**Submission of Youth Voices Count to the Independent Expert on Protection Against Violence and Discrimination based on Sexual Orientation and Gender Identity**

Submission date: March 13, 2019

**Background:**

***Youth Voices Count***, founded in 2010, is a regional network of young lesbian, gay, bisexual, transgender and queer in Asia-Pacific. We mainly work on the issues faced by young people in relation to their sexual orientation and gender identity. We work in over 20 countries with over 300 members across the region. Although we are a regional network, most of our work is decentralized and we ensure that our programs are youth-led in the country level.

This report will be a compilation of our member’s answers to the questions provided. The added value of this report is that we bring forward inputs from young people in the Asia-Pacific Region. We try our best to provide input from many countries in the region but we recognize that we can only cover so much.

This report features contributions from: Amasai Jeke , Mandy Chng, Rukshana Kapali, Saadi Muhammad, Justin Francis Bionat, Tushar Kanti Baidya and Jan Gabriel Castaneda. The countries covered in the report include: **Fiji, Singapore, India, Nepal, Pakistan, Philippines, and Bangladesh**

Report compiled by: *Justin Francis Bionat, Regional Coordinator of Youth Voices Count* *(justin.yvc@gmail.com**)*

1. **Efforts by state to increase their knowledge of the LGBT population:**

**Pakistan’s** parliament has passed a law in May-2018 guaranteeing basic rights for transgender citizens and outlawing discrimination by both employers and private business owners, a move hailed by activists as "historic" for the conservative South Asian country. But if we talk about other sexual minorities LBQ / GBQ communities so it is still considers TABOO here in the Pakistan (An Islamic Law Based Country), by using the religious aspects of the Islam people many violation acts are done. Even some of the community members have gone through force marriages to pretending that those are not a part of LBQ or GBQ.

In the **Philippines**, a national legislation called the “SOGIE Equality Bill” or the Anti-Discrimination Bill still remains in the legislative department with conservative policy makers, influenced by religious groups, subjecting the bill to interpellation that has stalled or slowed its passage for more than 15 years now. The anti-discrimination bill intends to protect Filipino citizens from discrimination on the basis of one’s actual or perceived sexual orientation, gender identity and expression. Some local government units (such as cities, provinces and towns) have local level anti-discrimination ordinances but the problem is that there should be an accompanying implementing rules and regulations, which has caused problems, misunderstanding and erroneous implementation of the anti-discrimination ordinance or any efforts to provide awareness of the LGBTQ+ community. The SOGIE-Equality Bill or Anti-Discrimination Bill has an awareness-raising component and this is crucial in ensuring the development of materials and even increasing community interaction and knowledge of the LGBTQ+ community.

Specifically for young people, the legislative department has enacted the Anti-Bullying Act of 2013 which ensure protection and prevention mechanisms and disciplinary action for bullying cases in educational institutions. The problem is that it doesn’t clearly mention bullying based on one's sexuality or gender and in most cases bullying experienced by LGBTQ+ students is left unreported or penalized. The Department of Education and other higher education agencies in the Philippines have started to promote Comprehensive Sexuality Education (CSE), however, these are often regulated or sensored leaving out any discussion on sexual orientation, gender identity and gender expression. Lessons and class engagements that talk about sex or gender are often binary and hetero-normative in nature and frames discussion on homosexuality as negative or abnormal.

**Nepal** has a terminology called ‘gender and sexual minorities’ included in the constitution that refers to LGBTI, Queer, or MOGAI people. Our constitution was formulated in 2015, and based on it, new laws are being formed. However, there is no representative from the gender and sexual minorities in any state mechanism at any level. The parliamentarians do not understand the concept of sex, gender and sexual orientation. The government of Nepal added ‘O’ as a gender marker along ‘M’ and ‘F’ in 2007, and in 2012 it was implemented by Ministry of Home Affairs.

There is no provision in any other sector for LGBTI individuals. The Tribhuvan University, largest and the first university of Nepal, did not accept registration of a transgender student, showing the excuses of policy reasons. (https://rukshanakapali.com/tribhuvan-university-disapproved-transgender-student/) (https://suppressednarratives.home.blog/2019/02/08/ministry-of-education-was-demanded-to-implement-supreme-courts-decision/)

**India** at the time, LGBT individuals are increasingly open, acknowledge and visible part of society, researches faced incomplete information about the health and other status of this community, modern body of knowledge on LGBT. health has been developed over the last two decades, remains to be explored. The phrase “lesbian, gay, bisexual, and transgender community”, refers to the broad coalition of groups that are diverse with respect to gender sexual orientation, race/ethnicity, and socioeconomic status. The popular media, these groups are routinely treated as a single population under umbrella terms such as LGBT. At the same time, as discussed further below, groups have many experiences in common, key among them being stigmatized.

**Fiji** in the pacific has a every progressive constitution that protects people of diverse SOGIE under Section 26 of FIji’s Bill of Rights but has a very poor implementation into mainstream throughout government services on the other hand Transgender people can not change their gender mark due to birth registrations not having the section 26 of the constitution is not implemented, which further creates discrimination and bodily policing for trans bodies.

**Bangladesh**: As per the ministry of social welfare, the government is only recognizing transgender and not lesbian, gay, bisexuals and queers. The ministry has done some census on transgender community only and as per the result, there are around 10000 transgender people are there. To increase the level of this community’s living standard the Bangladeshi government has acknowledged and giving them a “third gender” status. Besides, the government has been giving around USD 4 to primary school going transgender students, USD 6 to high college going transgender students, USD 8 to college going transgender students and USD 12 to university going transgender students, per month, to increase their education level. Transgender person aged 50 or above are also getting USD 7 per month, upon application to ensure their healthy life. Apart of these, transgender community members are being offered to get vocational training to get themselves into trading professions. Starting from 2012 to 2015, there are around 6740 beneficiaries of these social security scheme, according to the ministry.

On the other hand, the policy of the government regarding LGB community is still the same and it seems the government feels embarrassed to make any comment on this issue. Though the government approved some NGOs with foreign help to increase the sexual and reproductive health of young and adult LGB members, however, there is no visible scope by the government.

1. **Kind of data collected by government to understand the nature and extent of violence:**

**Pakistan**: There is no government survey done in this sector with terms of LGBTQI. Here we have some non-government organizations which arrange solidarity circles / introduce surveys to know the issues of the LGBTQI Community. Government is only having survey on the MSM behavior found in the country. Many community member face a lot of harassment and violence from mainstream society are not aware of the broader terminologies of LGBTQI community. And when government is collecting data for national identity process there is no sexual / gender e because terminologies except of the birth assign sex (Male or Female).

**Nepal**: There is no government survey done in this sector. Most of the non-government based surveys are focused to ‘third genders’ which misses a broader spectrum of LGBTI, Queer and MOGAI people. I think we need inclusion of LGBTI, or MOGAI people at all sort of government survey. And of course, use friendly methodologies for that. Because no LGBTI individual in closet would disclose it to the census person, when census data is being taken at home, and in closeness to the community. People might not understand terms of sexuality and gender, that is non-normative in the society, even if it is the word in the local language.

1. **Existing mechanisms that safegaurd the personal data of participating individuals and those collecting the data:**

The **Philippine** government does not collect any SOGI specific data, apart from the monthly HIV/AIDS statistical data recorded by the Department of Health with disaggregated data separating the behavioural identity of men who have sex with men (MSM) and lumping both gay and bisexual men within that terminology. In some data and statistics, transgender women are also a separate category. In this situation, there are no safeguard mechanism to protect the privacy of individuals and leakage or confidentiality breach is a constant threat.

**Bangladesh**: Some of the laws of the land can partially protect the individual data privacy

and which are excluded sexual orientation/gender identities. So, in these two

cases, there is no safeguard at all. As there are no such laws to prevent data breach and ensure a person’s privacy, a sanction to protect an individual’s privacy is needed. Also, the purpose

of collecting the data should be legitimate. For example, if the government has

no recognition of the LGB community and has no social security policy, the

intention of collecting data will be questionable and even if the data are there, it

will be unused and or misused.

1. **Risks of collecting and managing SOGI-related data**

**Pakistan**: In such conservative countries like Pakistan Human Rights Defenders face many threats based on violence and sexual harassment. Despite having Pakistan’s “Transgender Protection Policy Bill (May-2018)” that aims to protect the gender minorities, however, this does not include sexual minorities (LGB persons) and the Human Rights Defenders working for them face many major issues.

**India:** A report on the health of LGBT people pointed out that there are limited health data on these populations and that we need more research, they know about LGBT health disparities, including lower rates of cervical cancer and mental health issues related to minority stress, patient disclosure of LGBT identity enables provider- patient conversations about risks factor and can help them to reduce and better understand disparities.

**Fiji**: The reality is that Human Rights Defenders (HRD) continue to face multiple levels of threat and sexual harassment, in particular LGBTQI HRD in Fiji, and this is also faced within policy spaces where LGBTQI activist are questioned why are we in such spaces and bringing in such language on “LGBTQI”.

**Bangladesh**: The orthodox community creates obstacle showing religious causes. Some of the religious sanctions often encourage others to be violent on LGB community, hence an individual doesn’t feel safe providing information. People feel their identity & other privacy concerns related information may get leaked. Therefore, they hesitate to provide all authentic information. Since LGBIQ community is not recognized by the government, it’s hard to reach the LGB community, rather than the transgender people. Since one of the leading Bangladeshi gay rights activists got killed by extremists, people feel very scared to talk about LGBIQ experiences & exposures even when the assurance of privacy is given. Since section 377 makes homosexuality a criminal act, asking people about homosexual is regarded as an offending behavior. Moreover, the LGB community feels bothered to give information on their sexuality, health, education or other information as they find it “no benefit” at all, and without any valid reason they are never interested to share their personal information.

1. **Circumstances where data collection is ill-advised**

**Pakistan** is a country which criminalize same sex behavior of LBQ community and on the government level like in government hospitals and universities people face harassment on basis of their sexual orientation and gender identity. Many doctors or government officials ask for sexual favors to allow the person belonging from sexual and gender minorities for health medications or other treatments as well. This is one of the reasons that gays, lesbians, bisexuals, and queers are so discreet that their own families don’t know about their sexual orientation as many families disown their sibling for having such sexual orientations.

**India** - Recently the Supreme Court, scrap down section 377, now in India the behavior of same-sex is not criminalize any more. Consensual sexual acts of adults are allowed for the LGBT community. The Supreme Court said that the government should take all measures to properly broadcast the fact that homosexuality is not a criminal offence, to create public awareness, and lastly Supreme Court said government should treat them properly as a Human abd give their treatments properly and their own rights what they want.

**Nepal**: This would be a first experience of such data collection in the country. I don’t think anyone would ill-advice for this. There is no criminalization here. I see green waving for the survey here. Nepal can have much more broader spectrum of identities.

**Fiji**: Despite progress in many areas over the last decades, people in Fiji are still stigmatized because of their actual or perceived sexual orientation, gender identity, expression and sexual characteristics (SOGIESC). Many lesbians, gay, bisexual, transgender, queer and intersex (LGBTQI) persons cannot fully enjoy their universal human rights because they run the risk of falling victims to hate crimes and may not receive protection when attacked and the injustice of systems that leads to no justice for the murders of LGBTQI people in Fiji.

**Singapore** criminalizes same-sex behavior between mutually consenting adult men (Section 377A), and does not have anti-discrimination laws or policies which protect persons of minority sexual orientation or gender identity. During mandatory conscription, all male Singaporean citizens and non-first generation permanent residents, including homosexual, bisexual and assigned-male-at-birth transgender persons, who have reached the age of 18 years are required to enroll for National Service. As part of their mandatory medical examination, recruits are given a questionnaire, regarding their medical history. The recruit is asked whether he any "social problems (e.g. homosexuality)". If one declares his homosexuality in the form, he is asked several cursory questions by the doctor whether he has had sex with other men and whether he cross-dresses. The self-declared homosexual recruit is then given a status of PES D (temporarily unfit for grading and deployment, pending further review) and scheduled for a medical review by a psychologist. Soldiers who declare their minority sexual orientation are classified under 'Category 302', a practice which may give rise to the violence and discrimination they face during National Service.

When someone undergoes HIV testing in Singapore, all doctors and laboratory staff are required to inform the ministry of a confirmed case within 72 hours of diagnosis. Anonymous testing clinics are exempted from this mandate as they do not require provision of personal identifying data or contact details. However, during treatment, patient registration with the Ministry of Health (MOH) is mandatory. Furthermore, HIV testing is usually required for applying for a work pass, long term visit pass, employment pass, or permanent residence. The Immigration Act that forbids HIV-positive foreigners from working or living long-term in Singapore. This reflects the high-level of HIV-related stigma and discrimination in Singapore, at a time when medical treatments usually enable persons to rapidly achieve undetectable viral loads, such that they can no longer transmit the disease to sexual partners. The recent MOH HIV registry leak, where confidential data of more than 14,000 HIV-positive Singaporeans and foreigners and 2,400 of their contacts had been leaked online, demonstrates that over-gathering data and information on HIV-positive individuals may place them in vulnerable positions, and subject them to further stigma and discrimination. Moreover, the existence of such databases and the fear of leaks, may be an obstacle which prevents key affected populations, particularly those within the LGBTIQ community, from seeking medical support or undergo testing. Therefore, anti-discrimination legislation to support people living with HIV needs to be enacted to reduce harm and to combat stigma.

**Bangladesh**: Since homosexuality is a criminal act under Bangladesh penal code 377, no government or non-government agencies can freely work on projects or surveys that exclusively deal with LGBIQ communities. But if it is shown that the survey mainly deals with transgender community then the LGBIQ community can be covered as a shadow project. On the other hand, people who identifies themselves as homosexual or gay, often might not feel interested to share information as there is a belief that trans community is getting favor by the government and through them the government wants to get information on LGB community.

1. **Meaningful Civil Society participation in Data Gathering and the Barriers**

**Pakistan** does not have such policies on government level. Civil society in Pakistan don’t participate in gathering data but here in Pakistan there are approximately 12 organizations working for sexual and gender minorities. *HUMRAZ MALE HEALTH SOCIETY*, *SUB RANG SOCIETY*, *GENDER INCLUSIVE ALLIANCE*, *NAZ MALE HEALTH SOCIETY*, *DAREECHA*, *PARWAZ MALE HEALTH SOCIETY*, *KHUWAJA SARA SOCIETY*, *DOSTANA* etc. Still communication and sensitization barriers are here which are making the sexual and gender minorities discreet. The organizations which work for sexual and gender minorities. The most meaningful participation of the different organization is to present the “Transgender protection policy bill” in national assembly of Pakistan which was later passed on May-2018.

No, in **Nepal**. There are 10 LGBTI / Queer / MOGAI organizations in Nepal. *Mitini Nepal* (for LBT women), *Inclusive Forum Nepa*l (Lesbian and Transmen), *Body and Data* (Women and Queer people), Sahayam Nepal (Sexuality Education), *Intersex Collective Nepal*, *Queer Youth Group*, *LOOM Nepal* (Feminist organization for all kinds of women), *Parichaya Samaj*, *Blue Diamond Society*, *Gay Youth Initiative*. Shrinking spaces for LGBT people and organisation are one of the barriers

In the **Philippines**, there is an active and vibrant civil society that work on SOGIESC rights, however, there is not strong effort from the government itself to gather data on sexual orientation and gender identity. The government is well aware of the large number of LGBTQ organizations in the country but doesn’t take an effort to gather data on these identities. EXCEPT, for HIV/AIDS data. The gathering of these usually involve NGOs, CSOs, Health service providers, and government health agencies.

Bangladesh: Currently there is no data collection policy for collection of data on LGBTI community as it is not recognized by the government. As the government doesn’t recognize LGBQ community, the civil society also do not get encouraged to take part in the data collection process. Though we have observed several non-government organizations to take initiative on this process, however it has been diminished after the brutal killing of one of the LGBTIQ activist, by terrorist groups. To engage the civil society members in this process, the government will have to ensure the safety and security of the participants and those who will be engaged in this process. There should be credible evidence and promise from the government that the work will be protected by the government and any attempted harm will be prevented immediately.