

RESPECTING LGBTQI2S  
HUMAN RIGHTS IN CANADA

---

Egale Canada Human Rights Trust (Egale)  
Submission  
to the United Nations Human Rights Council  
Universal Periodic Review of October 2017

## Introduction

1. Egale Canada Human Rights Trust (Egale), Canada's only national lesbian, gay, bisexual, trans, queer, intersex, and Two Spirit (LGBTQI2S)<sup>i</sup> organization working to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement, provides the following submission to the Human Rights Council of the United Nations in relation to its October 2017 Universal Periodic Review of Canada's human rights record.
2. With the passing of Bill C-16<sup>ii</sup> in May of 2017, the current state of LGBTQI2S human rights progressively and incrementally shifted on a legislative level in Canada. Although there has been increased visibility and representations of LGBTQI2S people in the public sphere during these legislative discussions, there are still significant social disparities between LGBTQI2S communities and the wider cisgender and heterosexual population. Due to the uneven legislative landscape between provinces and territories, and a lack of explicit inclusion within national budgets, strategies, policies, and programming, LGBTQI2S human rights are not consistently recognized or addressed within Canada.
3. The information presented below in our submission will provide:
  - a. an overview of LGBTQI2S inclusion and human rights in Canada;
  - b. an analysis of Canada's commitment to LGBTQI2S inclusion, and;
  - c. pragmatic recommendations that, when implemented by Canada, will significantly improve the lives of LGBTQI2S people throughout the country.

## Engaging International Human Rights Mechanisms and Ratification Concerns

4. Globally, LGBTQI2S human rights are becoming increasingly prominent due to the advocacy efforts of organizations, activists, and non-governmental

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.

organizations (NGOs) such as the International Lesbian and Gay Association (ILGA). Over the past decade, progressive shifts have been observed within LGBTQI2S international human rights, including the 2006 signing of the Declaration of Montreal and the Yogyakarta principles, which recognize both “sexual orientation” and “gender identity” as part of international human rights discourse.

5. In 2015, the UN Development Programme (UNDP) began a multi-year initiative to collect data on the current status of LGBTI people in various nation states in order to address the gaps in information needed to measure global LGBT inclusion.
6. The Canadian government should reflect the UNDP’s initiative by investing in research and statistical data collection of LGBTQI2S communities across the country in order to better understand their population needs and to more effectively develop legislation, policies, and programs that work towards ensuring human rights based on gender identity, gender expression, and sexual orientation.
7. Moreover, considering there is no international treaty body or convention that focuses on gender identity, gender expression, and sexual orientation, it is imperative that the Canadian government explicitly acknowledges LGBTQI2S communities in their implementation, monitoring, and evaluation of international human rights instruments and UN conventions which they already recognize.
8. These instruments and conventions include, but are not limited to:
  - a. International Covenant on Civil and Political Rights (1966);
  - b. International Covenant on Economic, Social and Cultural Rights (1966);
  - c. International Convention on the Elimination of All Forms of Racial Discrimination (1965);
  - d. Convention on the Elimination of All Forms of Discrimination against Women (1979);
  - e. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984);

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

- f. Convention on the Rights of the Child (1989);
  - g. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);
  - h. International Convention on the Rights of Persons with Disabilities (2006);
  - i. International Convention for the Protection of All Persons from Enforced Disappearance (2006); and
  - j. Optional Protocol of the Convention against Torture (2002).
9. The Canadian government should recognize that the state's commitment to human rights is continuous across conventions, as marginalized groups including LGBTQI2S communities are persistently over-represented in disparities regarding social, economic, political, and cultural inclusion in comparison to the general population.
10. Furthermore, the Yogyakarta Principles recognize sexual orientation as well as gender identity and expression and in turn apply international human rights standards to the often disregarded topic of LGBTQI2S human rights. In order to fully embrace the spirit of the Yogyakarta Principles as it approaches its 10th anniversary and completes a series of new revisions, Canada should officially ratify the revised Principles into national legislation. Despite the lack of their official adoption by Canada, the Yogyakarta Principles continue to be cited in Supreme Court cases and federal decisions regarding LGBTQI2S human rights.

### **Application of UNDRIP and Initiative to Support the Process of Reconciliation with Indigenous People**

11. Cumulatively, the impact of colonization and inter-generational trauma continues to be experienced by many Indigenous people in Canada. These social, political, and economic impacts are the result of state-sanctioned colonial practices such as, but not limited to: Residential Schools, blood quantum practices in determining Indian Status, the 60's scoop, Missing and Murdered Indigenous Women, unlivable on-reserve conditions in Indigenous communities, forced migration and urbanization of Indigenous populations, high prevalence of child

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.

apprehension in Indigenous communities, and cultural ban and assimilation policies.

12. These colonial practices and policies, alongside the social imposition of a binary understanding of gender, have a particularly harmful impact on Indigenous women and Two Spirit people, who encounter discrimination, stigmatization, and traumatic experiences of violence at disproportionately higher rates.
13. As a result of experiencing social rejection and various forms of harassment, young Two Spirit people experience higher rates of suicidality, depression, and substance use and addiction<sup>iii</sup>. Internal stigma is another issue that Two Spirit people often experience within the broader Indigenous community, which is a significant factor of feeling forced to flee and migrate to urban centres where there is greater acceptance of LGBTQI2S populations<sup>iv</sup>.
14. In 2006, the General Assembly adopted the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) to recognize the urgent need for nation states to reconcile their practices, systems, laws, and institutions to promote the rights, self-determination, and inclusion of Indigenous populations within policies and program development. UNDRIP recognizes that processes of colonization continue to influence and have everlasting impacts on our understanding and experiences of systems of power, oppression, and domination between groups, nations, and peoples.
15. In 2016, Canada officially adopted UNDRIP and announced the government's intentions to implement UNDRIP by harmonizing Canadian laws with the standards found in the declaration. As Canada engages in this long overdue process, it is important to include and emphasize Two Spirit, gender diverse, and LGBTQI Indigenous populations in Indigenous programs, policies, and law making processes. This should also involve the inclusion of Two Spirit, gender diverse, and LGBTQI Indigenous populations within the scope of the inquiry into Missing and Murdered Indigenous Women as well as Canada's national Poverty Reduction, Affordable Housing, and Indigenous Youth Suicidality Strategies.

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

---

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.

16. In conjunction, these Strategies should be supported by the increase of cultural revitalization initiatives and supports for cultural programming for LGBTQI2S Indigenous populations both in urban, rural, and on-reserve settings. Due to the legislative responsibilities distinguished in the *Indian Act*, Indigenous healthcare, education, and infrastructure are within the federal government's jurisdiction of fiduciary purview.
17. There are significant gaps in per capita investments between the general population and Indigenous on-reserve communities. For instance, gender affirming healthcare coverage within the Non-Insured Health Benefits (NIHB) is limited. These gaps and limitations within healthcare policy directly affect the lives and well-being of Two Spirit, gender diverse, and LGBTQI Indigenous people in Canada.

## **Gender-based Violence**

18. Canada's 2017 federal budget included a gender-based violence (GBV) strategy consisting of a national initiative to address, prevent, and respond to GBV. This strategy, while admirable in its focus on GBV, still frames GBV within a cisnormative and heteronormative context.
19. As a result, the strategy is limited in scope and impact due to the lack of awareness, attention, and investments towards vulnerable populations within LGBTQI2S communities. For example, while the strategy acknowledges that LGBTQI2S populations require specific focus when discussing GBV, there has been no explicit mention of designated funding or program development and consultations aimed specifically at LGBTQI2S populations.
20. The experiences of GBV within LGBTQI2S communities in Canada range from life-taking acts of violence to violations of human rights to erasure from spaces, policies, and programming. Research studies show that LGBTQI2S communities, specifically lesbian and bisexual women and people living with HIV, experience

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.

higher rates of sexual violence and domestic/intimate partner violence (D/IPV) than the broader heterosexual and cisgender population (see Annex 4).

21. Although the federal government has recently increased funding for programs under the umbrella of GBV, the government's framework still requires a more inclusive and intersectional understanding of gender, as the strategy continues to regard gender as a restrictive binary conflated with the sex categories male and female.
22. As an alternative, the federal government should adopt an Intersectional Feminist approach to all budgetary documents and strategies, including the GBV strategy. An Intersectional Feminist approach would not only broaden the scope of policy development by attending to the ways characteristics of identity interact, but would also conceptualize gender as a continuous spectrum. Such an approach would enable the government to analyze and address GBV in a way that is more meaningfully inclusive of LGBTQI2S communities.
23. Broadening the GBV framework to include LGBTQI2S communities in the existing GBV strategy should occur alongside the allocation of funding towards LGBTQI2S programming. The first component of this programming must include meaningful consultations with LGBTQI2S communities across the country in order to determine their population needs and assess the legal barriers to and gaps in legal support regarding GBV.
24. In tandem with these funding initiatives, the federal government should institute mandatory, in-depth and inclusive training for members of the judiciary and judicial system who receive GBV cases, as the judiciary currently uses heteronormative notions to inform their decisions in cases involving LGBTQI2S people. For instance, HIV criminalization cases continue to disproportionately impact gay, bisexual, and men who have sex with men (MSM). Consequently, training the judiciary will better inform judges how to appropriately rule on HIV criminal cases and limit the use of the current legislation to extreme cases.

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.

## Diversity, Inclusion, and Equality

25. As Canada attempts to foster societal values such as diversity, inclusion, and equality, it is fundamental that the government recognizes the ways in which systems of oppression - such as racism, islamophobia, anti-Black and anti-Indigenous racism, homophobia, transphobia, biphobia, classism, ableism, and ageism - function and impact individuals on an individual, interpersonal, community, institutional, and societal level.
26. However, the government's lack of inclusion of and consultation with LGBTQI2S communities on national strategies intended to address the important issues listed above creates a void where homelessness, racism, discrimination, poverty, transphobia, substance use and addictions, insufficient data collection and meaningful representation continue to exist in the lives of LGBTQI2S people without resolve.
27. The following subsections highlight areas where the Canadian government must direct attention through legislative, financial, and programming means to address the disparities experienced by LGBTQI2S communities and individuals, especially LGBTQI2S persons who are racialized, disabled, or face barriers due to their age, gender, citizenship, or socioeconomic status. Many of these areas parallel the various conventions, treaty bodies, and international human rights instruments to which Canada has agreed and which are listed earlier in this submission.

### *Data Collection for Informing Evidence-based Policies*

28. To accurately reflect the current issues experienced by the LGBTQI2S community, it is paramount that the Canadian government's data collection methods are intersectional, multi-layered, and disaggregated to illustrate multiple elements of identity and better understand the ways that systems of oppression overlap and compound in the lived experiences of social exclusion.

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.



29. Such data will help ensure that informed decisions and evidence-based policies can be made to further advance LGBTQI2S human rights. Currently, the primary Canadian sources for data gathering include the Census, Canadian Community Health Survey, and General Social Survey; and there are many layers of socio-demographic information that are missing, which continues to fuel systematic invisibility for marginalized populations, including:
- a. LGBTQI2S persons
  - b. Racial and ethnic minorities
  - c. Immigrant, refugees, and migrants
  - d. Women (inclusive of trans and Two-Spirit identified women)
  - e. Men (inclusive of trans and Two-Spirit identified men)
  - f. Children and Youth (gender diverse, LGBTQI2S, and intersex)
  - g. Persons with disability
  - h. Older persons
30. Canada should likewise ensure Statistics Canada develops, designs, and collects robust, intersectional and disaggregated data collection that is consistent with the UNDP's research agenda for LGBTQI people.

### *International Covenant on Economic, Social and Cultural Rights*

#### *Economic*

31. Obtaining and maintaining employment is a crucial issue for LGBTQI2S people in Canada. LGBTQI2S communities, and trans and gender diverse individuals in particular, experience unemployment at disproportionate rates compared to heterosexual and cisgender individuals (see Annex 5).
32. Canada should amend the *Employment Equity Act* to include LGBTQI2S communities as designated groups protected from employment discrimination.

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.

### *Social*

33. The government should develop a community-informed mandate for the newly formed LGBTQ2 Secretariat within the Privy Council Office that prioritizes funding for programs and projects targeting marginalized members within LGBTQI2S communities, including those marginalized by race, ability, age, gender identity and expression, socioeconomic status, religion, citizenship and immigration status.
34. Furthermore, the mandate for the Special Advisor to the Prime Minister on LGBTQ2 Issues must include addressing the needs of intersex persons in Canada.
35. The government should ensure access to inclusive legal support, housing and long-term care for LGBTQI2S youth and older adults.
36. In tandem with improving access, the government should update existing national strategies to meaningfully engage with and include LGBTQI2S people in the following policy areas:
  - a. *Homelessness Partnering Strategy*
  - b. *National Housing Strategy*
  - c. *Poverty Reduction Strategy*

### *Cultural*

37. The government should develop a multi-ministerial implementation strategy for Bill C-16 that is informed by meaningful community consultation processes and is allocated funding to ensure adequate training and education across ministries.
38. The government should also develop, design, and deliver training on LGBTQI2S populations to the Immigration and Refugee Board of Canada (IRB) and meaningfully implement the *Guidelines regarding Sexual Orientation and Gender Identity and Expression* released in May 2017 concerning Refugee and Asylum-Seekers cases.

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

## *Healthcare*

39. The government should create national strategies that meaningfully engage and include LGBTQI2S communities in the following policy areas:
  - a. Gender Affirming Medical Care
  - b. Harm Reduction
40. In order to effectively develop these strategies, the government should conduct meaningful community consultations to develop practice standards for medical professionals that are informed by LGBTQI2S communities and experiences.
41. Ideally these consultations would result in the government developing a community informed National Gender Affirming Care Strategy that incorporates best practices developed in provincial models, such as Ontario and British Columbia.
42. In conjunction with this strategy, the government should expand the Interim Federal Health Plan coverage for gender affirming healthcare to asylum seekers, refugees, and protected persons.

## *Gender Equity (CEDAW)*

43. In all policies, legislation, and programming related to gender equity, the status of women, or gender-based violence, the government should ensure that the working definition of “women” includes trans, Two-Spirit, non-binary, and self-identified women within the scope of these endeavors.
44. Moreover, Canada should support motions internationally to amend the definition of women in conventions and treaty bodies to include trans, non-binary, and self-identified women.

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

---

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.

*Racial and Ethnic Minorities and Immigrants, Refugees, and Migrants (CERD and CMW)*

45. The government should develop National Strategies that meaningfully engage and include LGBTQI2S communities, and especially racialized and Indigenous LGBTQI2S communities, in the following policy areas:
- a. Anti-Racism and Ending Racial Discrimination
  - b. Migrant workers and their families

*Children and Youth (CRC)*

46. The government must review section 268(3) of the *Criminal Code*, which permits medically unnecessary and non-consensual surgeries on the bodies of intersex infants and children, whom medical practitioners may perceive to have a “disorder of sex development.” This practice actively harms children based on cisnormative assumptions of what bodies are medically “correct” and violates the right to bodily autonomy (see Annex 6).
47. Consequently, the government should consult with the intersex community to determine how to hold the healthcare system accountable to respecting bodily autonomy and informed consent as a right for children and youth, to allow children to make their own informed decisions around accessing intersex related surgeries or gender affirming healthcare.

*Persons with Disabilities (CRPD)*

48. The government should meaningfully engage LGBTQI2S persons with disabilities – among other marginalized groups with disabilities – in the development and implementation of national accessibility policies and programming as well as an Emergency Planning Strategy. These policies and programs should be monitored and evaluated by an independent review body such as the Canadian Human Rights Commission.

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.

49. To demonstrate a national commitment to accessibility, the government should develop, design and implement a programming framework to expand Canada's official languages to include both ASL and LSQ.

---

<sup>i</sup> The acronym 'LGBTQI2S' is used here to reference all people with diverse gender identities and experiences of attraction (sexual orientation), including those who identify as lesbian, gay, bisexual, trans, Two Spirit, intersex, queer or questioning. The terms LGBTQI2S, LGBTI, queer and sexual and gender minorities will be used interchangeably throughout this paper. However, the terms gay, lesbian, bisexual, transgender, intersex or Two Spirit people will be used to refer to specific identities and populations.

<sup>ii</sup> A brief description of Bill C-16, its legislative context and potential impact for LGBTQI2S communities in Canada can be found in Annex 3.

<sup>iii</sup> First Nations Centre (2012). Suicide prevention and two-spirited people. Ottawa: National Aboriginal Health Organization.

<sup>iv</sup> McCaskill, D. N., FitzMaurice, K., & Cidro, J. (2011). *Toronto Aboriginal research project: Final report*. Retrieved from Toronto Aboriginal Support Services Council website:

<http://www.councilfire.ca/Acrobat/tarp-final-report2011.pdf>

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

---

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.

## Annex 1: Glossary of Terms

The following terms recognize that gender is a self-identification that does not necessarily correspond to sex assigned at birth; physical appearance and genitalia are not the only determinants of gender. It also recognizes that there are many ways to experience and express gender and is intended to include the diverse range of gender identities.

### Sex Definitions

**Intersex (adj):** Refers to a person whose chromosomal, hormonal or anatomical sex characteristics fall outside the conventional classifications of male or female. The designation of “intersex” can be experienced as stigmatizing given the history of medical practitioners imposing it as a diagnosis requiring correction, often through non-consensual surgical or pharmaceutical intervention on infants, children and young adults (some people may not be identified as “intersex” until puberty or even later in life).

### Attraction Definitions

**Bisexual (adj):** A person who experiences attraction to both men and women. Some bisexual people use this term to express attraction to both their own sex and/or gender, as well as to people of a different sex and/or gender.

**Gay (adj):** A person who experiences attraction to people of the same sex and/or gender—gay can include both male-identified individuals and female-identified individuals, or refer to male-identified individuals only.

**Heterosexual:** A person who experiences attraction to people of a different sex and/or gender. Also referred to as “straight”.

**Lesbian (adj or n):** A female-identified person who experiences attraction to people of the same sex and/or gender.

**Pansexual (adj):** A person who experiences attraction to people of diverse sexes and/or genders. The term pansexual reflects a desire to recognize the potential for attraction to sexes and/or genders that exist across a spectrum and to challenge the sex/gender binary.

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

---

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.

## Gender Identity Definitions

**Cisgender (adj):** A person whose gender identity corresponds with the sex assigned to them at birth (e.g., a cisgender man is someone who identifies as a man and who was assigned male sex at birth).

**Gender Diverse (adj):** An umbrella term for gender identities and/or gender expressions that differ from cultural or societal expectations based on assigned sex.

**Transgender (adj):** A person who does not identify either fully or in part with the gender associated with the sex assigned to them at birth—often used as an umbrella term to represent a wide range of gender identities and expressions.

**Trans (adj):** Often used as an umbrella term to encompass a variety of gender-diverse identities, including transgender, transsexual and genderqueer. Some people may identify with these or other specific terms, but not with the term trans. Similarly, some people may identify as trans, but not with other terms under the trans umbrella.

## Definitions related to both gender identity and attraction

**Queer (adj):** A term used by some in LGBTQ communities, particularly youth, as a symbol of pride and affirmation of diversity. This term makes space for the expression of a variety of identities outside of rigid categories associated with sex, gender or attraction. It can be used by a community to encompass a broad spectrum of identities related to sex, gender or attraction (as with the acronym LGBTQI2S), or by an individual to reflect the interrelatedness of these aspects of their identity. Queer was historically a derogatory term for difference, used in particular to insult homosexuality and LGBTQI2S people. Although sometimes still used as a slur, the term has been reclaimed by some members of LGBTQI2S communities.

**Two Spirit (or 2-spirit) (adj):** An English umbrella term that reflects the many words used in different Indigenous languages to affirm the interrelatedness of multiple aspects of identity—including gender, sexuality, community, culture and spirituality. Prior to the imposition of the sex/gender binary by European colonizers, some Indigenous cultures recognized Two Spirit people as respected members of their communities. Two Spirit people were often accorded special status based upon their unique abilities to understand and move between masculine and feminine perspectives, acting as

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.

visionaries, healers and medicine people. Some Indigenous people identify as Two Spirit rather than, or in addition to, identifying as lesbian, gay, bisexual, trans or queer.

Egale works to improve the lives of LGBTQI2S people in Canada and to enhance the global response to LGBTQI2S issues. Egale will achieve this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement.

---

Le Fonds Égale Canada pour les droits de la personne est le seul organisme de bienfaisance canadien voué à la promotion des droits des personnes lesbiennes, gaies, bisexuelles et trans grâce à la recherche, à l'éducation et à la mobilisation communautaire.



## **Annex 2: Analytical Lenses**

In order to produce a comprehensive analysis of Canada’s human rights record that considers the complex lived experiences of lesbian, gay, bisexual, trans, queer, intersex, and Two Spirit (LGBTQI2S) individuals in Canada, Egale employed the following conceptual frameworks.

### *Indigeneity and Colonization:*

Indigenous Peoples are the holders of languages, knowledge systems, and beliefs and possess invaluable knowledge of practices for the sustainable management of natural resources. They have a special relationship to and use of their traditional land. Their ancestral land has a fundamental importance for their collective physical and cultural survival as people.

Worldwide, many Indigenous groups have experienced disruption of their ways of being in many forms including cultural as well as hegemonial genocide due to processes of colonization through foreign settlement and state policies that forced the dispossession of their ancestral lands, territories and resources. Thus, the processes of colonization continue to influence and have everlasting impacts on our understanding and experiences of systems of power, oppression, and domination between groups, nations, and peoples.

### *Gender and Sex Binary and Heteronormativity:*

As a tool of colonization, a binary understanding of gender recognizes the existence of only two categories: men and women. Through this understanding, not only is gender narrowly conflated within falsely binary sex categories – male or female – but the binary also erases numerous groups of people, as intersex, trans, and gender diverse people are not recognized. This includes Indigenous concepts of gender identities beyond the man-woman binary, often referred to as Two Spirit. The erasure of these groups reinforces heteronormativity, which places heterosexuality as the “natural” and only valid way of being.

### *Intersectionality:*

When considering the social location of individuals, communities, and their experiences, it is critical to meaningfully acknowledge that multiple elements of identity represent people’s lived experience such as sex, race, ethnicity, attraction, gender identity, class, and ability. Within international human rights discourse, these categories of identity are often considered in isolation, or as applied to a universal subject. Intersectionality is a

legal and social analysis framework that recognizes that the implementation of universality in international human rights law fails to acknowledge the manner in which the application of law impacts or fails to impact those with multiple marginalized identities. International human rights law frequently falls short of being just and restorative in its application and implementation for these marginalized communities as it is often constructed from the perspective of privileged social positions and identities.

*Sex, Gender, and Sexuality Spectrum:*

Adopting intersectionality as a lens for analysis widens our ability to address the ways in which the binary conceptions of sex (male and female), gender (masculine and feminine), and sexuality (heterosexual and homosexual) positions queer and trans people as “the other”, which frequently renders these populations as invisible or made hypervisible through pathologization.

This particular stigma associated with queer and trans identities and experiences causes further harm. A growing body of research<sup>v;vi;vii;viii</sup> demonstrates that the stigma of being bisexual/pansexual encountered from heterosexual, gay, and lesbian communities reflects the ways in which biphobia influences individuals’ engagement in their sexual practices, knowledge about their sexual health, and acceptance of queer forms of attraction. Bisexual and pansexual individuals often lack social acceptance from the general population in societies that have observed significant advancements in LGBTI human rights.

Alternatively, many Indigenous societies that have resisted colonization in the Global South, as well as Indigenous Peoples who seek to decolonize within the Global North, have illustrated in a variety of ways that sex, gender, and sexuality operate on a spectrum as opposed to the aforementioned binary. Thus, positioning sex, gender, and sexuality as continuous and along a spectrum meaningfully facilitates the positive application to the Yogyakarta Principles in international human rights law with relation to sexual attraction and gender identity.

*Minority Stress Model:*

LGBTQI2S people who are racialized and/or disabled hold multiple marginalized identities. Due to experiences of stigma such as discrimination in legislation as well as state and private institutions, hate crimes, homophobic slurs and language, and other forms of social oppression including racism, sexism, ableism, homophobia, biphobia, and transphobia, many racialized and disabled LGBTQI2S individuals experience additional stress that negatively impact health and well-being. This added stress, often

referred to as minority stress, can lower mental health status<sup>ix;x;xi</sup> including heightened risk of developing mental health concerns such as depression, anxiety, substance use and abuse, and suicidality.

#### *Social Determinants of Health:*

Using a population health approach, the concept of social determinants of health recognizes that people's health goes beyond personal lifestyle choices and seeking medical treatment within our healthcare system, and emphasizes people's living conditions as the key factors of one's health<sup>xii</sup>. There are several social factors that impact population health, as an individual's health is embodied by their income and wealth distribution, employment status and work conditions, their connections to social networks and community, the state of the environment in their neighbourhood, as well as access to economic and social resources.

#### *Reproductive Justice:*

The concept of self-determination is integral to the value of human rights. Historically, women of colour and Indigenous women's reproduction has been constructed as inferior, defective, immoral, irresponsible, infantile, and savage<sup>xiii;xiv</sup>, in juxtaposition to the construction of white women's reproduction. Reproduction is not just a matter of individual choice. Reproductive health policy affects the status of entire groups. It reflects which people are valued in our society and who is deemed worthy to bear children and capable of making reproductive decisions for themselves. Reproductive decisions are made within a social context, including inequalities of wealth and power<sup>xv</sup>. As an alternative to the reproductive rights movement, reproductive justice is an intersectional theoretical framework which provides a context for marginalized women's and queer people's reproductive experiences:

The right to have children, not have children, and to parent the children we have in safe and healthy environments – is based on the human right to make personal decisions about one's life, and the obligation of government and society to ensure that the conditions are suitable for implementing one's decisions is important for women of color (sic) [and queer people]<sup>xvi</sup>.

#### *Harm Reduction:*

As defined by Marlatt, harm reductionism is “an umbrella term for interventions aiming to reduce the problematic effects of behaviours”<sup>xvii</sup>. Rather than encourage the absence of all harmful behaviours, a harm reduction approach attempts to “meet individuals where they are at”<sup>xviii</sup>, aiming to lessen potentially harmful behaviours without blaming or

judging any behaviours that may continue throughout this process. As a result, a harm reduction analytical lens focuses on the health and socioeconomic outcomes of individuals rather than their rate of engagement in harmful activities<sup>xix</sup>.

*Trauma- and Violence-informed:*

Individuals who have experienced trauma may be triggered by a number of situational occurrences including language, sounds, behaviours, activities, and locations. A trauma and violence informed lens ensures that all work is aimed to limit further harm to survivors while also working towards healing and justice<sup>xx</sup>. Additionally, this lens ensures a focus on the broader social conditions, oppressive systems and institutions that lead to violence and further exacerbate historical trauma<sup>xxi</sup>.

*Right to Development:*

This conceptual framework considers development as multidisciplinary and shows the link to existing global human rights discourse emphasising that all humans are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised<sup>xxii</sup>. This lens embodies principles of equality, non-discrimination, participatory processes, and accountability in the development of economic, social and political policies that meaningfully include the most vulnerable and marginalized members within LGBTQI2S communities.

*Global North and Global South:*

As the Orlando Pulse Nightclub massacre in June 2016 and the ongoing systemic marginalization of diverse gender identities and sexual attractions within the Global North show, there is still much work to do domestically. Within Global North states, LGBTQI2S communities face uncertain legal recognition and experience stigma, marginalization as well as precarious living conditions for their way of being. As a result, it must be acknowledged that homophobia, biphobia, transphobia, and discrimination on the grounds of gender identity, gender expression, and attraction is not exceptional to the Global South.

The diffusion model, where knowledge production and norms are framed by the centre and then diffused to the periphery, is inherently problematic within international relations and international development. This model projects the Global North as more “progressive” due to assumptions that there is more “acceptance” of LGBTQI2S identities. Holding to these assumptions continues to impose an asymmetrical “West is Best” approach instead of working in solidarity with nation states in the Global South<sup>xxiii</sup>.

From this perspective, the Global North falsely revisions itself as having overcome the social disparities that continue to exist for LGBTQI2S populations in the West.

This “one size fits all” approach – whereby strategies to achieve justice for LGBTQI2S communities in the Global North are merely transplanted to the Global South – does not acknowledge the specific cultural histories of other nation states or the plurality of queer identities. It is not only critical to acknowledge the legacy of colonization through the imposition of anti-sodomy laws that criminalized homosexuality around the world<sup>xxiv;xxv</sup>, but it is also necessary to meaningfully engage in alternative methods of shifting the deeply embedded discrimination of queer people. Furthermore, these alternatives must be explicitly distinct from once again imposing Western narratives of modernization and embracing Western understandings and recognition of Gay and Lesbian rights in the Global South. Thus, a Global South approach within international development practices not only recognizes but also prioritizes the expertise of regional work and practices that is specific to those geographies and within those local civil societies. In doing so, the Global North’s role is to act as facilitators in engaging in the needs and agenda development by the Global South to address the challenges specific to their regional and cultural context.

- 
- <sup>v</sup> Huang, M. et al. (2011) “An Empirical Study into the Relationship between Bisexual Identity Congruence, Internalized Biphobia and Infidelity among Bisexual Women”. *Journal of Bisexuality*, 11:23–38.
- <sup>vi</sup> Macleod, M. et al. (2015). Biphobia and Anxiety Among Bisexuals in Ontario, Canada”. *Journal of Gay & Lesbian Mental Health*, 19:217–243.
- <sup>vii</sup> Mantell, J. et al. (2016) “Switching After Nine: Black gay-identified men’s perceptions of sexual identities and partnerships in South African towns”. *Global Public Health*. Vol. 11, No. 7-8: 953-965.
- <sup>viii</sup> Sharman, Z. eds. (2016) “Introduction: Why Queer and Trans Health Stories Matter.” *The Remedy: Queer and Trans Voices on Health and Health Care*. Arsenal Pulp Press: Vancouver.
- <sup>ix</sup> Everett, B. (2015). Sexual orientation identity change and depressive symptoms: a longitudinal analysis. *Journal of Health and Social Behavior*, 56(1), 37-58. doi:10.1177/0022146514568349
- <sup>x</sup> Lehavot, K., & Simoni, J. M. (2011). The impact of minority stress on mental health and substance abuse among sexual minority women. *Journal of Consulting and Clinical Psychology*, 79(2), 159-170. doi:10.1037/a0022839
- <sup>xi</sup> MacKenzie, D., Huntington, A., & Gilmour, J. A. (2009). The experiences of people with an intersex condition: A journey from silence to voice. *Journal of Clinical Nursing*, 18(12), 1775-1783. doi:10.1111/j.1365-2702.2008.02710.x
- <sup>xii</sup> Mikkonen, J., & Raphael, D. (2010). *Social determinants of health: The Canadian facts*. Retrieved from York University, School of Health Policy and Management website: [http://www.thecanadianfacts.org/the\\_canadian\\_facts.pdf](http://www.thecanadianfacts.org/the_canadian_facts.pdf)
- <sup>xiii</sup> Roberts, D. E. (1997). *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*. New York: Vintage Books.
- <sup>xiv</sup> Smith, A. (2010). Queer Theory and Native Studies: The Heteronormativity of Settler Colonialism. *GLQ: A Journal of Lesbian and Gay Studies*, 16 (1-2), 42- 68.

- 
- <sup>xv</sup> Roberts, D., & Jesudason, S. (2013). MOVEMENT INTERSECTIONALITY: The Case of Race, Gender, Disability, and Genetic Technologies. *Du Bois Review*, 10 (2), 313-328.
- <sup>xvi</sup> SisterSong. (2014) "What is RJ?" Accessed November 20 2014.  
[http://www.sistersong.net/index.php?option=com\\_content&view=article&id=141&Itemid=81](http://www.sistersong.net/index.php?option=com_content&view=article&id=141&Itemid=81)
- <sup>xvii</sup> Marlatt, G.A. (1998). In Harm reduction: Pragmatic strategies for managing high-risk behaviors. New York, NY: Guilford Press.
- <sup>xviii</sup> Marlatt, G.A., Witkiewitz, K. (2010). Update on harm-reduction policy and intervention research. *Annual Review of Clinical Psychology*, 6: 591-606. doi: 10.1146/annurev.clinpsy.121208.131438
- <sup>xix</sup> Harm reduction: An approach to reducing risky health behaviours in adolescents. (2008). *Paediatrics & Child Health*, 13(1), 53–56.
- <sup>xx</sup> Ponic, P., Varcoe, C., Smutylo, T. (2016). Trauma-(and violence-) informed approaches to supporting victims of violence: policy and practice considerations. *Victims of Crime Research Digest*, 9. Department of Justice (DOJ); Canada. Available: <http://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rd9-rr9/p2.html>
- <sup>xxi</sup> Project Vega. (2016). Briefing note: violence- and trauma-informed care. Retrieved from:  
<http://projectvega.ca/wp-content/uploads/2016/10/VEGA-TVIC-Briefing-Note-2016.pdf>
- <sup>xxii</sup> United Nations. (1987). *Declaration on the Right to Development*. Retrieved from Department of Public Information website: <http://www.un.org/documents/ga/res/41/a41r128.htm>
- <sup>xxiii</sup> Browne, K. & Nash, C. (2014) "Resisting LGBT Rights Where "We Have Won": Canada and Great Britain". *Journal of Human Rights*, Vol. 13, pp. 322-336.
- <sup>xxiv</sup> Baisley, E. (2016). Reaching the Tipping Point?: Emerging International Human Rights Norms Pertaining to Sexual Orientation and Gender Identity. *Human Rights Quarterly*, 38(1), 134-163. doi:10.1353/hrq.2016.0009
- <sup>xxv</sup> Bosia, M. (2015). "To Love or to Loathe: Modernity, homophobia, and LGBT rights". In Thiel, M. & Lavinias Picq, M. (Eds) *Sexualities in World Politics* Taylor and Francis: 38- 49.

## **Annex 3: Bill C-16**

### *A Brief History*

Previously known as Bill C-279, the Gender Identity Bill was created with the aim to provide human rights protections for transgender and gender diverse people in Canada.

Bill C-279 was last introduced in the House of Commons in 2011, with the aim to amend the *Canadian Human Rights Act* and the *Criminal Code* to include “gender identity” as a protected ground from discrimination. The Bill ultimately died before being put to a vote in the Senate; however, in 2015 the original text of Bill C-279 was reintroduced as Bill C-204, and now includes “gender identity” and “gender expression”.

Bill C-16, the latest version of the Gender Identity Bill, mirrors the intent of Bill C-204. The bills differ in their language: Bill C-204 separates gender identity and gender expression with a comma, while Bill C-16 uses “or” between the two grounds.

In 2014, the Ontario Human Rights Commission (OHRC) released its *Policy on preventing discrimination because of gender identity and gender expression<sup>xxvi</sup>*, a document which set out key terms relating to human rights protections for gender identity and gender expression. At the time of the OHRC’s Policy, there was no “gender identity” or “gender expression” included in human rights legislation at the federal level in Canada. The OHRC’s Policy has been cited a number of times as a resource to help understand the changes to Bill C-16 introduced in the Canadian Human Rights Act.

### *What Bill C-16 Does*

#### *(a) Amending the Canadian Human Rights Act*

Bill C-16 amends the *Canadian Human Rights Act* to include “gender identity or expression” as grounds protected from discrimination, just like it protects grounds such as race, religion, age, and sexual orientation.

Protected grounds are categories of social identity or experience that have historically been the basis for disproportionate levels of disadvantage and discrimination. In the *Canadian Human Rights Act*, 13 categories are now considered prohibited grounds of discrimination. These include:

- Race
- National or ethnic origin
- Colour
- Religion
- Age
- Sex
- Sexual orientation
- **Gender identity or expression**
- Marital status
- Family status
- Genetic characteristics
- Disability
- Conviction for an offence for which a pardon has been granted or in respect of which suspension has been ordered

By protecting these grounds, the *Act* aims for all individuals to have equal opportunities and accommodations in Canadian society, without being hindered by practices that discriminate based on these aspects of their identity and lived experiences.

(b) Amending the *Criminal Code of Canada*

Bill C-16 also amends the *Criminal Code of Canada* to include “gender identity or expression” as a category that distinguishes an identifiable group in Canadian society.

In the *Criminal Code*, an identifiable group is “any section of the public distinguished by colour, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability” (CCC 318(4)). These groups are protected against hate propaganda and hate-based offences, which includes promoting genocide, inciting and promoting hatred, and offenses motivated by bias, prejudice or hate.

*Provincial and Territorial Protections*

Despite Bill C-16, some provinces and territories do not explicitly name gender expression as a protected ground in their human rights legislation, namely Manitoba, Saskatchewan, and the Northwest Territories.



- In 2002, the Northwest Territories added gender identity as a ground protected from discrimination in their Human Rights Act. However, the Territories still do not explicitly protect gender expression.
- In 2012, Manitoba added gender identity as a ground protected from discrimination in their Human Rights Act. However, the province still does not explicitly protect gender expression.
- In 2014, Saskatchewan added gender identity as a ground protected from discrimination in their Human Rights Act. However, the province still does not explicitly protect gender expression.

This legislative inconsistency leaves serious gaps for discrimination on these grounds in the healthcare, education, and justice systems, because these systems are governed by provincial and territorial human rights law.

---

<sup>xxvi</sup> Ontario Human Rights Commission (2014). Policy on preventing discrimination because of gender identity and gender expression. Retrieved from <http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression>

## Annex 4: Gender-based Violence

Canada's national strategy on gender-based violence (GBV) defines GBV broadly as "violence perpetrated against someone based on their gender expression, gender identity, or perceived gender"<sup>xxvii</sup>. Instead, Egale recommends adopting an intersectional lens for analysis that addresses the ways in which the binary conceptions of sex (male and female), gender (masculine and feminine), and sexuality (heterosexual and homosexual) positions queer and trans people as "the other," which frequently renders these populations as either invisible or hypervisible through pathologization. The University of Victoria's Anti-Violence Project (2017) widens their definition of GBV, in turn making the concept more inclusive and intersectional, by noting that GBV is "rooted in gender-based oppression and power inequalities" which support and reinforce sexism, cissexism, misogyny, and transmisogyny. As such, gender-based violence involves "interpersonal, institutional or systemic act(s) of violence (physical, sexual, economic, emotional, spiritual, social) that devalues and/or reinforces expected entitlement to women, girls, trans, Two-Spirit, genderqueer, non-binary, and gender non-conforming bodies and lives".

The Anti-Violence Project's definition of GBV highlights how the very framework of our institutions and societal structures are built upon the reinforcement of gender binaries and cissexism, validation of traditional gender roles, and heterosexist understandings of relationships and families, and the erasure of intersectional issues and experiences. Ultimately, it is this marginalization of queer, trans, and gender diverse experiences within broader society<sup>xxviii</sup> that makes GBV an unavoidable reality and one of the most pressing concerns for LGBTQI2S communities.

LGBTQI2S communities experience significantly higher rates of sexual and domestic/intimate partner violence (D/IPV) than their cisgender, heterosexual, and non-intersex counterparts. Within the general population, lesbian and bisexual women, gay men, and men living with HIV all experience elevated risk of sexual violence<sup>xxix</sup>. Most alarming are rates of sexual violence within trans communities, with an estimated incidence ranging between 25-47%<sup>xxx</sup>. On campus, LGBTQI2S communities experience the most violent forms of sexual violence<sup>xxxi</sup> with trans and gender diverse communities experiencing the most elevated rates<sup>xxxii</sup>. Within intimate relationships, bisexual women<sup>xxxiii</sup>, HIV positive men<sup>xxxiv</sup>, and women<sup>xxxv</sup>, and trans and gender diverse individuals<sup>xxxvi</sup> are at higher risk of experiencing D/IPV. This risk is significantly heightened for marginalized LGBTQI2S communities including trans women of colour and Indigenous women<sup>xxxvii</sup>.

D/IPV also remains a significant concern within same-sex relationships; evidence suggests as many as 50% of same-sex relationships involve some degree of violence<sup>xxxviii</sup>. Within incidents involving D/IPV reporting, mis-arrests, defined as the mistaken arrest of the survivor and not the abusive partner or both the survivor and the abusive partner, is a common reality within LGBTQ2S communities. These rates are particularly alarming in instances of D/IPV involving trans individuals<sup>xxxix</sup>. Women living with HIV/AIDS are also more likely to experience D/IPV<sup>xl</sup>, as fear of prosecution acts as a barrier to ending abusive relationships and seeking trauma-informed support. These rates are compounded among racialized, Indigenous, and LGBTQI2S communities, as trans people of colour, and Indigenous women are approximately 2.6 times more likely to experience a form of violence and discrimination within an intimate relationship<sup>xli</sup>.

When thinking about gender-based violence, it is also important to be aware of the ways in which racialized LGBTQI2S men and masculine-presenting people are discriminated against due to their gender identity and expression. The Ontario Human Rights Commission defines racial profiling to include “any action undertaken for reasons of safety, security or public protection that relies on stereotypes about race, colour, ethnicity, ancestry, religion, or place of origin, or a combination of these, rather than a reasonable suspicion, to single out an individual for greater scrutiny or different treatment”<sup>xlii</sup>. Canada’s complicated and underrepresented history of racism and violence, particularly within institutions, towards Indigenous and Black communities has resulted in disproportionate rates of arrest and incarceration of large portions of these populations. Data from *The Black Experience Project*, a large-scale research analysis of individuals throughout the Greater Toronto Area who self-identify as black and/or of African heritage found that 79% of men aged 25-44 had been stopped by police with approximately 24% reporting use of force<sup>xliii</sup>. Similar, black people and Indigenous women in Edmonton were stopped 4.7 and 9.7 times more frequently than their white counterparts, respectively<sup>xliv</sup>. These numbers not only highlight the structural racism that exists within the criminal justice system but also points to a very specific targeting of racialized men and masculine-presenting people and is one of the many types of institutional GBV. As a result, it is crucial that this state-sanctioned racism and violence towards Indigenous and Black communities is included within the GBV framework to address carding practices, racial profiling, police violence, and the overrepresentation of Indigenous and Black men and masculine-presenting people in custody and in Canadian prisons.

- xxvii Status of Women Canada. (2017). It's time: Canada's strategy to prevent and address gender-based violence. Retrieved from [http://www.swc-cfc.gc.ca/violence/strategy-strategie/GBV\\_Fact\\_sheet\\_6.pdf](http://www.swc-cfc.gc.ca/violence/strategy-strategie/GBV_Fact_sheet_6.pdf)
- xxviii Gilles, K. (2011). Gender-Based Violence Against the Transgender Community Is Underreported. Population Reference Bureau. Retrieved 28 July 2017, from <http://www.prb.org/Publications/Articles/2011/gender-based-violence-transgender.aspx>
- xxix Walters, M. L., Chen, J., & Breiding, M. J. (2013). *The national intimate partner and sexual violence survey*. Retrieved from National Center for Injury Prevention and Control website: [https://www.cdc.gov/violenceprevention/pdf/nisvs\\_sofindings.pdf](https://www.cdc.gov/violenceprevention/pdf/nisvs_sofindings.pdf)
- xxx Williams Institute (2015). Intimate partner violence and sexual abuse among LGBT people: a review of existing research. Retrieved from <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Intimate-Partner-Violence-and-Sexual-Abuse-among-LGBT-People.pdf>
- xxxi Association of American Universities. (2015). Campus Climate Survey on Sexual Assault and Sexual Misconduct. Retrieved from <https://www.aau.edu/Climate-Survey.aspx?id=16525>
- xxxii METRAC. (2014). *Sexual Assault Policies on Campus*. Retrieved from [http://www.metrac.org/wp-content/uploads/2014/11/final.formatted.campus.discussion.paper\\_.26sept14.pdf](http://www.metrac.org/wp-content/uploads/2014/11/final.formatted.campus.discussion.paper_.26sept14.pdf)
- xxxiii Ibid. xxix
- xxxiv Jackson Heintz, A., & Melendez, R. M. (2006). Intimate partner violence and HIV/STD risk among lesbian, gay, bisexual, and transgender individuals. *Journal of Interpersonal Violence*, 21(2), 193-208. doi:10.1177/0886260505282104
- xxxv Centers for Disease Control and Prevention. (2014). *Intersection of Intimate Partner Violence and HIV in Women*. February 2014. Retrieved from [https://www.cdc.gov/violenceprevention/pdf/ipv/13\\_243567\\_green\\_aag-a.pdf](https://www.cdc.gov/violenceprevention/pdf/ipv/13_243567_green_aag-a.pdf)
- xxxvi Grant, J. M., Mottet, L. A., & Tanis, J. (2011). *Injustice at every turn: A report of the National Transgender Discrimination Survey*. Retrieved from National Center for Transgender Equality website: [http://www.thetaskforce.org/static\\_html/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf)
- xxxvii National Coalition of Anti-Violence Programs. (2011). *Lesbian, gay, bisexual, transgender, queer and HIV-affected intimate partner violence 2010*. Retrieved from New York City Anti-Violence Project website: [https://avp.org/wp-content/uploads/2017/04/2010\\_NCAVP\\_IPV\\_Report.pdf](https://avp.org/wp-content/uploads/2017/04/2010_NCAVP_IPV_Report.pdf)
- xxxviii Parry, M. M., & O'Neal, E. N. (2015). Help-seeking behavior among same-sex intimate partner violence victims: an intersectional argument. *Criminology, Criminal Justice Law, and Society*, 16(1), 51-67.
- xxxix Ibid. xxxvii
- xl Ibid. xxxv
- xli Ibid. xxxvii
- xlii Ontario Human Rights Commission. (2017). What is racial profiling?. Retrieved from <http://www.ohrc.on.ca/en/what-racial-profiling-fact-sheet>
- xliii The Black Experience Project. (2017). *The Black Experience Project in the GTA: Overview report*. Retrieved from <https://www.theblackexperienceproject.ca/wp-content/uploads/2017/07/Black-Experience-Project-GTA-OVERVIEW-REPORT-4.pdf>
- xliv Huncar, A. (2017, June 27). Indigenous women nearly 10 times more likely to be street checked by Edmonton police, new data shows. *CBC News* [Edmonton]. Retrieved from <http://www.cbc.ca/news/canada/edmonton/street-checks-edmonton-police-aboriginal-black-carding-1.4178843>

## **Annex 5: Poverty, Employment and Homelessness among LGBTQI2S**

### **Communities**

As Canada attempts to foster societal values such as diversity, inclusion, and equality, it is fundamental that the government recognizes the ways in which systems of oppression such as racism, islamophobia, anti-Black and anti-Indigenous racism, homophobia, transphobia, biphobia, classism, ableism, ageism and other systems of oppression function and impact individuals on an individual, interpersonal, community, institutional, and societal level. To effectively acknowledge these forms of oppression, the government must adopt equity-based, intersectional feminist, anti-racist and anti-oppressive approaches that enable political and legal decision makers to be informed on the ways marginalized populations in Canada experience stigma, discrimination, poverty, homelessness, unemployment, violence, and injustice.

Canada's long-standing colonial nation-building projects including the Indian Residential School System, the Chinese Head Tax, and Japanese Internment Camps constitute the legacy of institutional racism that continues to be evident in Canadian society with the issues of Missing and Murdered Indigenous Women, police carding practices, and over-surveillance and police violence in racialized and Indigenous communities. These relations of power and privilege continue to translate into the disparities of health and socio-economic outcomes among racialized LGBTQI2S persons, including lack of access to culturally safe social services, increased prevalence of both institutional and interpersonal forms of discrimination, violence, and injustice.

LGBTQI2S communities, in particular trans and gender diverse individuals, experience unemployment at disproportionate rates compared to heterosexual and cisgender individuals. An Ontario-based study found that despite over 70% of respondents completing at least some university or college education, over 50% of trans and gender diverse respondents earn less than \$15,000/year and only 37% have succeeded in obtaining full-time employment<sup>xlv</sup>. LGBTQI2S individuals experience additional worry that their employment may be terminated because of their LGBTQI2S identity, as 13% of respondents from an Ontario-based study reported being fired for being trans and an additional 15% were unsure if they were fired for being trans<sup>xlvi</sup>. As a result, economic inclusion of LGBTQI2S persons remains a crucial issue in Canada.

Access to affordable housing is another significant concern that impacts many LGBTQI2S people, especially those who are further marginalized because of their race, age, ability or gender identity. LGBTQI2S persons in Canada experience an increased

prevalence of homelessness due to discrimination at individual and societal levels<sup>xlvii</sup>. For example, 34% of trans Ontarians live below the LICO, more than twice the rate of Canadians generally<sup>xlviii</sup>; and 47% of Indigenous gender diverse Ontarians live below the poverty line<sup>xlix</sup>. These statistics represent a larger national trend, as affordable housing and poverty become national level crises that require multipronged approaches by all levels of government to address these overarching and systemic issues.

These aforementioned forms of stigma and discrimination are embedded in accessing services within shelter systems as well as in the renters' market<sup>i</sup>. For many LGBTQI2S youth, homelessness is attributed to violence and rejection from family as a result of homophobia, biphobia, and transphobia. These aforementioned forms of oppression are also experienced while LGBTQI2S people experience homelessness, as a recent Toronto-based study highlighted that racialized LGBTQ youth experiencing homelessness experienced a higher prevalence of police violence and targeted police intervention<sup>ii</sup>. Moreover, LGBTQI2S youth are vulnerable to experiencing homophobia, biphobia, and transphobia from shelter staff and non-LGBTQI2S peers<sup>iii</sup>. As a result, the feeling of safety and access to adequate and affordable housing is an issue of primary importance within LGBTQI2S communities, especially for youth, seniors, Two Spirit, racialized, and disabled LGBTQI persons.

---

<sup>xlv</sup> Bauer, G., Nussbaum, N., Travers, R., Munro, L., Pyne, J., & Redman, N. (2011). *We've Got Work to Do: Workplace Discrimination and Employment Challenges for Trans People in Ontario* (Trans PULSE E-Bulletin No. Volume 2, Issue 1) (p. 3). Ontario: Trans PULSE.

<sup>xlvi</sup> Bauer, G. R., & Scheim, A. I. (2015). *Transgender People in Ontario, Canada: Statistics from the Trans PULSE Project to Inform Human Rights Policy* (Trans PULSE E-Bulletin) (p. 11). London, ON: Trans PULSE Project.

<sup>xlvii</sup> Gaetz, S. A. (2014). *Coming of age: Reimagining the response to youth homelessness in Canada* (11). Retrieved from Canadian Observatory on Homelessness website:

[http://homelesshub.ca/sites/default/files/ComingOfAgeHH\\_0.pdf](http://homelesshub.ca/sites/default/files/ComingOfAgeHH_0.pdf)

<sup>xlviii</sup> Bauer, G. R., Travers, R., Scanlon, K., & Coleman, T. A. (2012). High heterogeneity of HIV-related sexual risk among transgender people in Ontario, Canada: a province-wide respondent-driven sampling survey. *BMC Public Health*, 12(1). doi:10.1186/1471-2458-12-292

<sup>xlix</sup> Scheim, A., Jackson, R., James, L., Sharp Dopler, T., Pyne, J., & R. Bauer, G. (2013). Barriers to well-being for Aboriginal gender-diverse people: results from the Trans PULSE Project in Ontario, Canada. *Ethnicity and Inequalities in Health and Social Care*, 6(4), 108-120. doi:10.1108/eihsc-08-2013-0010

<sup>i</sup> Ibid. <sup>xlvi</sup>

<sup>ii</sup> Daniel, L., & Cukier, W. (2015). *The 360 project: Addressing racism in Toronto*. Retrieved from Urban Alliance on Race Relations website:

[https://urbanalliance.files.wordpress.com/2015/07/uarrfinalsingles\\_july23.pdf](https://urbanalliance.files.wordpress.com/2015/07/uarrfinalsingles_july23.pdf)

<sup>iii</sup> Egale Canada Human Rights Trust. (2012). *"Not Under My Roof": Homeless LGBTQ Youth in Toronto – A Needs and Supportive Housing Demand Analysis* (pp. 1–18). Toronto, ON.

## Annex 6: Healthcare Disparities Among LGBTQI2S Communities

Health inequities and access to inclusive healthcare is of significant concern for LGBTQI2S people in Canada, including an increased prevalence of mental health concerns, barriers to accessing gender affirming medical care, and medically unnecessary surgeries on intersex children. Research consistently highlights that mental health issues disproportionately impact LGBTQI2S individuals, including high rates of mood disorders, anxiety, depression, suicidal ideation, self-injury, body dissatisfaction and disordered eating tendencies<sup>liii;liv;lv;lvii;lviii</sup>. These rates are even further compounded for Indigenous, racialized and newcomer LGBTQI2S populations<sup>lix</sup>. Those wishing to transition medically, but have not yet begun, are 27 times more likely to engage in suicidal behaviour than those who have completed medical transition<sup>lx</sup>. Despite this fact, there is still no nationally coordinated strategy to harmonize standards of care around gender affirming medical care.

Additionally, under the current Interim Federal Health Plan (IFHP), gender affirming medical care is explicitly excluded from the scope of coverage, which creates a significant access barrier for trans and gender diverse asylum seekers, refugees and protected persons in Canada<sup>lxi</sup>. Section 268(3) of Canada's *Criminal Code* continues to allow medically unnecessary and non-consensual surgery and medical intervention on the bodies of infants and children whom have been identified as having ambiguous genitalia, diagnosed with a disorder of sex development (DSD) and/or identified as intersex. This non-consensual and unnecessary intervention from medical professionals interferes with the child's right to exercise bodily autonomy and preserve their identity. Article 8 of the UN's Convention on the Rights of a Child calls on States Parties to "respect the right of the child to preserve his or her identity," and subsequently "where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her own identity"<sup>lxii</sup>.

---

<sup>liii</sup> Law, M. et al. (2015) "Exploring lesbian, gay, bisexual, and queer (LGBQ) people's experiences with disclosure of sexual identity to primary care physicians: a qualitative study." *BMC Family Practice* 16: 175.

<sup>liv</sup> McNamara, M. and Ng, H. (2016) "Best Practices in LGBT care: A guide for primary care physicians." *Cleveland Clinic Journal of Medicine*. 83 (7): 531-541.

<sup>lv</sup> Ibid. xlv

<sup>lvii</sup> Rosenstreich, G. (2013). LGBTI people mental health and suicide. Retrieved from <https://www.beyondblue.org.au/docs/default-source/default-document-library/bw0258-lgbti-mental-health-and-suicide-2013-2nd-edition.pdf?sfvrsn=2>

<sup>lviii</sup> Walls, N. E., Laser, J., Nickels, S. J., & Wisneski, J. (2010). Correlates of cutting behavior among sexual minority youths and young adults. *Social Work Research*, 34(4), 213-226.

- 
- <sup>lviii</sup> Witcomb, G. L., Bouman, W. P., Brewin, N., Richards, C., Fernandez-Aranda, F., & Arcelus, J. (2015). Body image dissatisfaction and eating related psychopathology in trans individuals: a matched control study. *European Eating Disorders Review*, 23(4), 287–293. doi:10.1002/erv.2362
- <sup>lix</sup> Logie, et al. (2016) A Structural Equation Model of HIV-Related Stigma, Racial Discrimination, Housing Insecurity and Wellbeing among African and Caribbean Black Women Living with HIV in Ontario, Canada. *PLoS ONE* 11(9): e0162826
- <sup>lx</sup> Bauer G., Pyne J., Francino M., Hammond R. (2013). Suicidality among trans people in Ontario: Implications for social work and social justice. *Service social*, 59(1):35-62.
- <sup>lxi</sup> Medavie Blue Cross (2016). *Information handbook for Interim Federal Health Program health-care professionals*. Retrieved from Immigration, Refugees and Citizenship Canada website: <http://providerifhpen.medavie.bluecross.ca/wp-content/uploads/sites/5/2016/09/IFHP-Information-Handbook-for-Health-care-Professionals-April-1-2016.pdf>
- <sup>lxii</sup> United Nations. (1990). Convention on the rights of the child. Retrieved from: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>



## **Annex 7: About Egale Canada Human Rights Trust**

Founded in 1986, Egale works to improve the lives of lesbian, gay, bisexual, trans, queer, intersex, and Two Spirit (LGBTQI2S) people in Canada and to enhance the global response to LGBTQI2S issues by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education and community engagement. Egale's vision is a Canada, and ultimately a world, without homophobia, biphobia, transphobia, and all other forms of oppression so that every person can achieve their full potential, free from hatred and bias.

Egale's work is grounded in anti-racist and anti-oppressive (ARAO) practice. While striving to compile, produce and communicate the best-available evidence to guide our work, we recognize that the production of knowledge is always intimately connected to power, privilege and oppression. Those with the least power and privilege are often not included in the production of knowledge, and as a result, fail to be represented in the knowledge that influences their lives. Often, it is those with the least power to produce and shape knowledge who are most in need of services, leaving them un/misrepresented, under-served, ill-served, or not served at all. To honour and address the experiences of the most marginal folks in our communities, Egale undertakes to balance both academic and experiential knowledge, privileging community-based participatory practices in conducting research; developing and reviewing policy, resources and curricula; and providing services to clients, community organizations and individuals. Furthermore, Egale recognizes the necessity of targeting intersectional oppression, while simultaneously examining the broader social contexts that sustain and legitimize various oppressions, in order to appropriately respond to the needs and experiences of the full diversity of LGBTQI2S communities.