harassment are commonplace for LGBT workers. Discrimination often begins in education, which hampers future employment prospects. It continues in access to employment and throughout the employment cycle.
 - (b) Legislation protecting the rights of LGBT workers is often absent. When laws do exist, they are often poorly applied.
 - (c) Discrimination, harassment and exclusion from the labour market often happen on the basis of non-conformity with preconceptions of how women and men are expected to behave. Often women who are perceived to be "masculine", or men who are perceived to be "feminine", in behaviour or appearance, suffer discrimination or harassment on the basis of their perceived sexual orientation.

- (d) The majority of LGBT workers choose to conceal their sexual orientation in the workplace, which causes stress and can have negative consequences on productivity and career progression.
- (e) Transgender workers appear to experience the most severe forms of workplace discrimination. The problems they encounter include the inability to obtain identity documents reflecting their new sex and name, reluctance of employers to accept their new sex, and increased vulnerability to bullying and harassment by their colleagues. In many cases, transgender workers are completely excluded from formal employment and are highly vulnerable to HIV infection.

Internal survey

- 8. In the context of the PRIDE project, an internal survey on ILO field and headquarters staff attitudes towards LGBT colleagues was conducted in November and December 2012. The initiative was led by the Human Resources Development Department (HRD) and the Staff Union.
- 9. A total of 670 ILO staff responded to the survey, 47 of whom self-identified as LGBT. Only 19 per cent of LGBT respondents reported that they are open to everyone about their sexual orientation. Respondents who chose to keep their sexual orientation hidden reported fearing that disclosure could negatively affect their careers, including the non-renewal of their contract, and discrimination at work.
- 10. Ninety per cent of self-identifying heterosexual staff reported that they felt comfortable with the idea of working with an LGBT colleague or supervisor, and 80 per cent reported feeling comfortable working with a transgender colleague or boss. These findings therefore present a paradox: an overall tolerant attitude among survey respondents, alongside a stated fear of disclosing one's sexual orientation at work.

Geneva, 9 September 2013