

Situation of Gay, Lesbian, Bisexual, Trans and Intersex Public Sector Employees in Turkey



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Prepared by:

Prof. Dr. Melek Göregenli
Attorney Yasemin Öz

Editor

Murat Köylü



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Published by: Kaos Gay Lesbian Cultural Research and Solidarity Association
(Kaos GL)

First Edition: Ankara, 2016

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Kaos GL

Tunus PTT PK 12 Kavaklıdere 06680 Çankaya - Ankara

Telephone: +90 312 230 0358

Fax: +90 312 230 6277

E-mail: bilgi@kaosgl.org

www.kaosgl.org



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This book was published by Kaos GL Association with the support of European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association – (ILGA Europe), Open Society Foundation, Turkey and Swedish International Development Cooperation Agency (SIDA). However, this book does not necessarily reflect the official opinions of ILGA Europe, Open Society Foundation, Turkey or SIDA.

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Chapter

1

Preface

Just like their genders; people's gender identities, sexual orientations and intersex situations are also their existential characteristics. Therefore, they cannot be considered as characteristics, behaviors, tendencies, preferences that are manifested solely in private life and that can be pushed aside and made invisible in public realm.

When they are under pressure, when they sense that they might face negative outcomes, experience unpleasant things and confront unfavorable results, people may not express their opinions and may not openly show their feelings. However, characteristics related to sexual orientation and gender identity are not the characteristics that can be hidden from time to time and can be revealed now and then. Like other existential characteristics, sexual orientation and gender identity cannot be performed in a way that they can be separated from the human existence and made invisible in public realm either. Contrary to the frequent assumption or to the common persuasion that is aimed to be developed by distorting the scientific data and accumulation of knowledge provided by the history of humanity, our parts related to sexual orientation and gender identity do not manifest themselves solely as sexual behaviors or as "life styles". Therefore, these parts cannot be incarcerated in houses, in "marginalized" entertainment environments or in restricted and marked streets or districts of the public areas of the cities as private areas; they move together with the body and mind of the people as a natural part of the existence; they exist as an inseparable component of human existence and consequences and requirements of such existence.

However, as for me, the most significant finding of the research conducted by Kaos GL Association with the participation of lesbian, gay, bisexual, trans and intersex (LGBTI) employees in public sector and the results of which are presented in this book is the fact that only 1 person in each 20 participants can completely be open regarding their sexual identity in public sector. When the results are compared with the results of the research carried out last year with the participation of private sector employees, it is observed that LGBTI employees can be rather more open in private sector than LGBTI employees in public sector. The result obtained within the scope

of private sector research was 1 in 5 people. When responsibilities of public sector arising from international antidiscrimination agreements and national legislation as an employer are considered as well, it can be seen how worrisome the situation is.

In addition, almost all of the employees stated that they felt anxious, insecure, uneasy and under stress during the working hours feeling that their sexual identities can be discovered. As seen in the statements of the participants, this situation is not limited to workplaces and working hours only; fear of being revealed on identity requires controlled behavior after working hour as well. Social life, developed in public areas outside the workplace and which sometimes feeds from the workplace as well, and social media usage which has become an integrated part of our modern-day lives, in brief, all of the public life becomes totally controlled and this situation causes people to live their lives pretending to look and behave like someone else. In the end, being anxious and acting cautious affect the life satisfaction negatively and cause participants from public sector to direct their attentions to the processes unrelated to their jobs, to check themselves constantly and to feel under control and insecure.

From the point of the participants, working in public sector leads to live constantly with the risk of at least being unable to get promotion, being openly or implicitly marginalized or in heavier situations, losing their jobs and even being exposed to administrative/judicial processes against them in case their sexual identities are revealed. Heavy psychological pressure, anxiety and stress caused by this directly affect the job satisfaction and efficiency as well. Being exposed to open or implicit discrimination also affect promotion processes in their jobs; indeed, the fact that only a very small portion of our participants was in executive positions verifies this phenomenon.

Among the measures that are required to be taken in order to eliminate violation of rights, which can also be considered as a threat to the existential characteristics of humans, our participants stated that “constitutional recognition” should be the first one. This demand is of importance because public security of LGBTI persons; their protection on grounds of their gender identities, sexual orientations and their intersex situation will only be possible in this way. As broadly explained in the report, although there are many changes required to be made in legislation and policies - if needed to repeat with reference to our participants again - holistic welfare of a society can solely be ensured with the unconditional acceptance of each person constituting that society, meaning rights of everyone. This acceptance should be protected by legal guarantee and practicality of the laws and as a result, common effectualness of such laws is connected with the mindset and ideologies of the related society.

Prof. Dr. Melek Göregenli
İzmir, 2016



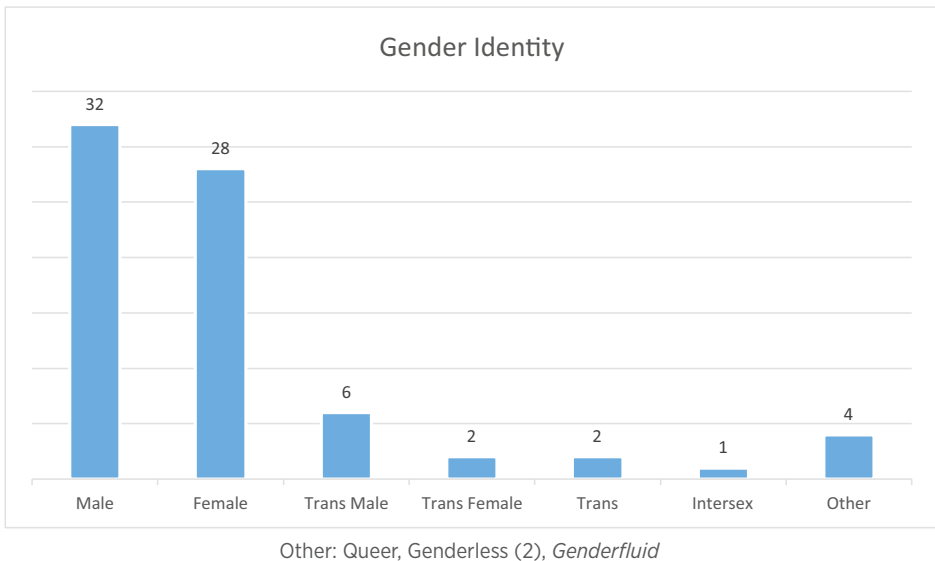
Chapter 2

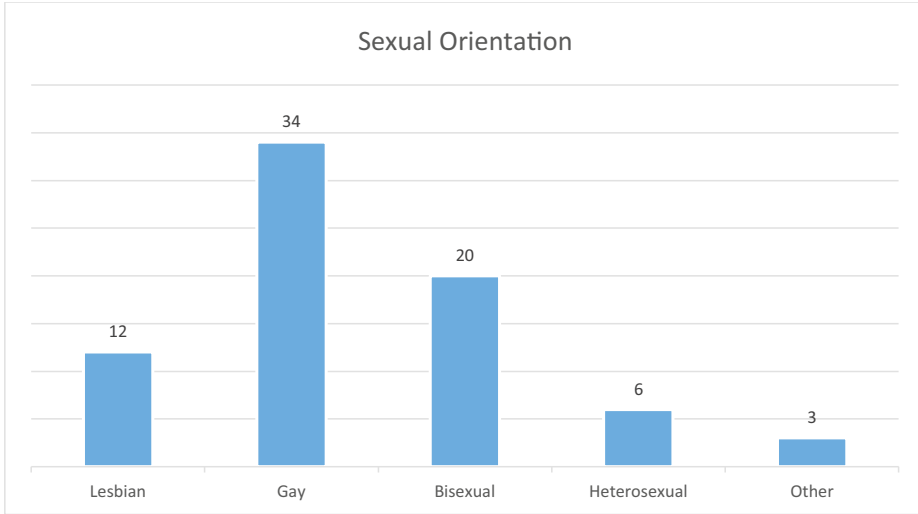
**Situation of Lesbian,
Gay, Bisexual, Trans and
Intersex Public Sector
Employees in Turkey**

A. Research Sample

The research was conducted via SurveyMonkey Pro System. In total, 75 persons constituted the sample of our research who have described themselves as lesbian, gay, bisexual, trans or intersex (LGBTI), and as working in public sector. 57 of them (76%) were staff and 18 of them (24%) were covenanted employees. 26 of these participants were interviewed face to face; the others on the hand were contacted by social media or telephone usage and then were directed to SurveyMonkey. The working areas that were targeted by the research were deliberately chosen mainly from the education (20 persons), academy (12 persons), health (9 persons) and social service (9 persons) of the public sector as they are the areas Kaos GL can reach most, and with the intent of narrowing the wide public sector.

Distribution of the sexual orientations and gender identities stated by our 75 participants in total are presented in following the tables.

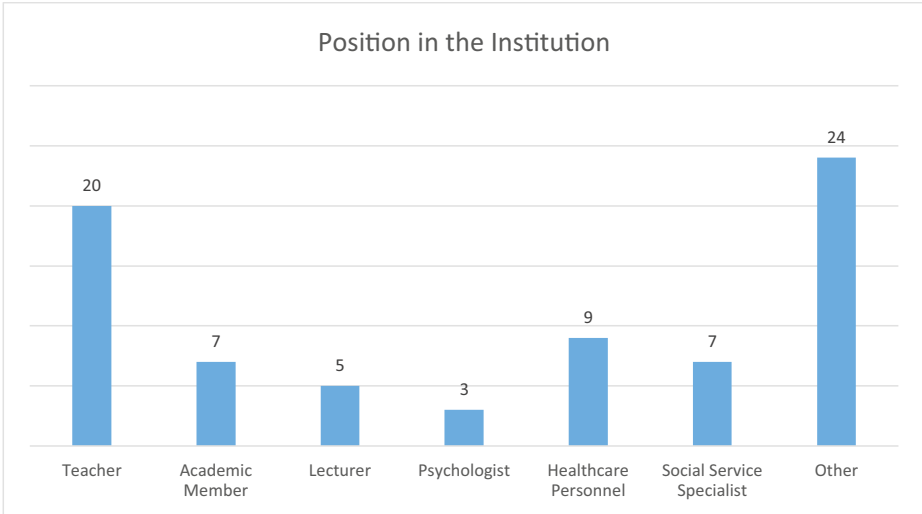




Other: Queer, Not Categorizing, Asexual

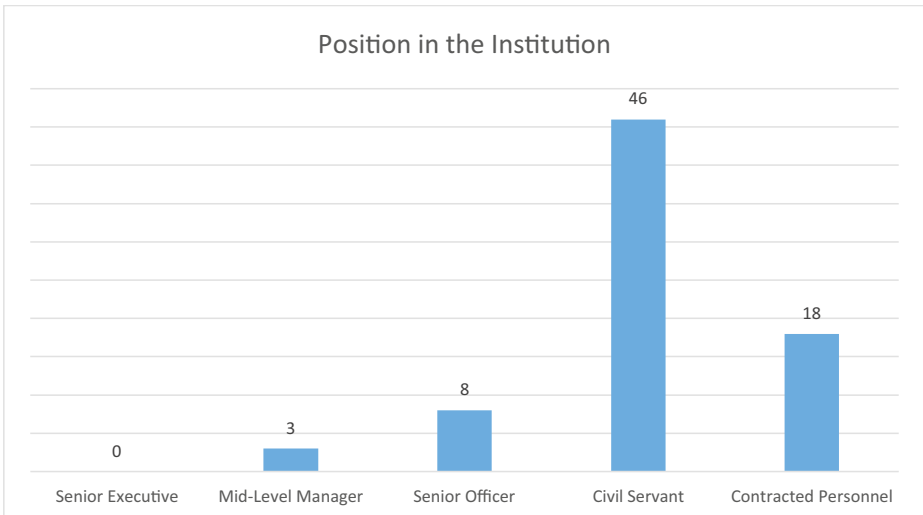
B. Properties of the Institutions for which the Participants Work and the Specialties of the Employees

The participants of our research were in different positions in the institutions they worked for. Specialties of our participants in terms of their job positions and their duties can be monitored from the following table. As it will be seen in the table, the majority of our participants were working in education, health, academy, social service and consultancy areas. This result rather shows the fact that these areas are the ones we can reach more instead of showing that LGBTI persons doubtlessly work in education and consultancy sector. In fact, even though the numbers are less, it is seen in the following table that our participants work in various public sectors.



Other: Sales Consultant, Career Employee, Computer Operator, Engineer (3), Sociologist (2), Expert (2), Civil Servant, Economics Expert, Mid-Level Manager, Archivist, Career Specialist, Driver, Office Employee (2), Court Clerk, Security Personnel, Control Specialist, Architect, Pollster (2).

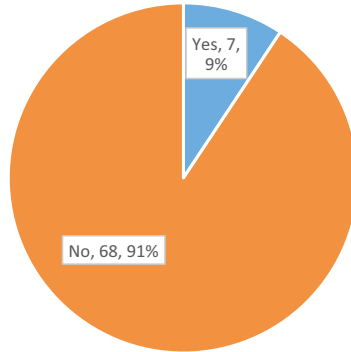
When positions of the participants in the institutions were observed, however, a striking finding was encountered. None of our participants were at senior executive position and most of them were working with “civil servant” status. Detailed information can be followed from the below given table.



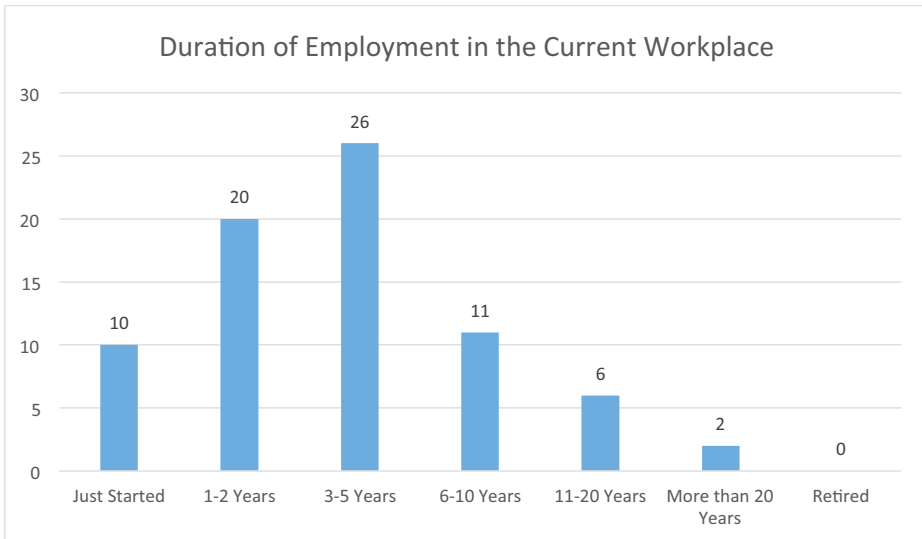
Another result that also supports this finding was regarding whether they had administrative duties in the institutions they had been working for or not. 68 of our

participants, namely 91%, answered as “No” to this question. The administrative duties stated were Head of Department, Academic Center Manager, Section Manager and Unit Supervisor (4).

Has the Employee got an Administrative Function?

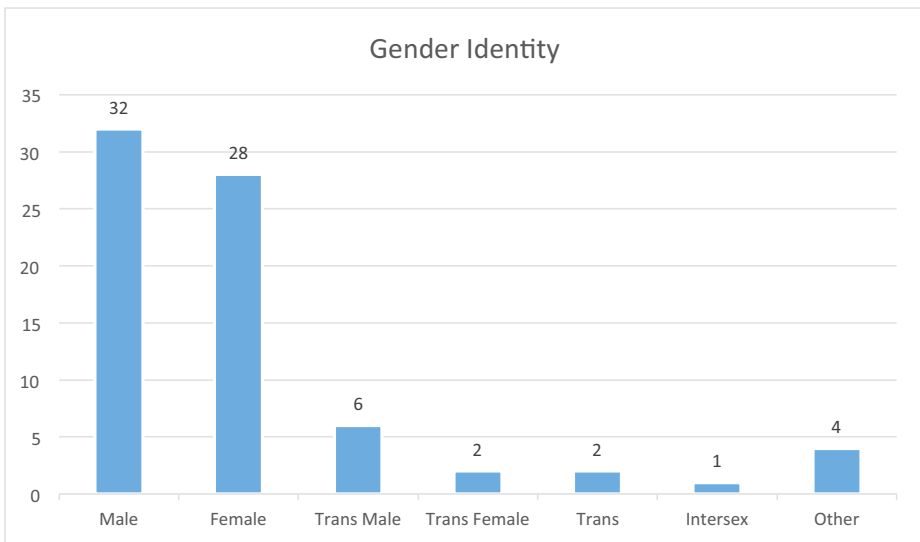


In terms of duration employment, majority of the participants were distributed between 1 and 5 years. Even though the ratio was lower, we also had participants with longer terms of employments. This finding might be arising from the fact that LG-BTI employees frequently change workplaces due to discrimination and disclosure risk as well as it might be arising from the fact that Kaos GL and online resources could be reached by a relatively younger population.

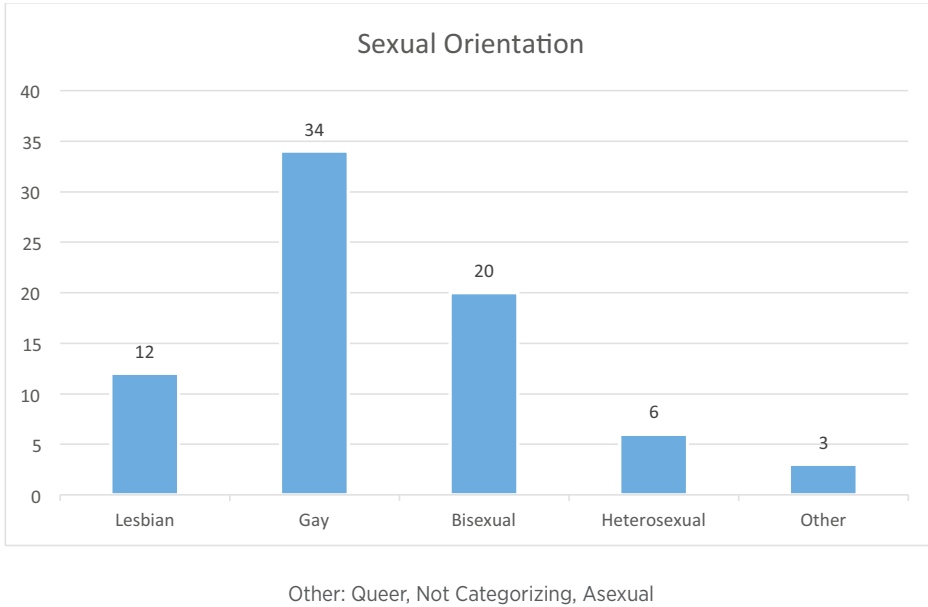


C. Assessments regarding Sexual Orientation and Gender Identity

Two separate questions were asked to 75 participants in total who participated in our research. It was observed that the participants stated their gender identities mostly as “Female” or “Male”. However, among the participants there were also trans women and trans men, intersex person and persons from other sexual identity categories. A few number of respondents avoided using standard, categorical identifications while stating their gender identities. On the other hand, when assessed in terms of sexual orientations, it was observed that majority of the participants was constituted by gays and lesbians, and it was followed by bisexuals (2 men, 16 women, 1 trans man, 1 trans in terms of gender identities). Furthermore, it can also be observed that there were also a certain number of participants who have not identified themselves with any sexual identity or participants who have preferred to identify themselves with transitive categories. The details can be seen from the following tables.



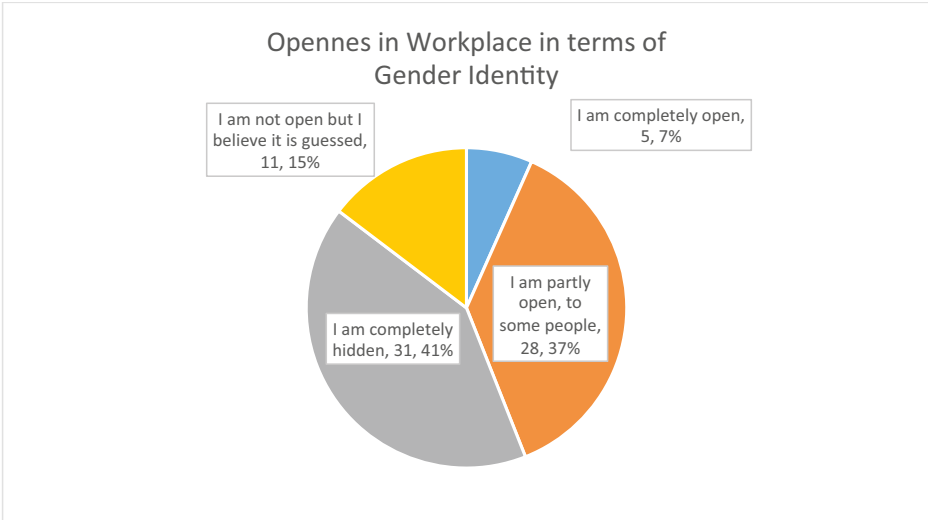
Other: Queer, Genderless (2), Genderfluid



D. Openness in the Workplace in terms of Sexual Identity

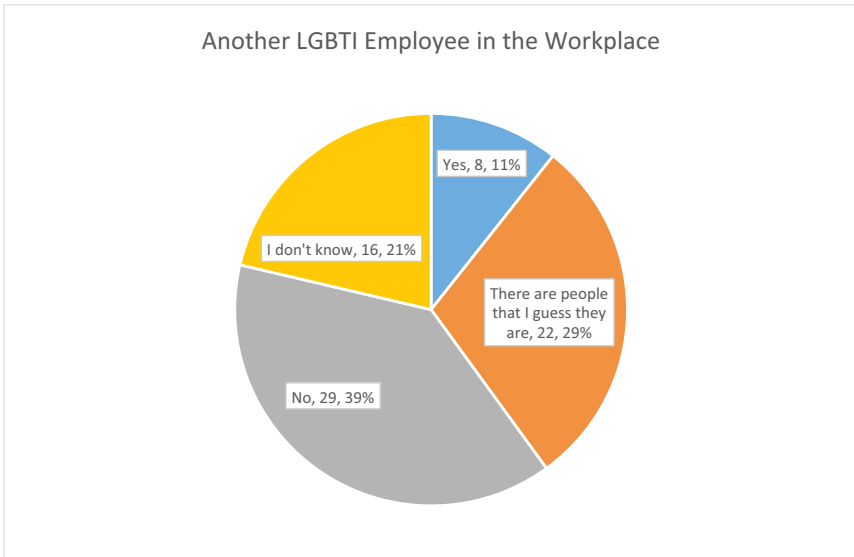
41% of the participants, namely 2 in 5, replied the question “if they were open or not in their workplaces” as “they were completely hidden”. 37% of the participants stated that they were “partly open” while only 5% of the participants stated that they were “completely open” in their workplaces in terms of their sexual identities. In other words, only 1 in 20 LGBTI public sector employees could reveal their sexual identities directly and without abstaining from anybody else. The rate of the participants who thought they were already known even though they were not open was 15%, namely 11 persons.

These findings show that openness in public sector in terms of gender identity and sexual orientation is very low. This rate was found as 22% in the research that was conducted by Kaos GL in 2015 on the situation of the private sector employee LGBTI's.¹ In other words, when two researches are compared, it is seen that LGBTI employees in private sector are more open than LGBTI employees in public sector. Also as an employer, when responsibilities of public sector arising from international antidiscrimination agreements and national legislation are taken into consideration, this situation becomes even more worrisome.

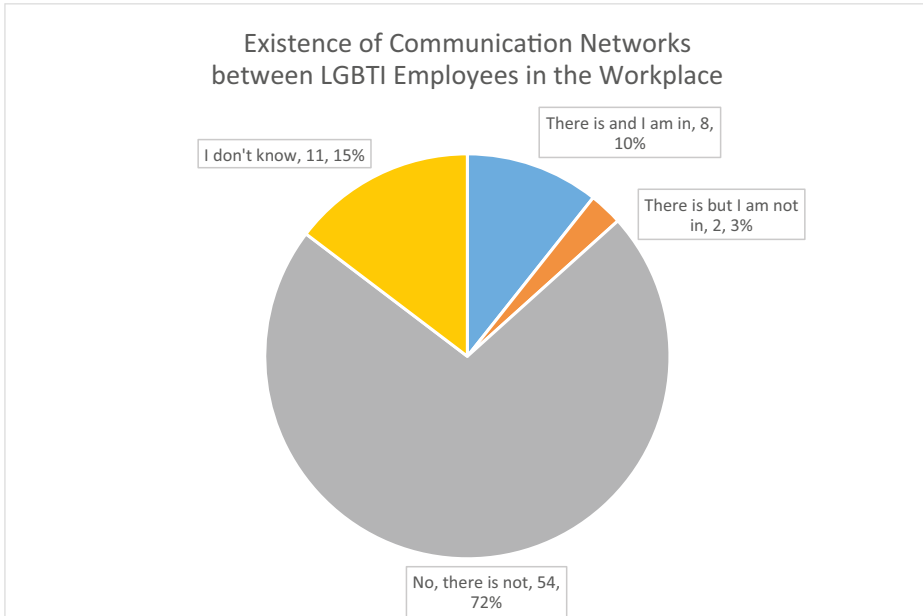


One participant on the other hand reported that he was not open to anybody yet, however he had a group of friends with whom he could have supportive conversations about LGBTI issues.

Participants were asked if there were any LGBTI employees in their workplaces other than themselves. The answers received to this question serve as a support to the information that “ratio of LGBTI employees in public sector is much higher than the visible”. Furthermore, the picture that is reflected in our research shows consistency with the information that current institutional and social discrimination and oppression have extremely weakened communication and solidarity possibilities between LGBTI employees in public sector.

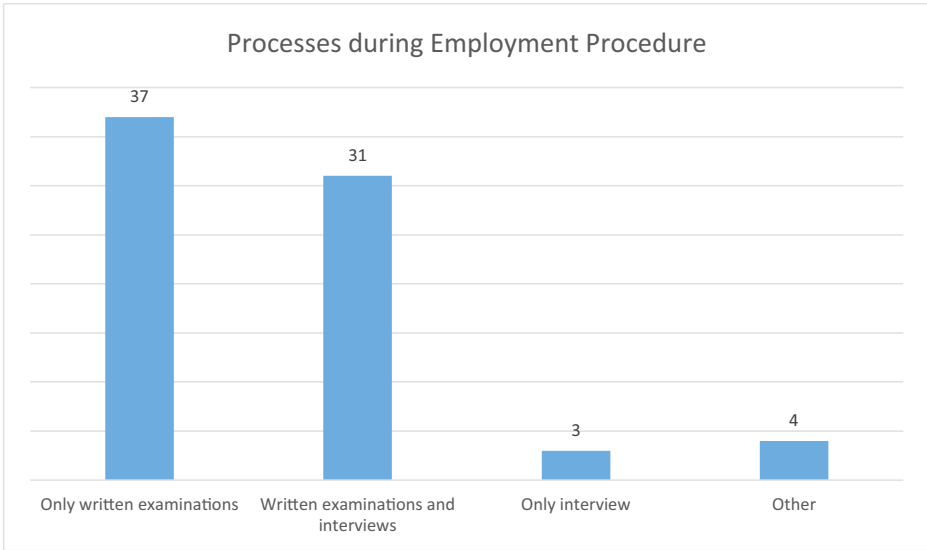


Similarly, answers given to our question, “if there was a communication network between LGBTI employees in their workplaces”, were such that such structures either didn’t exist or were insufficient due to the fact that most of the employees had to hide their sexual identities. In fact, public institutions should explicitly support formal and informal LGBTI groups that will protect LGBTI employees against violations of rights. These bodies can also defend and empower LGBTIs and allow them to act with solidarity through socializing with each other, and public (or private) institutions should announce existence of such groups. Furthermore, legislation and policies of gender equality and human rights units should be redesigned with this contemporary perspective.



E. Assessments regarding Recruitment Procedure

Large majority of the public sector employee LGBTIs get their jobs through written examinations, and often through interviews in addition to these written examinations. A few of the participants were only invited to the interview, or were chosen through references during the recruitment procedure.

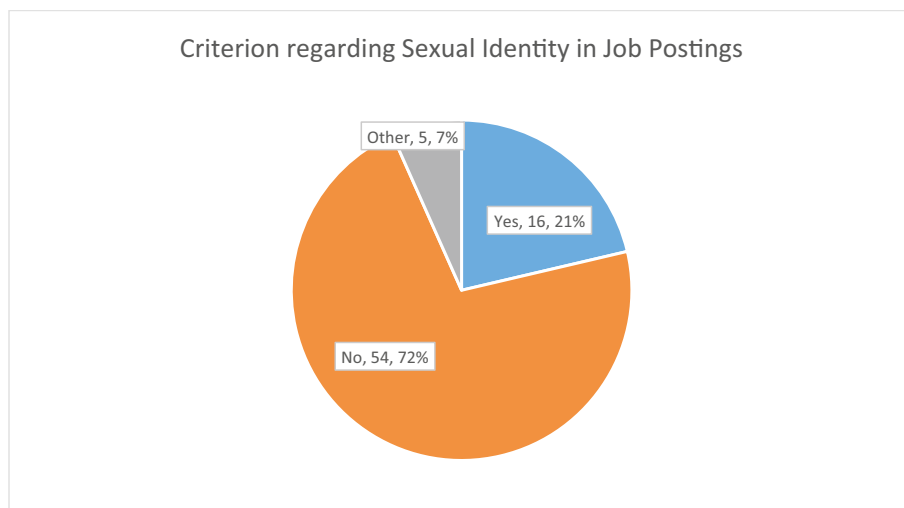


Other: Martyr's relatives, References (3)

Criteria and Statements in Job Postings regarding Sexual Identity

Majority of the answers given to our question, “Have you ever encountered any open or implicit supportive or hindering criterion or statement in the job postings of the institution you work for?” showed that no supportive or hindering statement was encountered in job postings. However, it was reported that there were some job postings as only women could apply.

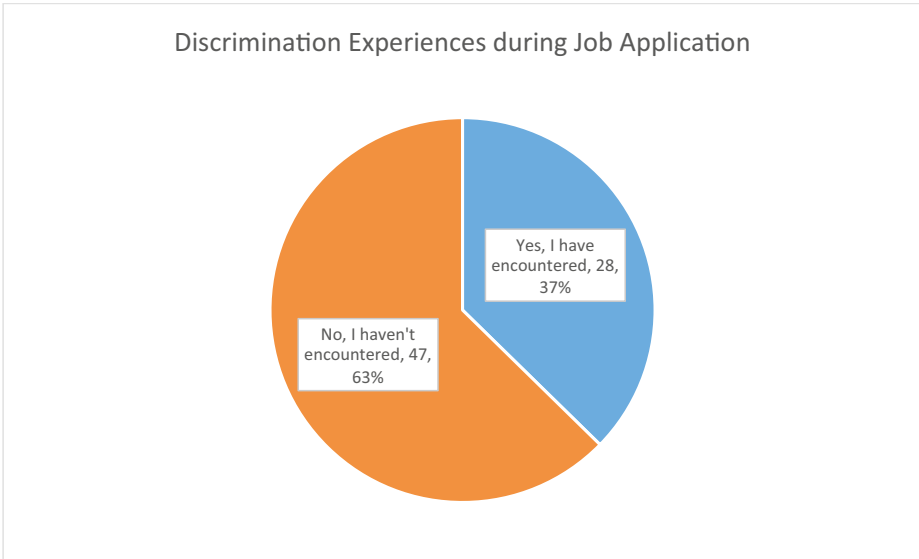
Some of our participants stated that there were some articles in the legislation of their institutions, particularly in the legislation of Ministry of National Education that might cause discrimination against LGBTI persons. What is expected from public institutions is them to publish job postings that will openly encourage LGBTIs to apply for the jobs, one of the most disadvantaged and vulnerable social groups in working life.



Other: “It was stated that it was applicable only for women”, “Teachers who were fired from their jobs are still an implicit issue”, “There are open-ended laws in legislation for national education”, “I didn’t have to face a person who might have exposed me to discrimination since my assignment was done in computer environment”, “My assignment was done through reassignment”, “There is no employment system”, “If stated openly, this situation is an obstacle in public office in any case, so I didn’t mention”.

F. Discrimination Experiences during Job Application Procedure

Another question in our research was, “Have you ever experienced any situation where you thought your sexual identity hindered or might hinder your recruitment ‘after’ the job application stage (examination, interview, internship, acceptance for the job, etc.)?”



As it may be seen in the table above, 37% of our participants, namely approximately 2 in 5 persons have experienced open or implicit, direct or indirect discrimination during the application stage or during the period they just started working. Undoubtedly, this finding should be interpreted with the finding that only 1 of 5 LGBTI employees is open about their sexual identity in public sector.

A form of these discriminations emerges from the structural requirement that it is required to be “male” to reach up to some positions or to be involved in some working groups.

Another form of discrimination on the other hand manifested itself as making a “research” about the gender identity or the sexual orientation of the employee, and reporting this to higher authorities.

Compulsory military service process is a significant threshold in terms of disclosing gender identity or sexual orientation of the employees without their wills. Therefore, some of our participants were obliged to fulfill the military service process in various ways, or in some cases, formal or informal documents explaining why they didn't fulfill military service caused their identities to be disclosed.

Social media use also could turn into a mean of oppression by becoming a resource to following gender identities and sexual orientations of the employees without their wills. Therefore, some of our participants preferred not to exist in social media with their true identities as a measure.

Furthermore, our participants stated that conservative, authoritarian and oppressive climate against sexual diversity affected their whole existence and they were obliged to live with controlling themselves constantly. It was observed that in addition to sexual orientation and gender identity discrimination, sexism had also been affecting many different experiences of discrimination. Genuine statements and experiences of some of our participants are conveyed in the following list.

“There is structural discrimination while applying for professorship. The committees are implicitly ruled by paternalistic/masculine teams who doesn’t allow others.” (A lesbian, academic center manager)

“I experienced fear of being disclosed and subtle threats regarding this.” (A lesbian teacher)

“It was required to be male to be supervisor.” (A bisexual woman, covenanted sales consultant)

“We frequently experienced situations during the trainings. In the trainings, LGBTI persons were mentioned as ‘dangerous persons’.” (A bisexual woman, covenanted pollster)

“We experienced situations arising from the perspectives; some subtle incidents were experienced.” (A bisexual woman, lecturer)

“Heterosexist hierarchy makes itself evident; there are behaviors and habits that become influential through clothing.” (An asexual senior career specialist trans woman)

“There was oppression in its nature; the negative attitude of the rural...” (A gay social service specialist)

“Religious identity is explicitly imposed.” (A gay teacher)

“I had anxiety for what might happen if they learnt.” (A gay social worker)

“During my recruitment procedure, I registered on Facebook under another name because I was afraid that my sexual orientation might cause trouble.” (A bisexual woman, covenanted office employee)

“I suppressed myself; I ensured that such a situation wouldn’t occur; I reviewed and cleared my social media accounts.” (A lesbian career employee)

“In the first year while I was a trainee teacher, the directress made a research about me. After searching my name and surname at Google and finding a text from Kaos GL news portal, she conveyed that text to Provincial Directorate of National Education.” (A gay teacher)

“They didn’t dare to say anything right to my face other than giving annoying looks.” (A heterosexual trans male teacher)

“I thought I wouldn’t be employed if I was exempt from military service due to homosexuality. Therefore, I was obliged to make military service by payment.” (A gay lecturer)

“News regarding a Kaos GL activity in which I was a spokesperson was shared by my headmaster with District National Education Directorate with ulterior motives. That was used as a mobbing element.” (A gay teacher)

“I thought it would be compelling for me to be different in stereotypical sense.” (A lesbian genderfluid physician)

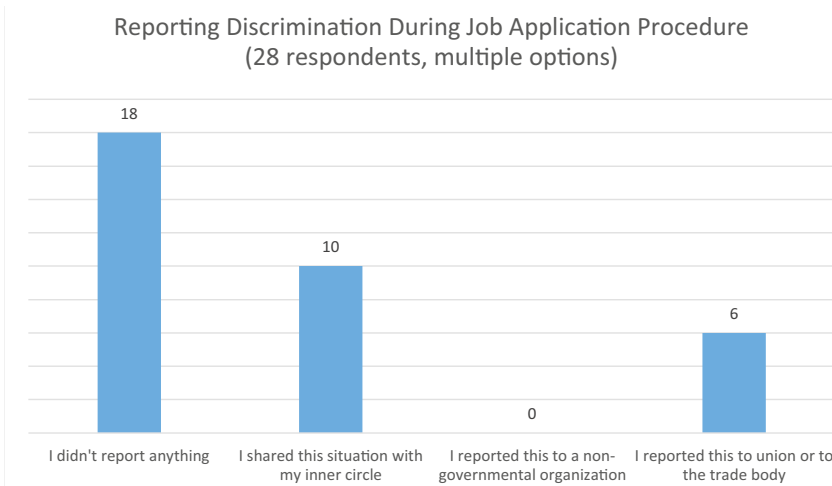
“Relevant articles of Public Servants Law No 657 dictate that ‘Civil servants are obliged to live during their civil servant jobs or in their private lives in a way that will fit the dignity of a civil servant’.” (A bisexual woman, sociologist)

“Since my lecturers at the university are conservative persons, I have a foresight/prejudice that if they know about this side of my identity, they may use it against me.” (A gay lecturer)

“I have encountered many problems regarding my woman identity; I have lived significant anxieties regarding my sexual orientation since it is an extremely reactionary institution.” (A bisexual woman, covenanted pollster)

Reporting the Discrimination Experienced during Job Application Procedure

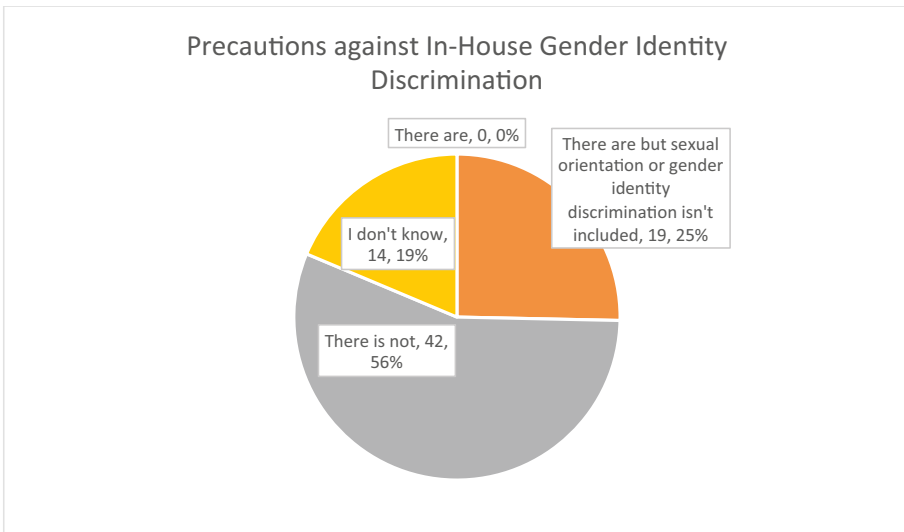
28 of 75 participants stated that they had encountered discrimination during their job application procedures (examination, interview, internship period, acceptance to the job, etc.). Specific to these persons, we asked the question, “Have you reported such hindering situations to relevant workplace management or to any other public institution?”. The answers are reflected in the following table.



As it is seen, 18 of 28 participants have not reported the discrimination they encountered to any public institution or non-governmental organization. Only 6 persons shared that situation with the union or the trade body while 10 persons contented themselves with conveying the situation to their inner circles. This finding can be interpreted as LGBTI persons found judicial bodies and public institutions including Ombudsman Institution and non-governmental organizations ineffective; they didn't trust or believe in these structures. On the other hand, they might have refrained from facing further discrimination in public institutions and being disclosed in case they made an application.

G. In-House Discrimination: Obstacles and Supports

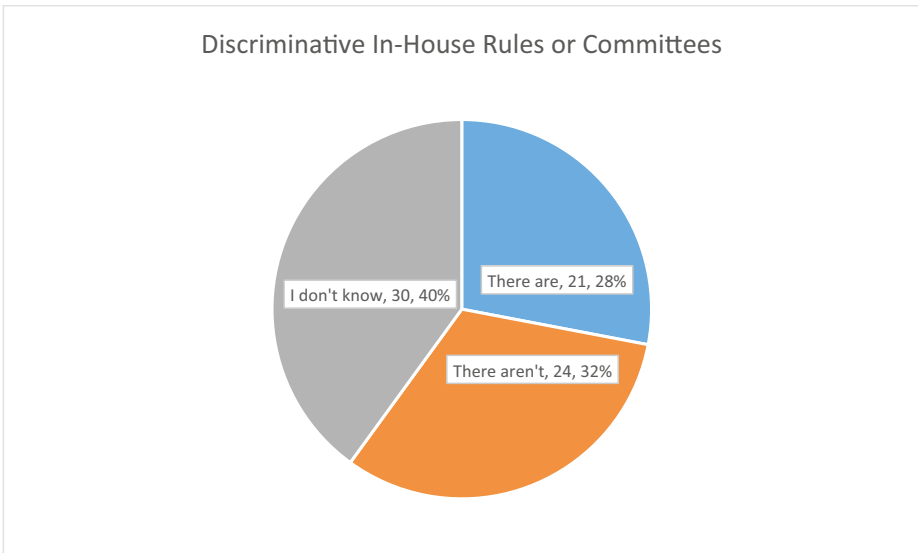
None of the participants replied as “Yes” to the question, “Are there any rules or committees that would prevent discrimination, mobbing or harassment based on sexual orientation or gender identity, including promoting among employees, removal from office and occupational training issues?”. It was stated that there were no special measures regarding sexual orientation and gender identity. A group of our participants on the other hand stated that there were general committees/rules against discrimination, but scopes of such structures didn't include any protection on the basis of gender identity and sexual orientation. However, considerable number of employees (14 persons among 75) were not aware of such committees or rules.



Rules or Committees that Create In-House Discrimination

Answers given to our question, “Are there rules or committees within the procedures of your institution that create discrimination against LGBTI employees?”, indicated that majority of our participants (40,63%) didn’t have any information regarding this issue.

Our participants, who answered this question as these rules or committees “existed”, pointed out that there were structural-open discrimination legislation or practice in various forms.



Examples from the participant statements who answered the question, “Are there any rules, practices or applications within the procedures of your institution that create direct or indirect discrimination against LGBTI employees?” as “Yes” can be seen from the following list.

- “There is a dress code. There are descriptions of ‘illegitimate cohabitation’ which are forbidden by law. Some education materials are discriminative. Lack of gender identity equality unit and heteronormative attitudes of ethics committees are other examples of this situation.” (A lesbian lecturer)
- “Discipline committees ignore transsexuals. There is only the perception of man and woman.” (A heterosexual trans man, court clerk)
- “It can be included in the Civil Servants Law as infamous crime.” (A gay teacher)

“They exist in indirect ways; practices by personal initiatives, and the rulings of Discipline Committees can be determinative.” (A gay teacher)

“Disorderly conducts explanation in the Civil Servants Law can be pulled to any side”. (A lesbian teacher)

“In practice, studies are carried out by considering homosexuality as ‘immoral’; it’s positioned as ‘other’.” (A gay sociologist)

“They exist in indirect ways. Not benefiting from spouse-related appointment is a discrimination. This right is a right that’s given solely to heterosexuals.” (A gay teacher)

“They exist in vague and verbal forms but they don’t exist in unmediated, direct forms.” (A teacher who doesn’t classify their sexual orientation and gender identity)

“Removing from the sight, appointing to passive missions, even forcing to retirement, etc.” (A gay specialist)

“I think there are unwritten things. Things like exclusion, keeping away, hindering from promotion seem highly probable to me.” (A bisexual woman, covenanted specialist)

“The system indirectly creates discrimination as a whole, but there is no direct law and interference. Since it’s an institution where persons with high level education work, there is no direct oppression arising from individuals.” (A lesbian, career employee)

“There is no direct thing but such discriminative attitudes can be observed within every institution.” (A bisexual woman teacher)

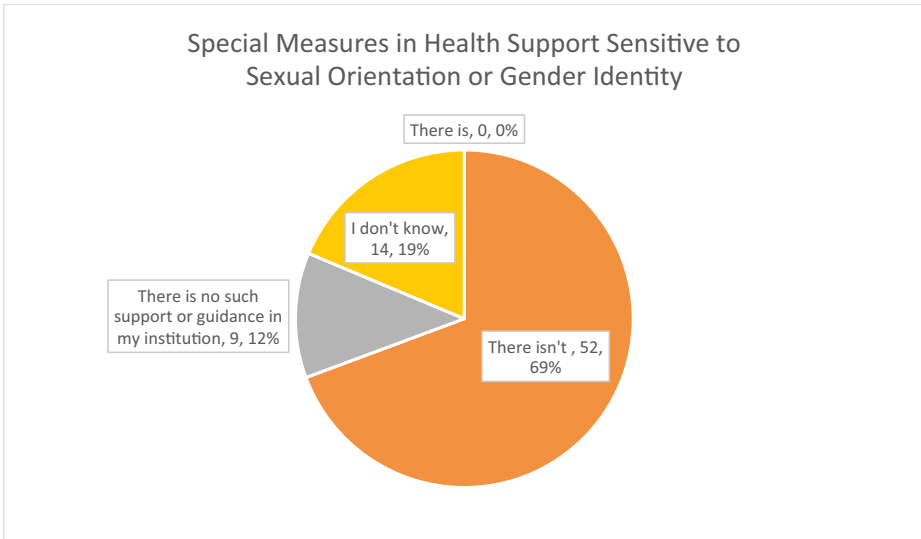
“There is no spouse support or something similar to that.” (A bisexual woman contracted officer)

Another participant on the other hand, pointed out the gender dimension of the issue.

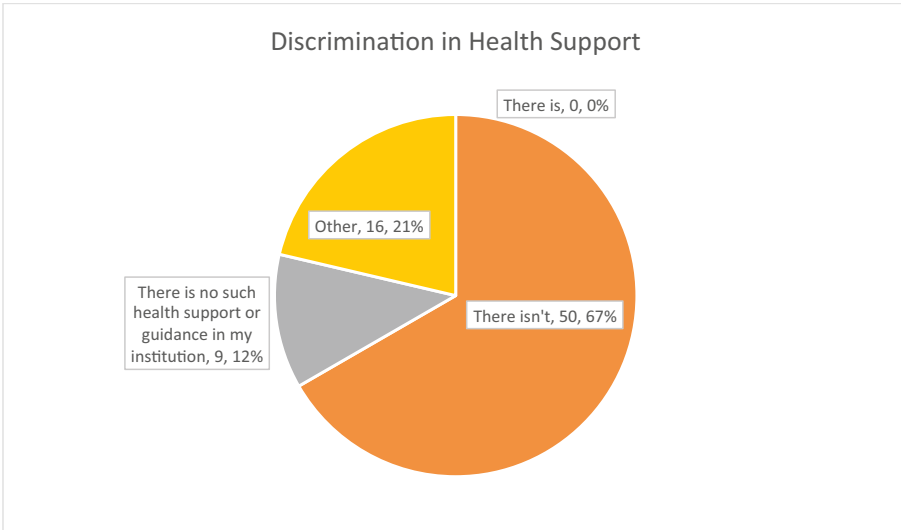
“First of all, there is discrimination against women. High positions are not generally given to women, women are not employed in works that can be considered as valuable and there are male employees who are uncomfortable with the existence of women employees. If there were any personnel whose LGBTI identity was known, they would definitely be fired.” (A gay contracted office employee)

Health Support

Vast majority of our participants replied the question, “Are there any special measures sensitive to sexual orientation, gender identity or intersex situation within the scope of health support provided to the employees in your workplace?”, as “such special support and measure don’t exist”. This deficiency is worrisome particularly for the trans persons who are either in transition process or who consider starting the process.



Another question we asked to learn about the general approaches regarding health was, “Do you ever encounter a – positive or negative – different approach in your workplace when you need health support?”. A similar picture is observed in the answers given to this question as well. Mostly, there was no special supportive approach. During the assessment of the answers given to this question, it’s an important factor to know whether the sexual identity of the employee was open or not. When it’s considered that employees were not generally open about their sexual identities, it’s natural that the approaches in health service processes were stated to be “neutral”. On the other hand, experiences of our participants provides significant clues on that being hidden regarding sexual orientation or gender identity creates various difficulties in working life and forces persons to taking special measures. A few of our participants however, stated that no kind of health service were provided in their workplaces. Distribution of the answers given to this question is presented in the following table.

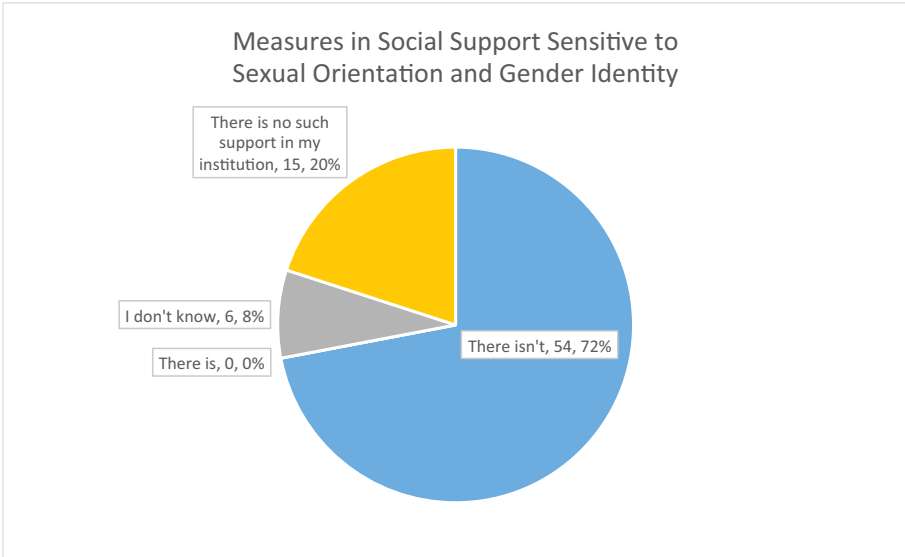


All the participants who marked the “Other” option stated that they didn’t experience such a situation since they weren’t open about their sexual identities.

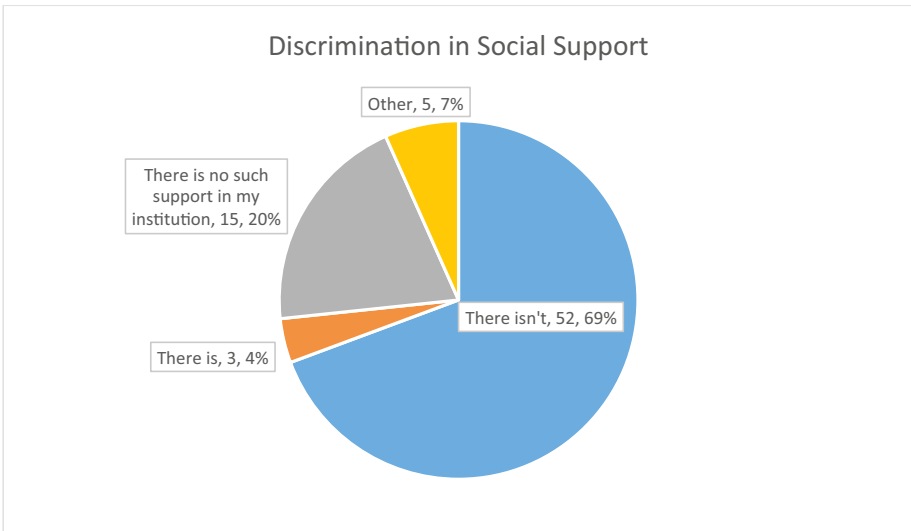
Social Supports

Answers given by the participants to our question, “Are there any special measures taken for inclusion of LGBTI employees within the scope of the social aids and other similar services aimed at the employees?” point out the invisible, vulnerable and disadvantaged situation of LGBTI employees in this area as well.

Some of our participants on the other hand stated that such aids didn’t exist for any employee at all. Regarding reaching such aids, encountering any kind of discrimination didn’t come into question for most of our participants since they were not “open”. Since such practices are planned by the central government in public sector, being able to benefit from the general practices are much more decisive than the practices of the institution that is worked for. It can be thought that special measures and equality approach can be changed only by changing the legal legislation and public policies. Related graphics are presented by the following.



Another question we have asked to our participants was, “Do you encounter a different treatment while accessing the social aids provided in your workplaces?”. Distribution of the answers can be followed from the following table.



All 3 participants who stated that there were different treatments based on sexual orientation and gender identity in social supports provided by the institutions emphasized that it was legally impossible for them to benefit from the supports pro-

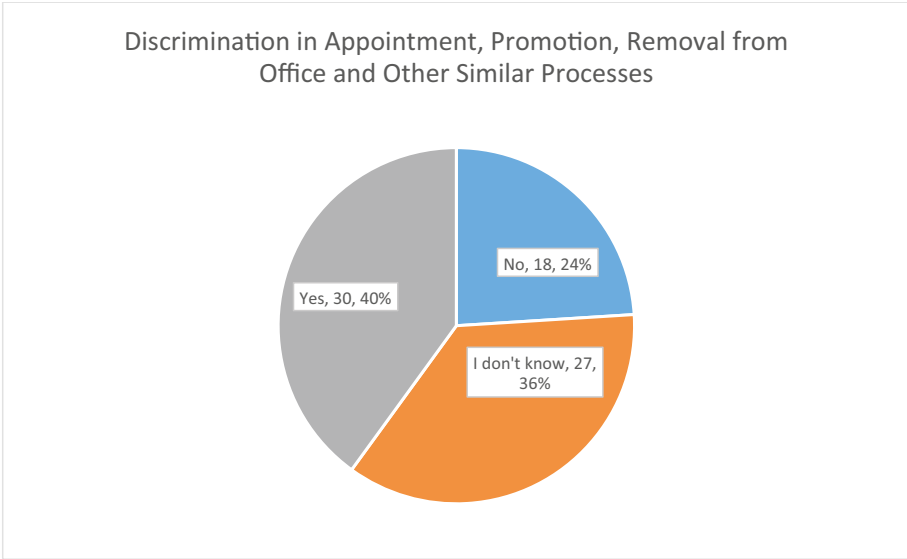
vided to married employees, such as spouse-related supports, appointment right or family support. 5 respondents who gave the “Other” answer on the other hand stated that they didn’t encounter a different treatment since they were not “open” about their identities. What needs to be borne in mind here is the responsibility of the public sector to empower LGBTI employees who are among the most disadvantaged and vulnerable sections of the society within the scope of social supports and social protection policies in line with the human rights and equal citizenship principles.

H. In-House Discrimination Experiences

In the answers given to this question, rather than direct discrimination practices, generally discriminative speeches and approaches were emphasized. When it is considered that sexual orientations and gender identities of majority of our participants were not open, this result is natural. Discriminative speeches, hate speeches, “jokes”, insinuations, insinuations and pressures particularly about getting married and other similar processes experienced in other areas of the social life exactly reflect on the working life as well. Furthermore, gossips and comments about private life those get mixed with curiosity, mockery and belittling and which are again encountered in daily life are frequently experienced in working life as well. It can be said that these approaches are examples of “symbolic discrimination”.

Answers given by our participants regarding discriminative practices and speeches reveal another finding which was found by other questions. Gender based discrimination against women arising from sexist ideologies develops in parallel with and intertwines with discrimination based on sexual orientation and gender identity. Our participants stated their witnessing in this direction as well: Woman employees were facing open or implicit practices (aka glass ceiling) in issues like working conditions, appointment, promotion etc.

Our participants also stated that legislation also included open discrimination. General approach to Law No. 657, under the title of “immorality” created an element of oppression over the employees and often was used as a mean of threat. Furthermore, lack of spouse-related support, family aid, appointment and legal practices in other similar areas also continued their existences as direct legal discriminations.



40 per cent of the answers given to our question, “Are there any open or covered rules or practices which cause sexual identity discrimination during appointment, promotion, removal from office and other similar processes?” was “Yes”. Examples from the statements of related participants are presented in the following list.

- “It’s frequently encountered in appointments. I’m being marginalized through indirect discrimination occurring in the conversations behind the doors.” (A gay teacher)
- “It definitely exists. Due to these situations, relocations are applied through threats and it’s shown like reassignment. It’s like a compulsory appointment.” (A gay mid-level manager)
- “It exists disguisedly. They feel sorry for the persons, yet they condone. It’s an attitude like ‘Isn’t it more than enough to be a civil servant for a person like you? We more or less know about you.’” (A gay contractual social service specialist)
- “It’s directly a reason to get fired in case of a complaint.” (A lesbian teacher)
- “An open gay or lesbian can even be dismissed from the profession.” (A gay teacher)
- “General rules of Law No 657, spouse-related appointment issues.” (A bisexual woman, teacher)

“I am a teacher. I was about to apply for deputy headmaster position with assignment of the headmaster. I accidentally heard the conversation of other deputy headmaster and the headmaster (they didn’t see me). The deputy headmaster said ‘his behaviors are kind of strange, I don’t know, I cannot decide how to put it sir’. Headmaster replied saying ‘I got you. But his communication with the students and the teachers are great. I no notice that there’s some strangeness in his behaviors as well (laughingly)’. I felt bothered upon hearing this conversation. I gave up the idea. However, there is no open hate speech towards me. It’s just the headmaster frets about finding me a wife.” (A gay teacher)

“There nothing openly but it’s vaguely hinted. Like not being able get appointment or promotion.” (A lesbian career employee)

“You can never get promotion if you reveal that you are a trans male.” (heterosexual court clerk trans man)

“Individuals with open sexual orientations can never advance. Moreover, even the critical persons cannot advance. Nor the Alevi people.” (A bisexual sociologist woman)

“I have a foresight/prejudice that such practices may occur due to the attitudes and styles of the university management.” (A gay lecturer)

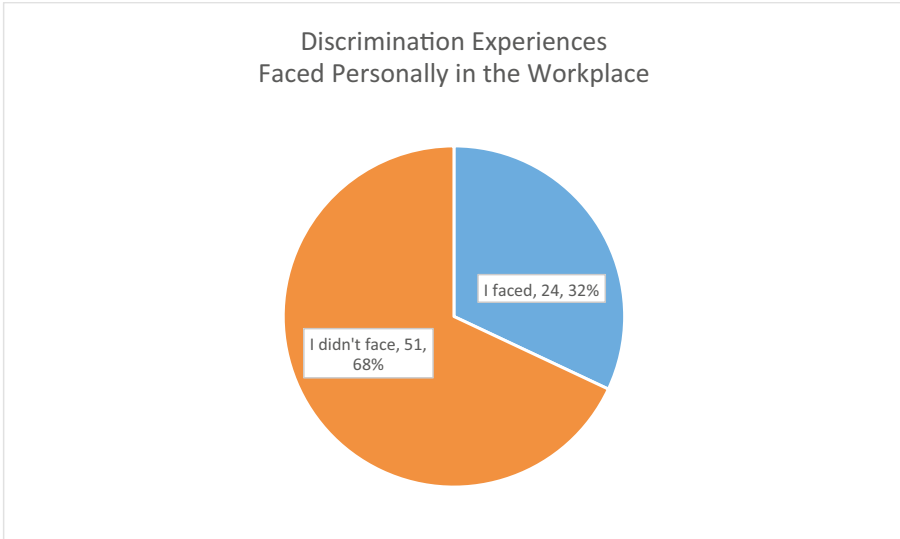
“Since homosexuality is considered as disorderly conduct and due to the influence of additional religious and political approaches, an open LGBTI individual cannot get promotion, they even get fired.” (A gay social service specialist)

“I believe information in this direction was given to the institution during my times of being a manager and I doubt that I was dismissed because of that.” (A lesbian senior economics specialist)

“I don’t encounter any problems since I don’t openly manifest myself”. (A gay lecturer)

“I noticed that a feminine civil servant was rather assigned to run errands. Afterwards, such person had a problem due to his fault again, but I believe he was more easily dismissed because he was feminine.” (A gay architect)

“Women don’t get appointed, managers are chosen from men. Men have the priority in assignments as well. They say ‘first assign the men, make women go with them’.” (A bisexual woman, contractual pollster)



Another question in our research was, “Have you ever encountered any sexual identity discrimination or harassment towards you in person? How did they develop?”.

When the answers given to this question are assessed collectively, it is observed that 68 per cent of the participants did not face any discriminatory practice in person. This ratio should be considered with the fact that most of the participants were not open regarding their sexual identities; so that significantly affected the experiences they lived. It should be borne in mind that only 1 in 20 public sector employees LGBTI’s is completely open about their sexual identities in their institutions. Furthermore, as have been in other answers to other questions, the answers given to this question also show that discrimination based on gender either reinforces or develops in parallel with discrimination based on sexual orientation and gender identity.

The statements presented in the following list also show the measures they had to take in order to avoid being a target of discrimination. The foremost one among these measures manifests itself as hiding sexual orientation or gender identity, making a specific effort to prevent them from becoming visible, understandable. On the other hand, how being obliged to act in this manner affects performance and efficiency can clearly be observed in the answers given to other questions.

When we examine direct sexual identity discrimination and harassment experiences faced in person by LGBTI employees, and we examine their witnessing of discriminatory practices towards other employees, we see that it was generally stated that no direct personal experience had been faced. Again, being not open in the work-

places regarding sexual identity explain the answers given to this question. However, approximately 30% of our participants stated that they faced such discrimination experiences. Some of the experiences of our participants are presented in the following list with their own words. When discrimination experiences and witnessing are examined collectively, it is observed that open and implicit discrimination and harassment practices cannot be avoided even in cases of being not open.

“Verbal harassment continues to exist. Since male chiefs are protected by male supervisors, they continuously contempt.” (A bisexual woman, contractual pollster)

“There is no verbal situation however there are situations that causes the feeling of it. They make you feel through gestures and facial expressions, attitudes and attributes.” (A gay teacher)

“Mobbing occurs; singleness subject is opened out of the blue; implicit, indirect expressions are used.” (An asexual trans woman, senior career specialist)

“When I first started working in the institution, I was relatively more open. This situation caused people saying things behind my back and making jokes; there was belittling.” (A gay sociologist)

“I encountered situations like verbal harassments or looking and laughing at me.” (A gay social worker)

“I was harassed from time to time since I was seen as a bachelor and a young woman. I believe these harassments would increase in case they knew about my sexual orientation.” (A bisexual woman, contractual office employee)

“I heard it from the parent of my student. While I was talking about the situation of her kid, she said, ‘I heard that my kid has a teacher. It is said that he has different demeanors. How do they even make them teachers?’. She wasn’t even aware that she was talking about me. By the way, I’m a branch teacher. I had a lump in my throat. I didn’t know what to say. I claimed that I had to enter the class and I left.” (A gay teacher)

“A colleague verbally harassed me.” (A teacher who doesn’t classify their sexual orientation or gender identity)

“It exists as jokes, insinuations, belittling.” (A lesbian archivist)

“I’m a teacher. One time, when I didn’t act for the benefits of my administrative friends, they casted aspersions using one of my students.” (A heterosexual trans man, teacher)

“My directress accused me of being too polite and she reprehended me.” (A gay teacher)

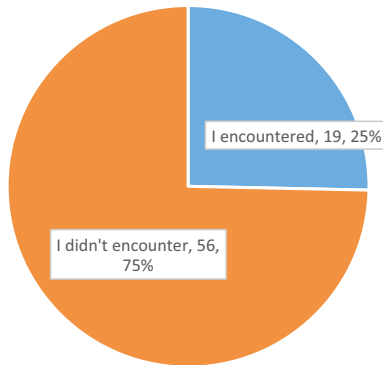
“When I first started working in the institution, I had to deal with gossips.” (A gay engineer)

“They attempted to isolate me.” (A heterosexual trans woman, control specialist)

“There were a couple of impertinent sentences expressed in front of everyone through insinuations; it’s limited with this only. No problem occurred since it wasn’t a physical situation and in the end, those people demeaned themselves.” (A gay lecturer)

“There was a person who harassed young women and who got a bad reputation. He used to cuddle me as well. I warned him a couple of times. Eunuch jokes were made nearby me referring to me. Later on, I talked to him and put him in his place. I’m now more comfortable since I shared it with my union.” (A gay architect)

Witnessing of Discrimination towards Another LGBTI Employee in the Workplace



“After the employee left the job, people used expressions like ‘he was psychologically disordered’ regarding his orientation.” (A bisexual woman, contractual sales consultant)

“A constant teasing and mobbing is applied towards a trans friend of mine. People constantly attack using religion and culture as means.” (A bisexual woman, contractual pollster)

“People teased and joked about. The harassment ended with individual responses.” (A gay, academy manager)

“There have been gossips about that person but no legal process has been commenced. They openly tease but there is no proceeding.” (An asexual woman, senior career employee)

“Insinuations and taunts regarding sexual identity targeted other persons as well.” (A gay sociologist)

“LGBTs in the institution are introverted.” (A bisexual sociologist woman)

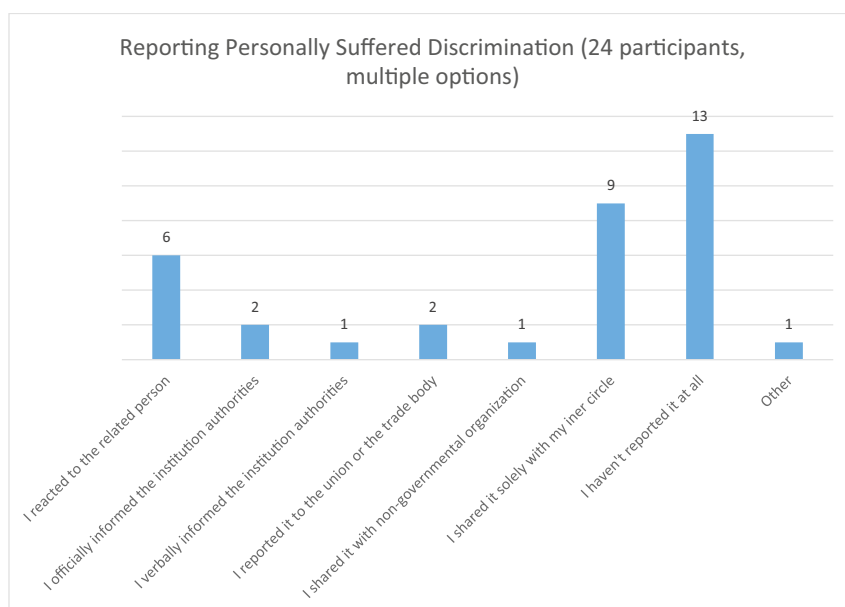
“I often witnessed people talking behind and humiliating my friend.” (A lesbian archivist)

“Yes, a gay friend of mine was verbally abused by his superiors on the basis of his being ‘soft’.” (A lesbian senior economics specialist)

“I witnessed a feminine person being kept at lower job positions.” (A gay architect)

Reporting the Suffered or Witnessed Discrimination in the Institution

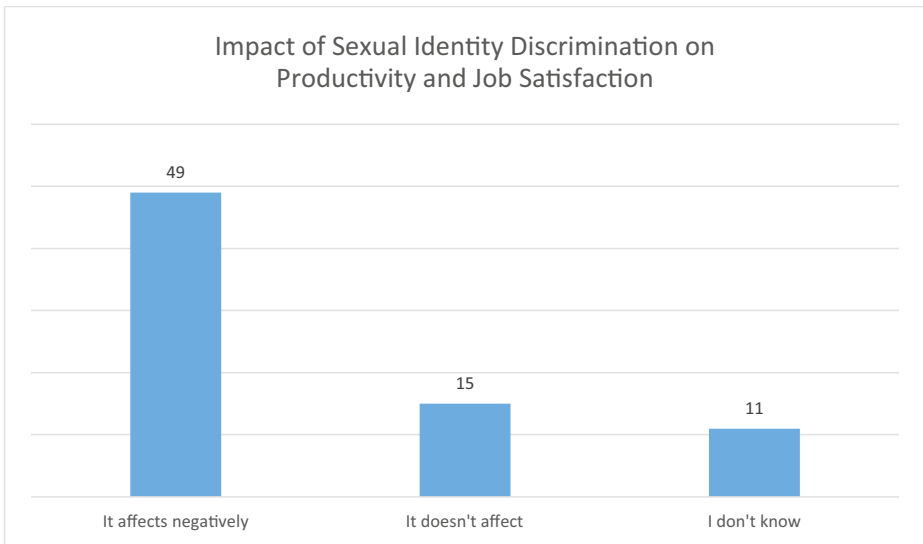
Our participants generally don't react personally or try to deal with it by sharing it with their inner circles. This has similar reasons. One is because there is no legal application opportunity that is trusted or that has jurisprudence regarding. Besides, sexual identity of the person should be open in order to benefit from such opportunities. The distribution of the answers given to this question is presented below.



Other: “I pretend like I don't hear or I respond it with jokes”

I. The Relationship Between Discrimination, Productivity and Job Satisfaction in the Workplace

The answers of our participants to the question, “Do the problems you experience or you likely to experience generally affect your productivity and job satisfaction negatively?”, show that discrimination experienced in workplaces generally affect productivity and job satisfaction of the employees. This effect arises in different ways. The answers given by our participants to the question in order to find out such effects are presented in the following table.



Statements and experiences of our participants show that discriminative expressions and practices affect productivity and job satisfaction in a number of ways and due to a number of reasons. Firstly, people’s inability to behave naturally as they are and constant need to “control” their attitudes and behaviors in order to hide themselves from curious eyes while working affect their performances, and as a result, their productivity. It affects the attention that is supposed to be focused on the job throughout the working day. Trying to hide sexual identity might cause uneasiness, insecurity and distracted focus on the factors other than job-related ones; consequently, this might affect the concentration. As it is seen in the statements of the participants, fear of being disclosed in terms of their identities requires controlled behavior outside the workplace as well. In brief, it causes an entire life to be lived pretending to look and behave like a different person. Eventually, behaving in an uneasy, controlled and undemonstrative way affects the productivity and job satisfaction. Working in public sector leads to living constantly with the cost of at least not being able to get promotion, openly exclusion and losing the job. Heavy

psychological pressure, anxiety and stress created by this situation directly affect the productivity and job satisfaction.

LGBTI's who are either open in terms of their sexual orientations or gender identities or who are targeted by the indirect approaches, insinuations, "jokes", guesses of other employees occasionally live negative feelings which exceed to after hours as well. Implicative looks, hate language and abuses which appear in the suppressive and/or open expressions naturally affect productivity and job satisfaction.

The answers given by our participants show that negative experiences and suffered discriminations not only affect productivity and job satisfaction, but also direct the sufferers to get into compensatory behaviors like working more than expected or the other staff, "as if they have gaps or deficiencies" or to be more successful than anyone else. This finding indicates that suffered discrimination experiences can cause multifaceted and deep psychological consequences.

"This is the biggest problem in my life. Officially yes, I'm married but due to the attitudes of my superiors about this issue, I'm even afraid of meeting one of my former friends." (A bisexual woman, contractual pollster)

"I feel like I have to pretend. This constitutes an additional stress burden for me." (A gay, academy manager)

"Being preoccupied due to security reasons constantly decreases my energy and performance." (A gay computer operator)

"I would like to be open. Constant questions like, 'When will you marry?' decrease my motivation. People constantly ask about my girlfriend. There is a constant attack to my personal space." (A gay social service specialist)

"Even though I don't let it to affect me, it happens. It limits my dream to advance in the job." (An asexual trans woman, senior career employee)

"It prevents me from acting freely. I cannot advocate for rights at my workplace; I'm scared that I might be labeled." (A lesbian teacher)

"This is an attack to my realm of existence. Ignoring me and disregarding my sentences wear away at me and it breaks my ambition to work. It's quite exhausting not to be able to use administrative means." (A gay sociologist)

"Homophobic, sexist speeches and approaches occur. I cannot react due to the fear of being abused. Or I make extra effort for them not to learn about my social environment." (A bisexual contractual office employee woman)

"It's demotivational not to feel that you belong to that place and not being able to benefit from the same rights." (A bisexual woman, public servant)

“It exhausts me to feel that I have to make less mistakes in order to avoid from drawing attention. Not behaving as masculine as them might draw attention. Not being like them enough directs me to behave more cautious.” (A gay teacher)

“Losing your motivation, decrease in will to work. Plus, wishing for not meeting the people who expose you to these problems again.” (A heterosexual trans man, teacher)

“Since I believe the institution I work for is relatively an LGBTI friendly institution, I ignore the negativities other than sexual identity subject and I dare not transferring to another institution. The negativities I ignore have been decreasing my productivity.” (A gay academician)

“Since I have to hide my sexual identity, I feel uneasy. I may lose my job if people know that I’m gay; even if I don’t, I might be exposed to discrimination and mobbing. All these fears serve as obstracter factors and decrease my productivity.” (A gay social service specialist)

“You naturally don’t feel safe. Loyalty to the institution decreases.” (A gay academician)

“I work in fear and anxiety. I don’t go to work wishfully. I don’t completely meet my own performance and ability.” (A gay contractual office employee)

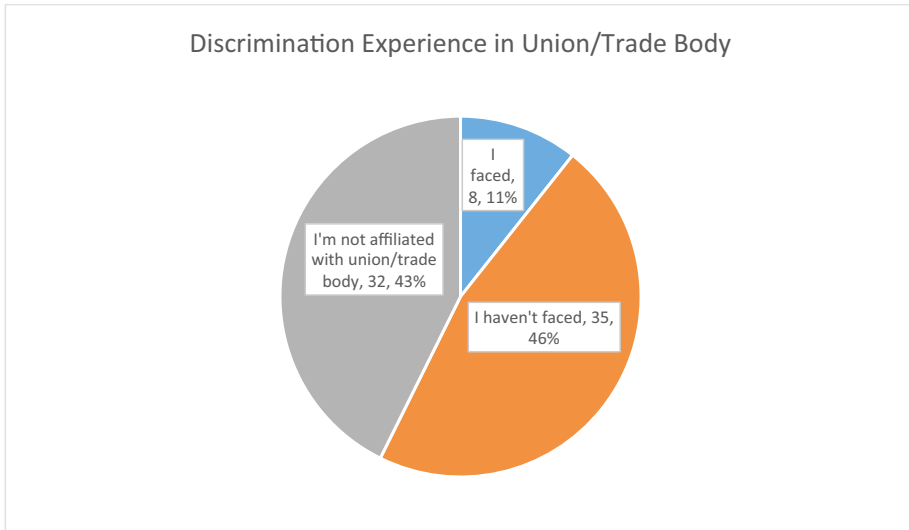
“If they know, I cannot guess how far they will keep themselves away from me. Marriage pressure, speeches like ‘I have to give birth’ caused me to keep myself away from everybody and to establish a lonely working life.” (A bisexual woman, contractual specialist)

J. Situation in Unions and Trade Bodies

While a ratio of 43% of our participants stated that they were not affiliated with any union or trade body, 46% of the participants stated that they hadn’t experienced any kind of discrimination in these institutions. 8 participants on the other hand stated that they were exposed to discrimination in unions or trade bodies. This finding of course should be interpreted together with the information regarding to what extent LGBTI employees are open in unions or trade bodies in terms of their sexual identities. From another angle, it should also be borne in mind that significant part of public sector employee LGBTIs who can access to or can be accessed by Kaos GL are members of trade bodies/unions which are relatively more supportive about LGBTI rights.

Despite this, discrimination experiences of our participants showed that they were not convinced about the “sincerity” and the effectiveness of the struggles and works executed for them by trade bodies and the unions. They believed that those

works were based on popular approaches rather than showing true principal orientations, decisive approaches of the trade bodies and the unions towards discrimination. Furthermore, our participants stated that they also faced symbolic-covered discriminative approaches in these institutions as they did in their workplaces.



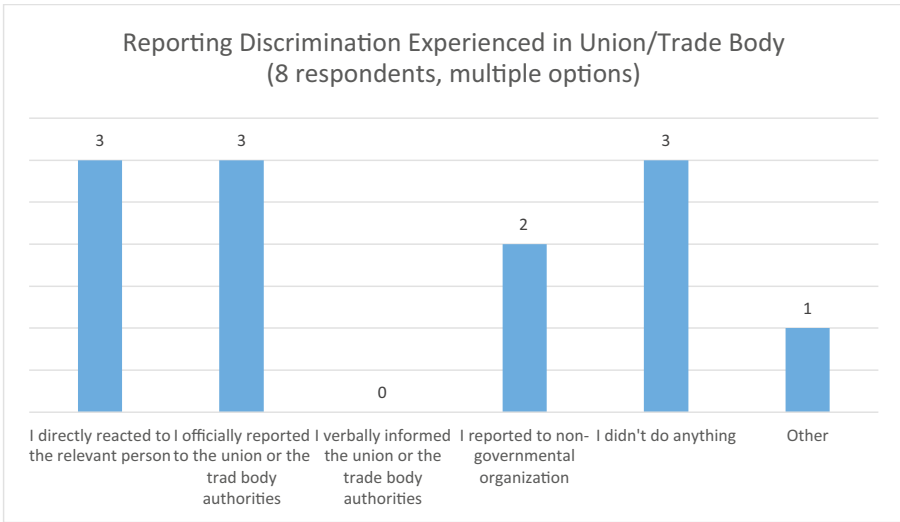
Examples of the statements of the participants who stated that they faced discrimination in unions or trade bodies are as follows.

“There’s secret homophobia. There is nothing showed openly, but secretly, there is something. You hear sentences like ‘Why are we discussing about LGBTI commission as if we have achieved everything else?’. There is an insincere environment. For them, it’s more of a joke subject rather than a freedom fight. They are being political. They play to the audience.” (A gay civil servant)

“I have lived significant problems with the union. I was threatened and I had psychological problems. The other persons in the union left me alone.” (A gay contractual social service specialist)

“I am a member of a union that has established some branches about LGBT issue and that theoretically defends LGBTIs. But I witnessed sarcastic and discriminatory speeches in between the conversations many times, not towards me though. Persons from the union administration included. For example, a branch of the union has established an LGBT commission. They talked about that. Laughs everywhere. Speeches like ‘Everything is fulfilled and this was the only missing thing, yes’. (A gay civil servant)

“During one of the trainings of the union, the communions were quite heterosexist even though they weren’t directly said at me.” (A gay teacher)



Other: "I reported it to the union central office via e-mail by hiding my true identity"

K. Demands and Measures against Discrimination

When we group the answers given to the question, "What are the measures with the highest priorities that should be taken against discrimination based on sexual orientation and gender identity?", it is observed that the most frequently reflected measure group is accumulated in "legal measures" category which should be taken regarding LGBTI rights. The demand of updating the legislation in accordance with the universal human rights criteria was followed by "education and awareness activities" and "affirmative action" (positive discrimination), respectively. In addition to these, restructuring in-house equality committees, guidance and supervisions in a way that they will involve rights and needs of LGBTIs is demanded as well.

Other: "This issue should definitely be considered within the scope of private life and it should be viewed as an immunity"; "I want an environment in which gays and lesbians can fearlessly reveal their identities and in which the state at least doesn't hinder anything even if they don't support", "Problems of LGBTI employees regarding visibility should be solved; this heterosexist structure should be overcome", "The measure with the highest priority is not to present ourselves as monsters and step aside afterwards. We should be cheerful and affectionate", "You're forgetting the fact that you live in Turkey. How many people are open and would reveal their sexual identities?"

Legislative Regulations

In majority of the answers given to this question, it was emphasized that in order to prevent discrimination in public sector, relevant legal legislation should completely be amended, starting from the Constitution. Major part of our participants suggested that legislative regulations and even constitutional recognition was required in order to prevent discrimination in working life. The necessity of legal protection was particularly emphasized which should be included in all legislation on employment and work life. First of all, legal regulations will mean job security and lead to positive change in the conditions which cause working under threat. Furthermore, it was stated that special legislation and special committees which can be effective in combat against discrimination were needed as well. Examples from the suggestions and demands of our participants are presented below.

“Legislative regulations and new discrimination policies.” (A gay contractual office worker)

“Protective regulations and committees.” (A gay teacher)

“Official recognition. Constitutional rights. Hate crimes law.” (A bisexual trans, civil servant)

“If there was an open protection in the eye of law, persons would feel safe even if discriminations exist within the context of bundle of rights.” (A gay academician)

“I believe there should be an authorized supervisory and punitive formation in order to prevent discrimination based on sexual identity during employment via interviews and afterwards, mobbing. There is a need for an authority for individuals who have been wronged due to their sexual identities. Optimally, such body should be consisted of LGBTI individuals and women.” (A bisexual woman, research associate)

“Sexual identity and orientation should be protected under the constitution. Articles that penalize discrimination should be added to the Criminal Code.” (A gay teacher)

“Articles, regulations and other similar things which comprise a basis for discrimination based on sexual orientation and gender identity might be rearranged. Clear articles that will eliminate discrimination should be added. It should be clearly specified that this should not be a reason for discrimination.” (A gay psychologist)

“Principle of equality of the constitution should be amended in a way that it will also cover sexual orientation and gender identity. Occupational equalization should be provided for LGBTI individuals.” (A gay social service specialist)

Education, Awareness and Solidarity

As it is seen in the following examples, a significant part of the answers given by our participants is about “education”, “informative” and “awareness raising” procedures. It’s thought that when “lack of knowledge” which is showed as one of the reasons of discrimination is eliminated, at least discrimination arising from this reason can be fought against. As one of our participants stated, “It’s required to tell that LGBTIs are ‘normal’ by providing mandatory seminars like occupational safety trainings. Regular seminar, workshop and informative channels should be created. These awareness raising works should aim to ensure social transformation. Furthermore, our participants emphasized the importance of establishing and developing solidarity channels in the public institutions and organizing them in the fight against the discriminations towards vulnerable sections of the society.

“Awareness raising, informing, supervising against discrimination.” (A bisexual woman, contractual sales consultant)

“Even though this is a social problem, school counselors should be educated first for the things to be done specific to public; homophobic manners should be broken. This should be achieved through unions and non-governmental organizations; the curriculum should be renewed.” (A gay teacher)

“Work of the employee should look more important than their sexuality and identity; my personality shouldn’t be more important than my work; this logic should be established.” (An asexual trans woman, senior career employee)

“Awareness of civil servants should be raised and they should receive awareness raising trainings.” (A lesbian archivist)

“Organizing informative seminars for employees of the institution and making sure that they obtain right information.” (A gay teacher)

“LGBTI individuals working in same institutions (LGBTI activists and non-governmental organizations might facilitate this) should somehow gather and act with solidarity.” (A gay social service specialist)

“In-house awareness raising trainings should be given. They should be supported with movie screenings and workshops. There should be a training that is mandatory to all employees.” (A gay architect)

Affirmative Action (Positive Discrimination)

Another suggestion group is about affirmative action (positive discrimination) regulations in order to prevent discrimination. As it will be seen in the following expressions, our participants stated that public institutions should do affirmative action (positive discrimination) in order to provide conditions which will not only prevent discrimination in working life but also ensure participation of more LGBTI persons in public employment.

“LGBTIs should be supported in health and in social issues. They should be allowed to organize.” (A bisexual woman, academician)

“Unions should do activities which will empower the LGBTIs within their structures.” (A lesbian teacher)

“Positive discrimination should be done for LGBT individuals. People with open identities shouldn’t live any problems under no circumstance.” (A gay social service specialist)

“Quotas and various positive discrimination measures during employment might be considered in public sector for LGBTIs. (A gay research associate)



Chapter

3

**Legal Status and Legal
Interpretation of the
Research**

There is no special regulation regarding lesbian, gay, bisexual, trans and intersex persons, in other words, towards grounds of sexual orientation, gender identity and intersex situation within the regulations of Turkish legal legislation regarding civil servants. However, in articles related to punitive sanctions for civil servants, “disorderly” conducts are imposed to various sanctions. Since LGBTI existences are widely coded as “immoral” by the society within the framework of patriarchal, conservative, homophobic and transphobic judgments, in practice, LGBTI persons can be exposed to sanctions which are considered within the framework of “immorality” even due to their behaviors outside the workplace.

In the examples that are reflected on human rights reports published by LGBTI non-governmental organizations, or of which we could access through LGBTI employees who have encountered such sanctions and have resorted to the jurisdiction, it is seen that courts do not exhibit a uniform attitude against the decisions regarding discipline or removal of public office.¹ While in some cases, courts overrule the decision by suggesting that existence of LGBTIs cannot be qualified as “immoral”, in some cases, courts consider that existence of LGBTIs is “immoral” by giving contrary decision and overrule the claims for cancellation of the penalties. The fact that there are no judicial decisions given by Counsel of State, the highest judicial authority in this issue, hinders a uniform decision to be taken by the courts.²

It’s possible to separate the legal regulations regarding civil servants into three basic categories.

A. General Regulatory Legislation regarding Civil Servants

Basic regulations for civil servants are covered by Public Servants Law No 657. In Article 125 of Public Servants Law, “having attitudes and behaviors that don’t fit

¹ http://www.kaosgldernegi.org/resim/yayin/dl/lgbt__nsan_haklar__raporu_kaosgl_2014.pdf
http://www.coe.int/t/commissioner/source/lgbt/turkeylegal_e.pdf

² <http://kaosgl.org/sayfa.php?id=18971>

the dignity of civil servant, acting in immoral and indecent way that are contrary to public morality in place of duty and writing in same manner, drawing signs, pictures and doing more of the same, acting in infamous and disgraceful ways that don't fit civil servant title in terms of quality and standard" acts are tied to various sanctions. On the assumption that LGBTI employees commit these illegal acts only by being LGBTI, there are examples of which they were subjected to sanctions.

Regulation of the Article is as follows.

Public Servants Law

Types of disciplinary punishments and the actions and circumstances that will require punishment:

Article 125 - (Amendment: 12/5/1982 - 2670/31 Article)

Disciplinary punishments to be inflicted to public servants and the actions and circumstances that will require each disciplinary punishment are as follows:

A- Warning: Informing the civil servant in writing that the civil servant should be more attentive in their duties and behaviors.

Actions and circumstances that will require warning are as follows:

e) Having attitudes and behaviors that don't fit the dignity of civil servant.

B- Reproach: Informing the civil servant in writing that the civil servant has been demonstrating negligent acts in their duties and behaviors.

Actions and circumstances that will require reproach are as follows:

i) Acting in immoral and indecent way that are contrary to public morality in place of duty, writing in same manner, drawing signs, pictures and doing more of the same.

E- Removal of public office: Dismissing from public office provided that they won't be inducted as public servant again.

Actions and circumstances that will require removal of public office are as follows:

g) Acting in infamous and disgraceful ways that don't fit civil servant title in terms of quality and standard.

B. Special Legislation that Regulates Certain Officialdoms

In addition to the Public Servants Law, there are similar regulations in legislation which is particularly prepared for certain civil servants and these may cause sanctions against LGBTI civil servants. Relevant laws and their articles are presented below.

Law of Military Judges

General terms for military judges and military prosecutors:

Article 1 - (Amendment: 10/11/1983-2948/1 Article)

To be accepted in military judge and military prosecutor class, the candidate:

D) shouldn't have formed a habit of drunkenness, gambling or have provided environment for gambling, or upon the investigation to be carried out, it should be found out that the candidate or their parents and if there are, their spouses did not have predicament on moral grounds or any illegal attitude and behavior.

The actions to be taken on military judges and prosecutors who will leave Armed Forces due to various reasons:

Article 22 - (Amendment: 17/7/1972 - 1611/1 Article)

(...) (3) military judge officers can be discharged before the retirement age in grade due to inability, indiscipline and their moral conditions within the below mentioned terms and rules.

C) Discharging due to indiscipline and moral conditions:

Provided that the provisions regarding the Members of Military Court of Cassation and members of Military High Administrative Court shall remain hidden;

On the basis of one or more documents on their latest military ranks, regardless of their service periods, provisions of The Turkish Private Pension Law shall be implemented for those who are disapproved of serving in the Armed Forces with one of the below mentioned reasons due to their indiscipline and moral conditions.

4. Demonstrating immoral acts in a way that will discredit Armed Forces and judgship.

Discharging due to indiscipline and moral conditions is applied on the basis of records which can always be issued by their administrative record superiors regardless of time period.

In the records, pursuant to which of the reasons listed above the decision was given is stated.

With this record, formal conclusive transaction is done for the other officers. (1) (2)

Law of Military Court of Cassation

Retirement:

Article 40 – Law of Military Judges No 357 is applied for Military Court of Cassation President, Attorney General, Vice President and Heads of Departments and the members who will be retired or discharged from Armed Forces due to reduction in force, inability, indiscipline and moral conditions.

Law of Judges and Prosecutors

The documents to be issued about the candidates:

Article 11 – information about each candidate on their abilities and successes while executing their duties and their loyalties to their duties and their moral conducts; documents to be issued by the heads of the departments they work for at the end of their internships and to be submitted to the justice commission and the opinions of the justice commission and the reports of justice inspector are obtained. For the candidates working at Court of Cassation and Counsel of State, the report to be issued by the heads of the departments they work for at the end of their internships is submitted either to First President of the Court of Cassation or to Counsel of State President, whomever related, for the purpose of sending it to the Ministry of Justice.

Article 21 - (Amendment: 5435 - 22.12.2005 / Article 8) for promoting those who work at judgeship and attorney generalship occupations to higher ranks:

- c) They are obliged to meet the conditions pursued within the rank promotion principles announced by High Council of Judges and Prosecutors taking into account their moral conducts, professional knowledge and understanding, efforts and sedulity, whether or not they cause pile up of the duties they carry out, quality and quantity of the works they fulfill, loyalty to and continuity at their works, status reports and data sheets to be issued by their superiors and by inspectors, the number of works which passed legal investigations and grades given upon these legal investigations, precedents and their opinions and if exists, their occupational studies and articles and the on-the-job trainings and career educations they have participated.

Law on Promotion and Punishment of Primary and Secondary School Teachers

Article 27 – Dismissal of occupation is applied in below mentioned cases.

- 1 – Maintaining irreconcilable unchastity either towards the student or as an outward teacher...

A sample case about this article has been reflected in the press.³

Law of Reserve Officers and Reserve Military Employees

Raising reserve officers

Article 3 - (Amendment: 12/11/1980 - 2338/1 Article)

- i) (Supplement: 21/7/1999 - 4414/1 Article; Amendment: 22/5/2012 - 6318/23 Article) In the basic military training, for ones who have graduated at least from a four-year faculty or academy on their own behalves and left before completing their basic military trainings or those who left before the end of probation period among ones who were commissioned to active officer positions, the duration they have spent in basic military training, officer cadet school, their reserve officer service periods and active officer service periods are deemed to be military services. Among ones whose deemed military service periods don't meet the service periods they are liable to; 1. The missing military services of ones who left after they have been commissioned as lieutenant, pursuant to this provision of law, are completed as reserve officers with the rank of lieutenant. 2. Among ones who left before they have been commissioned as lieutenant; (a) The missing military services of ones who left after starting basic military training with the rank of ensign are completed in their previous troops as ensigns, (b) The missing military services of ones who left after starting basic military training while studying at service schools are completed by being sent to their previous service schools with their previous classes and ranks, (c) The missing military services of ones who left after starting basic military training before starting military service are completed pursuant to this provision of law. The missing military services of ones who were discharged from Turkish Armed Forces before completing military service due to indiscipline or immorality reasons or ones who were discharged from Turkish Armed Forces with court decisions or as a result of imprisonment sentences are completed with the rank of private soldier based on the duration in paragraph 1 of Article 5 of Law No 1111.

Article 8 - (Amendment: 29/11/1983 - 2962/3 Article)

³ <http://www.radikal.com.tr/Default.aspx?aType=RadikalYazar&ArticleID=1031426&Yazar=EZG%D-D&Date=05.12.2010&CategoryID=97>

Ones who are discovered to have below mentioned handicaps before being sent to military as reserve officer candidates or during training as reserve officers complete their military services as privates or as ranks and files depending on their conditions.

1. Ones who were not deemed suitable for being discharged from reserve officer positions due to indiscipline and immorality conditions...

Noncommissioned Officer Records Legislation

(Published in gazette with 28/12/1998 date and 23567 number)

Definitions

Article 3 – Among the terms used in this Legislation;

- n. (Amendment: RG-21/8/2014-29095)⁽¹⁾ Competency: Morally, soldierly, professionally, physically, mentally and qualification for higher rank...

Sectioning the qualifications in registry documents

Article 20 – (Amendment: RG-21/8/2014-29095)

Noncommissioned Officer certificate of registry consists of six sections.

- a. Basic qualifications section:

This section involves the qualifications which are considered as ones every non-commissioned officer should have and cannot be converted to grades. In case weaknesses are observed in these qualifications and upon fulfillment of examination and follow-up processes, it is ensured that the personnel is discharged from Turkish Armed Forces due to indiscipline or immorality reason.

Institution of Forensic Medicine Commissions and Discipline Chiefs Legislation

(Gazette with 04/09/1999 date and 23806 number)

Disciplinary Punishments

Article 5 – Pursuant to Article 125 of Public Servants Law No 657, disciplinary punishments to be inflicted to civil servants and actions and circumstances that will require each disciplinary punishment are as follows:

Actions and circumstances that will require warning are as follows:

- e) Having attitudes and behaviors that don't fit the dignity of civil servant

Actions and circumstances that will require reproach are as follows:

- 1) Acting in immoral and indecent way that are contrary to public morality in place of duty, writing in same manner, drawing signs, pictures and doing more of the same

Legislation on Election and Education of Military Judge Candidates

(Gazette with 26/10/1985 date and 18910 number)

Qualifications and Selection of Military Judge Candidates

General qualifications:

Article 6 – It is mandatory to have the below mentioned qualifications to be accepted to military judge class. Drunkenness

- 4) The candidate shouldn't have formed a habit of drunkenness, gambling or have provided environment for gambling, or upon the investigation to be carried out, it should be found out that the candidate or their parents and if there are, their spouses did not have predicament on moral grounds or any illegal attitude and behavior, should not have been involved in political, ideological, subversive and separatist.

C. Legislation on Occupations deemed as Public Service

Aside from the regulations regarding civil servants, similar provisions are included in Articles 17 and 24 of Legal Practitioners Act which regulates the attorneyship profession which is considered as public service.

Legal Practitioners Act

Article 17 – Pursuant to Article 16, the documents indicated below are attached to the petition to be submitted.

4. An introduction paper prepared by two attorneys registered to the same bar association regarding moral condition of the candidate.

Article 24 – (Amendment: 30/1/1979 - 2178/5 Article)

Internship is done under the supervision of the bar association and the attorney the intern is working with. About the intern, a document which is prepared by the judges with whom the intern has undergone the period of training and public prosecutors and indicating the internship condition, professional interest and moral condition of the intern is given.

Conclusion

In order for these regulations in the legislation not to be used against the human rights of LGBTI persons, and in order to eliminate discrimination in public sector employment against LGBTIs, legislation should be amended in a way that it will also cover protection on the basis of sexual orientation, gender identity and intersex situation; so that LGBTI civil servants will be openly put under protection. In addition to this, contents with uncertain, vague definitions with large boundaries included in the legislation like “morality”, “decency” are required to be edited and these kind of contents should be narrowed down.

D. Legal Interpretation of the Research

As it will also be understood from the content of the report; lesbians, gays, bisexuals, trans persons and intersex persons rather chose not to be open in their workplaces in terms of their LGBTI identities in order to avoid from being subjected to disciplinary sanctions. In other words, disciplinary sanctions related to morality constitute an impediment before LGBTI employees to express their existences and benefiting from rights.

In addition, the fact that the number of trans people is far less than people who define themselves as lesbians, gays or bisexuals is another indicator that trans identities are coded as “immoral” and that trans people are experiencing discrimination during employment, recruitment and application processes in public sector and/or they don't demand to be employed in public sector due to fear of being discriminated. This situation again shows that for discrimination against LGBTIs to be eliminated in public sector employment, legislation should be developed in a way that it will also cover LGBTIs and their rights should be put under protection.

It's also reflected on the report that LGBTI civil servants live difficulties in getting promotion and even encounter downgrading due to their identities. This again reveals the necessity of an inclusive discrimination legislation.

Likewise, one of the report data is the fact that civil servants whose LGBTI identities are disclosed are suffering from harassment and mobbing at the workplace. However, the fact that there is no discrimination legislation that protects LGBTI employees leaves these people legally unprotected and unsafe against such harassments and mobbing.

Again, regulations in public servant legislation regarding clothing prevent trans people from wearing clothes that reflect their gender identities and from expressing their own existences.

Gay and lesbian partnership not being recognized by the law on the other hand causes gay and lesbian couples not benefit from the spouse-related rights which are benefited by straight civil servants. Furthermore, it's one of the frequently expressed subjects that they cannot benefit from the privileges provided to married people since they are perceived as "single" persons.

Ultimately, the biggest expectation of the LGBTI civil servants that is also reflected on this report is the necessity of making legal regulations that will prohibit discrimination in the light of universal human rights criteria.

Attorney Yasemin Öz
İstanbul, 2016

