



Violence against lesbians, bi women and trans people: adapting the public response to the diversity of LGBTI+ life experiences

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In order to showcase the breath of gender-based violence (GBV) and its link to gendered inequalities, the Foundation for European Progressive Studies (FEPS) and the Fondation Jean Jaurès have joined forces for this series of publications on the fight to eliminate sexist and sexual violence. Each publication looks into a different angle regarding GBV, recognising the intersection of gender with other discriminations such as sexuality, disability or economic status.

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Interpersonal violence, particularly when aggravated by discrimination, is increasingly emerging as a political issue. Not only does its prevalence make it a public health issue, but it is seen to stem from, and reinforce, the mechanisms of illegitimate social domination, which in turn raises questions of equality. This is particularly true when it comes to violence against women, whether from a partner or in the public space: systemic violence we now recognise as a phenomenon over which public policies can and must have control, and around which a host of measurement techniques (victim surveys and government statistics, as well as “safety audits” and other differentiated impact assessments) and responses (prevention, social intervention, legal support, etc.) are developing.

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The truth about gender-based violence has emerged following years of research by the UN Committee on the Elimination of Discrimination against Women, particularly since the 1995 Beijing Declaration (in Europe, the Istanbul Convention now provides its signatory countries with a detailed and binding framework¹ upholding the right to be protected against gender-based violence). This is now starting to apply to violence against lesbian, gay, bi, trans and intersex plus (LGBTI+) people – in other words, members of minority groups from the point of view of sexual orientation, gender identity and sexual characteristics.

The methods for quantifying and tackling this violence – whether physical, sexual, psychological or verbal – still lag behind the existing arsenal on violence against women. This is unsurprising, given the comparatively large extent of the violence perpetrated against women. Yet LGBT-phobic violence is also widespread enough to have an impact on all potential victims. For example, according to an international survey conducted by the European Agency for Fundamental Rights (FRA), which polled over 140,000 people in more than 30 countries in 2019, 38% of LGBT people say they have been assaulted at least once in their lifetime because of their sexual orientation or gender identity, and 33% of them have adopted strategies to avoid these assaults². As with gender-based violence, violence against LGBTI+ people stems from a culturally and historically constructed hierarchy which undermines the equal dignity of human beings and their fundamental rights. They also construct a model of social representation in which sexual orientation and gender identity minorities are “hidden” and are, in fact, relegated to the margins: all too often these are the margins of society (as studies on the visibility of LGBTI+ people show) or the political margins (LGBTI+ people are often overlooked in many public policies, even those that concern them).

The response to LGBT-phobic violence, however, should not be seen as competing with the current response to gender-based and sexual violence (which is still inadequate). First, there is no contest between the rights of the victims in each case, since LGBT-phobic violence takes place on the same sexist basis as violence against women, and is often expressed in the same forms (more of which later). Second, they embody the same phenomena of gender-specific violence, particularly as some violence against women occurs specifically on the basis of sexual orientation or gender identity: the intersection of violence against women and LGBT-phobic violence designates lesbian, bi- and trans women as potential victims of intersectional discrimination, the analysis of which deepens our understanding of all gender-based violence.

“Homophobia is the fear of man”: this fanciful and almost Lacanian etymology of the word “homophobia” (which was defined in the 1960s by the American psychologist George Weinberg based on the prefix “homo-”, from the Greek word for “similar”, from which the word “homosexuality” is derived) sometimes crops up in French, confusing the word “homme” in the general sense (from the Latin *homo*) with man in the male sense (*vir*, in Latin). Strikingly, many attitudes and texts denouncing violence on the basis of sexual orientation illustrate “homophobia” using examples that are exclusively male, as if this only concerned men. The term “gayphobia”, meaning violence and hatred specific to gay men, has gained little currency in France, to the point that “homophobia” is often used instead in the pairing “homophobia and lesbophobia” (as evidenced by the semantic clarification found in reports by SOS homophobie, the first organisation to tackle LGBT-phobia in France, and the entry “gaiphobia” in the *Dictionary of homophobia* edited by Louis-Georges Tin³). While the male reading of the word “homophobia” is particularly apparent in French, the tendency not to differentiate between the life experiences of

1 To date, all Member States of the European Union have signed the Convention, but only 21 have ratified it (Austria, Belgium, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Italy, Ireland, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia, Spain and Sweden). As of March 2021, six Member States had still not ratified it (Bulgaria, Czech Republic, Hungary, Latvia, Lithuania and Slovakia). In March 2021, Turkey announced its retrieval.

2 European Union Agency for Fundamental Rights (2020). “A long way to go for LGBTI equality”, available at: <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results#TabPubFindingsQA1>; cf. also Ifop, *Study for the Jasmin Roy Sophie Desmarais Foundation carried out in partnership with the Jean Jaurès Foundation and DILCRAH by self-administered online questionnaire from 12-24 April 2019 among 1,229 homosexual, bisexual and transgender people, extracted from a sample of 13,346 people representative of the metropolitan population aged 18 and over*. Study report, Paris, June 2019.

3 Louis-Georges Tin (dir.). *Dictionnaire de l'homophobie*. Paris : PUF, 2003.



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lesbians, gays and bi people is a global phenomenon. Indeed, many initiatives have emerged in the last twenty years to foster a better understanding of how sexism is linked to homophobia. The specific mechanisms of transphobia also represent a distinctive aspect of LGBT-phobic violence intersected with sexism. The aim of this report is to provide an overview of current thinking around violence on the basis of sexual orientation experienced by lesbian and bi women. We will then look at the definitional challenges and what is known about the violence experienced by trans people. Lastly, we will examine what it would mean for public policy if the diversity of LGBTI+ communities was given proper consideration⁴.

Violence against lesbian and bi women on the basis of sexual orientation: the gendered nature of LB-phobic violence

The “invisible lesbian” and the lack of existing data

At the intersection between the difficulties in observing violence against women (and particularly the inability to study in detail the aggregated data gathered by some police or judiciary services), and the more specific challenges linked to the observation of LGBTI+ populations (difficulty in constructing representative samples, the need to use appropriate samples, difficulty in accessing “non-community” LGBTI+ people, who do not read specialist publications and do not frequent specific social venues), lesbians and bi women are often not seen as a discrete community in existing victimisation surveys.

This is a recognised failing, and several surveys have been carried out at the European and national level to develop more in-depth knowledge about this community in particular:

In France

- In addition to its annual reports on LGBT-phobia (in which it is difficult to assess the proportionality of the accounts of lesbophobia or biphobia towards women as a percentage of the total), the French organisation SOS homophobie has been able to carry out studies focusing on lesbophobia, the most recent of which, in 2015, covered a sufficiently broad sample (7,126 respondents) to be of real value, despite the non-representative recruitment consisting of advertisements in LGBTI+ media and through organisations⁵;
- The 2015 INED survey on violence and gender relations (*Virage*) is based primarily on a telephone survey of 27,268 male and female respondents aged 20-69. Given the small sample of LGBTI+ people, which restricted its analysis (the sample includes 135 women who self-identify as bisexual and 94 as homosexual), particularly with regard to serious assaults, which further reduces the number of responses, INED chose to supplement the data analysis with an additional survey, *Virage* -LGBT. This took place from December 2015 to March 2016 and resulted in a larger number of responses for all LGBTI+ people (7,148). The analysis by Mathieu Trachman and Tania Lejbowicz in their joint publication allowed several findings to be made which are specific to lesbian and bi women⁶.

In Europe

- The European Agency for Fundamental Rights (FRA) has carried out, on two separate occasions (in 2012 and 2019)⁷, broad and ambitious surveys on the experience of LGBTI people in Europe. The

4 Because the situation for intersex people is difficult to incorporate into the issues described, and because sadly there is still very little information available, this report contains few comments that relate to them specifically.

5 SOS homophobie, *Enquête sur la visibilité des lesbiennes et la lesbophobie*, Paris, 2015.

6 Mathieu Trachman, Tania Lejbowicz et l'équipe de l'enquête Virage. *Les personnes qui se disent bisexuelles en France. Populations & sociétés* 2018/11, n°561, p. 1 à 4. Mathieu Trachman et Tania Lejbowicz, Chapitre 10 Lesbiennes, gays, bisexuel-le-s et trans (LGBT) : une catégorie hétérogène, des violences spécifiques. In Elizabeth Brown, Alice Debauche, Christelle Hamel et Magali Mazuy (dir.) *Violences et rapports de genre. Enquête sur les violences de genre en France*. Paris, 2020, Ined éditions coll. « Grandes enquêtes », p. 355-390.

7 European Agency for Fundamental Rights (FRA), *A long way to go for LGBTI equality*, Luxembourg, Publications Office of the European Union, 2020.



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2019 survey, which for the first time included inter-sex people, involved a large number of respondents (139,799) aged 15 and over from the 28 EU countries plus Serbia and North Macedonia. Of the sample, 16% were lesbians and 20% bi women. Although the data analysis as published by the agency mainly presents aggregated data for all LGBTI communities, it is possible via the data explorer on its website to filter the responses of lesbians and bi women.

- In 2017, the European Lesbian* Conference (the asterisk denotes the inclusion of all women who have relationships with other women, including bi women) produced a report based on the 2012 FRA survey and a literature review of all available studies on the life experiences of lesbians in Europe; this report was incorporated into a November 2020 report by the EuroCentralAsian Lesbian* Community (the renamed EL*C)⁸.

The report is based on these various quantitative surveys, all of which have strengths and limitations. Numerous qualitative studies exist which are invaluable for an understanding of the phenomenon. However, they do not explain why the phenomenon is so prevalent.

Bi women pose an additional problem for the study of lesbian violence, which explains why the visibility of these women is often studied at the same time (this is particularly the case for SOS homophobie and EL*C). This is due to the difficulty society has in recognising female couples for what they are: public displays of affection between two women will not necessarily be seen as a sign of desire or love in the same way as it would be for a male couple or a male/female couple. Even when female homosexual desire is acknowledged in public debate, it is sometimes denied any specificity or durability, largely because of a Freudian vernacular which sees it as a transitory event or as an ancillary event to heterosexual desire. This both undermines the analysis of this targeted violence and is a violent heteronormative precept in its own right.

As Natacha Chetcuti-Osorovitz puts it in her preface to the SOS homophobie study (2015): *“the non-recognition of lesbianism as sexuality in its own right is born of the fact that its affirmation can be interpreted as a sign of availability, or an extreme attitude that must be contained. Any indifference, refusal or rebuff in the face of a male proposition seen as ‘legitimate’ can appear as the tacit severance of a heterosexual contract. This often leads to insults and sometimes physical violence, in 13% of reported cases.”*

The invisibility of lesbianism, or its hyper-sexualisation in a heterosexist reading, is therefore a factor that inevitably impacts the visibility of lesbian and bi (LB) women in the public space, diminishing it in the same way as it diminishes the violence triggered by this visibility. Yet it is also the very subject of a specific form of violence against lesbian and bi women, feeding into sexualized expressions of physical and verbal violence, as well as the ignorance and stereotypes that can be behind the violence in some spheres, particularly in a medical setting.

The specific victimisation of lesbians and bi women

The 2019 FRA survey, which addresses various aspects of everyday life, provides relatively little background about the experiences of violence and harassment.

By contrast, it shows on several occasions the cumulative extent of the violence “for all reasons”, particularly against bi women. For example, 31% of bi women and 20% of lesbians report having experienced at least one incident of sexual or physical violence in the last five years, for all reasons. This is also reflected in cyberbullying “for all reasons”, where 19% of bi women (compared with 16% of all LGBTI people) have been victims of this in the last five years (15% of lesbians).

It shows that, on average in Europe, lesbians and bi women are slightly less likely to be victims of physical and sexual assault than gays and bi men (10% of lesbians and 8% of bi women, compared with 12% of

⁸ EL*C (ed.), *Report on “The State of Lesbian Organising and the Lived Realities of Lesbians in the EU and the Accession Countries”*, EuroCentralAsian Lesbian* Community, November 2020. EL*C (ed.), *Brief Report on Lesbian* Lives in (parts of) Europe Focus Topics: Discrimination and Health by the European Lesbian* Community*, October 2017.



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gays and 10% of bi men), but slightly more likely to be victims of harassment in the last 12 months (41% of lesbians and 33% of bi women, compared with 38% of gays and 30% of bi men). Significantly, they are subject to cumulative harassment, with 46% of bi women and 29% of lesbians also reporting having been the victim of harassment on account of their gender, compared with only 2% of gays: the over-victimisation of LB women noted earlier thus translates as an accumulation of contextual reasons for harassment, rather than victimisation specifically due to their sexual orientation. On average, lesbians are somewhat more likely to believe that prejudices and intolerance towards LGBTI people have increased “slightly” (23%) or “a lot” (16%) in the last five years than LGBTI people as a whole (21% and 15%, respectively), while bi women do not differ from the average; bi and gay men tend to be less pessimistic (20% of gays and 18% of bi men for “slightly”, and 14% and 11% for “a lot”).

The *Virage* survey offers more information to contextualise the different types of violence in France. For example, the survey, which has a more developed male/female comparative scope than the FRA survey and includes the general population, notes that “*regardless of their sexual identification, women report more violence than men. Within this group, however, lesbians and bisexual women are both around 2.5 times more likely to report domestic violence than heterosexuals: just under half of them report domestic violence. (...) bisexuals and homosexuals are 4 to 5 times more likely than heterosexuals to report domestic sexual violence. Apart from gender, therefore, it seems that sexual identification is linked to specific forms of violence, which focus more specifically on women’s bodies*”⁹.

The home is the main setting for the violence experienced by LGBTI+ people, unlike other forms of discrimination, where the home is seen as a place of safety. This is particularly the case for LB women, rather than GB men, since they are 3 to 4 times more likely than heterosexual women to have left home due to a family rift, with gays and bi men 1.5 to 2

times more likely to have done so than their heterosexual peers (in total, 6.6% of women and 4.6% of men have left home due to a disagreement).

The same is true in public spaces, where “a large number of lesbians and bisexual women have experienced violence: half of the former and three quarters of the latter have encountered it, whereas this is the case for less than a third of heterosexual women”, with gays and bisexual men somewhere between the two (*ibid.*, p. 375).

Lastly, studies carried out by the non-profit sector (e.g. SOS homophobie (2015) and EL*C (2017) suggest that healthcare settings are associated with a particular form of violence, which may call for public action and requires further investigation. Owing to their privileged position, any hostile attitude on the part of healthcare professionals can be regarded as violence, especially when unnecessary and invasive procedures are imposed or essential treatment is withheld. According to EL*C (2017), 7% of lesbians* have abandoned treatment in the past for fear of intolerance, 3% have been forced to undergo unnecessary medical or psychological examinations, and 12% reported that their specific care needs were overlooked. In the SOS homophobie survey (2015), “*lesbophobia in a medical setting primarily manifests itself as a lack of understanding (61% of cases, versus 38% for all lesbophobic incidents) or even rejection (half of cases, versus 36% overall) of the patient’s sexual orientation (...). This is followed by discrimination (34% versus 22% overall), possibly denial of care, and mockery (24%)*” (p. 59). The survey also reveals another striking aspect of this type of violence: it is the only setting of all those analysed by the organisation where the majority of incidents (64%) are perpetrated by women (notably gynaecologists and psychotherapists).

9 Trachman, Mathieu and Lejbowicz, Tania, Chapter 10 “Lesbiennes, gays, bisexuel.le.s et trans (LGBT) : une catégorie hétérogène, des violences spécifiques”, in Elizabeth Brown, Alice Debauche, Christelle Hamel and Magali Mazuy (ed.), *Violences et rapports de genre. Enquête sur les violences de genre en France*, Paris, 2020, Ined éditions coll. “Grandes enquêtes”, pp. 355-390.



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Gender-based violence against trans and intersex people: violence by definition gender-based

A woman is a woman is a woman¹⁰: methodological challenges

When we talk about violence against LGBTI+ people, it is hard to ignore the fact that, according to all surveys that disaggregate the data, trans and intersex people are the most at risk of violence (with 17% and 22% of them, respectively, having been the victim of physical or sexual assault as LGBTI+ people in the last 12 months, according to the 2019 FRA survey).

However, looking at the intersection between sexism and LGBT-phobic violence, a two-pronged methodological question arises: double counting, since some trans people already belong to the groups studied for sexual orientation (lesbians and bi women), and the construction of socio-demographic samples. Indeed, studies on LGBTI+ people do not always disaggregate trans people within the study population by gender or sexual orientation (i.e. trans people receive specific but not differentiated treatment in terms of gender or sexual orientation). This makes the existing quantitative data, which are even scarcer than for LGB people, difficult to compare. The 2019 FRA survey data explorer thus only offers the general categories “trans people” and “intersex people”, which prevents the gender-based violence experienced by trans men and trans women, and by intersex men and intersex women, from being studied comparatively (not to mention non-binary people, who are in neither of the two traditional genders)¹¹.

Another more context-related and specific complication arises from the debates currently taking place in some countries (mainly the United Kingdom and English-speaking spheres) on the connection between sex and gender: which should have priority? In other words, should a reading involving cis¹² and trans women be encouraged, thus giving priority to gender (in this case, social experience and/or self-determination takes precedence over the composition of female and male groups), or should violence be seen as predominantly linked to biological sex, thus involving cis and trans men, for example? This ambivalence is also found in epidemiological studies, which tend to look only at biological sex, often to the exclusion of anything else, even though the few public health studies focused on this population tend to indicate specific aspects of the trans community with regard to preventive practices¹³. A similar question arises for intersex people, whose sexual characteristics do not reflect the classic female/male dichotomy: what methodological approximations should be made in this case?

Fundamentally, however, it would be misleading to view these methodological considerations as insurmountable obstacles to the inclusion of trans people in the observation of gender-based phenomena. Approximations, if they can be made, can relate to the legitimate purposes of the studies carried out on a case-by-case basis (e.g. a study on reproductive rights could involve cis women and trans men; while a study on the representation of women in society should more properly involve cis and trans women). In the case that concerns us here, that of violence, it should be noted that existing studies barely differentiate between trans or intersex men and women for a simple reason: the sample size does not always allow us to drill down into the different categories.

Considering the scope which is to better understand the impact of gender on the experience of violence, this certainly constitutes a limitation. However, it is

10 The repetition is intentional and refers to Gertrude Stein's 1913 poem "Rose is a rose is a rose is a rose". In Stein's view, the sentence expresses the fact that simply using the name of a thing already invokes the imagery and emotions associated with it. Cf. https://en.wikipedia.org/wiki/Rose_is_a_rose_is_a_rose_is_a_rose

11 European Fundamental Rights Agency (FRA), LGBTI study data explorer <https://fra.europa.eu/en/data-and-maps/2020/lgbti-survey-data-explorer>.

12 The adjective "cisgender" or "cis" refers to people whose gender identity corresponds to the sex assigned at birth, i.e. non-trans people.

13 In France, the annual march *Existrans* had the "conducting of epidemiologic studies" amongst its calls: <http://www.journaldusida.org/dossiers/prevention/populations-cle/les-trans-invisibles-jusque-dans-la-lutte-contre-le-sida.html>



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worth mentioning that all trans people – men, women or other – are subjected to violence specifically related to their gender identity and are therefore relevant when we examine violence towards LGBTI+ people through the gender lens. The distinctions made in European law relating to gender identity are explicitly governed by the rules on gender discrimination, of which they form part. As the Council of Europe Commissioner for Human Rights said in 2009 (Declaration on Human Rights and Gender Identity): “However, the European Court of Justice (ECJ) has explicitly ruled that ‘discrimination arising (...) from the gender reassignment of the person’ is considered as discrimination on the ground of sex in the watershed case *P v S and Cornwall County Council*. This has been confirmed and extended in later case law of the ECJ”.

Regardless of the current moral panic around the question “what is a woman/what is a man?”, to which the only valid answer from a human rights point of view, as the settled case-law of the European Court of Human Rights shows, is based on self-determination, any violence against trans people and *mutatis mutandis* intersex people, whatever the victim’s gender, is gender-based violence. When it comes to analysing the violence, it is therefore perfectly legitimate to set aside the woman/men dichotomy to better concentrate on trans and intersex people generally to the extent that they are victims of gender-based violence and discrimination.

There are few consolidated quantitative studies on trans and intersex people, with the exception of the 2019 FRA study. In France, the *Virage* investigation report mentioned earlier does offer some insights into the trans community. Specifically with regard to trans people, it may also be useful to refer to:

- The study conducted by Arnaud Alessandrin and Karine Espineira on transphobia in 2014 (309 respondents), which has appeared in several publications, and which is presented by Arnaud Alessandrin in *Cahiers du Genre* under the heading “La transphobie en France : insuffisance du droit et expériences de discrimination”¹⁴.

- At the European level, the work carried out by Transgender Europe on the identification of murder victims and assaults on trans people (*For the Record* project), and, at the international level, the annual survey of the number of transphobic murders recorded by the Trans Murder Monitoring Project (350 victims between 20 November 2019 and 20 November 2020)¹⁵.

Victimisation of trans and intersex people

The most striking aspect of the victimisation of trans and intersex people is their greater exposure to violence and harassment (FRA, 2019). In the past 12 months, 48% of trans people who responded to the survey and 42% of intersex people have experienced harassment because they are LGBTI people, which is significantly higher than the average of 38% of LGBTI people. In addition, 17% of trans respondents and 22% of intersex respondents had also been physically or sexually assaulted as trans or intersex people in the previous five years (compared with an average of 11% for all LGBTI people). Furthermore, 46% of trans people, 60% of intersex people interviewed said they had also experienced harassment because of their sexual orientation. Lastly, 41% of intersex respondents reported having suffered harassment owing to their gender expression or identity.

The profile developed by the FRA (2019) for intersex people can be used to establish a hierarchy of the priorities assigned by intersex people to different aspects of everyday life that need changing. A third (33%) cite the violence and harassment they experience, making this a high priority, essentially on a par with their main priority, which is discrimination on the basis of their sexual characteristics (34%). This is followed by the depathologisation of intersexuality (29%), isolation (26%) and the end of female genital mutilation on children (19%).

In France, intersex people are absent from the existing data. However, the *Virage* survey provides some insights into the contexts and types of violence experienced by trans people: trans people report more domestic abuse than lesbian, gay and bisexual cisgender

14 Alessandrin, Arnaud, “La transphobie en France : insuffisance du droit et expériences de discrimination”, *Cahiers du genre*, 2016/1, pp. 193-212.

15 Transgender Europe (TGEU), *For the Record. Documenting violence against trans people. Experiences from Armenia, Georgia, Germany, Moldova, Russia and Ukraine*, December 2016.



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men and women; they are twice as likely as LGB cisgender people to leave their homes due to family conflict; almost half report sexual violence; and three quarters have suffered psychological abuse (the authors talk about the violence towards them being “omnipresent”). A similar finding emerges from the survey by Arnaud Alessandrin and Karine Espineira, where 85% of respondents say they have been a victim of transphobia, 37% of them more than 5 times in the last 12 months. With regard to physical violence, the survey found a higher proportion of victims (twice as many) had been assigned male at birth, which is attributed to the “*fact that the androcentric public space persecutes gender transgressions and in particular homosexual or trans figures by referring to transgressed masculinity*”¹⁶. By contrast, it is trans people assigned female at birth who report the most violence from a partner (60%).

Including all gender dimensions in the public response

What doesn't count doesn't count: improving observation

All the statistics mentioned here are based on victimisation surveys, i.e. they are estimated on the basis of respondents' answers to questions about their life experiences. While the information available to us ultimately remains fairly limited, it is worth noting that the data recorded by the police and the courts are, in all countries, much weaker and are often not available at all, except, at best, in aggregated form.

Within a given country, the lack of a “working definition” of what constitutes an LGBT-phobic offence calls into question the robustness of the data. One jurisdiction may have different criteria to its neighbour, which does not help in gauging the situation from the point of view of the law and the penal re-

sponse, as the Council of Europe noted in its 2019 analysis on the implementation of the 2010 Recommendation on measures to combat discrimination on grounds of sexual orientation or gender identity¹⁷.

This is particularly true when we look at the different populations that make up the LGBTI+ community, particularly lesbian and bi women, whose life experiences, for observation purposes, are split between the violence they are subjected to as women and violence which is more specific to their sexual orientation.

To deplore the lack of knowledge we have of the violence experienced by different lesbian, gay, bi and trans people is not a purely theoretical or academic exercise: for public action to be effective, it relies on this knowledge, which is also used in critical analysis. While it is true, as the saying goes, that “not everything that counts can be counted”, it is a fact that, from the point of view of the public response, what is not counted does not “count”: without a sustained focus on the situations people face and in the absence of reliable data, it is impossible to highlight political issues or get to grips with public policy. As the European network of legal experts in gender equality and non-discrimination observed in 2018, “*the absence of judicial or administrative decisions on discrimination against trans and intersex people is disturbing. First, it suggests that, although safeguards exist at the national and EU level, they do not substantially protect trans and intersex people everywhere in Europe. The scarcity of case-law (...) is inconsistent with regional and national studies which point out that trans and intersex people experience disproportionate levels of inequality. Second, the absence of such decisions means that the justice system does not have the opportunity to establish clear penalties that could deter individuals or groups from engaging in discriminatory behaviours. Where equality laws do not translate into effective penalties for those who violate them, this perpetuates the idea that discrimination against trans and intersex people can happen with impunity*”¹⁸.

16 Alessandrin, Arnaud, “La transphobie en France : insuffisance du droit et expériences de discrimination”, *Cahiers du genre*, 2016/1, pp. 193-212.

17 Council of Europe, *Combating Discrimination on Grounds of Sexual Orientation and Gender identity in Council of Europe Member States. A Review of the Recommendation CM/REC (2010)5 of the Council of Ministers*, Strasbourg, Council of Europe, 2019.

18 European network of legal experts in gender equality and non-discrimination, *Trans and intersex equality rights in Europe – a comparative analysis*, European Commission: DG Justice and Consumers, November 2018.



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This reasoning is also true for people who are under-represented in police and court statistics, which is the case for LGBTI+ people who, on the whole, only report assaults against them in 11% of cases: 41% of people who did not report incidents were convinced that “it wouldn’t have made a difference”¹⁹.

Confidence in the police, the justice system and other mechanisms for punishing discrimination and violence is low; although the FRA points out that this is the case for all populations that are victims of discrimination. The more discrimination there is, the more the distrust represents a structural obstacle. Therefore, all actors in the criminal justice chain have a duty to adapt their practices to break this vicious cycle – and the first step towards improving the situation is to have a better understanding of the realities people face.

Cross-cutting responses to intersectional issues

Although observing these situations should allow a granular analysis of the various criteria, it is worth emphasising that a fragmented public response with as many committees as there are situations does not work. A study of the anti-discrimination policies put in place, and particularly the review by the Council of Europe with regard to the 2010 recommendation, shows that many countries have interesting training programmes and tools, but simply have not shared them with other organisations and professionals. Because the information has been balkanised, and because LGBTI+ people are in all settings and geographies, it is unrealistic to envisage voluntary or single pilot schemes for an entire country. Rather, it is vital that everyone is made aware that any complainant can be LGBTI+, and that all situations should be handled with respect. Training in the different types of discrimination and in the different forms of violence towards people must be standard for all services concerned: this cross-cutting approach will enable specific incidents of intersectional discrimination and inequality to be dealt with effectively, namely by taking into account the specific effects of the overlapping and crossing of discrimination

within one-size-fits-all policies. As stated by the EU LGBTIQ Equality Strategy 2020-2025, which is the first governance tool within an integrated framework designed by the European Commission on the matter and unveiled in November 2020 during the state of the Union speech, “discrimination is often multidimensional and only an intersectional approach can pave the way to sustainable and respectful changes in society.”²⁰

This *intersectional* approach – understood as the response to the multidimensional character of discrimination – implies mainly two things: taking into account the overlapping and crossing effects of discrimination in its various dimensions, but also applying the same approach across all dimensions of public policy. In other words, the point is to tackle “discrimination and violence” from a more complex and holistic approach but in a way which does so systematically across all fields of action, rather than collecting specific and independent tools in isolation for every type of discrimination and domain of action.

However, this type of intersectionality requires a much stronger political will than what is presently the case in order to adopt the same integrated approach at every level of governance. Yet, political mobilisation opposing LGBTI+ people’s rights emerging across many EU countries in the past years have lead to strong tension on these topics, rendering any pro-active initiative a complex – if not politically risky – task. There is thus a greater temptation for public authorities wishing to reform but stripped of the necessary political backing on these issues to seek to lean on some individuals within public administration sensitive to the cause to offer a shelter to victims, or on a public service or a dedicated sub-service, not offering a credible response to the currently existing situations, not least because many victims might not receive the adequate treatment. Another challenge due to the existing political volatility comes from the likely multiplication of experimentations implemented, which are sometimes evaluated but rarely replicated on a larger scale for fear of political repercussion.

19 European Agency for Fundamental Rights (FRA), *A long way to go for LGBTI equality*, Luxembourg, Publications Office of the European Union, 2020.

20 European Commission (2020). “Union of Equality: LGBTIQ Equality Strategy 2020-2025”, EC communication available here: <https://ec.europa.eu/transparency/regdoc/rep/1/2020/EN/COM-2020-698-F1-EN-MAIN-PART-1.PDF>



Violence against lesbians, bi women and trans people: adapting the public response to the diversity of LGBTI+ life experiences

For instance, France experimented an awareness raising programme about gender equality in schools (“ABCD for equality”), which was conducted in several areas in 2013-2014 and which received a lot of positive feedback, before being eventually abandoned following a virulent campaign²¹. On the EU level, similar dynamics are at play in some countries – particularly Eastern European – in the face of the tools offered by the Istanbul Convention²², which is vehemently denigrated by some political movements who associate it with the LGBTI+ movement to such an extent that its very adhesion or ratification by some countries is jeopardized²³.

The acknowledgement of the interconnections between different forms of discrimination is the second key pillar of an approach that wants itself truly transversal or “intersectional”. A genuine cross-cutting approach also means learning about the varied experiences of LGBTI+ people, since some settings in which violence occurs have different meanings for different communities. Violence in the field of health namely appears much more salient for lesbians and bi women, as well as in trans and intersex people’s demands, in contrast with cisgender gay men. Similarly, this also applies for the family setting where the latter are less exposed to instances of violence than the former. All this reinforces the call for better access to comprehensive and disaggregated data in relation with the above-mentioned need for observation of LGBTI+ people. The study of sexual violence against lesbian and bi women, on the one hand, and trans and possibly intersex people, on the other, also needs to be refined, since some studies tend to over-represent this type of violence (this is the case with the 2019 Ifop survey for all sexual violence for lesbian and bi women, and the *Virage* survey for lesbian and bi women, as well as for trans people). A better understanding of this reality and the way they unfold is key to designing prevention and elimination strategies.

Implementing an effective cross-cutting approach to these issues requires a broad-based policy which also targets the general public, if we are to prevent violence and the stereotypes that underpin or seek to justify it. This is particularly true when it comes to preventing forms of violence that can stem from ignorance and misrepresentation, as is the case with violence by healthcare professionals against lesbian and bi women.

21 Cf. N. Mosconi, « Excellence et égalité. Les paradoxes de l'égalité des chances à l'école », *Nouvelles questions féministes*, 2016/1 (vol 35), p. 118-130.

22 Cf. Hannah Mazurs' article “Progressive pathways to a Europe free from violence against women: Mapping the EU's institutional and policy maze” from the same publication series for a more comprehensive overview on the Istanbul Convention. Available here: <https://www.feps-europe.eu/articles/36-project/78-feps-fjj-gender-based-violence-publication-series.html>

23 Le Parlement européen a fait réaliser une étude à ce sujet en 2018 : Backlash in Gender Equality and Women's and Girl's Rights ([https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604955/IPOL_STU\(2018\)604955_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604955/IPOL_STU(2018)604955_EN.pdf)), qui détaille ce processus pays par pays.



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PUBLISHED BY

Foundation for European Progressive Studies (www.feps-europe.eu)

Fondation Jean Jaurès (www.jean-jaurès.org)

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Foundation for European Progressive Studies
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DESIGN AND LAYOUT

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LOGO DESIGN

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This publication series was produced with the financial support of the European Parliament. It does not represent the collective views of the Foundation for European Progressive Studies and Fondation Jean Jaurès, but only the opinion of the respective authors. The responsibility of the Foundation for European Progressive Studies and Fondation Jean Jaurès is limited to approving its publication as worthy of consideration for the global progressive movement.

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