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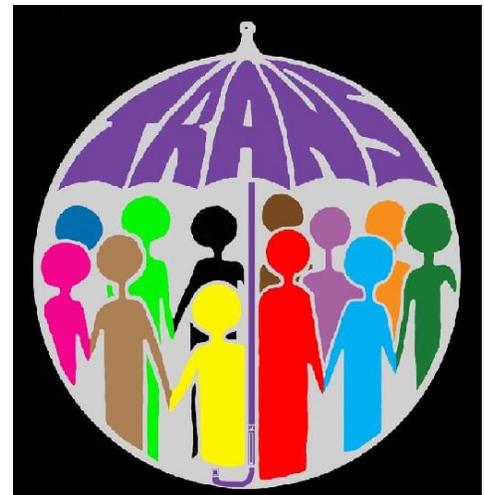
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The Sexual Orientation and Gender Non- Discrimination Act

Julie Schoellkopf



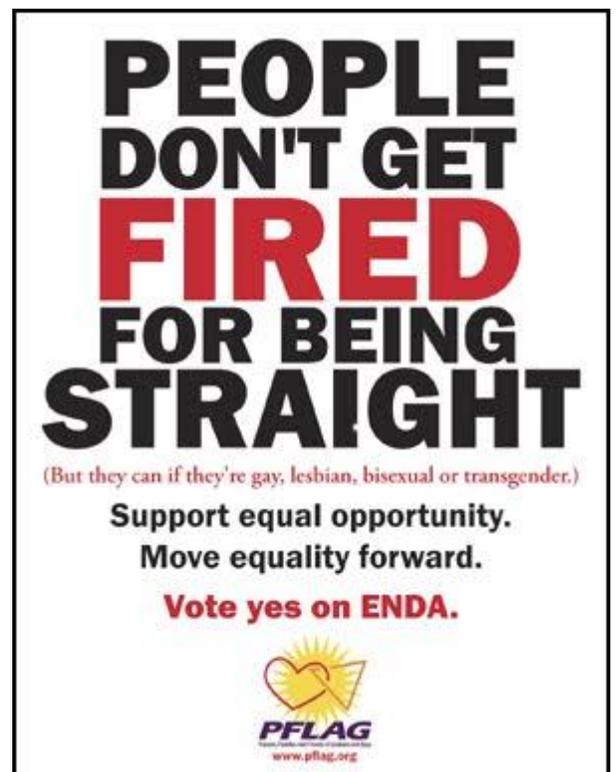
Members of the Lesbian, Gay, Bisexual and Transgender (LGBT) community have faced discrimination and inequality in the United States for hundreds of years. While LGBT members face discrimination in many areas of their everyday life, discrimination in the workplace is continuing and largely unprotected. LGBT members suffer from abuse and inequalities that other American employees are protected against. LGBT people do not have a federal law to protect against discrimination based on their sexual orientation and gender identity or expression. Because there are no federal laws protecting LGBT people from this discrimination, they are legally mistreated and put out of work. LGBT people are being discriminated against in the job market and would largely benefit from protection.

Federal employment laws prohibiting discrimination based on sexual orientation and gender identity and expression should be put in place to give equal protection and due process to members of the LGBT community.

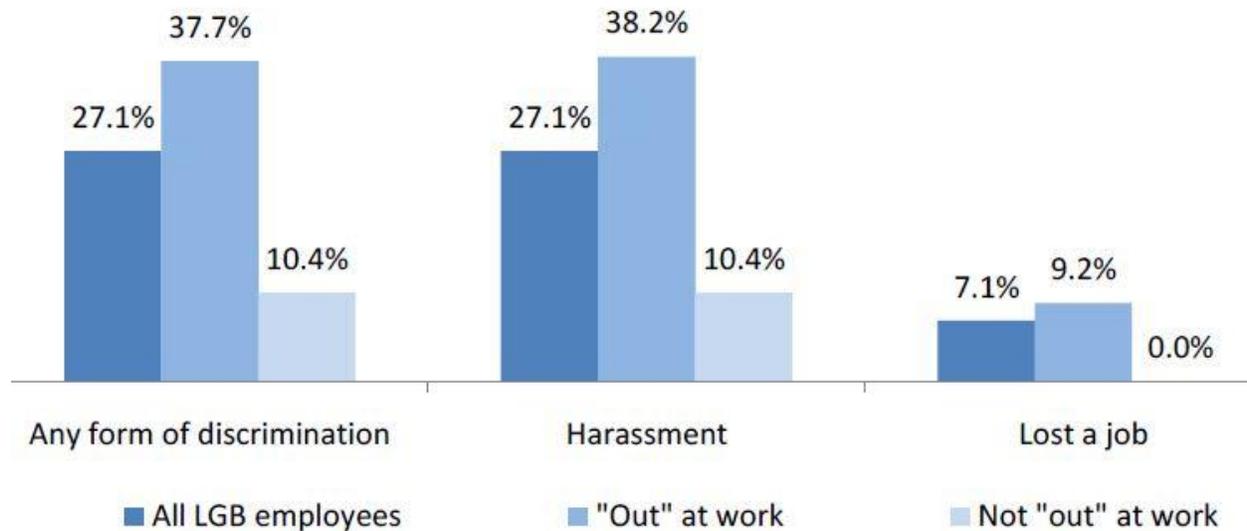
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Members of the LGBT community are a significant part of the United States and their lack of rights and protection makes them unequal citizens. Employment is a major aspect of an American's life and many are protected against discrimination in the work

place. However, members of the LGBT community do not have this protection. They are legally discriminated against in employment, thus denying them equal protection and opportunities in



their jobs and careers. The Williams Institute on Sexual Orientation Law and Public Policy has done studies showing that “15 percent to 43 percent of gay and transgender workers have experienced some form of discrimination on the job” (Burns and Krehely 1). Another study found that 37.7 percent of LGB workers have experienced some form of discrimination (Ford).



Ford, Zack. "LGBT Employees Face Discrimination, Wage Gap, Unemployment, And Health Consequences." *ThinkProgress LGBT*. 26 July 2011. Web. 31 Oct. 2011.

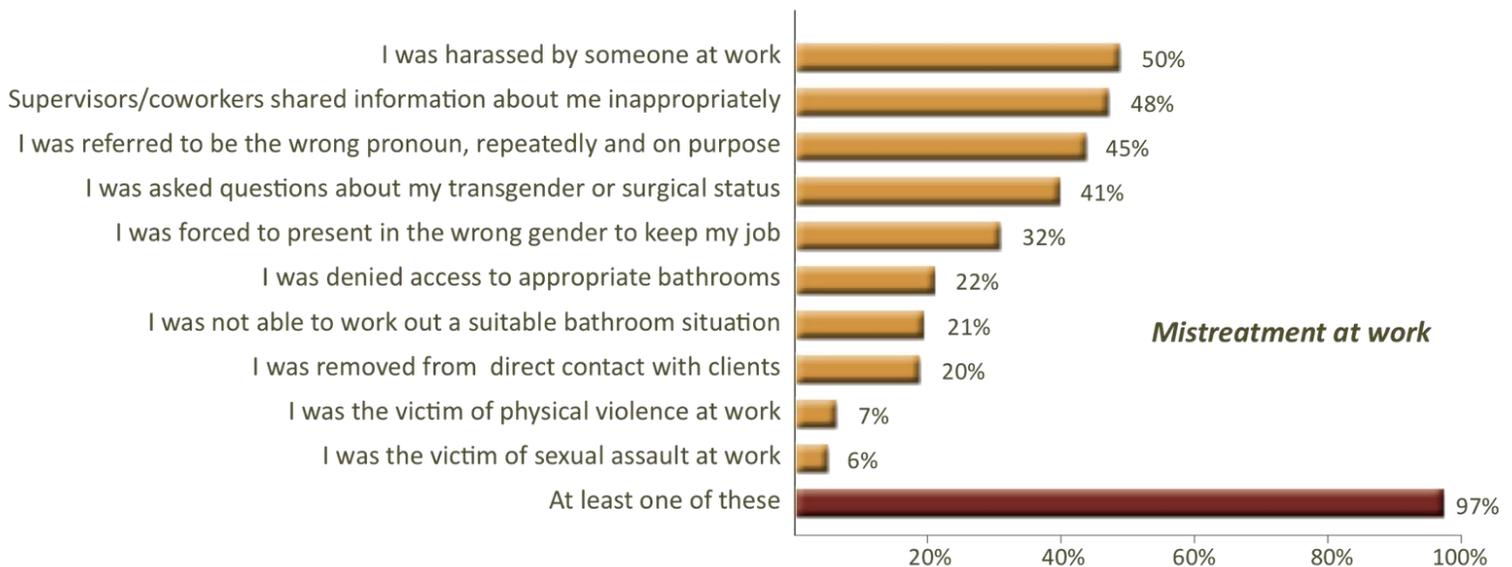
<<http://thinkprogress.org/lgbt/2011/07/26/279449/lgbt-employees-workplace-discrimination/>>.

In addition, 97 percent of transgender works have reported harassment or mistreatment while working (“National Transgender Discrimination Survey” 2). Unequal protection and legal discrimination in the work place isolates LGBT people from our communities. Many qualified people are denied jobs simply because of their sexual orientation and gender identity or expression unrelated to their skills. “Eight percent to 17 percent of gay and transgender workers report being passed over for a job or fired because of their sexual orientation or gender identity”

(Burns and Krehely 1). A significant amount of LGBT members are not judged solely on their skills or quality of their work, but also this aspect of their personal lives. This discrimination causes financial insecurity for many LGBT workers as they may be not hired, fired, have lower

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salaries and face many other mistreatments. Lacking protection and opportunities also does not allow hard-working LGBT members to be a part of the economy. According to Burns and Krehely, gay men earn 10 to 32 percent less than their male counterparts, and transgender people are twice as likely to be unemployed and four times as likely to be homeless (Burns and Krehely 3). A study found that a startling amount of transgender people earn below the poverty line, about 15% of respondents (“National Transgender Discrimination Survey” 2).



"National Transgender Discrimination Survey." *National Center for Transgender Equality*. Web.

<transequality.org/Resources/NCTE_prelim_survey_econ.pdf>.

Not only do these numbers greatly impact the LGBT workers but also business profits. Research has found that discrimination reduces “productivity, job satisfaction, and the mental and physical health of all employees” (Burns and Krehely 3). This evidence demonstrates that even those LGBT members that can safely maintain a job could still be at risk. Without legal protections, LGBT members will continue to be heavily subjected to discrimination and abuse in the job market and the work place without repercussions to their perpetrators. The following video is very long, but very informative on the formerly mentioned issues:

http://www.youtube.com/watch?v=MxKIHD_1p20.

As many workers have their rights protected from discrimination of other factors, a federal law to prohibit employment discrimination based on sexual orientation and gender identity and expression is necessary to protect members of the LGBT community in the workplace. These other protected factors include sex, race, age, religion, disability and national origin. The idea is that all Americans deserve equal treatment and protection in the work place regardless of sexual orientation or gender identity as other do regardless of the formerly stated factors (Burns and Krehely 4). Sexual Orientation and Gender Non-Discrimination Act (SGND), will give LGBT members their deserved equal protection against this discrimination. As other anti-discrimination federal laws for other factors are, The U.S. Equal Employment Opportunity Commission (EEOC) should enforce this law. The EEOC oversees employment regulations, practices and policies to ensure they are following employment laws (“Federal Laws Prohibiting Job Discrimination”); this enforced law will give members of the LGBT community their deserved protection if they are discriminated against for their sexual orientation and gender identity. In other words, with SGND in place, it will be illegal for employers to fire, neglect to

hire, or harass LGBT people because of their sexual orientation and gender identity. Today, many LGBT people file discrimination complaints at similar or higher rates to discrimination against sex and race (Burns and Krehely 3). Discrimination against sex and race are protected and therefore the victims of this discrimination can take legal action. Members of the LGBT community are still not incorporated into these employment laws, which leave discrimination legal in the work place. If passed, the SGND will prohibit this discrimination and allow victims to take legal action against their perpetrators.

As said before, similar laws are already in place that prohibit discrimination based on factors such as race, color, religion, sex, national origin, genetic information or disability. The U.S. Equal Employment Opportunity Commission enforces all these laws. If an individual feels they have been discriminated against for these reasons, they can file a charge with the EEOC and expect an investigation, and possibly a right to sue, from the EEOC. The remedies available if discrimination is found are back pay, hiring, promotion or other reasonable accommodations (“Federal Laws Prohibiting Job Discrimination”). The actions taken for these discrimination laws would be similar in the SGND in prohibiting discrimination based on sexual orientation and gender identity. It may not significantly reduce the discrimination, but perpetrators will face repercussions and victims will receive remedies. There has not been evidence that anti-discrimination laws have reduced discrimination in the workplace, however it has allowed employees take legal action and restore justice. While these laws may reduce some discrimination, it has been found that these laws have not been effective in reducing implicit bias (Jolls 3). By not reducing implicit bias, discrimination can still be found. However, the goal is not to reduce discrimination, but rather to give LGBT members the deserved protection that is granted to most other Americans.

Many states have already passed anti-discrimination laws in the work force regarding sexual orientation and gender identity. Another tentative law to end national discrimination is called the Employment Non-Discrimination Act. This law would provide similar protection and actions as other anti-discrimination laws have. However, unlike ENDA, the Sexuality and Gender Non-Discrimination Act will also apply to smaller businesses with less than 15 employees. In addition, SGND will include all of the remedies listed under Title VII of the Civil Rights Act of 1964, while ENDA only covers a limited amount (“Pass ENDA”). The remedies that would be enacted are as follows: back pay, hiring, promotion, reinstatement, front pay, reasonable accommodation, payment of attorneys’ fees, expert witness fees and court costs (“Federal Laws Prohibiting Job Discrimination”). The SGND will also protect individuals who are associated with members of the LGBT community. For example, if a person were fired for having LGBT family members, legal action can be taken. ENDA would not apply to religious organizations, which is a major shortcoming. SGND will include religious organizations to ensure encompassing protection. If any religious institutions wish to comply with SGND, a written agreement will be signed and the religious organization must then abide by the law. The Sexuality and Gender Non-Discrimination Act, if passed, will encourage organizations and companies to have an LGBT anti-discrimination orientation for every employee to complete. This educational event will help bring awareness to employers and employees alike. Compared to ENDA, SGND will be more encompassing of the work force and benefits for LGBT workers.

to have a limited amount of workplaces to choose from when many other Americans do not suffer these restrictions. An all-encompassing federal law such as SGND is necessary to reach these goals of equal protection nation-wide.

Since there are no anti-discrimination laws for LGBT people in place at a federal level yet, it is clear that there are many people against equal protection for the LGBT community. One of the opposing arguments is that a federal law will give LGBT people special protection that is not available to others. The idea of SGND is simply to give LGBT people the right to work and an earned income, not to give any special privilege withheld from others. Most other Americans have this protection. The only way to ensure LGBT people have the right to work is to instill these protections because of the rampant discrimination that has been discussed previously. SGND will be very similar to the laws already in place prohibiting discrimination based on race, sex, disability, religion, and national origin. None of these laws give special privilege nor will SGND. Another argument against equal protection for LGBT people is that since there are already state laws in place, a federal law is redundant or unnecessary. The fact is that many states and companies still do not protect LGBT people from discrimination, and a federal law is necessary for consistent protection. (“Rebuttals to Arguments Against ENDA”). This argument against a federal law assumes that LGBT people should have limited choices when searching for a job. As said before, it is discriminatory to withhold equal opportunities for LGBT people by assuming fairness in this limitation.

The United States is still not a safe place for members of the LGBT community, demonstrated by the lack of federal laws protecting them and frequent discrimination. Because discrimination against LGBT people is still legal in the work place, they are mistreated and put out of work. To ensure their safety and economic security, LGBT people need the protection that

is granted to women, people of color, veterans, the disabled, and many other hard-working Americans. The Sexuality and Gender Non-Discrimination Act must be passed and enforced to give this protection to LGBT members by prohibiting employment discrimination based on sexual orientation and gender identities and expressions.

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