LGBT+ employees face discrimination in the workplace

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. 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 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.

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 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.

**Recommendations**

**Issue:**

- **LGBT+ employees face discrimination in the workplace**
- **LGBT+ employees face discrimination in the informal sector**
LGBT+ EMPLOYEES FACE RESTRICTIONS IN ACCESSING EMPLOYEE BENEFITS

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.

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

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

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

**Responsibility:**
- **Parliament**
- **Department of Labour**
- **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**

LGBT+ EMPLOYEES FACE HARASSMENT IN THE WORKPLACE

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.

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

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

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

**Responsibility:**
- **Law Enforcement Authorities**
- **Department of Labour**
- **Employers’ Federation of Ceylon**

Source: One Country, Many Arbitrary Laws: Rethinking Laws and Policies that Leave LGBTIQ Sri Lankans Behind, compiled Dharini Priscilla, Michael Mendis and Pasan Jayasinghe. This publication was supported by the Westminster Foundation for Democracy (WFD).