RACIALISED LGBTI REALITIES:

Racial justice insights from the European Union Fundamental Rights Agency survey data

EQUINOX
INITIATIVE FOR RACIAL JUSTICE

The Equinox Initiative for Racial Justice is a people of colour-led advocacy project with solidarity and empowerment at its heart. Equinox is a coalition of racial and social justice leaders, activists and organisers from across Europe working in solidarity to influence European Union law and policy.

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Concepts

Racialisation

The political process that creates, maintains and gives meaning to concepts of race. It is a process of categorising, othering, and marginalising through a myriad of systems, tools and social practices.

Racialised people

Individuals and groups who have been subject to a process of racialisation and been ascribed a particular racial category. In European societies,, all people are racialised, however we use the term to refer to those that have been negatively racialised or racialised as "other".

Racial justice

The process of collectively uncovering, challenging and actively un-doing the systems, tools and practices that maintain racism and racialisation.

Structural racism

The structures that create and maintain vulnerability, harms and precarity aligned to racial difference. Structural racism is the intertwined relationship between historical injustices, epistemic (knowledge) erasure, laws, institutions, policies, practices, and social, political and economic disparities. The effect of these factors is to further marginalise and impose violence on racialised people.

Equinox's approach

At Equinox, we look beyond fixed or objective notions of race or ethnicity and focus on power, the process of racialisation, and the factors that created these power dynamics. Equinox uses "racialised people" expansively to include all those who have been subjected to different processes of racialisation. We include, but do not limit this to: People of African, Arabic, Asian, and Latin American descent, Roma and Sinti people, Sámi people, and those that are racialised as a result of their perceived membership to Muslim, Jewish and other religious communities. We also include in scope those who self-define using terms such as 'Black' and 'people of colour'.

Racialisation is highly contextual. We note that the specificities and complexities of processes of racialisation challenge clear cut definitions.

In August 2023, ILGA-Europe and Equinox produced a joint briefing: the Intersections report: Migrant and racial, ethnic and religious minorities,[1] to examine the challenges faced by LGBTI migrants from outside of the EU and belonging to ethnic or religious minorities compared to the wider LGBTI community results.

The survey results found that across Europe, LGBTI communities face systemic discrimination, inequalities and, and violence from the state, based on their sexual orientation, gender identity, gender expression or sex characteristics.

Introduction

In 2019, the EU Fundamental Rights Agency (FRA) conducted its second survey on LGBTI people in the EU, North Macedonia, and Serbia.[2] Respondents were asked questions about their identities, demographic information, socioeconomic status, and, importantly, their experiences with discrimination, violence, and harassment.

The survey results found that across Europe, LGBTI communities face systemic discrimination, inequalities, and violence from the state, based on their sexual orientation, gender identity, gender expression, or sex characteristics.

1. ILGA-Europe, "Intersections: The LGBTI Survey II, Migrant and Racial, Ethnic and Religious Minorities Analysis", (2023): https://ilga-europe.org/report/intersections-migrant-racial-ethnic-religious-minorities-diving-into-the-fra-lgbti-ii-survey-data/
2. EU Fundamental Rights Agency, "A long way to go for LGBTI equality", *Sex, sexual orientation and gender* (2020): https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results

Taking the data from FRA's survey, ILGA-Europe and Transgender Europe (TGEU) conducted a disaggregation project to better understand the intersectional experiences of LGBTI people.[3]

The project found that violence and discrimination increase exponentially when it comes to LGBTI people who are migrants, third-country nationals, identify as a racial, ethnic, or religious minority, are disabled, or are sex workers.[4] Consequently, the safety, health, and well-being of these communities are put at risk, and their access to basic services like education and healthcare is reduced.

What this demonstrates is that improving LGBTI health and wellbeing cannot be effectively addressed without tackling all forms of discrimination faced by LGBTI people. Rather, equality policies must be designed to account for class, race, gender, gender identity and migration status together. Currently, the EU's LGBTI and gender equality strategies lack the full integration with anti-racism policies necessary to address the realities experienced by racialised LGBTI communities.

With this in mind, Equinox has analysed the data from ILGA-Europe's disaggregated data project to better understand the experiences of those who are othered based on their migrant status, ethnicity, or religion. As a group, Equinox refers to these categories under the umbrella of 'racialised' people.

As the far-right wave sweeps across the continent, hard-won fundamental rights are increasingly at risk while the EU Charter of Fundamental Rights is undermined. In this context and ahead of the EU elections in 2024, Equinox demands a truly intersectional EU policy on equality.

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3. ILGA-Europe, "FRA LGBTI Survey II (2019) data disaggregation", (2022): https://www.ilga-europe.org/files/uploads/2022/08/FRA-LGBTI-Survey-II-data-disaggregation-tables.pdf
4. ILGA-Europe, "Intersections: The LGBTI Survey II, Migrant and Racial, Ethnic and Religious Minorities Analysis", (2023): https://ilga-europe.org/report/intersections-migrant-racial-ethnic-religious-minorities-diving-into-the-fra-lgbti-ii-survey-data/

Experiences of LGBTI people in Europe: A racial justice analysis

The data we have highlighted reveals the discrimination faced by LGBTI migrants from outside the EU, ethnic minorities with a non-migrant background, and religious minorities.

It has been divided thematically to show the extent of the challenges they face financially and socially, in school, work or public life. This includes their ability to procure gainful employment, and access housing, welfare and healthcare services safely. It also examines their likelihood of experiencing violence or assault and their awareness of reporting mechanisms for such incidents.

Equinox's analysis of each data set reveals the structural and intersectional nature of the discrimination each group faces, revealing the need for an integrated and comprehensive policy response at EU level to minimise these harms.

Socio-economic inequalities
Summary of key findings

LGBTI migrants from outside the EU are:

- More likely to have difficulty making ends meet if they are disabled, trans, or an ethnic minority
- Less likely to be in paid work if they have a disability
- Generally more likely to be unemployed, experienced homelessness or housing insecurity

LGBTI non-migrant ethnic minorities in the EU are:

- Generally more likely to have difficulty or great difficulty making ends meet. This likelihood increases if they are disabled, trans, intersex, genderqueer or non-binary
- Less likely to be in paid work, especially if they are disabled, trans, intersex, genderqueer or non-binary
- More likely to have experienced homelessness, emergency shelter stays, and housing insecurity

Respondents were more likely to self-identify as an ethnic minority or migrant if they were also Muslim or Jewish.

Religious minorities were:

- Almost twice as likely to have great difficulty making ends meet.
- They were almost four times more likely to have difficulty making ends meet if they were also disabled, and almost six times as likely if they were ethnic minorities, migrant minorities, and trans
- Generally more likely to have experiences of emergency shelters or sleeping rough

Equinox analysis

Migrants, racial and ethnic minorities often face higher economic, social and political barriers than the general population, such as unstable or exploitative work. These challenges become even greater for those who also have disabilities or identify as transgender, intersex, genderqueer, or non-binary.

People with a precarious migration status are consequently at higher risk of violent and discriminatory treatment by government authorities, police and border enforcement which extends to other areas like healthcare, unemployment benefits, education, and housing.

This is likely due to the over-emphasis on criminalisation and incarceration as a solution to migration, racism and LGBTI-phobia. Rather than improving access and equality, a criminalised approach paradoxically limits access to life-saving services and fair and dignified work. On one hand, this is because law enforcement are often perpetrators of violence, as will be highlighted in the next section. On the other hand, this is because criminalisation does not tackle the root causes of discrimination.

This is amplified in an extreme emergency such as the COVID-19 pandemic, where racialised and migrant groups, with LGBTI people at their core, were on the frontlines of every aspect of increased policing responses (curfews, fines), reduced services, and underpaid and dangerous employment (essential workers and medical staff).[5]

5. Equinox Initiative for Racial Justice, "Who Protects Us from the Police? Structural Racism in Law Enforcement in the European Union" (2021): https://www.equinox-eu.com/wp-content/uploads/2021/10/Equinox-Who-Protects-Us-from-the-Police.pdf

Discrimination, assault and harassment

Summary of key findings

LGBTI migrants from outside the EU are:

- More than two times more likely to have experienced discrimination in healthcare or social services
- Much more likely to have experienced discrimination at school
- Much more likely to have been attacked by a police officer or a border guard

In general, they are more likely to have experienced offensive comments, threats of violence, inappropriate gestures, have been followed or digitally harassed across all self-identification categories.

LGBTI non-migrant ethnic minorities in the EU are:

- Generally more likely to have experienced discrimination while looking for work or while at work
- Generally more likely to have experienced discrimination while looking for housing
- Generally more likely to have experienced discrimination while accessing healthcare or social services
- Generally more likely to have experienced discrimination while at school or on public transport

In general, they are generally more likely to experience both a physical and sexual attack at the same time. They are also most likely to be physically or sexually attacked regularly if they are trans-feminine. Intersex non-migrant ethnic minority respondents are most likely to have experienced attacks from a police officer or border guard.

Much like migrants from outside the EU, LGBTI non-migrant ethnic minorities in the EU are generally much more likely to have experienced offensive comments, violent threats, inappropriate gestures, been followed, or harassed digitally and at school.

Religious minorities in the EU are:

- Generally more likely to have experienced discrimination in the last 12 months while looking for work, at work, looking for housing, accessing healthcare or social services, at school, café, restaurant or bar, shop, or while showing ID.
- Generally more likely to have difficulty gaining access to healthcare services, changing provider, or foregoing treatment. They are also more likely to have their specific needs ignored, experience inappropriate curiosity or comments, or feel pressured to undergo treatment

They are generally more likely to have been physically or sexually attacked in the last five years, with Muslim respondents twice as likely to be attacked at school.

Equinox analysis

The data shows that migrants from outside the EU are more than twice as likely to have experienced discrimination while showing their ID if they are trans or non-binary. Religious minorities are much more likely to have experienced offensive comments, violent threats, inappropriate gestures, been followed, or harassed digitally and online.

Violence by police and border authorities

Strikingly, this harassment and discrimination is often at the hands of police and border guards. The data shows that migrants from outside the EU are much more likely to have been attacked by a police officer or a border guard if they are intersex or trans feminine. Religious minorities face a very high level of harassment from police or border officers if they are also trans feminine or have a disability.

In the case of EU and national responses to the crisis in Ukraine in 2022, the empathy gap separating racialised and queer/trans asylum seekers from the majority of those fleeing Ukraine was self-evident.

The intersectional discrimination faced by racialised, migrant and LGBTIQ people at the external borders of the EU is best seen in the case of Robert from Ukraine.

"Robert, a 31-year trans man from Iraq who had been living in Ukraine for 13 years, travelled by train for three days from the eastern city of Kharkiv to Slovakia and on to Prague… Robert, who asked not to give his full name, said the Slovak border control police mocked him, laughed and shouted at him for being trans and twice threw away his identity documents."[6]

Reuters, March 2022

Of all EU agencies involved with law enforcement, Frontex has faced the most notable allegations of brutality and human rights abuses towards migrants. However, along with the support they lend to national law enforcement forces, they are often the first point of contact for people on the move coming to the EU. In a situation that already calls for the utmost care, protection, and sensitivity, LGBTI migrants are even more vulnerable.

Discrimination and violence experienced outside the border are equally experienced within the EU. Of all respondents, ethnic minorities, religious minorities, and migrants from outside the EU are the least likely to trust the police, and this mistrust is compounded when accounting for gender identity or intersexuality. The lack of migration policy, asylum policy, and legislation against police impunity in the EU anti-racism action plan, LGBTI and gender equality strategies leaves a significant gap in the care and protection afforded to at-risk minority groups.

6. Enrique Anarte, "Trans and non-binary people trapped in war-torn Ukraine", *Thomson Reuters Foundation* (2022): https://www.reuters.com/article/ukraine-lgbt-refugees-idUSL5N2V61IN/

Reporting rates and awareness of equality bodies

Summary of key findings

LGBTI migrants from outside the EU have the same awareness and knowledge of equality bodies as the average respondent, and even more familiar with equality bodies if they are disabled or trans.

Despite this, they are also some of the least likely to report discrimination, violence or harassment. They most likely do not report due to their migration status if they are an ethnic minority, and less likely to report if they are a trans male.

Over 78% of incidents against LGBTI non-migrant ethnic minorities go unreported. The most common reason for not reporting was the belief that "nothing would happen" (45.26%) or it "wouldn't be taken seriously" (25.07%).

Despite the disproportionate rate of attacks against them, religious minorities in the EU are slightly less likely to have heard of equality bodies in their countries of residence. They are generally less likely to report to their employer, but more likely to report to a consumer authority or local authority, equality body, NGO

Respondents who were ethnic migrant minorities, Muslim or trans-masculine were significantly less likely to report an incident of discrimination, violence or harassment.

Religious minorities are also slightly more likely to say they do not report incidents because of a mistrust of authorities, and a belief that the police would not do anything. This increases markedly if they are Muslim or have a migrant background. They are also significantly more likely to have experienced an attack from a police officer or border guard if they are also disabled, trans-feminine, or Jewish.

Equinox analysis

EU gender equality policy is mostly disconnected from class, race, gender identity and migration status. From the data presented, it is clear that these overlapping identities can limit LGBTI people's capacity to seek justice from employers, law enforcement authorities, equality bodies, or elected representatives.

For example, even when religious minorities report discrimination to non-state actors (like NGOs or lawyers), the biggest barrier to reporting remains mistrust of police authorities. This mistrust of police increases if the reporter is of an ethnic minority or is Muslim, or transgender male.

Overall, migrants from outside the EU are the least likely to report discrimination to the police - their top three reasons were that "nothing would happen, not worth it, and would not be taken seriously."

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At the same time, the EU Anti-racism Action Plan and its strategies miss the mark - they merely pay lip service to intersectionality and treat discrimination as individual behavioural issues based on personal characteristics. This ignores the stark reality that racism and discrimination are upheld and enforced by the very framework of the EU and its Member States.[7]

7. Equinox Initiative for Racial Justice, "Who Protects Us from the Police? Structural Racism in Law Enforcement in the European Union" (2021): https://www.equinox-eu.com/wp-content/uploads/2021/10/Equinox-Who-Protects-Us-from-the-Police.pdf

Recommendations: A racial justice perspective

The data demonstrates that racialised members of LGBTI communities are disproportionately affected by discrimination in all areas. This situation is a product of structural racism which is truly intersectional, as the reality worsens for people who also have disabilities, are trans, intersex or non-binary, or are religious minorities.

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What's missing in the FRA data?

The FRA survey provides an important context for these experiences of structural discrimination from an intersectional perspective. However, the current FRA survey data does not indicate the specific migration status of LGBTI individuals, whether they can legally work, what the precarity of their position means for their exposure to discrimination and exploitation, or their ability to report harassment or violence. Ahead of future LGBTI surveys, we urge the FRA to include disaggregated data on respondents' migration status and work permits.

Documented vs undocumented

The legal status of respondents unequivocally impacts their confidence or likelihood of reporting discrimination or injustices. The fear of jeopardising their EU residency or unstable jobs often silences victims of discrimination, harassment, or violence.

Reporting such incidents not only risks their stay in the EU but also paints a target on their back for law enforcement and employers, especially those aware of their status. The Employment Sanctions Directive, which punishes employers for illegally hiring irregular migrants, has turned workplaces into police stations and border force outposts – further increasing the risk of deportation or criminalisation of already vulnerable people.

Work permits and exploitation

Meanwhile, the Charter of Fundamental Rights offers only the vaguest protections for irregular migrant workers, and EU labour laws are highly dependent on the Member States and differ greatly across the EU.

In a 2022 study on the fundamental rights of migrant workers, the European Parliament found that "*significant rights protection gaps remain in all EU Member States. The formulation of national labour laws, the interaction of labour laws with immigration laws, and legal doctrines of "illegality" and "immoral contracts", all limit the scope of national fundamental rights protections and, in particular, labour justice guarantees, for irregular migrant workers*."[8]

Recognition and rights for sex workers

The FRA survey also does not include any statistics, information or acknowledgement of migrants, racialised people or LGBTI people in sex work. The criminalisation and legal oppression of sex workers in the EU makes it harder for sex workers experiencing violence, discrimination or harm to seek justice without fear of state repercussions. For migrant and racialised sex workers, who are estimated to make up the majority of sex workers in Western Europe,[9] and trans or non-binary sex workers, the risk is even greater.

The siloed nature of EU migration policy, anti-racism policy, gender and LGBTI equality policy makes each less impactful. For example, without meaningfully reviewing the EU's migration policy, the EU's anti-racism plan offers no solution to the disproportionate discrimination and violence racialised, migrant and LGBTI people face at the hands of law enforcement.

8. The European Parliament, "The Fundamental Rights of Irregular Migrant Workers in the EU - Understanding and reducing protection gaps" *Policy Department for Citizens' Rights and Constitutional Affairs* (2022): https://www.europarl.europa.eu/RegData/etudes/STUD/2022/702670/IPOL_STU(2022)702670_EN.pdf

9. European Coalition on Sex Workers' Rights and Inclusion, European Sex Workers Alliance

Truly intersectional policy-making knows discrimination and oppression by patriarchal, racist, homophobic, transphobic and ableist structures must be treated as a whole.

Recommendations

Recommendation 1: Improve data and data collection for all discriminated groups and use it to create more robust protections and policies.

We recommend the FRA works to ensure that future surveys take all possible points of marginalisation into account when collecting data on these groups. In turn, the EU must encourage member states to collect equality data disaggregated by racial / ethnic origin as well as migration status, gender, gender identity, and sexuality, and use it to create more robust protections and policies.

Recommendation 2: Critically review EU policy on intersectional discrimination

The EU must review both the Gender Equality and LGBTI strategies with due regard to issues experienced by migrants and racialised people. Both strategies must be updated with recommendations as to how to protect women, queer, trans and non-binary people from processes of exclusion, discrimination and exclusion in the migration process. Their current scope must be examined and expanded for their effective mainstreaming into all areas of EU policy-making, into the Anti-racism Action Plan as well as social policy and migration policy.

Suppose the EU is to properly address structural racism. In that case, real change cannot happen without a critical assessment of EU migration policy, which is currently not included under the EU's Anti-racism Action Plan.

Most recently in Ukraine, both racial, ethnic and national discrimination and the lack of a coherent protection mechanism for trans and non-binary people, those displaced by the war faced stigma, harassment and violence at the borders of the EU, and were denied the opportunity to seek asylum.[10]

Recommendation 3: Decriminalise and defund punitive practices

For lasting change, EU funds cannot continue to be channelled into law enforcement and further criminalisation. Increased policing and police funding only exacerbate the violence and discrimination that the institution of policing creates in the first place, and increase the likelihood of the most policed groups in society being even more heavily policed. Even pouring money into diversity hiring and diversity awareness training of police forces, as the EU Anti-racism Action Plan recommends, is only a band-aid solution to a structural problem.

Reducing violence and discrimination by law enforcement authorities can only happen if asylum-seeking and immigration are decriminalised and destigmatised by policymakers at the European and national levels. By decriminalising the existence of vulnerable people, the need for policing is inherently reduced, as seeking safety is no longer considered a crime. Instead of the current central pillars of criminalisation, discrimination and racialised suspicion, EU migration policy must be re-oriented around principles of safety, protection and justice for people on the move.

Recommendation 4: Reallocate and refund into social policy

Instead, public funds should be reallocated into the social services and programmes needed to support and uplift LGBTI migrants and non-migrant ethnic minorities. A truly anti-racist migration policy should reallocate money away from border patrols, policing, racial profiling, AI surveillance, and into safe passages, justice, and social and economic support.

10. United Nations Office Of The High Commission, "Ukraine: Protection of LGBTI and gender-diverse refugees remains critical", *Media Centre: Press Release* (2022): https://www.ohchr.org/en/press-releases/2022/03/ukraine-protection-lgbti-and-gender-diverse-refugees-remains-critical-un; United Nations News, "UNHCR chief condemns 'discrimination, violence and racism' against some fleeing Ukraine", *Topics: Migrants and Refugees* (2022): https://news.un.org/en/story/2022/03/1114282