



EMPLOYMENT AND LABOR RIGHTS OF LGBTQI COMMUNITY

IN THE CONTEXT OF COVID-19 PANDEMIC

Equality Movement

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In the context of Covid-19 pandemic

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E A S T • W E S T
M A N A G E M E N T
I N S T I T U T E
*Promoting Rule of Law
in Georgia (PROLoG)*

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Abstract

The present study investigated the employment and labor rights of the LGBTQI community in Georgia. Based on the analysis of existing studies, legislation, practice, community member experiences, stories told by community workers and organizations, lawyers, and state agencies, the study seeks to relate the community's social vulnerability with common labor market issues and homo-transphobic oppression.

Although the queer community does not belong to just one economic class, data analysis reveals systemic heterosexuality and economic oppression, which forms and maintains the community as cheap labor. The community members and specialists see the solution to this problem mainly in strengthening the social role of the state and integrating queer issues in welfare policies. Between the employee and employer, the state must implement employee-adapted means for introducing anti-discrimination laws and practices. It requires highlighting the employer's responsibilities and mobilizing the queer community around social policy and labor rights.

Terms and Abbreviations

SOGI	Sexual orientation and Gender identity
LGBTQI	Lesbian, gay, bisexual, transgender, queer, intersex
Genderqueer	A person who doesn't identifies with the conventional gender distinction of male and female
Cisgender	A person who identifies with the sex assigned at birth
Transgender/trans	A person who does not identify the sex assigned at birth
Coming out	Disclosing own identity
Queer	The term refers to LGBTQI community. A designation like that is not universal, though it's commonly used between the academic and activist circles

Introduction

On April 30, 2020, a transgender woman attempted to burn herself in front of Tbilisi City hall¹. Madona Kiparoidze turned to such an extreme form of protest in response to the indifference of the state.

Economic poverty, scarcity or lack of parental support, homelessness, transphobic violence- Madona tells all about it during an interview. These problems are faced by Queer community with varying degrees of severity and have significantly worsened during the pandemic. Unfortunately, public hear about LGBTQI people on media and public discussions only when their life is in imminent danger, or when they get killed. Moreover, it also happens if only their life and identity are revealed willingly or by force.

With the growing queer movement, it becomes more apparent that along with cultural exclusion, violence, and discrimination, LGBTQI community is experiencing economic oppression. When employed in the labor market, LGBTQI people face discrimination during the hiring process, performing a job, or being dismissed. Many of them have to overcome barriers in order to find and keep a stable and decent job. The absence of equal access to the labor market increases poverty risks, social exclusion, and homelessness.

The present study investigated the employment and labor rights of queer community. The study's objective is to offer recommendations to the state and queer movement, taking into account international practice and Georgian context, to improve the labor rights of LGBTQI people during the pandemic and post-pandemic periods.

In order to achieve the objective, the study assigns the following tasks:

- Analyse LGBTQI people's access and barriers to employment, promotion, and decent work;
- Assessing state policy and employment challenges faced by LGBTQI community during the Covid-19 pandemic;
- Reviewing successful international practices;
- Analysing possibilities of civic mobilization and intersection around labor and queer issues;

¹ Netgazeti, April 30, 2020, "A transgender woman in Tbilisi tried to burn herself in protest", retrieved March 16, 2021 <https://netgazeti.ge/news/448567/>

- Identifying opportunities to transform economic policies from the queer community perspective;

Quantitative and qualitative studies conducted so far give us an in-depth and representative picture of the community's social problems, discrimination, and needs. Those studies are mainly carried out by LGBTQI organizations enabling more or less generalized needs by queer community diverse needs. In the present study, we want to fill in the available material and concentrate on opportunities to fight against economic oppression and solutions.

1.Methodology

The study uses qualitative methods to achieve the set objectives, which implies analysis of the legal environment, conducted studies, historical context, international and local queer community experiences.

The study seeks to find solutions viewing labor and economic situation from the queer community perspective. Accordingly, the main research tools are group and individual interviews. Within one group of respondents, nine persons were interviewed by expert between March and May 2021; they were primarily lawyers and social workers working in the community organizations. We also interviewed trade union representatives, researchers working on labor issues, and representatives of Georgia's Public Defender (ombudsperson). As for the community members, we held 1 group and seven individual interviews with 11 people.

In terms of screening, we mostly have access to young queers; hence age range of respondents was 18-35 years. According to already existing data, we are aware that most of the Queers are employed in the service sector. It is precisely the group we chose for conducting focus groups and interviews. Since the study analyses differences between center and periphery from a regional perspective, we found respondents from Tbilisi, Kutaisi, Batumi, and Zugdidi.

Since the state is not the only actor impacting the labor market, our recommendations will also be helpful for the employers who try to establish equality principles in their companies and organizations.

Finally, the study would mostly have a practical purpose for queer and other social movements and allow labor issues integration in queer specificity and, conversely, queer specificity integration in economic and labor struggle.

2. Main findings

- Although LGBTQI people do not belong to the one economic group, they are present in low-paid and informal sectors; Queers create cheap and unstable labor force;
- Poverty in LGBTQI community is linked to gender and the place of residence. Queers have more employment opportunities in the cities, where the business and service sector are well developed. However, the position of LGBTQI people in the places where patriarchal community is strong, they continue to suffer discrimination and unemployment;
- Restricted access to education, healthcare, housing and family support negatively impacts on the employment and promotion opportunities. That's why, the labor conditions should be considered not only as a discrimination based on sexual orientation or gender identity, but as systematic oppression as well;
- Although anti-discrimination legislation covers SOGI-based discrimination issues, the practice of the implementation still remains a challenge. Because of the fear of job loss and the threat of forced coming-out, SOGI-based labor discrimination cases rarely reach the court;
- Covid-19 pandemic has serious negative effects on LGBTQI people involved in informal labor, especially transgender sex-workers. Government's anti-crisis doesn't cover the specific needs of queers;
- In general, LGBTQI people receive support and queer-friendly services from the community organizations and social groups.

3. Fight for redistribution or recognition?

Queer community does not belong to one economic class; non-normative gender identity and sexuality can be found in every social, ethnic, or religious group. Respectively, when speaking about employment and economics, it is difficult to reveal a single trend. Beyond direct discrimination, it is often hard to find direct connection between queer oppression and economic inequality. This chapter will consider a theoretical debate on queer community cultural acceptance/competence and economic redistribution and connect it with international history.

In terms of employment, hatred for homosexuality and gender transgression are translated into labor market exclusion. Added to this is limited access to housing, education, healthcare, other social benefits, stigma, violence, and internalized homophobia, which causes additional personal, emotional, and material problems to LGBTQI representatives on the labor market.

Queer activism and studies often try to associate homophobic and transphobic prejudices with community impoverishment and economic oppression. In Georgia and abroad, professionals watch queer community problems systemically and denounce overt or covert homophobia in the legislation or its enforcement, state policy, and social relations.

Mainstream activism, speaks about queer struggle primarily through cultural acceptance/competence terms. Cultural acceptance/competence is a matter of social status and applies to groups considered to be oppressed² on one or another ground (gender, sexual, ethnic, religious, and so on). On the other hand, the groups oppressed on economic grounds may not have experienced cultural exclusion and vice versa. Furthermore, poverty caused by an unfair economic redistribution significantly derives from the economic arrangement, not necessarily from belonging to the cultural groups.

Even though culture cannot be separated from economic relations in practice, the so-called new social movements are primarily considered as identity politics, so their fight goes through connecting people of specific cultural identity (for example, gays, Muslims). At the core of it are several myths and actual problems.

² Fraser, Nancy. "Heterosexism, Misrecognition, and Capitalism: A Response to Judith Butler." *Social Text*, no. 52/53 (1997): 279-89. Accessed March 22, 2021. doi:10.2307/466745

Identity policies that regard economic liberation only as part of cultural acceptance/competence, are in some cases, successful.³ In recent years, relatively small businesses have emerged (mainly in the entertainment industry), which openly oppose homophobia. Despite this, there are a few such institutions/facilities and discrimination, marginalization cases in the workplace are widespread, especially against gender-nonconforming and transgender persons. Fight for cultural acceptance/competence remains a challenge in the current market system.

Queer economic oppression in Georgia also goes through an overt homo- and transphobia. In many cases, cultural acceptance/competence and elimination of discrimination are needed to protect this or that person's economic and labor rights. In any case, this form of oppression is the clearest.

Economic oppression does not vanish with the introduction and inclusion of the anti-discrimination law. Overall economic inequality/disparity, which also applies to queer persons, is often neglected under identity policies auspices. It happens for a reason. First of all, the fight for economic equality is considered an extensive and general issue, and Queers, in the best of cases, are often regarded as an "additional" oppressed group. "Double oppression" and intersection of oppressions (for example, sexual and economic) are often used to describe the queer experience. In addition, specifically in Georgia, the fight for overall economic rights is already feeble, there are few trade unions, or they do not function efficiently (*interviews with trade unions and experts*). At the same time, as far as fights for cultural acceptance/competence can be marginal and hated for the population, this strategy will find more support from the international actors, which allows putting pressure on the state and opposing homophobic repressions. Though queer organization in public spaces is the subject of constant conflict, it can often be met in virtual spaces, public discussions, mainstream media. Furthermore, it is just, for the most part, considered a narrow identity issue even when it refers to labor discrimination.

Another reason for limiting sexual orientation and gender identity to a cultural problem is the overall relevance of this matter. The queer activists and organizations also have potent allies; many young people fight against homophobia on social media. The movement does not complain about a lack of campaigns or blogs.

³. For example, many corporations (Nike, Microsoft) have feminist and queer-friendly positioning. It is a global tendency, which is also met in Georgia

However, economic oppression and its bearing on specifically queer oppression gets relatively little attention in Georgia. Poverty is not scandalous and attractive, and correspondingly, it is less interesting for the media. However, this kind of liberal economic model is explained by closely intertwined business and government in formal politics. The most significant part of the politicians (government or opposition) own shares themselves, and deregulation policies are often favourable for them.⁴ That's why, the implementation of anti-discrimination legislation is extremely challenging.

Left-wing authors often do not view the cultural non-acceptance/incompetence as a serious enough issue and still outline solutions and reasons in fights for redistribution.⁵ Even when this fight is recognized, its economic foundations are neglected. On the whole, a question mark can be put on how correct it is to separate redistribution from non-acceptance/incompetence. Isn't queer exclusion very often based on the economic profit principles?

However, queers lack the resources, and other social networks (for example, biological family, relatives) are still essential for their survival. The absence of family support causes significant damage to their rights to housing and education. Queer youth and adolescents may be cut off, abandoned, left without an inheritance. As a result, having low income, queers cannot afford to pay rent. LGBTQI people often work multiple jobs, and if they lose their jobs, they are also more at risk of homelessness.⁶ LGBTQI people are forced to work from early ages, which deprives them from opportunities for further professional development. Consequently, even under equal

⁴. For example, every 7th out of 150 deputies of the 10th convocation is a millionaire. Source: Radio Tavisupleba, 12 December 2020, Millionaire deputies from the "Georgian Dream", data received 26 May 2021. <https://bit.ly/3hU6dwZ>

⁵. Butler, Judith. "Merely Cultural." *Social Text*, no. 52/53 (1997): 265-77. Accessed March 22, 2021. doi:10.2307/466744

⁶. The gender-specific market also limits opportunities for the queer's economic participation. The profit-oriented system is mainly based on women's unpaid work. Social benefits are tied to heteronormative families. Accordingly, nonreproductive sexuality (not producing children) does not create a workforce and does not serve the demographic goals of the nation-state, and is marginal. Queer women and transgender men are the most obvious example in this regard. Lesbians and transgender men renounce the society-ordered reproductive obligation and or connecting their sexuality with a man. It makes them a sort of "non-women," which poses a threat to patriarchy and economic order. It does not mean that they will not necessarily perform domestic labor since family is not limited to heteronuclear correlation, especially in Georgian families, where several generations live together. Nevertheless, despite this, they still pose a threat to the system by reproductive refusal.

competition, queers' economic conditions and chances of employment cannot be equal to the non-queer people same age and education.

Counter-argument to that could be that the problem lies in heteronormativity and cis-normativity and not the logic of economics. For instance, by legalizing same-sex marriage and legal gender recognition, queers could also be involved in heteronormative economics and benefit like heterosexuals and cisgenders. And that is true, to some extent. With cultural acceptance/competence, queers would have great potential to cohabit with the market. However, gender, residence place, and overall socio-economic situation significantly stipulate opportunities for adapting to the current economy.

4. Labor and Gender in the Center and Periphery

In interviews, assumption often occurs that labor discrimination and unemployment less apply to cisgender, lesbian, bi, and queer women or transmasculine men than transgender persons and feminine expression men. Community organizations also say that women turned to them less often during the pandemic than men, although they needed help just as much.

At first glance, it looks like this. Since most do not come out at work, gender expression becomes decisive in discrimination cases. Femininity is more stigmatized in men due to patriarchal culture - everyone confirms it in interviews. Consequently, feminine men and transgender/ transfeminine persons see more barriers. However, the interviews also revealed the following problems: violence against women, sexual harassment, wage differentials, and fewer job opportunities. Lesbians also report brutal domestic violence experiences; As a result, they have to leave home, whether their sexuality is revealed or not.

Despite parent support, women also face social pressure. A bisexual woman tells us that she usually spoke openly about her sexuality, which is why in her hometown (periphery), she was marked as a "bitch" and a "lesbian" at the same time and, in fact, got marginalized. These stigmas made it challenging to employ, and at one of her jobs where she worked as a teacher, some parents even tried to fire her.

If the non-normative expression is more punished in the periphery for women and hiding it is more complex, domestic violence against women is not tied to place of residence. Violence usually starts in childhood. One of the lesbians interviewed said that her mother read her messages without her permission, realized she was a lesbian, beat her, and kicked out of the house. In the second case, a woman ran away from home due to the threat of death. Education, development, and subsequent employment opportunities for both women have diminished, while homelessness increased financial problems.

The structural problems faced by bisexual and lesbian women due to patriarchal oppression are even more challenging to identify. They are not always directly related to employment and work opportunities. According to the respondents, employment in the service sector depends more on the prospective clients and the level of gentrification and misogyny in an existing location. In the regions with less presented businesses and limited employment opportunities (Kutaisi and Zugdidi), overt homophobic discrimination is more acute.

"Zugdidi is a small town, consists of villages. Employment opportunities are very scarce, and most people work in government service or agriculture field. Usually, those who work in the government services, avoid any affiliation with the LGBTQI community and even the queer organizations. They may not even greet in public, or worse, make homophobic statements. As for the people involved in agriculture, their work is tied to the family and the family farm, so they can't leave home and live independently, and therefore this group does not reveal its identity." - Tsabunia Vartagava, Zugdidi, "Equality Movement".

Due to its small scale and family-related work, Zugdidi provides fewer possibilities for coming out. The impossibility of economic and physical independence and the inability to live separately force queers to flee mainly to larger cities. Here the situation changes depending on the strength of the capital and the size of the city. The situation is similar to Zugdidi in the small but more urbanized city of Kutaisi.

"Lesbians in Kutaisi find it difficult to get employment in the service sector, while gay men find it easier to work as waiters, for example" - Anano Surmava, Kutaisi, "Identoba Youth".

It is caused by the patriarchal relationship existing in society, for which a feminized man is more acceptable in the service sector than a masculine woman. While patriarchal oppression in Zugdidi and Kutaisi is combined with homophobia and transphobia, in Batumi, where the service sector employment market is much larger, gender norms do not significantly impact employment.

"Non-normativity in some places may even be encouraged. It depends on whom the employer perceives as a client. In general, there are so many seasonal jobs in the service sector in Batumi that everyone gets employed. Capital does not differentiate between a woman, a man and a heterosexual; everything is for sale, or rather for rent", - Mariam Kajaia, Batumi, "Identoba Youth". The same can be said about Tbilisi. In Georgia (and beyond), there also exists a trend towards capitalizing queer labor and liberal/progressive positioning. For example, respondents say that "manlike women" (masculine expression) may even be encouraged in certain lower and middle echelon managerial positions in Tbilisi.

"There are companies that misuse queer labor. In this case, the employer tells them that being queer is not important to them but will give them additional assignments in return. Suppose a relatively empowered queer happens to work in such organizations and protests. If so, they are going to have real trouble." - Ketil Bakhtadze, Lawyer, "Women's Initiatives Support Group". Two transgender men confirm the same. After being refused to pay salaries, the employer called one of the transgender men "a woman."

Queer-friendly positioning companies are more open to compromise (e.g. recognize discrimination case or give compensation) in discrimination cases, which appears to simplify matters. It is no coincidence that the "greatest declared enemies" of the queers are conservative and religious groups and not corporations.⁷ However, the working conditions are so poor, and the employee has so little negotiating power that, for example, in large companies, liberal positioning

⁷ Fraser, Nancy. "Heterosexism, Misrecognition, and Capitalism: A Response to Judith Butler." *Social Text*, no. 52/53 (1997): 279-89. Accessed March 22, 2021. doi:10.2307/466745

becomes absolutely insubstantial, and patriarchal or homo/transphobic oppression often goes unnoticed. They have precisely become cheap labor of a kind in the existing economic system because of their greater dependence on the employer. In addition, the leading conservative forces - the church and the extreme-right groups are the owners of capital, and their policies directly or indirectly help sustain the current economy.

5. The Role of Conservative Forces in Economic Subjugation

Neoconservatism and neoliberalism, both in theory and in practice, have proven to be very effective tandems against women, queers, and other minorities. An excellent example of this is the rise of neoconservative forces in Europe and North America, which are also economically right-wing. Vivid examples of this are Hungary, America, Poland. Likewise, Hungary's ruling right-wing party (Fidesz) deprived transgender people of their right to legal gender recognition in 2020 and at the same time significantly worsened the Labor Code for everyone in 2018-2019.

Thus, the queer fight opposes culturally right-wing ideologies and suffers blows from the culturally right-wing forces. A policy that views economic redistribution and labor rights issues as separate from SOGI might not consider the tandem of neoliberalism and neoconservatism. In Georgia, these ties are particularly evident when an institution (the Georgian Orthodox Church) is openly conservative and at the same time owns and protects capital.

As a result of the work of conservative groups and churches in Georgia, queer rights, opportunities for economic participation, and even co-optation of the existing system are significantly reduced. The most obvious example is the constitutional entry on the unity of women and men in marriage, which removes queers even from the most normative indicators of joint participation and social institution in public life.

6. Queer oppression and fight in the services sector

Despite the diverse nature of the queer community and the fact that both economically right and left activists can be found among them, historically, they have also fought on the front lines in fights for economic redistribution. Equal redistribution requirements often arise in queer matters too. Since the 1970s, LGBTQI community members have been actively involved in trade unions in the United States, then in Europe and Canada, and the queer fight was intertwined with the fight for labor rights.⁸

These historical facts should not come as a surprise since human life is not tied to only narrow identities, nor do these identities leave them when, for example, they go to work or for an interview. Queers already show non-conformity concerning one system (heterosexuality, gender) and display resilience against other oppressive ideologies.⁹ The existing experience of queer mobilization, marginalization, and oppression of queers in the workplace, emotional care skills, and creativity has been named the principal reasons for queers' participation and effectiveness in trade unions.¹⁰

Not surprisingly queers and women in Georgia are likewise particularly active in trade unions or other labor and economic conflicts. Internal dynamics may repeat general power redistributions among candidates for the job, e.g., the men are in the lead. However, ultimately unification for a common purpose is less hindered by gender-nonconforming expression. Labor rights activists, organizations, trade union leaders, and researchers in the field unanimously declare that in practice, the fight for labor rights in Georgia is usually a fight of women and queers.

⁸ What's more, the 1980s American Movement (ACT UP) against HIV / AIDS stood out for its anti-capitalist rhetoric and spirit. At that time in America, medicine for fatal diseases was not available to the regular queers. Community members were massively dying off or witnessing their loved ones and associate's daily physical and emotional destruction at the hands of a profit-oriented and homophobic healthcare system. The organized movement against HIV focused precisely on socio-economic issues. They viewed healthcare as a matter of economic redistribution

⁹ One example of queers' victory organized for labor rights is the Yellow Rat Bastard, a New York-based clothing store forced to pay workers \$ 1.5 in compensation based on the workers' class queers organizing. Winning was made possible by a sales trade union (Retail Action Project), which is also a queer-dominated organization, see: O'Brien, Michelle Esther. "Why Queer Workers Make Good Organisers." *Work, Employment and Society*, (August 2020). <https://doi.org/10.1177/0950017020940147>

¹⁰ see. note N2

What are the specific conditions for this?

Average income of a queer person in Georgia is below 1,000 GEL.¹¹ The figure corresponds to the women's compensation and is about 70% of the average salary of employed men in the country. Most queers are concentrated in low-paying sectors - entertainment, arts, recreation, accommodation, and food services. At the same time, the rate of people owning their own business and being self-employed is only 12%.

Both employment and average wages in this industry are feminized (i.e., more women work and their earnings are lower than men's). Based on this, we can say that regardless of gender, places of work and income are similar to the gender pay gap. The reasons can sometimes be the same; for example, capital usually does not distinguish between an employed queer woman and a heterosexual, cisgender woman, if the identity of the first person is not known. However, a third of the study participants were cisgender women. Consequently, we can assume that non-normative gender expression, sexual orientation, and gender identity negatively impact employment opportunities and income.

"In general, labor is being feminized in the world. There are numerous cases when women and, for instance, feminized men are given additional responsibilities in the service sector. For example, a shop assistant is also assigned to clean up because it is considered as women's work", - Rezi Karanadze, independent trade unions.

More acceptance and fewer requirements can explain the concentration of queers in the service industries. Queer community is a kind of informal precariat with limited opportunities for education, market employment, and promotion. Along with generally poor working conditions, the reasons for this are direct and indirect discrimination, which is discussed in the following chapter.

¹¹ Center for Social Justice, LGBTQI Group queer Exclusion Study. 2021. Tbilisi, p. 137

7. Discrimination-legislation and practice

Assessing the degree of labor discrimination against LGBTQI people is challenging since many workers do not reveal their identity at work. However, most of them do not seek legal assistance in the face of other problems due to fear of ruining relationships in the workplace or losing their jobs.

Discrimination based on sexual orientation and gender identity can manifest itself in the refusal of employment and dismissal, lack of access to opportunities for career growth, creating additional difficulties in the workplace, unequal income, or exclusion of LGBTQI individuals from taking advantage of employment benefits. Verbal harassment often occurs towards LGBTQI people, which includes homophobic or undesirable jokes, lack of acceptance on the part of co-workers and managers. LGBTQI workers, who are discriminated against in the workplace, express negative attitudes towards work, their job satisfaction is reduced, they are less tied with their workplace, and have fewer chances of career growth.¹²

7.1. Implementation of the Principle of Equal Treatment

The principle of non-discrimination as an essential tool for achieving equality is enshrined in national and international law. "Covenant on Economic, Social and Cultural Rights," which is the most crucial document in the fight against discrimination, prohibits any discrimination and obliges states to exercise their rights under the covenant without discrimination on any grounds.¹³ ILO Convention No. 111¹⁴ obliges signatory states to pursue a national policy of equality to eliminate all forms of discrimination and apply methods to equalize employment and employment opportunities.¹⁵ The Convention defines discrimination as any distinction or advantage that violates equality of opportunities or treatment in the fields of employment and labor.

¹² Ozeren, Emir, Sexual Orientation Discrimination in the Workplace: A Systematic Review of Literature, *Procedia – Social and Behavioral Sciences* 109 (2014), p. 1008

¹³ Covenant on Civil, Political and Cultural Rights, Article 2.

¹⁴ Note: Ratified by Georgia on June 22, 1993

¹⁵ ILO, C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

The EU Directives, in particular, Directive 2000/43 / EC and Directive 2000/78 / EC, are essential instruments for promoting equality in employment. Both prohibit discrimination, which includes both pre-contractual and contractual stages, including the decision to dismiss. The directives prohibit unequal, discriminatory treatment on any grounds, including discriminatory treatment based on sexual orientation and gender identity.¹⁶

The Labor Code of Georgia also strengthens labor equality; the recent reform of the Labor Code has particularly strengthened and refined the principle of equal treatment. Amendments to the 2020 law explicitly prohibit discrimination at the pre-contractual stage, including posting vacancies. However, the issue of obtaining evidence in the event of alleged discrimination at the pre-contractual stage remains a challenge, since the law contains an entry on the employer's right not to justify a decision made at the pre-contractual stage, including cases of alleged discrimination.

The Labor Code was particularly refined when regulating the discrimination issue given that it differentiated between the forms of discrimination, explicitly prohibited discrimination on the grounds of sexual orientation. Oppression and victimization were also defined by law as a form of discrimination. The important news is that the law considered an appropriate sanction for violating the principle of equality and the authority detecting violations – the Labor inspection Service.

7.2. Commitment to Take Preventive Measures

Amendments to the Labor Code oblige employers to take positive action against discrimination and implement preventive mechanisms in the workplace. According to the Code, before concluding an employment contract, in a pre-contractual relationship, the employer is obliged to provide the candidate with information on provisions defined in the legislation on the principle of equal treatment of individuals and their means of protection also take measures to ensure compliance with the principle of equal treatment of individuals in the workplace including

¹⁶ Racial Equality Directive 2000/43/EC, Art. 4(1). ; Employment Equality Directive 2000/78/EC, Art. 4(1)

provisions prohibiting discrimination. This should be reflected in internal labor regulations, collective agreements and other documents and ensure their implementation.¹⁷

Thus, preventing discrimination in the workplace and creating equal working conditions are obligations imposed on the employer by law which does not imply only a neutral working environment for each employee. The employer is obliged to take all measures to prevent discrimination by disclosing equal policy (at all stages), including implementing response mechanisms. These mechanisms can represent both open and disclosed policies on equality reflected in internal regulations and other regulatory documents and a mechanism for preventing and responding to discrimination in the workplace that will detect discriminatory practices at the internal level and act against them.

7.3. Regulatory Authorities

In the event of discrimination, queer persons can apply for help in different services and legal channels:

- **Courts** - Undoubtedly, the court is an essential and turning point in the path to equality. According to the current legislation, disputes against discrimination will be held in court according to special procedural rules. Within this framework, the victim of discrimination can demand an end to the discriminatory act/omission through the court. Also, elimination of discriminatory consequences, as well as compensation for moral or material damage.¹⁸ In addition, the absence of specialized labor courts should be taken into account. That would contribute to creating a unified practice and improving a response mechanism, considering the specifics of the labor disputes.
- **Public Defender (Ombudsperson)** - Public defender has been acting as an equality mechanism since 2014. Ombudsperson reviews allegations of discrimination, makes

¹⁷ Labor Code of Georgia, Article 11.9, Article 23(4)

¹⁸ Civil Procedure Code of Georgia, No. 1106-I, Chapter Seven 3 "Discrimination Proceedings"

decisions, and issues recommendations and proposals in the event of establishing discrimination. Cases of appealing to the Public defender (ombudsperson) of Georgia generally reflect the experience of activists and subjects who already came out.

According to the Public defender's office, positive trends can be observed. From 2019, private companies are also responsible for providing information; however, problems with this have not arisen before too. Their recommendations are considered in the future. Putting pressure for damaging the reputation also makes sense, though only in isolated cases.

- **The Labor Inspection Service** - According to the national legislation, in the process of identifying and responding to discrimination in labor relations, it is the labor inspection service that plays the most crucial role. Within the framework of its statutory powers, the inspection has the right to unimpeded access to evidence in cases of alleged discrimination.¹⁹

The Labor Inspectorate has just enacted such a mandate; therefore, the precedent for combating discrimination of this institution has not yet taken place. However, in interviews, lawyers look with hope at the recently enacted reform of the Labor Code, inspection definitely can become the basis for integrating queer issues into labor legislation. Besides its practical purpose, such an approach ideologically views the queer community not as a separate group but as a part of society. It adapts specific needs and concerns to social, universal practice.

7.4 Law in practice

Although law of Georgia on the elimination of all forms of discrimination allows for dispute and damaging the employer company's reputation (interviews with trade union representatives and lawyers), cases of discrimination on the grounds of SOGI had not been brought to the Public

¹⁹ International Labour Conference, 100th Session, 2011; Labour Administration and labour inspection; fifth item on the agenda; p. 74, para. 255

Defender's (ombudsperson) of Georgia or trade unions attention earlier. Considering the freedom of contract principle also does not apply to the working and pre-contractual period, labor professionals, lawyers, and researchers point to hidden, perceptual discrimination which can be manifested in the pre-contractual period that may complicate the discrimination allegation. A gender-nonconforming person may often be a victim of homo or transphobic discrimination, regardless of identity. For example, a man's earring is often considered as a sign of community affiliation. Although under the law, the employer has no right to demand removing earrings or refuse to hire for this, not naming the reason, allegation of discrimination is hard (*interview with a representative of the Public Defender's (ombudsperson) office of Georgia and lawyers*).

In cases of discrimination against queer employees directly, cases reach trade unions and community lawyers, but they rarely go to court. Since discrimination is always direct, the law often fails to regulate even the most business aspects of social relations in practice. Moreover, when the case goes to court, it may take too long, and the plaintiff's personal data may be unprotected. Trade union representatives and lawyers confirm that the main obstacle to the anti-discrimination law's working in Georgia is revealing identity. "It is a kind of indirect blackmail by the employer" because they know full well how difficult it is to reveal identity. In addition, the constant efforts and strategies of LGBTQI persons to avoid revealing their orientation negatively affects their health and productivity.²⁰

Suppose a company is small and cares about its reputation, they are afraid of bad publicity, and they are threatened by lodging a complaint, in case of homophobic violation. In such occasions, they know that company will lose the case or damage the reputation, that is why they settle the disputes. However, large companies are challenging to fight in this way. If their services are not targeted to specific groups, they do not, in truth, care about being named as homophobe. Even the employer is not aware of the law and often openly violates the employee's rights. One discrimination case at the food facility ended with the plaintiff's win, who was fired on the grounds of homophobia, and there was evidence of this. The respondent tells us that "proving his truth" was essential. However, this case is more the exception than the norm. Employee's ignorance of

²⁰ Opinion of the European Economic and Social Committee on 'Vulnerable groups' rights at the workplace — in particular issues of discrimination based on sexual orientation' (own-initiative opinion), 2012/C 351/03, para. 3.3.2

their rights was often admitted in interviews. *"It is pointless to fight- this is the thinking that is killing us"* -says one of the respondents. One respondent, a gay man, said that while working in the supermarket, his boss had doubts about his orientation:

"During the last month of work, it happened that I went out to use the market toilet, I forgot my phone on my working table. My boss started poking around on my phone viewing personal correspondence and so on when he came across the chat where I wrote to a guy that I "love" him. Upon my return, he began verbal and physical abuse, damaged my personal property, and kicked me out of the market".

Even though this case also reached the court and the plaintiff received partial compensation, the case was not public due to family circumstances.

Carrying heavy loads in grocery chains, cleaning, serving customers, combining this additional work with the cashier job and other duties, punishment for minor violations, fines in case of loss or product expiry. -It is just a small list of bonded conditions that personally and profoundly affected Marika's mental, physical health, and financial condition. *"They can easily deduct enough fines to cut your salary in half."* and the salary is already low.

In recent years there have been many similar allegations of irregularities in the service sector. Even if violations are not regulated by anti-discrimination law, common problems identified in the service sector are often indirectly related to the labor feminization and poverty.

8. Informal employment and the pandemic

8.1. Informal employment

Last year many people lost their jobs in the service sector, or their working conditions worsened. For instance, those who worked in bars and restaurants had to shift to stores and sales and have

worse conditions and even lower wages (*interviews with trade union representatives and community members*). Many informal workers have realized that they did not even receive state assistance due to the absence of a contract.

"Informal employment means an employee does not have a contract, and labor conditions are usually poor, you also become invisible to financial institutions, for example, you cannot get a loan if you need it. And then pension and social protection are also not available, neither can you use benefits of maternity leave", - Tamuna Keburia, Social Justice Center (former EMC).

On the contrary, trade union representatives unanimously state that disputes are much easier if the employee has a collective agreement. Compared to individual disputes, with the help of strikes and collective litigation, winning is almost guaranteed. Disputes also became more frequent during the pandemic. Although they did not concern the discrimination on the grounds of SOGI, the need for special protection has primarily arisen for workers in the informal sector during the pandemic and posed a particular threat to the community's social security.²¹

The challenges for LGBTQI people were exceptionally high worldwide. The poorest and most vulnerable groups, LGBTQI community, have been hardest hit. The Covid-19 crisis aggravated the economic situation and social security of the most vulnerable segments of the population. In July 2020, within the mandate of the UN Special Procedures for Human Rights, guidelines had been developed (ASPIRE Guidelines), calling on states to address the particular vulnerability of LGBTQI people at every stage of planning, implementing, and assessing of policies against pandemic.²²

8.2. Evaluation of the Government's Anti-crisis Plan

²¹ Leandro Medina, *Shadow Economies Around the World: What Did We Learn Over the Last 20 Years?*, Working Paper No. 18/17 (IMF, 2018)

²² ASPIRE Guidelines on COVID-19 response free from violence and discrimination based on sexual orientation and gender identity; p. 3

On April 24, 2020, the government approved the first part of the anti-crisis plan. The plan was presented in two main parts and included components to support businesses and civil society. According to the plan, support mechanisms were provided for both formal and informal sector workers. However, it was clear that preference was given to those employed in the formal sector. As stated by the plan, the state assistance for hired employees was set at 1200 GEL and was distributed over six months, and in the case of employees and self-employed in the informal sector, the one-time assistance was set at 300 GEL.

It is evident that the anti-crisis plan did not fully meet the needs of the population's vulnerable groups; however, it completely ignored LGBTQI community, which worsened their health and quality of life.²³ The anti-crisis plan did not consider the particularly increased risks of domestic violence, homelessness, particularly impaired employment opportunities, lower incomes, homelessness, and lack of food faced by LGBTQI people. Among them, the plan did not adequately address the ability to meet the vital needs of queers.

The plan also did not consider the opportunities to assess individual needs and receive support by way of exception. It is particularly noteworthy that the plan failed to see the prevalent loss of income and social vulnerability of transgender sex workers,²⁴ which is not supported by such social fabrics as family, relatives, etc.

Although the anti-crisis plan focuses on the socially vulnerable segment - the socially vulnerable population, for LGBTQI persons who have lost their income and funds necessary for housing because of the pandemic, an additional obstacle to use such services could be the absence of socially vulnerable status. Bureaucratic mechanisms and its administrative production needs time resources. In addition, for most queers, a possible obstacle to using local government services was the lack of registration on the municipality's territory.

Although LGBTQI community's problems with poverty, unregulated working conditions, and access to housing existed even before the pandemic, it has significantly worsened in the context of

²³ ASPIRE Guidelines on COVID-19 response free from violence and discrimination based on sexual orientation and gender identity; Madrigal-Borloz, V., Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity 2020, p. 8;

see: <https://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/COVID19LGBTInclusiveResponse.aspx>, last viewed: 02.06.2021.

²⁴ See. Government Anti-Crisis Plan, available here:

http://gov.ge/index.php?lang_id=GEO&sec_id=541&info_id=75972, last viewed: 01.06.2021

Covid-19. Their monthly income has decreased by three times, conditions have worsened the most non-contractual employment, especially in the sphere of sex work.²⁵

9. Sex work

Speaking of sex work, we do not only consider transgender women; however, this is the most common solution in this community during economic coercion and exclusion from the market.

It turned out that 18% of the population is involved in sex work. Most of it, or 84%, are transgender women.²⁶ This work has a very distinct component of gender and represents a stigmatized activity both within and outside the community. Sex work also carries many health and life risks, whether violence from clients or police, violence within the community itself, or sexually transmitted diseases. Self-stigma is very strong, and sex workers also indicate their exclusion directly from the community.

Lali is a 25-year-old transgender woman who expresses concern about controversies in the community and the stigma of sex work. *"It is an internal bullying. It should not be determined by the workplace"* *"Personality will accompany all the time, whether at the Biltmore or when standing near the circus. "*

Lali's story is typical in some respects. She dropped higher education due to financial issues. The family could not help her. Although she has not yet come out, she was bullied at school, university, and family because of her feminine expression. It created additional stress, though she tried to study very well in response to pressure and prove herself in this way. *"Existence alone is not my goal; a 300-400 Lari job would not be enough, I spend almost as much on rent alone. That is why I got involved in sex work. "*

Unlike Lali, many transgender women have been involved in this industry since childhood. They are usually thrown out of the house because of their gender expression or escape from violence as

²⁵ Report of the Public Defender (ombudsperson) of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2020, p. 205

²⁶ Agdgomelashvili, Eka, Researcher, UN Consultation Meeting, May 18, 2020

adolescents. For many of them, the only shelter is “Pleshka”,²⁷ where other transgender women often provide housing and involve them in sex work.

in “Pleshka” itself, both violence, especially towards newcomers, and practices of caring for each other may be encountered. E.g., If any of them do not come for long, they call them, memorize car numbers, repel regular attacks together, collect money for someone in their time of need, etc. Transgender women talk about daily violence from police and clients. Lali was robbed by a client and threatened with death. She jumped out of the window to save herself. The rapist was caught; this was not even the first case of his violence against a transgender woman. However, a few months later, he was out of jail.

On the one hand, violence that risks physical and emotional health, and on the other hand, general poverty, limited education and employment opportunities, are gender and class dimensions that hinder cisgender or transgender sex workers and community members' employment and labor, in general.

Community members, especially transgender women, leave Georgia because of these problems and usually flee to the West as refugees. Lali is also going to leave because here, she is not allowed to study or come out. As she admits, many transgender people give up, get exhausted, do not see the opportunities, they cannot see the point of studies and fight.

These problems became especially apparent during Covid-19. People involved in sex work did not receive state assistance. In Lali's words, local self-government assisted people registered outside Tbilisi. Despite the significant risk of coming out, she followed the procedures to the end. *“I was so embittered that wanted to prove to the state they are incompetent. I was redirected here and there and offered buckwheat and flour when I was at risk of being kicked out of home”*. Most of the help was provided by sex workers through charities and community organizations.

In recent years, transgender women's fight for visibility, open conversation about sex work has exposed the problems of transgender women and won sympathy both inside and outside the community. It appears that everyone agrees that transgender women are the most oppressed group. Contrary to research carried out previously, in interviews, everyone confirmed clearly and

²⁷ Meeting place for sex workers and / or MSM men

unambiguously that transgender women are the most excluded from the labor market. However, they are not aware of how to prevent sex work and create alternatives for women.

Despite solidarity, everyone speaks about sex work in the tone of justifying the accused. However, in terms of systematic solutions, in interviews and personal conversations many sex workers mention the decriminalization of sex work. For example, Lali considers it an excellent solution to protect her from the police and reduce stigma. Nobody talks about it publicly because it is certainly not the priority based on the current legislation and patterns of its application. Due to self-stigma and negative public attitudes, and lack of knowledge, sex workers are also silent about the matter. However, the problems associated with decriminalization are voiced in all interviews.

Comparative studies of legal approaches to sex work in different countries show that decriminalization has a positive effect on the situation of sex workers. However, there are many variations between full criminalization and full legalization. Table # 1 shows the prominent trends prevalent in the world.

Table # 1. Standard models of legal regulation of sex work

Model	Definition
Full Criminalization	All aspects of sex work and its organizing possibilities are prohibited
Partial Decriminalization	Organizing sex work, including brothels, involving third parties is prohibited
Criminalizing the purchase of sex (Client Model/Nordic Model)	Sex workers are not allowed to work together, client is subjected to punishment.
Regulatory model	It can only be purchased at licensed or regulated locations. Condom use and testing are usually mandatory to prevent HIV and other STDs.
Full Legalization	All aspects of sex work are legal, and condom use is mandatory in various places.

Full criminalization has the most damaging consequences for sex workers. Police violence is one of the main problems of sex workers both in Georgia and abroad. Criminalization or partial criminalization is the primary catalyst for this violence. Further, police violence and its threat are

associated with psycho-emotional problems of sex workers, physical violence, high risk of HIV, and other sexually transmitted diseases.²⁸

Problems also accompany partial decriminalization. Criminalization of purchase and arrangement of sexual services, providing housing, involving third parties causes the problem to sell safe sex. It is true that, unlike full criminalization, it reduces client violence and gives sex workers more power in dealing with the police, they have to hide, and this does not help fight stigma. *"[Police officers] come to my house and ask for my ID card, which is common harassment. The third time they came, they told me, "We know what you are doing, and we are here to arrest your clients." It is my source of income, and I literally had a paranoia for a long time because of it"* - reports a cisgender woman who works as an internet escort in Sweden. The Nordic Model, the success of which is often appealed to by feminists and leftists, also allows the state to pursue racist and anti-immigration policies in Sweden.

Despite the formal regulations, institutional violence and stigma are essential factors in practicing these rules. Decriminalization may be the basis for the growth of police control and mandatory testing of sex workers if the provision of housing is punishable. Sex work in Cambodia was fully criminalized in 2008, which was followed by police raids. Moreover, in New Zealand, where it was fully legalized, many sex workers were against mandatory testing. Even though mandatory condoms and testing protect sex workers from diseases, it may also work against them. In Turkey, where brothels are decriminalized, there were times when mandatory testing had become the basis of violence.²⁹

Although sex work is fully criminalized in Georgia, from an enforcement point of view, illegal arrests mainly occur in case of resistance to the police. Demands for decriminalization and legalization were rarely mentioned in interviews. However, at one meeting, sex workers also mentioned that the current legislation leaves room for much manipulation that could become a means of control over them in the future. The existing stigma and inaction of the police during

²⁸ Levy J, Jakobsson P. Sweden's abolitionist discourse and law: effects on the dynamics of Swedish sex work and on the lives of Sweden's sex workers. *Criminal Crim Justice*. 2014;14(5):593–607.

²⁹ Gulcur L, Ilkkaracan P. The "Natasha" experience: migrant sex workers from the former Soviet Union and Eastern Europe in Turkey. *Womens Stud Int Forum*. 2002;25(4):411–21

the violence and lack of information on transphobic hate crimes, as well as indifferent attitude of the court are a source of scepticism towards Transgender sex workers.

Whereas the provision of housing and the organizing of sex workers in any form is prohibited by law, it is hard to find legislative solutions. Politics must begin by removing these obstacles. Transgender sex workers more or less manage to organize themselves informally. They also wrote a letter to the state asking for help during the pandemic. However, results of such self-organizing are negligible due to inaction on the part of the state and insufficient solidarity and awareness in the community itself.

Respondents in interviews talk about trans-healthcare, police, and criminal police transformation. Anyone having information on this topic preferred decriminalization to legalization. Concerning the work of non-governmental organizations, beyond providing services, the practical solutions are based on the solutions by the police. Strengthening the community of sex workers, opportunities for building solidarity among cisgender and transgender women within the community, highlighting internal features must become a severe challenge to queer and feminist movements.

The proposal for legislative changes at this stage is doomed to failure if the organization of sex workers will not follow. For this purpose, the community must be strengthened through informal trade unions, various poverty alleviation programs, and anti-trafficking solutions. Before that, it is necessary to train the police and respond appropriately when necessary to deal with an immediate threat, but it remains only a short-term solution. In the course of the interviews, I did not in fact come across any existing suggestions or solutions regarding plans or initiatives to leave sex work safely.

Preventing economic coercion goes hand in hand with eliminating poverty and homelessness; However, the possibility of quitting sex work goes beyond these issues and covers many aspects of health, human trafficking, community empowerment, fight with stigma and violence. *"Sex workers have no goals. Short-term pieces of training can't help much, most of them don't even have desire and energy. This is why economic independence is so important; but before that, besides sex work, girls must see positive aspects of achieving this independence."* -says Lali.

In interviews, the focus on success stories was cited as an important incentive by community members. However, success is still only an individual solution and the responsibility depends on the personal power and individual givens of a particular sex worker or the community member. Without systemic transformation, it is impossible to turn "success" into general well-being. Lali believes that for this to happen, the non-government sector should attack the state more assertively to improve issues of sexuality and gender and trans-health in education.

Observing the state of sex workers, in order to strengthen the community, any intervention must meet the following criteria³⁰

1. Whose interests are taken into account by the initiative?
2. Based on previous observations, how does the expansion of police powers affect the community?
3. How is the legislation implemented in practice-how big is the gap between formal law and practice?
4. To what extent are community members involved in this initiative?
5. What part of society is covered by the initiative, and who remains behind it?
6. How does the initiative affect sex worker's stigma?
7. How does the initiative affect sex workers' income?
8. To what extent will the initiative protect the workers against client violence?
9. How open is the community to the initiative?
10. Which groups are opposing the initiative and why?
11. Who are the allies?
12. Problems existing within the community: what prevents the community from organizing around the initiative?
13. Community strengths: what prevents the community from organizing around the initiative?

³⁰ these questions are based on the work and lectures of transgender activist Dean Speed. Dean Spade is an active critic of police feminism and activism, and I consider him an essential source of inspiration in searching for alternatives, see: Spade, Dean, *Methodologies of Trans Resistance* (August 15, 2008). *A COMPANION TO LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER STUDIES*, George E. Haggerty, Molly McGarry, eds., Blackwell, 2007

10. Healthcare

Both sex work and the trans-specific healthcare raised in the queer community alone primarily go through healthcare needs. Transgender individuals usually indicate the medical expenses required for the transition, which goes beyond all government programs. Not only are they not covered, but they are also costly, and in Georgia, there are no protocols for a safe transition. According to community members, currently, these costs are higher for transgender women because the hormones and blockers are more expensive and are not even legally available. Lack of knowledge in the healthcare sector pushes many people to self-therapy. Hormonal therapy involves individual examinations several times a year and the appropriate intake of hormones at varying intensities. Transgender man, Vaso tells us that he started hormone therapy ten months ago. Vaso made a fundraiser with his transgender friend, Nika and raised 180 USD, which was first spent for tests. In the following months, they will need one testosterone injection every three weeks, which in itself is not expensive (16-20 GEL). However, they could not raise money for examinations and operations (removing breast tissue, sex reassignment). *"You need to have acquaintances abroad and be famous to collect enough money with fundraising. "*

After starting hormone therapy, costs were followed by unemployment. *"My voice has changed, it is more noticeable that I am a man. I find it hard to get employed because my birth name is written on my CV and ID card. Until now, I have agreed to everything, even if they called me by a woman's name. It was not difficult to find a job. My unemployment lasted for a maximum of 3 months, now I have been unemployed for a long time. They call me for an interview, and when they understand, well, this is where it all ends."*

Medical interventions for transgender individuals are disqualified as "personal choice" and "cosmetic" changes. At the same time, the state requires mandatory sterilization of transgender people to make changes in gender records. The first documented case of changing a record after

the operation was announced only this year.³¹ Nevertheless, the state denies that this is a trans-friendly case of regulating sex records and explains the change only with the mechanical argument of conformity with the record of one of the determinants of birth sex. This transphobic approach makes it evident that the state has declared direct war against the transgender community. Changing a record with a mandatory operation is already a discriminatory practice. Many transgender people do not want to transition, and even those who wish to, cannot do this for economic reasons. The medical and bureaucratic apparatus exploits deep-rooted transphobia in culture and along with the emotional and physical health of transgender people, contributes to their impoverishment and restriction of access to work.

Besides the health of transgender people, the queer community problems concerning HIV prevention, substance use, psycho-emotional difficulties, and disorders have turned into the prerogative of only community organizations. Not only transgender women, but MSM's are also vulnerable group and key population at increased risk of HIV. Although the state program covers HIV/AIDS treatment, community organizations are also a major driver of virus prevention, prevention, and awareness raising. Nowadays Several organizations provide community-friendly services, and despite the scale of its reach, it is marginal and fragmented. In times of pandemics, they played a vital role since the "humanitarian crisis occurred in the community."

The impact of HIV on employment and socio-economic status is indirect and affects people in the wake of deteriorating psycho-emotional and physical health. HIV-related stigma attached to people living with HIV to be in silence in case they're discriminated by an employer. Consequently, it is difficult to talk about the tendencies of discrimination against HIV-positive employees, even in the present study, no cases of labor discrimination due to HIV status were reported.³²

³¹See: <https://wisg.org/en/news/detail/324/First-time-in-Georgia-trans-person%27s-gender-has-been-legally-recognised>

³². However, experts point out that knowledge is scarce in the community itself, and that protection against discrimination and dissemination of information does not actually occur beyond community organizations (interviews with experts)

11. Solutions and recommendations

11.1. Perspective of the Community

Respondents say that they received support mainly from the civil organizations during the pandemic, though some believe they were left without support and consider the criteria for support as vague. Many community members sheltered other homeless people themselves. Such practice of internal solidarity is common in queers. Respondents, employees of organizations, and specialists point to these networks of support. Community members who have experienced domestic violence frequently find a newly selected family among other queers; however, this creates problems too.

"Internal contradictions often arise in the community. For example, I have repeatedly met destructive criticism and anger on social networks, but "when someone needs something, everyone supports." - Says transgender man, Vaso.

Moreover, during the pandemic, domestic aid, charity, state, or international assistance through community organizations provided significant relief during the crisis. However, it does not offer a system solution for the community. According to social workers, the overall economic situation in the community is so dire that help was needed even earlier. Therefore NGOs, labor specialists, and community members require more fundamental structural transformations to take the community out of the beneficiary's position and create decent working conditions for them.

Queer professionals agree that the community's employment and labor rights are closely related to problems of access to housing and healthcare as well as education, and other public benefits. Anti-discrimination and reinforcement programs should be part of the overall policy rather than marginal and fragmented initiatives. However, the general policy is essentially antisocial. When there is no universal housing policy, fighting for rights of the homeless queers becomes more challenging. That is why queer issues should become an integral part of the fight for social and economic welfare, and the queer movement should take care of the integration of labor and welfare issues into the community.

In this regard, certain awareness already exists. However, identifying the addressee of the concern continues to be a big problem. Taking over the role of a service provider by non-governmental organizations is misinterpreted as a duty to solve social problems. Consequently, community members could not assess how effectively the organizations worked with the state and what policy changes are required by them. Mostly they only had an emphasis on services: positive and sometimes negative comments. To change these passive positions, communal organizations need to ensure more effective participation of community members in their activities, structures, and decision-making.

The requirements for the employer mainly go through state intervention. In this regard, approaches are diverse: some believe that the employer is obliged to provide the working conditions himself, though they cannot answer what should happen in the event of not fulfilling if this obligation. They do not know who should be responsible for checking compliance with this obligation. Although many people know about court disputes and a free lawyer service, they still do not choose this way. In the interviews, LGBTQI people share their view how to improve job quality and get equal treatment at workplace:

1. The duty of the state to ensure the compliance of labor legislation with the employee;
2. An employer who is aware of this legislation and will comply with it;
3. An employee who is aware of his rights and responsibilities and can defend himself if necessary.

Raising awareness and providing information was named as the primary way to solve the last two problems. More confident were those who have received training on these issues through NGOs. However, they have learned most from their own experience. The training also did not fully cover the community and represented a relatively in-depth but small-scale method of spreading information. More extensive campaigns and examples about fight success were named as essential motivators in this regard.

There are few specific answers on how to ask the state to change labor legislation since there are too many problems. The minimum wage has been repeatedly voiced in gay and bisexual communities; representatives from other communities said little about their request in interviews. Requiring guaranteed minimum wage and employment contracts should be the most critical issue

for women and queers. Unless they have it, they end up from one poorly paid, insecure job to another (*interview with trade union representatives*).

Many community members emphasized in interviews that the community is part of the society, and their distinction based on specific grounds is more historical than natural.³³ In other words, need for better labor legislation was often referred to as a severe problem by experts. Improving labor legislation for all could be an intersection for various socially disadvantaged groups.

More specifically, law enforcement for eradicating homo and transphobic discrimination at workplace rarely appeared as solutions during interviews. The threat of coming out is such a big problem that most are more focused on establishing anti-discrimination culture. *"Today, even in chain stores, the space in which you will end up and how homophobic the environment will be depend on luck"*, - says Marika, who worked in almost every major chain store and even in some small kiosks. It indicates the absence of a unified anti-discrimination policy in the workplace.

Despite the already existing direct or indirect counter discrimination, labor professionals, lawyers, and trade union representatives see the minimal potential in the possible change by the employer's free will. Several cases had already emerged when in case of sexual harassment, discrimination based on gender identity or sexual orientation, the organization solved the problem itself before the case went to trial.³⁴

Creating and developing internal anti-discrimination mechanisms by the employer is rare but most desirable since the working and learning environment allows for systemic transformation. In the following subsection, we will strictly refer to recommendations developed for the employer.

11.2 An Employer

According to international standards, private companies must respect international human rights standards, take all measures to protect the rights of all employees, including LGBTQI persons. This

³³ Interview with Lili

³⁴ For example, one university responded to sexual harassment by developing internal mechanisms, while another university took internal measures to combat discrimination based on the Public Defender of Georgia's (ombudsperson) recommendation

obligation applies equally to all employers regardless of its size, structure, sector, or location.³⁵ In September 2017, UN adopted standards/principles of conducting in the fight against LGBTQI discrimination, which lays out five specific steps for companies to bring their policies and practices into line with international LGBTQI human rights standards.³⁶

Rooting respect for human rights anywhere and at any time - There are expectations towards the business to develop their domestic policies and act within the human rights framework. In cases where decisions might negatively impact human rights, they will react promptly to stop them. The most important thing entailed by this principle is creating communication and monitoring mechanisms by employers that will make their policies compatible with human rights.

- **Eliminating discrimination in the workplace** - an employer must ensure that discrimination against LGBTQI people will be ruled out in practice when deciding to accept candidates for work, during the hiring process, determining working conditions, determining benefits and allowances, and at all other stages. Employers need to establish mechanisms to respect privacy or respond to harassment and prevent and respond to any form of discrimination. This commitment is significant in light of the recent amendments to the Labor Code, when creating and implementing a mechanism for preventing discrimination, and the planning and implementation of anti-discrimination policies were identified as the employer's responsibility.³⁷
- **Providing support**- There are expectations towards the employer to create a positive work environment to provide LGBTQI people's work without stigma and oppression. This standard requires more than just providing benefits equal to others and includes measures (means) to provide inclusion, together with meeting the specific needs of the LGBTQI persons in the workplace.
- **Elimination of human rights violations** -Businesses must ensure the maximum protection of human rights in the labor market. It means that employers must hinder discriminatory practices towards their business partners and also make sure their services are available for

³⁵ Opinion of the European Economic and Social Committee on 'Vulnerable groups' rights at the workplace — in particular issues of discrimination based on sexual orientation' (own-initiative opinion), 2012/C 351/03

³⁶ Tackling Discrimination against Lesbian, Gay, Bi, Trans and Intersex People, Standards of Conduct for business.

³⁷ See. Labor Code of Georgia, Articles 11, 28

LGBTQI persons. Beyond discrimination, the standard also applies to violence, intimidation, bullying, incitement to violence, and other harmful practices.

- **Acting in public space** - This principle includes public protection through social dialogue, financial or other support mechanisms. What's more, the principle implies a sustained effort by employers to stop human rights violations.

The Working group of the UN "Convention on Human Rights and Transnational Corporations and Other Business Enterprises", in its report reflecting the visit to Georgia indicates the existence of a discriminatory and unequal environment towards LGBTQI community in the workplace. The working group encourages the country to create positive mechanisms for implementing LGBTQI standards in the workplace and take specific and proactive steps to eliminate discrimination based on sexual orientation or gender identity in both the public and private sectors.³⁸

The essential instrument of labor policy in Georgia is an advisory body controlled by the Georgian government-Trilateral Commission for Social Partnership, a mechanism for cooperation, dialogue, and policy-making with representatives of the social partners - employers and workers' unions and various government bodies on labor relations.³⁹ Although the work of the Trilateral Commission is often being criticized for its ineffectiveness,⁴⁰ it is vital that ideas of equality in the workplace as well as combating discrimination against LGBTQI people become an integral part of the Commission's action plan.

11.3. The State

While preventing discrimination and fighting for decent work requires job transformations, the primary responsibility still falls to the state. The existence of laws and mechanisms prohibiting discrimination is not enough and to achieve substantial equality together with the state requires extra effort from labor policy actors, including trade unions. In Sweden, for example, the trade

³⁸ Statement at the end of visit to Georgia by the United Nations Working Group on Business and Human Rights, available here: <https://bit.ly/34Sga6u> , Last viewed: 03.06.2021.

³⁹ Resolution 258 of the Government of Georgia of October 7, 2013 "On Approval of the Statute of the Tripartite Social Partnership Commission"

⁴⁰ Center for Social Justice, Assessment of the Labor Inspection Mechanisms and the Situation of Employees' Labor Rights in Georgia, 2017, p.176

union provides training and instruction on LGBTQI related issues to raise awareness. The Swedish experience is considered a vital example of reducing discrimination in terms of social partnership.⁴¹ In addition to raise awareness, more effective regulatory policies are needed. In order to properly introduce formal amendments to the current Labor Code, it is essential to take the following steps:

- The Government should develop a policy document/long-term strategy aimed at combating discriminatory attitudes and practices in labor relations specifying relevant activities, and considering appropriate financial resources;
- In the process of planning the Human Rights Strategy and action Plan, with the participation and involvement of the community, The Parliament and the Government of Georgia should create an anti-discrimination policy implementation plan, which, among other things, aimed at creating mechanisms of equality together with social partners in the workplace;
- Within the framework of the Trilateral Commission, social dialogue participating parties should advocate for LGBTQI related issues and reflect community needs in Trilateral action plans;
- At all levels of protecting interests by the trade unions, develop the policies against discrimination against queers and exclusion from the labor market, and advocating for community needs;
- Create effective mechanisms to combat discrimination in the workplace, including the incorporation of the principles of equality and fight against discrimination in internal labor regulations and policy-making documents;
- Establish appropriate mechanisms for equality on the ground, which responds to cases of alleged discrimination and oppression while maintaining anonymity.

⁴¹ Opinion of the European Economic and Social Committee on 'Vulnerable groups' rights at the workplace — in particular issues of discrimination based on sexual orientation' (own-initiative opinion), 2012/C 351/03, para. 3.3.8.

Conclusion

This study has combined anthropological, theoretical, legislative, and structural analyses of the queer community's employment and labor rights, and as a result, got a comprehensive Picture of the issue. Although queers do not belong to any single economic class, general working and social conditions in Georgia together with homo-transphobic discrimination form the queer community as a cheap labor force, mainly focused on low-paid, precarious jobs.

Current anti-discrimination law and labor legislation are improperly implemented in practice, and the absence of a general welfare policy and homophobia complicate the queer fight for decent work. Homophobia spread in society, and general neglect for economic issues makes the intersection of the current fight with other movements invisible.

In order to make the law work in practice, the state must create a proactive anti-discrimination policy that will turn the strengthening of queers into a part of the overall policy. On the other hand, employers must take steps to prevent and eliminate discrimination in the workplace, taking into account the interests of its victims. While political will is very weak today, for carrying out these tactics to fight, communal organizations can more actively involve the community in organizational policy-making and focus on economic and labor issues.