

**CREATING BETTER WORKING ENVIRONMENTS FOR LGBT+ EMPLOYEES IN SRI LANKA**

Article 12 of the Sri Lankan Constitution guarantees that all persons are equal before the law and are entitled to the equal protection of the law. However, due to pre-existing stigma, prejudice and stereotypes, LGBT+ people face serious challenges in the workplace.

The UN Guiding Principles on Business and Human rights recognise that States have the duty under international human rights law to protect everyone within their territory and/or jurisdiction from human rights abuses committed by business enterprises.

Many are denied jobs and promotions on the basis of gender expression and face unsafe, hostile work environments because of negative responses to gender non-conformity. The LGBT+ community is poorly represented in government structures, employers' organisations, trade unions and leadership capacities, resulting in the community being overlooked when drafting workplace policies.

The following recommendations outline key areas that the State can re-evaluate and reform to ensure that the LGBT+ community is afforded the same rights, entitlements and working environments afforded to all Sri Lankans by law.

**LGBT+ EMPLOYEES FACE DISCRIMINATION IN THE WORKPLACE**

**LGBT+ workers face discrimination throughout the employment cycle - from the recruitment stage all the way until termination. Recruitment processes are not sensitive to the needs of LGBT+ applicants, and once recruited, existing prejudices and stigma prevent employees from progressing within an organisation. Further, existing labour laws do not recognise discrimination faced by LGBT+ employees.**

Review and strengthen labour laws to ensure that employers cannot discriminate against LGBT+ employees during the hiring and promoting process.

Ensure that the state recognises and implements penalties for discrimination on the basis of sexual orientation, gender identity and expression.

**RESPONSIBILITY:**  
PARLIAMENT

**RESPONSIBILITY:**  
EMPLOYERS FEDERATION OF CEYLON

**LGBT+ EMPLOYEES FACE DISCRIMINATION IN THE INFORMAL SECTOR**

**Employment in Sri Lanka is overwhelmingly within the informal sector, accounting for over 70% of the labour force. Restrictions in accessing education opportunities can lead to LGBT+ job seekers not having the sufficient level of qualifications to obtain jobs in the formal sector. As a result, many LGBT+ Sri Lankans are forced to earn a living in the informal sector, where a large majority of the labour force is excluded from accessing social insurance and other employee benefits.**

Assess the measures needed to eliminate discrimination in the informal sector and periodically update the public on findings (including trade unions), so as to stimulate proposals for legislative reform.

Study the differentiated measures needed to eliminate discrimination in both the formal and informal sectors and ensure that anti-discrimination laws apply to both.

Ensure that state social welfare programmes are accessible to employees in the informal sector.

**RESPONSIBILITY:**  
DEPARTMENT OF LABOUR

**RESPONSIBILITY:**  
GOVERNMENT OF SRI LANKA,  
PARLIAMENT

**RESPONSIBILITY:**  
DEPARTMENT OF LABOUR

**ISSUE**
**RECOMMENDATIONS**
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## LGBT+ EMPLOYEES FACE HARASSMENT IN THE WORKPLACE

ISSUE

Harassment rooted in anti-LGBT+ attitudes have been normalised in Sri Lankan work cultures. This often includes verbal harassment such as derogatory remarks and slurs. Currently, Sri Lanka does not have any explicit laws that address discrimination and harassment on the grounds of sexual orientation or gender identity and such cases documented by independent parties are often ignored by policymakers.

RECOMMENDATIONS

Enforce Section 345 of the Penal Code equally to all citizens when sexual harassment occurs, regardless of their gender identity or sexual orientation.

**RESPONSIBILITY:**  
LAW ENFORCEMENT  
AUTHORITIES

Invest in and monitor the implementation of sexual harassment training, delivered with a special focus on gender, gender identity, gender expression and sexual orientation.

**RESPONSIBILITY:**  
DEPARTMENT OF LABOUR

Hold public and private organisations accountable for the development of efficient, accessible, anonymous and non-judgmental reporting mechanisms.

**RESPONSIBILITY:**  
EMPLOYERS' FEDERATION OF  
CEYLON

## LGBT+ EMPLOYEES FACE RESTRICTIONS IN ACCESSING EMPLOYEE BENEFITS

ISSUE

Sri Lankan employment law sets out general terms for the dispensation of employee benefits such as annual leave, sick leave and non-monetary benefits such as housing and subsidised goods. However, the lack of anti-discrimination protection in employment law puts LGBT+ employees at risk of partial or complete denial of their benefits. For example, LGBT+ employees may be unable to access their sick leave entitlements because they may not want to disclose certain illnesses or medical issues for fear of further discrimination in the workplace.

RECOMMENDATIONS

Enact anti-discrimination legislation which includes LGBT+ as a ground of non-discrimination.

**RESPONSIBILITY:**  
PARLIAMENT

Provide guidance for the disbursement of non-monetary benefits that employers provide at their discretion.

**RESPONSIBILITY:**  
DEPARTMENT OF LABOUR

Ensure that employees have access to the Labour Tribunal to challenge the denial of benefits.

**RESPONSIBILITY:**  
DEPARTMENT OF LABOUR

Make legislation on the right to privacy broad enough to include the disclosure of health and medical information to employers.

**RESPONSIBILITY:**  
PARLIAMENT