Call for inputs from UN Independent Expert on SOGI

Inputs by the LGBTI Support Centre

1. What are the current efforts by States to increase their knowledge of the LGBT population? Specifically, are questions about sexual orientation and gender identity included in government surveys (e.g. the census, national health surveys, income and living condition surveys, or other surveys funded or mandated by the State), administrative records (e.g. birth certificates/birth registries, identity Cards, school records, professional licenses, social security and public benefit records, and other government documents)?

The state fails to include questions about sexual orientation and gender identity in any government surveys. In this way the state shows no interest in increasing the knowledge about the LGBTI+ population in the country. There is a lack of data in terms of the state with LGBTI+ people in terms of income and housing, living conditions in general and the risk of homelessness. The lack of data consequently leads to a lack of measures that will address these issues.

The surveys on the level of social acceptance towards LGBTI people are mainly conducted by LGBTI organizations in the country or international LGBTI or human rights organizations. During the process of preparation of one report, the state institutions were asked to what extent the state uses the data provided by any of the state surveys, to which question no information was provided by the institutions.[[1]](#footnote-1)

Currently there are only two gender markers according to the legislation for male and female. The current Law on birth records fails to recognize third gender for intersex and/or gender non-binary people. In terms of other administrative records, the same applies, questions about sexual orientation and/or gender identity are not included in any.

1. What kinds of data can be collected by government to understand the nature and extent of violence (e.g. through statistics on LGBT-phobic hate crimes and hate speech), discrimination, and disparities in health, education, labour, civic participation, and other important areas?

Data collection of hate crimes and hate speech based on SOGI is noted as a problem. The state institutions fail to collect and further analyze data on bias motivated violence. Firstly, and most importantly, underreporting is a big issue among LGBTI+. Cases of hate crimes are documented by NGOs based on reporting and monitoring and reports are prepared based on acquired data. But, in very insignificant number of cases LGBTIs are willing to report cases in relevant institutions. The most violent cases are not reported to the police because of distrust and stigma. The cases which LGBTIs are willing to report to institutions are usually cases of discrimination in the access to goods and services and discriminatory treatment by institutions. Hatred towards LGBTI people is encouraged on the internet and social media with the failure by the state institutions to hold hate spreaders accountable. On the other side, the Commission for protection from discrimination lacks capacities and will to address hate speech, especially when LGBTIs are concerned. We have documented and reported cases of hate speech against LGBTI that are still not solved, while hate speech cases on other basis are processed.

In the absence of SOGI inclusive hate crime laws, previous attacks on the LGBTI Support Centre and activists in previous years remain unsolved despite evidence. A step forward are the new amendments of the Criminal Code at the very end of 2018, with which amendments the sexual orientation and gender identity have entered the law as recognized basis for hate crimes.

In terms of discrimination, also, the only available statistics are the ones provided by the civil organizations working on these issues. The lack of statistics results with absence of policies to combat discrimination and intolerance against LGBTI people. Without such information there are no solid basis for developing and implementing policies to address intolerance towards and discrimination against LGBT persons. This refers to other areas too.

1. What safeguards are in place, and what safeguards are needed, to protect the human rights of individuals providing personal data as well as individuals collecting such data? This question includes the following:

a. Safeguards to protect the privacy of individuals who provide data about their sexual orientation/gender identity, and the confidentiality of the data provided by these individuals.

b. Broader statutory rules or administrative policies to insure transparency and accountability of government institutions such as statistical bodies.

There is a separate Law on Personal Data Protection which regulates the personal data collection and provides safeguards in terms of personal data and their further processing. In the "Special categories of personal data", the law stipulates that special personal data are personal information that reveals, among other, data related to the sexual life of a person. Regarding this category of data, the law explicitly prohibits processing of special categories of personal data. The law stipulates responsibilities for the persons authorized to process personal data, as well as fines which shall be imposed for a misdemeanor, to the authorized person who acted contrary to the statutory authorizations and exposed any of these data to a third unauthorized person. The State Statistical Office does not process any data regarding sexual orientation and/or gender identity.

1. What are the risks associated with the collection and management of data on sexual orientation and gender identity and initiatives to overcome those?

Collecting data about sexual orientation and gender identity is crucial for the visibility of the community and the problems the community is facing, as well as crucial for further evidence based changes regarding human rights abuses and breaches. Simultaneously, the process of collecting and analyzing data about sexual orientation and gender identity raises the question about the safety, self-determination, privacy and identity of the people, especially in a society where LGBTI+ people are highly stigmatized and vulnerable. Since such data are mainly collected by NGOs, there is a strict policy regarding confidentiality of information about an individual’s sexuality and gender identity, especially regarding collection, maintenance and usage of such data. Regarding data collection and management by state institutions, the Law on Personal Data Protection applies.

1. Are there circumstances where data collection is ill-advised, such as in countries that criminalize same-sex behavior or where particular government agencies have demonstrated a cause for concern regarding their treatment of issues related to sexual orientation and gender identity?

There are no such circumstances to the best of our knowledge.

1. When States engage in data gathering activity, to what extent is civil society able to meaningfully participate in the design and implementation of these programs? This question includes the following:

a. Do states have policies that guide the process of civil society participation national statistical programs and other State efforts to increase knowledge about LGBT populations?

b. Does civil society have the capacity, in terms of expertise and technical knowledge, to meaningfully participate in State efforts to gather data?

c. What constitutes meaningful participation in this area?

Since the state have not been engaged in any data gathering activity about LGBTI+ population, there are no experiences regarding civil society participation in any such process.

1. Does the lack of a global classification scheme carry risks that data will not be useful for international comparisons or will not accurately reflect the identities and lived realities of local populations?

The lack of global classification scheme definitely carries risk in terms of international comparisons since data collected in different countries reflects realities in the specific country, in the specific context the country is in. Having this in mind, specific context and realities, requires specific classification, which further carries the risk of comparing data internationally.

1. Report on the Implementation of the Recommendation CM/Rec (2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity in the Republic of Macedonia, Helsinki Committee for Human Rights of the Republic of Macedonia - LGBTI Support Center, author: Biljana Ginova, 2018 Skopje, pg.20 <http://lgbti.mk/wp-content/uploads/2018/09/Report-on-the-implementaion-of-the-Recommendation.pdf> [↑](#footnote-ref-1)