

A vibrant rainbow flag is draped across the top half of the page. Two teal-colored circles are positioned behind the flag, one in the upper right and one in the lower left, partially overlapping the flag's colors.

Report on Monitoring **Human Rights of LGBTI+s** in the northern part of Cyprus

2022



This publication was funded by the European Union. Its contents are the sole responsibility of the Human Rights Platform and do not necessarily reflect the views of the European Union.

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Human Rights Platform

Report on Monitoring **Human Rights of LGBTI+s**
in the northern part of Cyprus

2022

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Published by
Human Rights Platform

First Edition
September 2023, Nicosia

Design
Cypdes Factory Advertising

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EXECUTIVE SUMMARY

This report has been prepared by the Human Rights Platform in order to report on human rights violations experienced by lesbian, gay, bisexual, trans, intersex and plus¹ (LGBTI+) in the northern part of Cyprus² and to provide recommendations on what can be done for enabling equal access to these rights. LGBTI+s in the northern part of Cyprus do not have equal access to human rights and we can observe a systematic discrimination in several dimensions against LGBTI+s. Although homosexuality was decriminalised in the northern part of Cyprus in 2014, LGBTI+s continues to face discrimination and prejudice. Discrimination of this nature is particularly prevalent in areas such as education, health, employment, housing, and privacy. Even though hate speech, particularly against LGBTI+s, was defined as an offence in the ‘penal code’ in 2021, hateful comments are widely spread on social media, but ‘the police’ do not conduct effective investigations to prevent these types of crimes. It is true that online hate speech negatively affects the physical and mental health of LGBTI+s, but it also raises security concerns for LGBTI+s.

Aside from the absence of anti-discrimination ‘legal regulations’ that protect LGBTI+s in every aspect of their lives, the right to register civil partnerships, which is defined as a partnership between men and women, does not legally exist for persons of the same sex. Particularly, as the legal recognition of gender is not defined according to the right to self-determination, transgenders and non-binaries are exposed to various human rights violations. Nevertheless, in recent years, steps have been taken to increase the visibility and recognition of the human rights of LGBTI+s in the northern part of Cyprus. For example, various events have been organised with Pride Parades since 2014, including the first inter-communal Pride Parade on June 18, 2022, in order to raise awareness of the difficulties faced by LGBTI+s. However, progress remains insufficient, and much work remains to be done to ensure that LGBTI+s in the northern part of Cyprus can live free of discrimination and violence.

In conclusion, it should be noted that human rights apply to LGBTI+s and that the situation of LGBTI+s in the northern part of Cyprus remains challenging, with limited legal safeguards and widespread social stigmatisation. It is important that the international community and local advocacy groups continue to monitor, put pressure, and raise awareness on LGBTI+ rights in the northern part of Cyprus and work towards a more inclusive and equal society for all. Supporting both materially and morally the work of the Queer Cyprus Association (QCA), the only LGBTI+ organisation active in the northern part of Cyprus, is an indispensable step for LGBTI+s to achieve equality in the context of human rights. To this end, the ‘authorities’ in the northern part of Cyprus need to adopt more comprehensive ‘legal regulations’ to ensure equal access to human rights for LGBTI+s and to ensure the effective implementation of these ‘regulations’. Furthermore, effective steps should be taken to prevent discrimination and violence against the LGBTI+ community, ensure the effective implementation of existing ‘regulations’ and punish the offenders. The necessary budgets should be allocated for all these activities and activists and civil society organisations (CSOs) should be supported and protected against potential risks in their steps towards solving the issue. Along these lines, it will be possible to create a more just and equal society where diversity prevails by respecting the human rights of LGBTI+s in the northern part of Cyprus.

¹ The plus sign (+) indicates that the diversity of sexual orientation and gender identity is much higher than the identities included in the LGBTI acronym.

² The whole of Cyprus is a territory of the European Union (EU). However, in the northern part of the island, where the Republic of Cyprus does not exercise effective control, EU legislation is suspended in accordance with Protocol 10 of the Accession Treaty signed in 2003 https://cyprus.representation.ec.europa.eu/about-us/turkish-cypriot-community_tr accessed on December 12th, 2021.

INTRODUCTION

The Human Rights Platform (HRP) monitors human rights in five thematic areas in the northern part of Cyprus. This report includes the monitoring activities of the LGBTI+ Rights Programme, which is one of the five thematic areas mentioned above. Queer Cyprus Association (QCA), as the only active CSO operating on LGBTI+ rights in the northern part of Cyprus and as an organisation member of the Human Rights Platform, has actively contributed to the monitoring and reporting activities carried out by the HRP. In 2022, QCA also contributed to international mechanisms such as the Office of the United Nations (UN) High Commissioner for Human Rights (OHCHR), the Organisation for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR), the 2022 Cyprus Human Rights Report prepared annually by the United States of America (USA) Department of State, ILGA-Europe and Transgender Europe (TGEU)'s annual monitoring of LGBTI+ rights. The Human Rights of LGBTI+ Report, prepared by HRP, aims to provide a comprehensive overview of the human rights situation of LGBTI+s, in the northern part of Cyprus, in 2022. The report focuses on documenting and highlighting the human rights violations faced by LGBTI+s, as well as identifying the challenges and obstacles that prevent LGBTI+s from enjoying full human rights. The report also aims to depict a picture of the 'legal regulations' and practices that cause discrimination against LGBTI+s, highlight the positive 'regulations' and practices that support and guarantee these rights, and provide recommendations on what could be done to improve these rights. The report also includes the work of CSOs, and activists working to support and advocate the human rights of LGBTI+s and summarises how these efforts could be strengthened.

In addition to serving HRP's advocacy work, the report will also be used by various stakeholders, including local bodies, international organisations, human rights groups and other communities to combat rights violations or discrimination experienced by LGBTI+s. Aiming to contribute to the creation of a more inclusive and equitable society for all, the report also aims to contribute to holding local administrations accountable for their obligations, deriving from international human rights treaties and conventions, and to raise greater awareness on LGBTI+ human rights, at local level. The ultimate goal of the report is to promote greater respect for LGBTI+ human rights and to serve as an important reference source on the human rights situation of the LGBTI+ community in the northern part of Cyprus.

Finally, we would like to thank everyone who contributed to the monitoring process and the reporting efforts; shared information for reporting rights violations that they have experienced and exerted efforts for the finalisation of this report. Their contributions have been extremely valuable.

METHODOLOGY

As a first step, a monitoring plan was developed in order to monitor and report on the human rights of LGBTI+s. The monitoring plan served the purpose of clarifying monitoring methods, data collection, and data verification. In addition, LGBTI+ Rights Monitoring Indicators were developed to establish the monitoring framework. The indicators were then used as a basis for conducting the monitoring process. UN OHCHR's *Guide to Measurement and Implementation of Human Rights Indicators*³ and *A Set of Proposed Indicators for the LGBTI Inclusion Index*⁴ developed for the UN Development Programme were used in the development of these indicators. During the monitoring process, ILGA-Europe and TGEU annual monitoring methodologies⁵ were also analysed and adapted to local conditions. The set of developed indicators was regularly reviewed, and the applicability and functionality of the indicator set was evaluated and updated, through meetings and communication methods involving stakeholders.

Another important source used in the monitoring and reporting process was the Yogyakarta Principles.⁶ Many of the databases and resources that QCA has created over the years have been employed mainly for the monitoring of structural indicators. These resources include *the Booklet on Analysis of the 'legislation' in the northern part of Cyprus in terms of Discrimination against LGBTI+s*,⁷ *Report on the 'Legal Recognition of Gender within International Human Rights Protection Mechanisms and the Right to Access to Gender Harmonisation Process*,⁹ *Annual Media Monitoring Reports, Attitudes towards Sexual Orientation and Gender Diversity in a locally Representative Sample in the northern part of Cyprus Report*,¹⁰ *Access of LGBTI+s to Existing social services' in the northern part of Cyprus Mapping Study Report*,¹¹ *Status of LGBTI+ Sex Workers in the northern part of Cyprus Mapping Study Report*¹² and *LGBTI+s Access to Employment and Labour Market Experiences Report*.¹³ Local bodies responsible for internal affairs, elected representatives, local bodies such as 'police', statistics institute, private sector, victims, LGBTI+s, migrants, refugees, minority members, rights holders such as activists, traditional and digital media platforms and journalists were selected as target groups for monitoring purposes.

Monitoring methods included desk research such as reading and analysing 'legal texts', international frameworks and QCA's Solidarity Hotline data; monitoring 'court' cases; conducting group and individual interviews with rights holders, victims, witnesses, responsible institutions, and activists either on site, remotely or at an alternative location; and using online resources, petitions, written questions and statistical data for data collection purposes.

Furthermore, the report of the field visits made by HRP lawyer, Yağmur İzcan, and LGBTI+ Rights Programme Coordinator, Erman Dolmacı, 'detention centres', 'courts', hospitals, and manifestation sites, as well as the in-house report on rights-based media monitoring prepared by HRP Communication Officer, Ahmet Sedat Tözün, were used as resources. The monitoring process was conducted with the utmost care to ensure that the data obtained was accurate and reliable. Accordingly, the principles of confidentiality, security, and data protection, as well as the principle not to harm the victims, were taken into consideration. The case study examples were anonymised, the subjects were informed, and their consent was obtained to use their personal data for the purposes of collecting, storing, and analysing the data.

3 UN High Commissioner for Human Rights, *Guide to Measurement and Implementation of Human Rights Indicators* (2012), accessed on December 12, 2021 https://www.ohchr.org/sites/default/files/Documents/Publications/Human_rights_indicators_en.pdf
4 M.V.Lee Badgett & Randall Sell, 'Recommended Set of Indicators for LGBTI Inclusion Index' (2018) UNDP, accessed on December 17 2021 https://www.undp.org/sites/g/files/zskgke326/files/publications/ENGLISH_LGBTI_index_march2019.pdf
5 TGEU&ILGA-EU <https://transrightsmap.tgeu.org/indicators> <https://www.rainbow-europe.org/about> accessed on December 17 2021
6 Yogyakarta Principles (2017).
7 Eylem Ümit Atılğan & Oncel Polilli, 'Analysis of the 'legislation' in the northern part of Cyprus in terms of Discrimination against LGBTI+s ' (2021) Queer Cyprus Association.
8 Reyda Ergün & Faika Deniz Paşa, 'Legal Recognition of Gender in the Context of International Human Rights Protection Mechanisms and the Right to Access to Gender Harmonisation Process' (2021) Queer Cyprus Association.
9 Ziba Sertbay, 'Annual Media Monitoring Report June 2020-June 2021(2022) Queer Cyprus Association.
10 Şenel Hüsnü Raman, 'Report on Attitudes towards Sexual Orientation and Gender Diversity in a Locally Representative Sample in the northern part of Cyprus' (2021) Queer Cyprus Association.
11 Buse Erzeybek Şemi & Saime Uluçaylı, 'Report on Mapping Study on LGBTI+s' Access to Existing social services in the northern part of Cyprus' (2021) Queer Cyprus Association.
12 Özlem Cankurtaran, Ali Odabaş and Neva Öztürk, 'Report on the Mapping Study on the Status of LGBTI+ Sex Workers in the northern part of Cyprus' (2021) Queer Cyprus Association.
13 Feyza Bharti and Fatma Güven Lisaniler, 'LGBTI+s' Access to Employment and Labour Market Experiences Report' (2021) Queer Cyprus Association.

BACKGROUND INFORMATION

Many political, economic, socio-cultural and security developments affect the human rights of LGBTI+s in the northern part of Cyprus. As mentioned above, QCA is the only LGBTI+ organisation in the northern part of Cyprus and has been actively struggling for many years. Founded in 2007 as the Initiative Against Homophobia (HOKI), QCA aims to enable equal access to human rights for LGBTI+s and to eliminate discrimination based on sexual orientation, gender identity and gender expression. Among the prominent goals of HOKI was the repeal of 'law articles' penalising sexual intercourse between men. HOKI was instrumental in the development of the LGBTI+ movement through its struggle for the amendment of these 'laws'. In 2012, HOKI changed its name to QCA and became one of the founding organisations of the HRP. The definition and offence of 'unnatural sexual intercourse', which was included in the penal code in order to prevent homosexual intercourse during the British colonial period, was amended in the Republic of Cyprus in 1992 after Alekos Modinos¹⁴ brought the issue to the European Court of Human Rights (ECtHR), but this outdated article remained in force in the northern part of Cyprus until January 27, 2014. As a result of QCA's advocacy at international and local level, local and international civil society organisations formed public opinion in support of amending this article perceived as criminalising homosexuality. Furthermore, the fact that Hüseyin Çavuşoğlu, together with QCA lawyer Öncel Polili, took the issue to the ECHR in 2012 (H.Ç. v. Turkey¹⁵ 6428/12¹⁶) helped to repeal the articles criminalising homosexuality and replace them with articles protecting LGBTI+s. In particular, the involvement of Human Dignity Trust¹⁷ and ILGA-Europe in the follow-up of the case and the visit of Michael Cashman, co-chair of the European Parliament Intergroup on LGBTI Rights, to the island in 2012¹⁸ were effective in forming international public opinion and pressure. As a result of all these efforts, the 'penal code' was amended in 2014, but as QCA emphasises,¹⁹ despite the fact that the prohibitions have changed on paper, it has taken and continues to take many years for the mental barriers to be broken down. In this context, QCA has carried out various projects and advocacy work both to increase the visibility of LGBTI+s and to improve their capacity. In addition, QCA contributed to another amendment to the 'penal code' on March 23, 2020, which criminalised hate speech against LGBTI+s ('article 171'). In summary, QCA has played an active role in both the decriminalisation of homosexuality and the criminalisation of hate speech against LGBTI+s in the northern part of Cyprus.²⁰

¹⁴ Modinos v Cyprus, no. 15070/89, 22 April 1993, ECHR.

¹⁵ In its Loizidou v. Turkey judgment of December 18, 1996, the ECtHR considered the northern part of Cyprus as a "local administration under Turkey" and stated that Turkey has extraterritorial responsibility in the northern part of Cyprus and can be held responsible for human rights violations occurring there.

¹⁶ H.Ç. v. Turkey, no. 6428/12, 3 June 2014, ECHR.

¹⁷ Human Dignity Trust, 'The northern part of Cyprus: Petition before the European Court of Human Rights' www.humandignitytrust.org/what-we-do/cases/northern-cyprus-petition-before-the-european-court-of-human-rights accessed on December 7, 2022.

¹⁸ Queer Cyprus Association, 'Michael Cashman defends 'law' amendment in the northern part of Cyprus' April 16, 2012 www.queercyprus.org/2012/04/16/michael-cashman-kibrisin-kuzeyinde-yasa-degisikligini-savunuyor/ accessed on December 12, 2021.

¹⁹ Kaos GL, 'Social media activism from Queer Cyprus Association: #27Ocakda #nedeğışdi', 22 January 2017, kaosgl.org/haber/sahi-27-ocakrsquota-nedeğışdi accessed on 9 November 2022.

²⁰ Queer Cyprus Association, 'penal code' amendment entered into force', April 1, 2020 www.queercyprus.org/2020/04/01/ceza-degisiklik-yasasi-yururluge-girdi/ accessed on December 13, 2021.

In its reports, QCA²¹ draws public attention to systematic discrimination against LGBTI+s. These publications demonstrate that fundamental rights of LGBTI+s such as the right to education, health, employment, housing, privacy, information, and the right to social services have been violated. QCA also conducted a comprehensive survey on attitudes towards LGBTI+s and their human rights, which was repeated in 2015, 2017 and 2021. Respondents to these surveys indicated that homophobia and transphobia are prevalent in the northern part of Cyprus. It was also reported that the general public has little contact with the LGBTI+ community. Moreover, 29.47% of the respondents felt that laws were essential to preventing discrimination against LGBTI+s in the northern part of Cyprus, and 16.7% felt that the overall human rights situation for LGBTI+s was poor.²² According to Bhatti & Güven Lisaniler (2021), LGBTI+s face significant discrimination in the northern part of Cyprus. This discrimination starts in education and continues in employment. In this context, according to the report, the majority of the respondents have to keep their gender identity and sexual orientation secret when applying for a job. It was also revealed that LGBTI+s are at risk of being exposed to human trafficking in the northern part of Cyprus. Furthermore, the report also mentions that crosscutting social identities such as living with HIV, being a migrant, working as a sex worker increase the vulnerability of LGBTI+s.²³ The situation remains challenging due to the limited public visibility and social acceptance of LGBTI+s together with the general lack of recognition of LGBTI+s' human rights and difficulties in the region. Consequently, diverse political, economic, cultural and security issues bring about implications with regard to safeguarding LGBTI+s' rights in the northern part of Cyprus. These issues can be summarised as follows:

Political Situation: Political Situation: Since 1974, the northern part of Cyprus has been operating de facto separately from the rest of the island. This has resulted in a lack of oversight of the northern part of Cyprus by international organisations and the invisibility of rights violations as they unfold. While the political situation remains complex, strong political ties exist between the administration of the Turkish Cypriot community and the government of Turkey. For instance, the prevalent understanding among executives that 'whatever they have in Turkey, we shall also have in the northern part of Cyprus' is worrying due to Turkey's negative approach towards LGBTI+ rights.²⁴

Economic Situation: The economy in the northern part of Cyprus is largely based on tourism, construction, agriculture, and financial services. The recent global economic crisis and pandemic have had a negative impact on the economy and resulted in increased unemployment, which may adversely affect the protection of the rights of a wide range of people, including LGBTI+s.

Cultural Situation: Although the Turkish Cypriot community has a predominantly Muslim cultural heritage, Cyprus has been home to people of various languages, religions, races, and beliefs. Turkish Cypriots, who define themselves as an open-minded community, unfortunately generally exhibit conservative attitudes towards LGBTI+s.

Security Situation: According to 'Article 3 of the law on the organisation of police'²⁵ in the northern part of Cyprus, the 'police' carry out their duties under the military's mandate. This is a major obstacle to the civilianisation of the 'police' organisation. Due to its affiliation to the military, the 'police' organisation, which operates in an unrecognized region, is inadequate for investigating crimes involving human rights issues. As stated in the reports published by QCA, the safety of LGBTI+s in the northern part of Cyprus in the context of discrimination and violence is of concern. However, although hate speech, especially in an online environment, has reached levels ranging from insults to death threats, the 'police' do not carry out effective investigations in this regard.

²¹ Bhatti and Lisaniler, 2021; Cankurtaran et al., 2021; Husnu Raman, 2021.

²² Raman, 'In a locally representative sample in the northern part of Cyprus...' (2021) QCA.

²³ Özlem Cankurtaran, Ali Odabaş and Neva Öztürk, 'Report on the Mapping Study on the Status of LGBTI+ Sex Workers in the northern part of Cyprus' (2021) Queer Cyprus Association.

²⁴ Kerem Dikmen, 'LGBTI+s Human Rights Report 2021' (2021) Kaos GL. <https://kaosgl.dernegi.org/images/library/lgbti-larin-i-nsan-haklari-raporu-2021-web.pdf>

²⁵ <https://www.mahkemeler.net/birlestirilmis/51-1984.doc> accessed on 5 December 2022.

LEGAL FRAMEWORK

Although the ‘legal system’ in the northern part of Cyprus is based on the Anglo-Saxon legal system (common law), it has been adapted to suit the conditions and requirements of the ‘country’. Following its judgement in the *Loizidou v. Turkey* case, the European Court of Human Rights (ECtHR) ruled that Turkey is directly responsible for human rights violations in the northern part of Cyprus.²⁶ ‘Article 90 of the constitution’ lays down the status of international conventions in ‘domestic law’.²⁷ Accordingly, international conventions that have been duly enacted in the form of ‘ratification laws’ become part of domestic law. The provisions of these conventions have supremacy over laws and are considered equivalent to the ‘constitution’, and therefore the ‘constitutional’ rules should be interpreted in a manner which is as compatible with international law as possible.²⁸ There has been a ruling by the ‘constitutional court’ that ‘laws’ in the northern part of Cyprus must be enacted in accordance with international Conventions, or, if that is not the case, interpreted in accordance with international Conventions. Whenever the provisions of international conventions conflict with those of domestic law, the provisions of international conventions shall prevail. Constitutional or legal regulations cannot repeal or render ineffective the provisions of international Conventions. The review of the human rights of LGBTI+s in the northern part of Cyprus from the perspective of existing ‘legal regulations’ is also discussed in detail in QCA’s *Analysis of ‘legislation’ in the northern part of Cyprus* report in terms of discrimination against LGBTI+s.²⁹ The international legal framework applicable to the human rights of LGBTI+s is mainly based on international human rights law and international humanitarian law. International human rights law is a set of binding legal obligations on States to respect, protect and fulfil human rights, as enshrined in various international Conventions and customary international law. International human rights law sets out the fundamental rights and freedoms to which all human beings are entitled, regardless of their sexual orientation, gender identity or expression, or other status. In the northern part of Cyprus, the following international conventions have been ratified and made part of ‘domestic law’ to safeguard human rights:

- European Convention on Human Rights and Fundamental Freedoms (European Convention on Human Rights - ECHR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Covenant on Civil and Political Rights (ICCPR)
- Charter of Fundamental Rights of the European Union (CFREU)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)
- Convention Against Torture (CAT)
- Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Rights of Persons with Disabilities (CRPD)
- Convention on the Rights of the Child (CRC)
- 1951 Refugee Convention (RC)

26 *Loizidou v. Turkey*, no. 15318/89, 18 December 1996, ECHR.
27 <https://www.mahkemeler.net/cgi-bin/anayasa.aspx>
28 5/2015 D. 2/2017, Nina Maiko n/d Nikolayevna Nina Mayko v Mustafa Yeniada
29 Atılgan & Polili, ‘The northern part of Cyprus...’ (2021) Queer Cyprus Association.

These Conventions are important instruments for safeguarding the human rights of LGBTI+s and combating discrimination. However, their full and effective implementation is required to ensure adequate protection of these rights. The ICCPR and ICESCR are two fundamental human rights Conventions that ensure the protection of human rights for all people, including LGBTI+s. The ICCPR regulates civil and political rights such as the right to life, freedom of expression, freedom from torture and ill-treatment, while the ICESCR regulates economic, social and cultural rights such as the right to work, education and health.³⁰ The Council of Europe also has a number of human rights instruments and laws that provide additional protection for the human rights of LGBTI+s. These provide protection for civilians, including LGBTI+s, and prohibit acts of violence such as attacks and torture against civilians, regardless of the justification for such treatment, including sexual orientation or gender identity. In addition, various non-binding UN resolutions and instruments, such as *the Yogyakarta Principles*³¹ on the implementation of international human rights law in relation to sexual orientation and gender identity, provide guidance to states on their obligations to respect and protect the human rights of LGBTI+s. *The Yogyakarta Principles* affirm internationally binding legal standards to which all states must adhere. Overall, the international legal framework provides a strong foundation for the protection of the human rights of LGBTI+s and a basis for States to take steps to eliminate discrimination and protect the rights of everyone, regardless of their sexual orientation or gender identity.

Established in 2014 within the scope of the ‘law’ on the establishment, duties and working principles of the local gender equality department,³² the gender equality department aims to promote gender equality at the economic, educational, and social levels, to reflect these policies in macro plans and policies produced at the ‘state’ level, and to prevent violence and discrimination against women and LGBTI+s. It was also envisaged to establish an advisory and monitoring council within the remit of the department; a gender focal point (GFP); violence prevention and counselling centres (VPCC); produce an ‘action plan’ at the gender equality workshop’ to be held annually; prepare White, Red, Blue, Purple and Green Reports, and establish shelters. While years have passed, it is generally acknowledged that the ‘gender equality department has not been made effective and that its envisaged activities have been limited.’³³ Furthermore, the local ‘ombudsperson’ is authorised under ‘article 144 of the constitution’ to oversee whether the decisions and actions taken by the administration comply with international Conventions, domestic ‘legislation’ and ‘court’ decisions. The ‘ombudsperson’ can act upon application, but also has the authority to act ex officio in cases where it sees a violation of rights without necessarily receiving an application.³⁴ Although the ‘ombudsperson’ is an important instrument in the context of overseeing how the administration implements the above-mentioned legal instruments, it has little impact on eliminating rights violations due to the lack of sanctioning authority and the non-binding nature of its reports and/or warnings. In addition, none of the 7 reports published in 2022 address human rights violations experienced by LGBTI+s.³⁵ This may be due to the fact that there are no applications on the subject and/or the ‘ombudsperson’ does not take steps and conduct ex officio investigations on this issue. Finally, although the ‘parliamentary committee’ on monitoring gender discrimination in ‘laws’ does not have the authority to make or amend ‘laws’, it can carry out studies and submit these studies to the ‘office of the speaker of the parliament’. The ‘committee’ carried out studies throughout the monitoring process of this report, where HRP was also present.³⁶

30 Yeni Düzen, ‘Berova and Candan attended the 4th Term Ordinary General Assembly of PACE 2022 Source: Berova and Candan attended the 4th Term Ordinary General Assembly of PACE 2022’, 13 October 2022 <https://www.yeniduzen.com/berova-ve-candan-akpa-2022-yili-4-donem-olagan-genel-kuruluna-katildi-157305h.htm> accessed on January 17, 2023.
31 KAOS GL, ‘Yogyakarta Principles (Extended Version as of 2017) 2020. <https://kaosgl.dernegi.org/images/library/yogyakarta-web.pdf>
32 <https://www.mahkemeler.net/birlestirilmis/61-2014.docx>
33 <https://tosed.gov.ct.tr/HABERLER/toplumsal-cinsiyet-e-c5%9fitilic4%9fi-dairesi-kurulu-c5%9f-231al-c4%b1-c5%9fmalar-c4%b1-devam-ediyor>
34 ‘article 15(1) of the law on ombudsperson’ No. 38/1996.
35 <https://ombudsman.gov.ct.tr/BA%5%9EVURU-RAPORLARI/PgrID/2617/PagelD/1>
36 <http://www.cm.gov.nc.tr/KomiteDiger>

HUMAN RIGHTS SITUATION OF LGBTI+S IN THE NORTHERN PART OF CYPRUS

Within the scope of the report, the monitoring analysis begins with an analysis of data collected by Queer Cyprus Association's *Solidarity Hotline*³⁷ and proceeds to the analysis of headings grouped according to the areas in which human rights violations are most prevalent. Under these headings: 'Personal Security and Violence', 'Hate Crime', 'Hate Speech', 'Housing', 'Education', 'Health', 'Employment', 'Private Life, Recognition and Family Formation', 'Access to Goods and Services', 'Political and Public Rights', 'Right to Association and Peaceful Assembly', 'LGBTI+ Refugees' Right to Asylum'.

A total of 102 people of whom 74 were between the ages of 18 and 30 reached the *Solidarity Hotline* run by the Queer Cyprus Association in 2022. Human rights violations identified in these calls include the following:

Discrimination and Violence: Many records mention discrimination and violence experienced by LGBTI+s. For example, one person was thrown out of a gay bar in Kyrenia and subjected to violence by the bar owner. Many people also reported being subjected to blackmail and threats of violence from gay dating apps. Individual incidents of victimisation were not reported to the 'authorities' as people lacked trust in local 'authorities'. However, when more than one person was victimised, with the support of HRP and QCA, the complaints were transferred to the 'police' and the perpetrators were penalized.³⁸ Similarly, one person faced discrimination in a public institution on the grounds of their gender identity but did not file a complaint due to the fear of losing their job if they complained.

Access to Justice: LGBTI+s experience a lack of trust in local bodies, especially the 'police'. At this point, it is noteworthy that the 'police' address LGBTI+s with discriminatory and wrong terms while taking statements; take statements without taking into account the secrecy of people's private life and do not exhibit a human rights-based approach. For this reason, LGBTI+s are reluctant to file a complaint about human rights violations they have experienced and are concerned that if they file a complaint, they will be forced to disclose their sexual orientation or gender identity or that this information will not be kept confidential and will be shared.

Military Service: Persons who were given a report of fit for military service despite having declared their sexual orientation or gender identity and who wished to appeal the decision stated that they were concerned about the discrimination and especially violence they would experience in military service.

Health: Within the right of everyone to enjoy the highest attainable standard of physical and mental health, 18 applications were received concerning the right to health care. This figure constitutes 18% of the total number of applications. Among the prominent violations of rights here are the lack of access to surgery and hormones within the scope of the gender reassignment process; the lack of anonymous and free HIV testing centres in cities other than Nicosia, and the deportation of foreign nationals diagnosed with HIV.

Education and Training: During the monitoring period, one person requested an informative seminar on the struggle and rights of LGBTI+s and asked for psychological counselling support for the school where they work. However, it is known that the 'ministry' responsible for education does not allow education on the human rights of LGBTI+s in schools.

Refugee and Asylum Issues: Human rights violations in this area are covered in more detail in the *Refugee Rights Monitoring Report* prepared by the HRP. However, as mentioned under the heading regarding health issues, non-citizens are deported due to their HIV status, and in 2022, while a refugee was about to be deported due to their status, the deportation decision was reversed at the last minute thanks to the joint efforts of QCA and the Refugee Rights Association.

³⁷ Queer Cyprus Association, *Solidarity Line* <https://www.queercyprus.org/2022/09/08/dayanisma-hatti>

³⁸ Gündem Kıbrıs, "He will serve 2 years in prison", 10 December 2022 <https://www.gundemkibris.com/2-yil-hapis-yatacak>



NON-DISCRIMINATION AND EQUALITY

Personal Safety and Violence

Discrimination, in its simplest definition, is when people are treated differently on the basis of various characteristics.³⁹ In the context of this report, discrimination includes the negative experiences of people based on their gender identity, sexual orientation and/or gender characteristics (intersex status). Although the 'constitution' does not directly prohibit discrimination based on gender identity, sexual orientation and/or gender characteristics, it indirectly prohibits it through the conventions it has ratified and incorporated into 'domestic law'. An inclusive list of international conventions and instruments that include the prohibition of discrimination can be found in the report *Analysis of 'legislation' in the northern part of Cyprus in terms of Discrimination against LGBTI+s*.⁴⁰ The 'law on gender equality department' No. 61/2014 adopted in the northern part of Cyprus is a 'legal regulation' that covers discrimination based on sexual orientation and gender identity and specifically defines gender-based discrimination. The gender equality department (TOCED) under the directorate of social services was intended to carry out activities to prevent violence and combat discrimination. However, it is known that the department cannot actively provide functional services due to lack of personnel and budget. Furthermore, violence prevention units were established in 'police directorates'. However, it is acknowledged that the 'police officers' working in these departments are not trained to protect the human rights of LGBTI+s and do not have an awareness on this issue. Moreover, it is defined as an offence to discriminate against the beneficiary of public service regulated by 'article 174 of the chapter 154 the penal code' because of their sex, sexual orientation or gender identity.

Regarding the prohibition of discrimination, HRP also provided legal support to LGBTI+s in 2022. Discrimination against LGBTI+s was mostly observed in areas such as education, health, employment and housing. Particularly, while the rights to HIV treatment, privacy rights, access to working life and the right to benefit from new treatment methods are violated, the broadcast of news by media outlets can also contribute to an increase in violations of human rights and discrimination.⁴¹ Although the types of discrimination will be discussed in more details under the headings coming up in the following pages, it would be useful to cite a few examples here as well. For instance, in the *family workshop* event held at a hotel in Kyrenia on February 17-18, 2022 under the auspices of Ersin Tatar, leader of the Turkish Cypriot community, family was defined as a heteronormative structure consisting of a mother, a father and children, and this discrimination was indirectly made in the presentations given by the speakers, including in the materials distributed.⁴² QCA condemned these discriminatory discourses against LGBTI+s at the workshop and requested the 'police' to initiate an investigation on this issue,⁴³ but no progress has been made.

39 Atılgan & Polili, 'The northern part of Cyprus...', Queer Cyprus Association, 2021.

40 ibid.

41 Queer Cyprus Association, 'Joint Statement from Civil Society Organisations on HIV News', 26 November 2022 www.queercyprus.org/2022/11/26/sivil-toplum-orgutlerinden-hiv-haberleri-hakkinda-ortak-aciklama/

42 Ozgur Gazete, 'The queue for intervention has reached inside our homes: Tatar wants to raise 'national generation'', 18 February 2022 www.ozgurgazetekibris.com/kibris/83054-mudahale-sirasi-evimizin-icine-kadar-geldi-tatar-milli-nesil-yetistirmek-istiyor.html

43 Queer Cyprus Association, 'An Immediate Investigation Should Be Started Regarding the Family Workshop!', 18 February 2022 www.queercyprus.org/2022/02/18/aile-calistayi-ile-ilgili-derhal-sorusturma-baslatilmali/

The HRP visited the new local 'prison' at various times in 2022 in order to observe the conditions of detention of trans women. HRP observed that due to the binary gender rules and infrastructure of both the old and the new 'prison', trans women whose gender is not legally recognised are kept in isolation. It was also found that due to the 'prison's binary gender regulations, trans women's access to health services and their right to privacy were also violated.⁴⁴ Hormones that may be necessary for the gender reassignment process are not included in the list of medicines that can be taken into 'prison', thus preventing access to the right to health care. In addition, the HRP lawyer who visited the 'detention centre' at Nicosia 'police station' several times also met with another trans detainee and made the following observations:

The trans detainee was held in a cell characterised as very small. Ventilation is completely absent, there is no fresh air, and the place has no windows. The detainees sleep on pieces of wood with blankets on top. The place was unhygienic, and the detainee claimed that they could not take a shower, although the officer concerned claimed otherwise. The odour of the place was unbearable, and the detainees were given two sandwiches with few ingredients all day long. Thus, the 'detention centre' does not meet the standards of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁴⁵

QCA and HRP's joint monitoring of the situation of trans women in 'prisons' revealed major human rights violations. In response, a proposal was submitted to the 'parliament' in 2022 to pass a 'legal regulation' aiming at reducing human rights violations. When taken into account, the isolation of transgenders whose gender is not legally recognised, and the prevention of their access to gender-affirming health services constitute a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment as set out in Article 7 of the ICCPR. The lack of access to nutritious food, fresh air and hygienic conditions in cells that are appropriate to the needs of detainees is also a violation of the right to humane treatment during detention under Article 10 of the ICCPR. HRP's visits to 'detention centres' and 'prisons' revealed that LGBTI+s are severely exposed to rights violations due to detention conditions. Discrimination experienced at society level is also perpetuated by local officials under conditions of detention. As a result of their isolation, trans prisoners are excluded from socialisation, which leads to psychological issues. Furthermore, the right to health is also violated by the fact that sex-affirming hormones are not included in the list of pills that can be taken in 'prison'. A trans prisoner has had difficulty accessing a doctor despite a request made in 'court' by the client's lawyer. International mechanisms obligate states to protect all prisoners and take positive action to eliminate all forms of discrimination against prisoners with special needs, including LGBTI+s.⁴⁶ However, prisoners who are perceived to be non-binary are kept in isolation whenever they are deemed to not conform to their assigned gender. Similarly, humanitarian conditions in 'detention centres' are poor, and fundamental rights (use of telephone, use of showers, etc.) can be denied by the initiative of officials. As a result of the advocacy work carried out, the decision of the Nicosia 'high criminal court' confirming that it is unacceptable for trans prisoners to be kept in solitary cells for their own safety⁴⁷ is an important step towards ensuring the protection of the human rights of trans prisoners. In its ruling, the 'court' asked the 'ministry of interior' to launch an investigation on the 'prison' administration regarding the isolation practice referred to in its judgement.

44 Queer Cyprus Association, 'Binary Gender Regime Causes Rights Violations!', 14 October 2022 www.queercyprus.org/2022/10/14/kuir-kibris-dernegi-basin-aciklamasi-ikili-cinsiyet-rejimi-hak-ihlallerine-neden-oluyor%ef%bf%bc%ef%bf%bc/

45 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), Adopted 19 July 2004. <https://www.mahkemeler.net/birlestirilmis/28-2004.doc>

46 UN Office on Combating Drugs and Crime, 'Handbook on Prisoners with Special Needs', 2009. www.ozelhtiyacacilimahpuslar.files.wordpress.com/2015/01/ozel_htiyaclara_sahip_mahpuslar_uzerine_el_kitabi.pdf

47 Human Rights Platform, 'Exposure of Transgenders in Isolation is a Violation of Rights and Unacceptable', 15 December 2022 www.insanhaklariplatformu.eu/detail/15-12-22-translarin-tecritte-maruz-birakilmasi-hak-ihlalidir-ve-kabul-edilemez/1102

Following this ruling, a petition was submitted to the ‘ministry of interior’ as to whether an investigation had been launched, but the ‘ministry’ did not respond, even though it exceeded the legal deadline set under the ‘right to information act 12/2006’. In addition to all these facts, it is also known that toilets in public places are designed according to the binary gender system, and it paves the way to a discriminatory practice for transgenders and non-binaries. People who are perceived to be non-binary may be subjected to verbal or physical harassment in environments organised according to the binary gender system. A well-established fact is that in order to benefit from cash benefits provided by social services, people are required to submit a medical report stating that they are suffering psychological problems as a result of social exclusion/discrimination/oppression due to their sexual orientation, gender identity, expression and gender characteristics. The health report thus obtained is used as proof that the person concerned is prevented from working and the person in question obtains the right to benefit from cash assistance. This practice not only increases discrimination and marginalisation but also violates the fundamental human right to privacy.⁴⁸ It is well established that transgenders and non-binaries receive a ‘fit for military service’ report despite their requests for exemption from military service due to the fear of discrimination based on their perceived gender identity and sexual orientation. Some of these people have to migrate from the northern part of Cyprus and some of them are subjected to violence and discrimination by being drafted into military service.⁴⁹ The way transgenders who request to be exempted from military service are treated and the fact that they are forced to leave the ‘country’ is a violation of the right to freedom of movement as set out in Article 13 of the UDHR and Article 12 of the ICCPR. The right to freedom of movement guarantees the right of everyone to leave any country, including their own, and to return to their country of origin.

Hate Crime

In the northern part of Cyprus, there is no holistic ‘legal text’ that specifically regulates hate crime based on gender identity, sexual orientation and/or gender characteristics. Nevertheless, as previously mentioned, with the amendments made in 2014, it has been made possible to impose more severe penalties for certain offences defined in the ‘penal code’, provided the offence has a hate motive. However, local bodies do not monitor hate crimes against LGBTI+s. For example, a person who called the QCA *Solidarity Hotline* complained about someone who recorded sexually explicit videos of their acquaintances without permission and then blackmailed them. The caller was informed about the legal steps that could be taken and the psychological support that the association could provide. After the victim complained to the ‘police’, the perpetrators were arrested and brought to ‘court’, and as a result of the trial, one of the perpetrators was sentenced to 2 years and the other to 3 months in ‘prison’.⁵⁰ Although it is a known fact that LGBTI+s are widely threatened to be exposed,⁵¹ apart from the ‘prison’ sentences imposed on those who commit these crimes, no efforts have been made by the local ‘authorities’ to raise awareness of this issue. This situation constitutes the violation of the right to life, liberty and security of person guaranteed under Articles 2 and 3 of the ECHR and Articles 6 and 7 of the International Covenant on Civil and Political Rights. Harassment and violence against LGBTI+s, including psychological violence, blackmail and sharing of sexually explicit videos, can violate the right to life (Article 6 ICCPR), the right to equality and non-discrimination (Article 2 ICCPR), the right to privacy (Article 17 ICCPR) and the right to be free of violence (Article 6 ICCPR).

48 Şemi & Uluçaylı, ‘In the northern part of Cyprus...’ (2021) Queer Cyprus Association

49 Queer Cyprus Association, ‘Militarism and LGBTI+ Struggle in the northern part of Cyprus Booklet’ (2020)

50 Yeni Düzen, ‘2 years of imprisonment to Doğan, 3 months to A.K. Source: 2 years to Doğan, 3 months to A.K.’, 9 December 2022 <https://www.yeniduzen.com/dogana-2-yil-a-k-ye-3-ay-hapis-159093h.htm>

51 Bhatti & Lisaniler, ‘LGBTI+s’ Access to Employment...’ (2021) Queer Cyprus Association.



Hate Speech

The prohibition of hate speech against LGBTI+s is regulated by various international human rights conventions. In addition, hate speech based on sexual orientation and gender identity is defined as an offence in ‘article 171 of the penal code’ dated March 23, 2020.⁵² Although this is a positive development, the ‘police’ fails in detecting hate speech, especially online hate speech, and in conducting effective investigations. Activists in particular request that social media institutions remove hundreds of hate speech comments which are posted online each year during the announcement of Pride Parades organised in May. By the end of 2022, the investigations of hate speech complaints made to the ‘police’ in 2021 had not been completed and were not referred to the prosecutor’s office. Ferhat Atik’s column published during the monitoring period in daily *Kıbrıs Postası* on July 27, 2022 is one of such cases. In his column, Ferhat Atik characterised the publications, that do not censor sexual orientation and/or gender expressions of individuals and/or feature such individuals, as ‘recklessness’, and alleged that such publications constitute ‘homosexuality propaganda’. Calling for both the ‘radio and television supreme council’ (RTÜK) and his ‘friends in Ankara’ to intervene in this matter, Atik claimed that gays form a ‘perverted sect’ which contradicts ‘moral and cultural’ values. The article, in its entirety, contained many hate speech statements, and as defined in accordance with the ‘law’, contained statements directly aiming at LGBTI+s that led to hatred, disgust, humiliation, and degradation of this community and its members. Moreover, the article damages the reputation of the LGBTI+ community by targeting them in a way that constitutes a criminal offense based on their sexual orientation and gender identity. The HRP reported this article, as well as many other comments containing hate speech in the online environment, to the ‘Nicosia judicial branch’ on July 29, 2022, but was unable to obtain any further information regarding the process despite having filed a petition. The matter was also referred to the local media ethics board on November 10, 2022, with a request to condemn this hate speech. However, the media ethics board responded on February 1, 2023, with the following reply: “Although the board members have also expressed their concern regarding the discomfort you have experienced, there is a consensus that the issue in question, unfortunately, does not fall within the purview of the ‘media ethics board’”. It was questioned why the media ethics board had decided to disregard Ferhat Atik’s column when they had previously issued condemnation letters regarding hate speech based on sexual orientation and gender identity, and it was revealed that the media ethics board had ceased issuing condemnation letters in response to columns. In 2022, another hate speech incident took place in daily *Kıbrıs* Editor-in-Chief Özer Kanlı’s article *Attacks on our national values, family, and social structure...* dated December 29, 2022. This was followed by Özer Kanlı’s articles containing hate speech against LGBTI+s.⁵³ Complaints about these publications were also made to the Nicosia ‘judicial branch’ and to the media ethics board as well.

52 https://www.mahkemeler.net/birlestirilmis/f_154.doc

53 Queer Cyprus Association, ‘We condemn the article of Kıbrıs Newspaper General Coordinator and Editor-in-Chief Özer Kanlı, which targets LGBTI+s’, 31 December 2022 www.queercyprus.org/2022/12/31/lgbtilari-hedef-alan-kibris-gazetesi-genel-koordinatör-ve-genel-yayın-yönetmeni-özer-kanlınin-yazisini-kiniyoruz/

Furthermore, several civil society organisations operating in the northern part of Cyprus, including QCA and HRP, held a demonstration in front of *Kıbrıs* on January 26, 2023, and urged Özer Kanlı to resign.⁵⁴ Moreover, the investigations of hate speech complaints filed prior to the monitoring period were not completed and referred to the prosecutor's office. For example, on May 18, 2021, the press release of Cyprus Turkish Educators Union (KIBTES) signed by chairperson Himmet Turgut, which appeared in various newspapers, contained hate speech targeting LGBTI+s. The article, which was complained to both the 'judicial branch' and the media ethics board by QCA, was condemned by the local media ethics board, while the 'police'⁵⁵ did not complete the investigation and refer it to the prosecutor's office. Mass hate speech against LGBTI+s continues on online media, especially on Facebook. In the meantime, an effective investigation is not carried out to penalize those who commit these crimes either. QCA filed a lawsuit against the 'police' on December 9, 2022, on the grounds that the crime of hate speech is widely committed in the 'public sphere' and that no effective investigation has been carried out in this regard, even though 3 years have passed since the amendment of the 'law'.

Housing

As for housing, LGBTI+s face difficulties due to societal discrimination. QCA's⁵⁶ *report on Mapping the access of LGBTI+s to existing social services* in the northern part of Cyprus highlighted that LGBTI+s experience difficulties when it comes to their right to housing. These difficulties include situations such as rejection by the landlord, constant harassment and threats or exclusion by neighbours. The report's data revealed that many LGBTI+s in the northern part of Cyprus face homelessness and many who experience housing difficulties face discrimination from their families or landlords on the grounds that they are LGBTI+. Providing safe accommodation to LGBTI+s is an important component of ensuring their safety. Moreover, in the case of violence against women, there is only one shelter in the northern part of Cyprus in Nicosia. Although this shelter is run with policies inclusive of lesbian, bisexual and transgenders, there is no place where people other than women can seek shelter in case of violence. A HRP legal support recipient was verbally abused and expelled from the student dormitory where they were staying, despite having paid a year's registration fee, on the grounds that they participated in the Pride Parade that took place in 2022 in the northern part of Cyprus. The person who was discriminated against on the basis of their presumed sexual orientation contacted QCA and requested legal support. The matter was handled jointly by QCA and HRP, the dormitory management was notified not to discriminate and not to violate the rights of the person based on the findings of their legal research and the victim's requests. The dormitory in question did not respond to the petition within the reporting period. These difficulties can be considered as violations of the provisions enshrined in international human rights conventions such as the right to housing, equality and non-discrimination. For instance, discrimination of LGBTI+s by their landlords or families violates the principle of non-discrimination. Failure to provide adequate housing, as a component of the right to adequate living standard and the right not to be discriminated against in this context, constitutes a violation of the conventions, such as the International Covenant on Civil and Political Rights, the European Convention on Human Rights, the UN Convention on the Rights of Persons with Disabilities and the UN Convention on Refugees, stipulating the right to housing and the right to personal safety. There is no 'law' prohibiting discrimination in 'local legislation' to guarantee LGBTI+s right to housing.⁵⁷ In addition, LGBTI+s have limited means of seeking rights and protection in case of rejection by the landlord. Furthermore, there are no special provisions in the existing 'legal regulations' that address the partnerships of LGBTI+s in the form of marriage or cohabitation.

54 YeniDüzen, '39 organisations protest against Ünsal', 26 January 2023 <https://www.yeniduzen.com/39-orguten-unsala-protesto-160541h.htm>
55 Media Ethics Committee, 'Hate Language', 6 April 2022 www.medyatikkurulu.org/wordpress/index.php/basin-aciklamasi-5/

Education

Upon examination of the 'legislation' in the northern part of Cyprus, it appears that there is no 'legislation' that prohibits discrimination in the field of education and that clearly states gender identity, sexual orientation and/or gender characteristics.⁵⁸ Numerous reports indicate that LGBTI+ students are exposed to particularly negative experiences such as discrimination, bullying, humiliation and exclusion due to their sexual orientation or gender identity.⁵⁹ In some cases, LGBTI+ students face open discrimination and even physical harassment at school. Instead of protecting the rights of LGBTI+ students, school administrations may remain silent or support discriminatory behaviours.⁶⁰ LGBTI+ students are frequently discriminated against and subjected to violence during the academic process, which may result in violations of their rights to education and safety. A 'request for information' dated January 11, 2023 was submitted to the 'ministry of education' on this matter. The petition asked whether they have policies to prevent discrimination and bullying in schools, whether these issues are included in the curriculum, and what kind of sanctions can be imposed in case of discrimination or violence experienced by employees or service recipients, but the answer received stated that 'no records and/or research on this issue has been found'. Furthermore, the Protocol⁶¹ on *gender justice and domestic violence* signed between KAYAD, willing to conduct a pilot study on this issue, and the 'ministry of education', was declared invalid by the 'minister of education' in a televised programme⁶² as a result of various hate speech and finger-pointing.⁶³

Health

In the northern part of Cyprus, LGBTI+s are widely and systematically discriminated against in terms of access to their right to health. *The Mapping Study on LGBTI+ Access to Existing social services in the northern part of Cyprus* demonstrates that 62.7% of the participants find health services inadequate. Health services provided by healthcare institutions cannot fully fulfil their duties in the context of human rights and patient rights of LGBTI+s.⁶⁴ Discrimination in the field of health in the northern part of Cyprus can be summarised as follows:

Discrimination in Health: LGBTI+s are subjected to discrimination on the basis of gender identity, sexual orientation and/or gender characteristics. For example, intersex babies are subjected to medical interventions to be compatible with one of the binary sexes thus violating their bodily integrity even though there is no medical necessity after birth. Due to the absence of a legal prohibition, it is left to the discretion of physicians.

Access to Health Services: LGBTI+s and especially transgenders face obstacles in accessing health services due to discrimination. Currently, gender affirming health services are not easily accessible and are not free of charge. In addition, many transgenders are addressed by their identity names and their gender identities are questioned while benefiting from health services. Due to the discrimination experienced, LGBTI+s cannot access health services equally.

Mental Health: Despite the lack of mental health diagnoses related to trans identities in clinical classification standards or equivalents, many trans people receive mental health diagnoses and are subjected to heavy psychiatric medication.

Support Services: Access to support services necessary for children and adults in the gender harmonisation process is limited.

58 Ibid.
59 Yeni Düzen, 'Queer Cyprus: "There is serious discrimination and systematic violence in education" Source: Queer Cyprus: "There is serious discrimination and systematic violence in education"', 26 November 2021 <https://www.yeniduzen.com/kuir-kibris-egitimde-ciddi-ayrimcilik-ve-sistematik-siddet-var-146925h.htm>
60 Şemi & Uluçaylı, 'In the northern part of Cyprus...' (2021) Queer Cyprus Association.
61 Kıbrıs Genç TV, 'protocol signed between KAYAD and the 'ministry of education', 24 December 2021 www.kibrisgenctv.com/kibris/kayad-ile-egitim-bakanligi-arasinda-protokol-h94112.html
62 Haber Kıbrıs, 'Özkan: Amcaoğlu Should Immediately Make a Statement on the Content of the Protocol', 27 December 2021 www.haberkibris.com/ozkan-amcaoglu-protokolun-icerigi-konusunda-derhal-aciklama-yapmali-1345-2021-12-27.html
63 BRT Archive, 'Election Special 03.01.2022 (Evening)', 2:02:00-02:02:06, https://youtu.be/_XAdCjgMLdU
64 Şemi & Uluçaylı, 'In the northern part of Cyprus...' (2021) Queer Cyprus Association.

Blood Donation: Although there is no ‘regulation’ or ‘law’ that prevents LGBTI+s from donating blood,⁶⁵ in both private and public healthcare institutions, ‘male-to-male sexual intercourse’ is seen as an obstacle to donating blood or bodily tissue.

Anti-Retroviral Treatment: LGBTI+s living with HIV may face discrimination in accessing anti-retroviral treatment. In addition, people who are not citizens are deported following a HIV positive diagnosis. This situation also causes people to avoid being tested. The fact that LGBTI+ migrants cannot access information about living with HIV in the northern part of Cyprus and are being deported without receiving support is a violation of the right to health as stated in Article 12 of the ICESCR.

Reparative or Transformative Therapies: Since so-called ‘reparative’ therapies are not prohibited, LGBTI+s may be subjected to ‘reparative’ or ‘transformative’ therapies on the basis of their gender identity or sexual orientation. Such practices are carried out in many parts of the world with the aim of changing sexual orientation or gender identity and cause serious physical and psychological harm to LGBTI+s.⁶⁶

Employment

LGBTI+s are subjected to various human rights violations in the field of employment. These rights violations can be summarised as follows:

Discrimination: LGBTI+s may be discriminated against, during job applications, due to their sexual orientation or gender identity. Employers tend to discriminate against LGBTI+s during the recruitment process and reject their applications. In the workplace, LGBTI+s may face mobbing by other employees or experience delay in promotion.

Equal pay: LGBTI+s may be paid less than their heterosexual colleagues doing the same job because of their sexual orientation or gender identity. This is contrary to the principle of equal pay for equal work. Tax reductions granted to heterosexuals due to marriage and having children indirectly cause wage inequality.

Dismissal from work: LGBTI+s can be dismissed from their jobs for openly expressing their sexual orientation or gender identity at work. As a result, the freedom of expression of LGBTI+ individuals is being restricted.

Workplace bullying: LGBTI+s may face discriminatory and LGBTI+ phobic attitudes in the workplace. They may be mocked, insulted or subjected to physical violence by other employees.

During the monitoring period, no LGBTI+ reported any violation of rights based on sexual orientation and/or gender identity in the field of employment to QCA’s Solidarity Hotline or HRP’s communication channels. However, as stated in the report published by QCA in 2021, it is an acknowledged fact that there are LGBTI+s who are subjected to discrimination in the process of finding a job, promotion and dismissal.⁶⁷ These include the inability of same-sex couples to benefit from the incentives given to married couples due to the lack of recognition of the right to register union for same-sex couples, the lack of a protective mechanism that can be applied in case of discrimination in the workplace, the cis-hetero⁶⁸ normative construction of workplace meals and similar socialisation activities, and discrediting the work done by LGBTI+s. Finally, in the response given on March 27, 2023 to the petition for information submitted to the ‘ministry of labour and social security’ during the monitoring process, it was emphasised that everyone has equal rights according to the ‘constitution’, that local public officials have a duty of impartiality according to the ‘law on public officials’ and that anti-discrimination policies are supported regardless of gender, sexual orientation and/or gender identity within the scope of the ‘law on gender equality department’.

65 Atilgan & Polili, ‘The northern part of Cyprus...’ (2021) Queer Cyprus Association.
66 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/108/68/PDF/G2010868.pdf?OpenElement>
67 Bhatti & Lisanlier, ‘LGBTI+s’ Access to Employment...’ (2021) Queer Cyprus Association.

68 ‘Cis-hetero’ refers to people who have the same gender identity as the sex assigned at birth and have a heterosexual sexual orientation.



PRIVATE LIFE, RECOGNITION AND FAMILY FORMATION

Legal Recognition of Gender

Legal Gender Recognition (LGR) is the recognition of a person’s gender identity in official documents and before authorities. Due to the lack of a holistic ‘legal regulation’ in the northern part of Cyprus, the right to access LGR and gender harmonisation process is limited. QCA’s 2021 report on the *Right to Legal Recognition of Gender and Access to Gender Reconciliation under International Human Rights Protection Mechanisms* addresses this situation comprehensively.⁶⁹ The ‘legal regulation’ on LGR in the northern part of Cyprus is addressed under ‘article 33(3) of the law no. 2/1975 on the registration of birth and death’.⁷⁰ In accordance with ‘article 33(3)’, for LGR, a person must undergo a ‘physical change affecting their gender’ through a medical operation, have this situation approved by a medical board and apply to the civil registry office with the report they obtained. During this process, the privacy of individuals’ private lives is repeatedly violated, and physicians may violate their bodily integrity and apply methods such as manual examination in order to provide the reports. People who want LGR but do not want to undergo gender reassignment surgery for various reasons are forced to undergo medical interventions due to this ‘legal regulation’. As can be understood from all these processes, LGR in the northern part of Cyprus is not regulated on the basis of respect for the principle of self-determination. In order to ‘regulate’ this anachronistic practice, on October 27, 2022, representatives of LGR and HRP were invited to the ‘parliamentary committee’ on monitoring gender discrimination in existing ‘laws’ and presented their views for the amendment of the existing ‘regulations’ in a way to reduce violations of rights. Restricted access to LGR and gender mainstreaming in the northern part of Cyprus violates many international conventions on equality and non-discrimination. Furthermore, the restriction of the right to access gender reassignment can also be considered a violation of rights such as the right to life, the right to health and the prohibition of torture.

69 Ergün and Paşa, ‘International Human Rights...’ (2021) Queer Cyprus Association.
70 <https://www.mahkemeler.net/birlestirilmis/2-1975.doc>

Family Rights

There are serious violations of family rights in the northern part of Cyprus. Same-sex marriage, registered civil partnerships, joint adoption and medically assisted fertilisation are not permitted. The legal gender and name of transgender parents are not recognised on the child's birth certificate, and 'regulations' on the recognition of parenthood are limited to the binary gender system and heterosexual relationships. Similarly, the concept of family is taught in schools as the core structure of society consisting of mother, father, and children. At the same time, the Justice and Development Party government in Turkey targeting LGBTI+s through the concept of family and advocating that LGBTI+s are 'deviant' has also been on the agenda of the local press in the northern part of Cyprus.⁷¹ The fact that newspapers do not publish from a human rights perspective and report these statements as they are, causes discrimination and violation of human rights of LGBTI+s and families outside heterosexual families. These violations of rights contradict many articles of international conventions such as Article 8 of the ECHR, Article 7 of the CRCPR, Article 16 of the Covenant on the Rights of the Child.

Access to Goods and Services

Since 2014, 'article 174 of chapter 154 the penal code' prohibits discrimination on the basis of sex, sexual orientation and gender identity in access to publicly provided goods and services. 'Article 6 of the law on good governance' is another provision that prohibits discrimination on the basis of sexual orientation and/or gender identity in access to public goods and services. While this is the case in the 'legislation', this practice may constitute discrimination for transgender people in the process of harmonisation and non-binaries due to the separation of public toilets in public spaces according to the binary gender system.⁷²

POLITICAL RIGHTS

Right to Association and Peaceful Assembly

The right to freedom of association is one of the reasons why organisations working on human rights issues for LGBTI+s have no difficulties in getting registered and becoming operational. Freedom of association is protected by a number of human rights conventions as well as the ECHR. It is the case internationally, however, since the local district offices request membership lists from associations, it carries both a data security risk⁷³ and discrimination risk against LGBTI+ organisations in terms of freedom of association and interference in private life because of the small size of the society and the stigmatization prevalent within the society. Protests and public events organised in the northern part of Cyprus are not subject to permission as it is a 'constitutional' right and are protected by the 'police' against possible attacks. However, as stated in the *Legal Gap Analysis* report,⁷⁴ the articles in the 'penal code' that emphasise 'morality' are highly problematic and discriminatory due to the fact that the term 'morality' is open to interpretation in relation to forming an association and peaceful assembly. It can, therefore, be used against LGBTI+s in their existential struggle. By preventing demonstrations and parades, which are essential for the visibility of LGBTI+s in public life and for their struggle against social prejudice, such 'laws' may further deepen discrimination in the public rights sphere and pave the way for the exclusion of LGBTI+s from society. It is not difficult for organisations active in the field of LGBTI+ rights to register, operate as associations, and organize demonstrations and events. However, the governance in Turkey as well as in the northern part of Cyprus is becoming increasingly conservative, which poses an increasing risk for human rights advocates. Moreover, civil society organisations working already with limited resources have difficulties in accessing funds due to the 'Cyprus Issue'. Detailed information on this matter is provided in HRP's *Democratic Rights Monitoring Report*.

71 Gündem Kıbrıs, 'President Erdoğan spoke very clearly by saying 'deviant movements'', 19 December 2022 <https://www.gundemkibris.com/cumhurbaskani-erdogan-sapkin-akimlar-diye-ek-cok-net-konustu>

72 Victor Madrigal - Borloz, 'Independent Expert Report on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity' (2019) United Nations <https://kaosgl-dernegi.org/images/library/2019birlesmis-milletler-cinsel-yonelim-ve-cinsiyet-kimligine-dayali-siddet-ve-ayrimciliga-karsi-koruma.pdf>

73 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/249/21/PDF/G2124921.pdf?OpenElement>

74 Atılğan & Polilli, 'The northern part of Cyprus...' (2021) Queer Cyprus Association.

Right to Asylum of LGBTI+ Refugees

There is no asylum 'legislation' in the northern part of Cyprus. 'Chapter 105 the law on foreigners and immigration' is the main document on immigration, border control, detention, deportation and residence permits.⁷⁵ This 'law' is not compatible with the responsibilities related to international human rights and refugee rights, which are part of the 'legislation' in the northern part of Cyprus. Under the provisions of this 'law', refugees and asylum seekers are subjected to penalties for irregular entry and stay and are then repatriated to their countries of origin. Specifically, Syrian nationals are sent back to Turkey, while non-Syrian nationals are repatriated to their countries of origin via Turkey. This happens routinely without conducting any individual case assessment. In addition, asylum-seekers are subject to arrest, prosecution, imprisonment and subsequent deportation for violating a military zone when they attempt to irregularly cross the Green Line to access the existing asylum mechanism in areas under the effective control of the Republic of Cyprus.⁷⁶

The UNHCR's implementing partner in the northern part of Cyprus is the Refugee Rights Association (RRA). The RRA provides legal and social support to persons who state that their lives or freedoms would be at risk if they returned to their country of origin. The RRA provides this support if it is established that these individuals are indeed outside their country due to a justified fear of persecution, conflict, general violence, or conditions that seriously disrupt public order and therefore need international protection. The *Refugee Rights Monitoring Report* compiled by HRP provides information on human rights violations that took place in 2022 with regard to refugee rights. In the context of LGBTI+ refugees, a person was detained in 2022 for deportation purposes due to their HIV-positive diagnosis. After the QCA referred the issue to the RRA, the RRA intervened and it was pointed out that the person would face persecution due to their sexual orientation and HIV status if they returned to their country of origin. The person was thus allowed to stay and access the treatment he needed in the northern part of Cyprus.

75 https://www.mahkemeler.net/birlestirilmis/f_105.docx
76 Loizidou v. Turkey, no. 15318/89, 18 December 1996, ECHR.



CONCLUSION AND RECOMMENDATIONS

Access to human rights for LGBTI+s in the northern part of Cyprus remains at an alarming level; issues such as hate speech, violence and discrimination remain prevalent. The local 'authorities' do not take significant steps to address these issues and do not conduct effective investigations on issues such as hate speech, which is defined in 'legal texts' and criminalised. Civil society organisations such as QCA and HRP are engaged in rights-based struggle in solidarity with LGBTI+s. The lack of legal recognition of the gender of transgender and non-binaries leads to violations of their rights in areas such as health services and the 'prison' system. While stigmatization prevails in the Turkish Cypriot community, activists and QCA along with various civil society organisations carry out diverse activities in the northern part of Cyprus, particularly the Pride Parades. These activities increase the visibility of the human rights and demands of LGBTI+s in the society. Apart from Pride Parades, *the Rainbow Project*, which aims to raise awareness and capacity in the fields of education and health, and the *Helix Project*, which aims to increase the resilience of LGBTI+s, are also of great importance. However, more efforts are needed from both civil society organisations and 'authorities' to address the ongoing issues faced by the LGBTI+ community in the northern part of Cyprus. The main conclusions of the monitoring are as follows:

- The legal gender recognition is not defined in accordance with the right to self-determination, which leads to violations of the right to privacy, bodily integrity and many other human rights.
- LGBTI+s are subjected to discrimination based on sexual orientation, gender identity, gender expression and characteristics in education, health, housing, employment and many other areas.
- Medical interventions on intersex people that are not medically necessary and are performed to conform to the norms of the binary gender system violate many human rights, including the right to health, the right to information, the right to privacy, the right to be free from discrimination and the right not to be subjected to torture and other inhuman, cruel and degrading treatment.
- In 2021, although hate speech against sexual orientation and gender identity was effectively regulated as a crime in the 'penal code', the 'police' do not conduct effective investigations into these crimes that are commonly committed in online environment. Although Queer Cyprus Association (QCA) has complained to the 'judiciary' about online hate speech comments, especially regarding Pride Parades, no effective investigation has been carried out for years.

Taking into account the information presented in the analysis section, the following are some possible recommendations for improving the human rights of LGBTI+s in the northern part of Cyprus in the future.

Take anti-discrimination steps: The 'parliament' should enact legal measures, collaboratively drafted by local 'authorities' and the LGBTI+ community, to safeguard the rights of LGBTI+ individuals and to counteract discrimination. A comprehensive anti-discrimination law that prevents discrimination based on sexual orientation and gender identity, for instance, should be adopted. Furthermore, 'legal regulations' should be instituted to allow registered partnerships between same-sex couples. All 'law enforcement bodies', including the 'police', should diligently enforce international conventions and domestic 'legal regulations' pertaining to LGBTI+ individuals, including imposing sanctions against discrimination. Independent bodies should be established to prevent discrimination based on sexual orientation and gender identity. Lastly, the local statistical institute should carry out qualitative research and maintain comprehensive statistical data, incorporating information obtained from the relevant 'authorities'.

Online hate speech against LGBTI+s should be effectively investigated: 'Authorities' should take concrete measures to tackle online hate speech directed against LGBTI+s, especially during Pride events. The 'police' should demonstrate increased proactivity in investigating these incidents and ensuring that the perpetrators are held accountable. Moreover, these investigations should be completed and justice served in a timely manner.

Condemn hate speech: The 'leader of the Turkish Cypriot community', the 'prime minister', 'ministers' and all 'mps' should publicly condemn hate speech and other forms of discrimination against the LGBTI+ community.

Protect against violence and ensure access to justice: The 'police' should carry out effective investigations against perpetrators of violence or discrimination against LGBTI+s and bring offenders to justice. An amendment to the 'regulation' aimed at preventing medically unnecessary interventions on intersex individuals should be drafted and implemented following collaborative efforts between the 'ministry of health', the Turkish Cypriot Medical Association, HRP and QCA. The lack of preventive and protective services for psychological, economic and physical violence against LGBTI+s underscore the critical role of the local social services department in addressing these issues. It is recommended that these services be improved, that the violence prevention and counselling centres (ŞÖDAM) of the gender equality department (TOCED), where these services will be provided, be implemented immediately, and that the 'police' violence prevention units, which are actively functioning in every region, be inclusive in a way to protect the rights of LGBTI+s.

Human rights violations of LGBTI+s in 'detention centres' should be monitored and eliminated: The 'ministry of interior' should take immediate steps to improve conditions in 'detention centres' and ensure that the rights of LGBTI+s, especially transgender and non-binary identifying persons, are protected. HRP and QCA should continue to monitor these facilities and advocate for change.

Promoting LGBTI+ inclusive education and health services: Education and health services should be reorganised to be inclusive of LGBTI+s and awareness-raising trainings on this issue should be encouraged.

Discrimination in employment must be addressed: 'legal regulations' should be introduced by the 'parliament' prohibiting discrimination in the public and private sectors. Furthermore, there should be dedicated centres where victims of workplace discrimination can seek help. These centres should receive regular training from CSOs working in the field, such as QCA.

Protect the rights of transgenders: The 'parliament' should recognise the legal gender of transgenders and non-binaries according to the principle of self-determination and ensure equal and free access to health services. Turkish Cypriot military recruitment office (ASAL) should provide exemptions from military service for LGBTI+s upon their request.

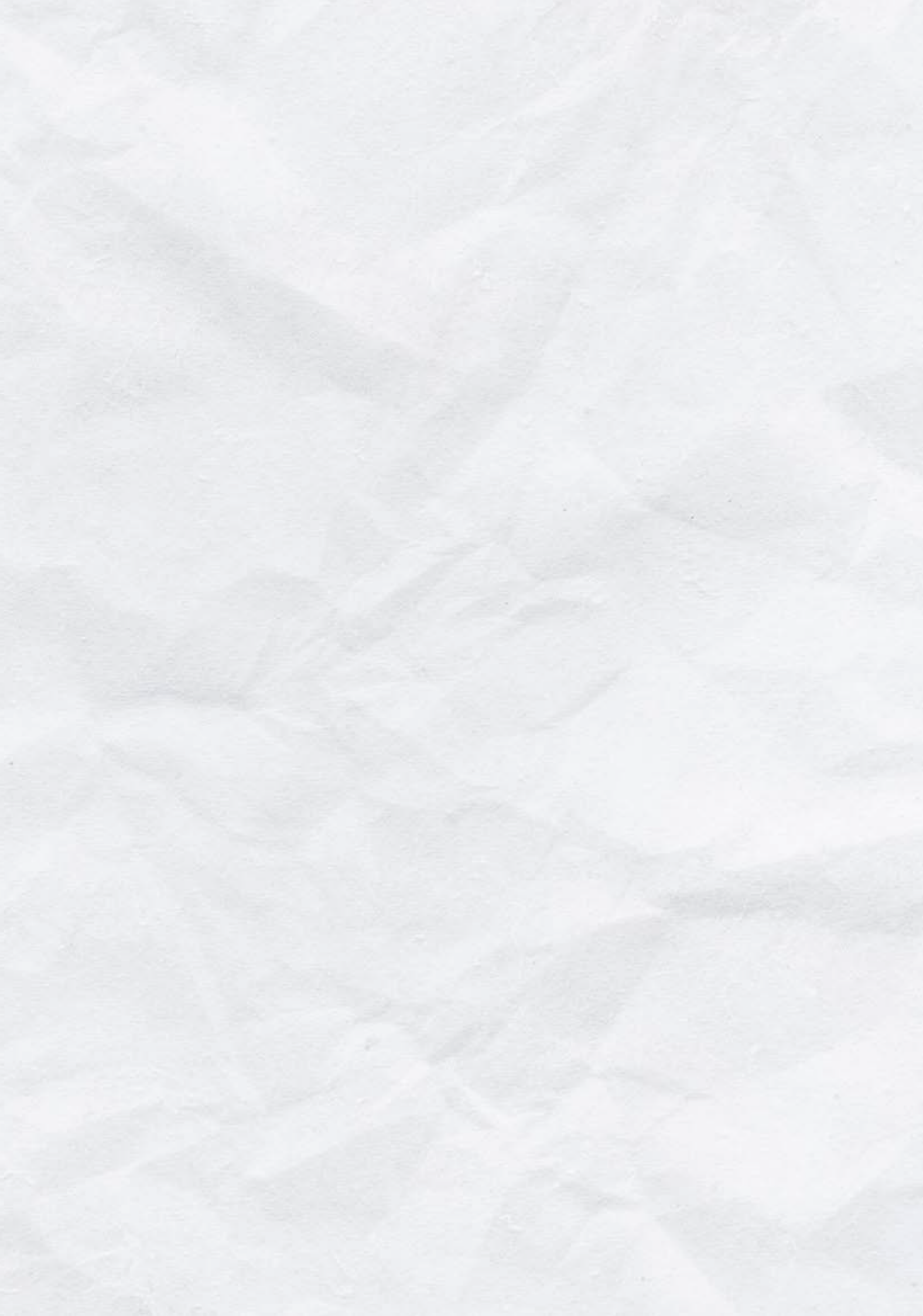
Support freedom of assembly: The 'police' should continue to protect the right of the LGBTI+ community to organise Pride Parades and other public events. 'Legal regulations' restricting the freedom of assembly of foreign nationals should be amended by the 'parliament'. For detailed evaluations and recommendations on the subject, the *Democratic Rights Monitoring Report* of the HRP can also be consulted.

The human rights of people living with HIV must be protected: The relevant protocol that leads to the deportation of HIV-positive people who are not citizens should be promptly amended. The 'ministry of health' should increase the number of anonymous HIV-testing centres, which should be free, accessible, and safe.

International law should be applied: Protocol No. 12 to the ECHR on general non-discrimination should be ratified. The 'parliament' should transpose the *Yogyakarta Principles* into domestic 'legislation' to ensure human rights standards.

Organisations and activists defending the human rights of LGBTI+s should be protected, and their work encouraged: The work of organisations such as QCA and HRP that safeguard LGBTI+s human rights and raise awareness on this issue should receive both financial and moral support from the local 'authorities'. Considering social discrimination and violence against LGBTI+s, activists working in this field should be provided with enabling environments and their safety should be ensured.

These recommendations aim to address the various human rights violations faced by the LGBTI+ community in the northern part of Cyprus and to promote equality, non-discrimination, and respect for the rights of all, regardless of their sexual orientation or gender identity.



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This publication was funded by the European Union. Its contents are the sole responsibility of the Human Rights Platform and do not necessarily reflect the views of the European Union.


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