

**NGO Shadow report
on the Country Report on the implementation of the Convention on the Elimination
of All Forms of Discrimination against Women (CEDAW)**

about the situation of Lesbian and Bisexual Women in Switzerland

Submitted by

- Fondation Agnodice, Lausanne
- Lesbenorganisation Schweiz LOS, Berne
- Lestime - Communauté lesbienne de Genève, Geneva
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Most important issues and recommendations

Current situation:

1. Antidiscrimination

Lesbians, bisexual and transgender women have no recourse to institutional support to exercise their rights so that discrimination against them is quietly tolerated. Sexual orientation and gender identity are moreover not explicitly mentioned in the constitution as possible targets of discrimination. Currently, there is no law sanctioning acts of discrimination against these minorities.

The above mentioned NGOs urge Switzerland to take into account the following recommendations:

- That federal legislation be strived for to provide protection against all forms of discrimination, including on grounds of sexual orientation and gender identity;
- To take additional steps to ensure that lesbian couples are not discriminated.

2. Lack of legal recognition of families

Since January 2007, lesbian couples who live in Switzerland have been legally entitled to register their relationship. Under the new Federal Act, registered lesbian couples now have many of the same rights as their married heterosexual counterparts. Nevertheless, registered same-sex couples still do not have equal rights as married heterosexuals. More specifically, legally registered same-sex couples are denied the right to adopt children and the right to access to artificial insemination (Art. 28). It is, however, a social reality that same-sex couples raise children. In Switzerland, an estimated 25,000 children grow up in a household with two mothers. These parents and children need legal protection of their relationship.

The Swiss law distinguishes between three types of adoption: together as a married couple, leading to the same parental rights for both partners, adoption of one's stepchild, i.e. the partner's child, resulting in equal parental rights for both, and adoption by a single person, leading to parental rights for only one partner. The Federal Act forbids in Art. 28 any kind of adoption to registered same-sex relationships, bringing forward the argument of the child's best interest. However: Several studies have shown that same sex couples have the same qualification for raising children than heterosexuals. To specifically prohibit the adoption of the partner's child (adoption of the stepchild) is clearly against the child's best interest. In case of the loss of his or her mother the child might lose additionally the vivid relationship to his or her co-mother, usually the second most important adult in this child's daily life.

Apart from these pedagogic aspects, from a legal point of view especially the prohibition of the adoption by a single person is a break of Art. 8 Par. 2 of the Swiss Constitution as it is a discrimination based solely on one's sexual orientation.

Additionally, it has to be mentioned that registered partners are obliged to take care of one other, which includes financial support (Art. 12). This support is not limited to the most personal needs, but includes parental maintenance obligations in case of need.

This leads to the situation that same-sex partners have nearly the same legal duties as heterosexual couples but not the same rights: lesbian couples are legally obliged to support their partner's children - but have no chance to get parental rights or protection of the relationship with the child that they helped to raise.

The above mentioned NGOs urge Switzerland to

- abolish the denial of adopting children by registered same-sex couples;
- make fertility treatment and artificial insemination accessible for lesbian couples.

3. Health

There are only few studies concerning the health of lesbian and bisexual women and hardly any in Switzerland. It is unknown how lesbians are affected by HIV / AIDS and this group is hardly ever mentioned or referred to in prevention campaigns. However, lesbians and bisexual women appear to be at a higher risk for breast cancer, depression, suicide and substance abuse. The authorities have not addressed these statistics.

Additionally, a prevention campaign called “Stop Suicide” has been started by the Federal Government attempting to prevent suicide among homosexual adolescents, with evaluations over one year. It was an aggressive and well-financed campaign which only reflected results in the population of young gay men. No statistics were provided concerning young women.

Access to optimal health care is also of concern for lesbians and bisexual women. Many of them have difficulties to identify themselves as lesbian or bisexual in a health care context and this could result in inappropriate treatments or lack of confidence with the health care practitioner. The specific health needs of lesbian and bisexual patients should be addressed by including this topic in training of health services staff.

The above mentioned NGOs urge Switzerland to

- include people of all sexual orientations and gender identities in their suicide prevention activities;
- include the target group of lesbian and bisexual women in their HIV / AIDS prevention strategies;
- implement modules about sexual orientation and gender identity in medical training;
- improve data on health issues of lesbian and bisexual women for example by routinely adding sexual orientation to demographic data in health surveys, and take appropriate measures.