



**SUBMISSION RE: CFI Analytical report on a comprehensive approach to promoting, protecting and respecting women's and girls' full enjoyment of human rights in humanitarian situations, including good practices, challenges and lessons learned at the national, regional and international levels (45/29)**

**12 July 2021**

Note: This submission includes information about sexual violence experienced by women and girls with diverse SOGIESC.

Edge Effect is pleased to provide this submission to inform the work of the Office for the High Commissioner for Human Rights in developing "an analytical report on a comprehensive approach to promoting, protecting and respecting women's and girls' full enjoyment of human rights in humanitarian situations, including good practices, challenges and lessons learned at the national, regional and international levels" (as per Human Rights Council resolution 45/29).

This submission provides evidence on the human rights of women and girls who are also people with diverse sexual orientations and gender identities in humanitarian settings (aka LGBTIQ+ people).

Resolution 17/19 of the Human Rights Council expressed "grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity." This was re-affirmed in 2014 (resolution 17/32) and in 2016 resolution 32/2 established a mandate for an Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.

Women and girls have multiple and intersecting characteristics that attract human rights protections. These characteristics include sexual orientation, providing protection to women and girls who are lesbian, bisexual or any other sexual orientation. These characteristics also include gender identity, providing protection to transgender women and girls. Therefore this submission suggests that the report (under resolution 45/29) should not be (implicitly) restricted to heterosexual or cisgender women and girls, as this would run counter to Council resolutions and work under the mandate of the SOGI IE. Further, there is compelling evidence that women and girls with diverse sexual orientations and/or gender identities experience profound violence and discrimination in humanitarian settings. These experiences reflect and compound pre-emergency marginalization, involve new forms of violence and discrimination, and reinforce pre-emergency marginalization in recovery. There is an unfortunate tendency for the acronym LGBTIQ+ to be used as though the people being referenced are solely a distinct group. Lesbians, bisexual women, trans women, intersex women and other queer women, are women, and can and should have their rights, needs and strengths addressed by programs focused on women and girls.

This submission notes that people of other genders also experience these forms of violence and discrimination in humanitarian settings. The information provided in this submission focuses on women and girls with diverse SOGI as per the request for submissions, however

we urge OHCHR and the Council to also apprise itself of violence and discrimination experienced by people with other gender identities. This submission uses the human rights language SOGIESC – sexual orientation, gender identity, gender expression and sex characteristics – in preference to the acronym LGBTIQ+, as there is much diversity of gender and sexuality and bodies that does not fit into the LGBTIQ+ boxes.

The Independent Expert (SOGI IE) has addressed humanitarian settings in their reporting to the Council and in reports following Country Visits. For example, report 38/43 notes that with regard to sexual orientation and gender identity (SOGI):

- “The dynamics of exclusion are exacerbated when it intersects other factors, such as during humanitarian crises ...” (para 58)
- “Discrimination affects these persons in their access to sanitation, menstrual hygiene and toilets, in particular in humanitarian situations and areas affected by disaster (A/HRC/33/49, paras. 2, 9, 13 and 30)” (para 34)
- And that for transgender people “In times of emergencies, such as natural disasters or a humanitarian crisis, the lack of identity documents matching gender expression may even have a greater level of significance, for example when seeking access to emergency care, services and protection measures.” (para 43).

This submission draws extensively on the work and reports of Edge Effect, an Australian organization that focuses on the inclusion of people with diverse sexual orientations, gender identities and expressions and sex characteristics in humanitarian and development contexts. It also notes the work of some other diverse SOGIESC civil Society organisations (CSOs) and a small but growing range of United Nations agencies and international and national NGOs.

In particular we draw OHCHR’s attention to the ***Pride in the Humanitarian System*** consultation in June 2018 (report: <https://www.42d.org/2020/07/06/pride-in-the-humanitarian-system-consultation-report/>) that brought together LGBTIQ+ civil society organizations with traditional humanitarian actors. We also draw attention to the follow-up report funded by UNWomen ***The Only Way Is Up*** (report: [https://www.edgeeffect.org/wp-content/uploads/2021/03/TheOnlyWayIsUp\\_Web.pdf](https://www.edgeeffect.org/wp-content/uploads/2021/03/TheOnlyWayIsUp_Web.pdf)) which assesses the absence of SOGI within global humanitarian inclusion frameworks and the work of humanitarian actors in Cox’s Bazar – Bangladesh (Rohingya Refugee Response), Mindanao - Philippines (Marawi Conflict Response and 2019 Earthquake Response) and Vanuatu (Tropical Cyclone Harold response). A previous report ***Down By The River*** (report: <https://www.edgeeffect.org/wp-content/uploads/2019/03/Down-By-The-River-May2018.pdf>) that addresses similar issues in the context of the Tropical Cyclone Winston response in Fiji. Other reports by CSOs have drawn attention to similar issues in the aftermath of earthquakes in Haiti and Nepal, of the Indian Ocean Tsunami in Tamil Nadu, during conflict displacement in Lebanon and many other contexts. The COVID-19 pandemic has created additional context, and reports by Outright International and Edge Effect, amongst many others could also be reviewed. The content hub 42 Degrees ([www.42d.org](http://www.42d.org)) provides an entry point to this literature.

## **QUESTIONS:**

1. Please provide information on the enjoyment of human rights by women and girls in humanitarian situations, which include humanitarian emergencies, forced displacements, armed conflicts and natural disasters, including sudden-onset natural disasters and slow-onset events.

Despite the UN Human Rights Council recognition of sexual orientation and gender identity as protected characteristics of rights holders, humanitarian organisations that undertake rights-based programming usually have not incorporated sexual orientation and gender identity into their rights-based frameworks. The Yogyakarta Principles provide a comprehensive account of how existing human rights commitments apply for people with diverse SOGIESC.

Much humanitarian action is also framed in terms of needs rather than rights, and here too, humanitarian organisations have often failed to recognise or address the needs of women and girls with diverse SOGIESC. Meeting such needs does not constitute unprincipled humanitarian action; principled humanitarian action requires meeting needs wherever they are found. The reality of pre-emergency systemic marginalisation of people with diverse SOGIESC creates those needs.

2. Please provide information on patterns and structures of discrimination and inequalities exacerbated or created by humanitarian settings, which undermine access to health-care services and information, housing, water, sanitation, education and employment, and disrupt protection systems for women and girls.

Women and girls with diverse SOGIESC experience discrimination and marginalisation before during and after crises.

Before crisis women and girls with diverse SOGIESC may experience discrimination and violence from other family members, they may be asked to leave home or choose to leave home, they may experience violence and discrimination in schools, workplaces, public service delivery and participation in public life. Women and girls with diverse SOGIESC may live in countries where consensual same-sex acts are criminalised, where there is an absence of anti-discrimination provisions, an absence of enabling legislation and policy for critical aspects of life such changing gender markers, or where other laws are selectively enforced against them. While these conditions can impact all women and girls with diverse SOGIESC, those who are more visible such as trans women are often targeted more frequently. Women and girls with diverse SOGIESC also experience intersecting discrimination on the basis of being women (as well as lesbians or other forms of diverse SOGIESC). These pre-crisis experiences undermine the opportunity for women and girls with diverse SOGIESC to develop resilient lives. Consequently, when a crisis hits, women and girls with diverse SOGIESC often start from behind.

Those pre-crisis conditions do not stop, with discrimination and violence extending into the crisis period, for example, in inequitable or unsafe access to aid. A trans woman who has experienced violence, harassment or discrimination in everyday life prior to the crisis may have good reason to believe that they will receive the same treatment in emergency community shelters or camps. In several research processes Edge Effect has been told of

trans women (and members of cultural non-binary groups) who chose not to go to safe shelter for fear of violence and discrimination. For example, research conducted with VPrize in Vanuatu after Tropical Cyclone Harold included a gender queer person who stated “I made sure that parents, niece, her mother and brother hopped in the transports to the evacuation center. My mother begged me to go but I refuse to go. That fear from facing people and their comments is not something that I am ready to face.” (Dwyer 2021: 51) Similarly waria and trans women avoided evacuation centers in Indonesia following the Mt Merapi evacuation (Balgos et al 2012) and other crisis responses cited in Down By The River (Dwyer and Woolf 2018) and the Pride in the Humanitarian System Consultation Report (Devakula et al 2018). One trans woman in the Cox’s Bazar camp recounted a story of violence and discrimination in Myanmar, that had followed her to the camps: “In the camp I have been beaten four times so far, and my hair has been cut. I can’t leave the house in the evening. Some people keep in touch with us for sex inside the camp, but during the day they also come to beat us with others.” (Dwyer 2021: 49). Tragically, such stories are not unusual.

Trans women and gender diverse people who do not have identity cards that match their gender identity may be denied assistance. Aid allocations that are made on the basis of families or households may indirectly discriminate against women and girls with diverse SOGIESC because families and households are assumed to have a heterosexual relationship at their core or because of intra-family discrimination against family members who are women and girls with diverse SOGIESC. For example a couple in a lesbian couple may not count as a family, nor may a group of trans women living together as ‘chosen family’. Women and girls with diverse SOGIESC may also be blamed for ‘causing’ a disaster, as a form of collective divine punishment for their ‘sins’, as was the case in Fiji following Tropical Cyclone Winston, in Indonesia following the earthquake, tsunami and landslip in Sulawesi, and in the COVID-19 pandemic.

During the recovery phase women and girls with diverse SOGIESC can also experience discrimination. As with the relief phase, recovery support may prioritise or be limited to families and households that fit the assumption of heterosexuality. For example following Tropical Cyclone Winston in Fiji one lesbian couple reported that they did not receive aid to rebuild their dwelling because shelter support was distributed to families with heterosexual relationships at their core. Similarly, access to livelihoods and other support may be inaccessible or may result in harassment from other community members.

This discrimination, violence and exclusion is maintained by deeply rooted norms at the heart of societal laws, institutions and practices, shaping the lives of people with diverse SOGIESC well before they ever interact with the humanitarian system, or with disaster risk reduction (DRR) initiatives. However, *The Only Way Is Up*, as part of an emerging body of literature, also shows that the humanitarian systems often fail to acknowledge or address the discrimination, violence and exclusion experienced by people with diverse SOGIESC. At the very least this leaves people with diverse SOGIESC to find their own solutions; at worst, it reinforces violations of human rights.

This and other discrimination and violence is, unfortunately, often exacerbated by a humanitarian system that is yet to substantively include people with diverse SOGIESC (including women and girls). Assessments, program designs, funding calls, sectoral strategies, evaluations, training ... rarely provide any substantive inclusion (indeed often any

mention at all) of women and girls with diverse SOGIESC. For example for ***The Only Way Is Up*** interviews were conducted with 25 shelter specialists. As the report notes (Dwyer 2021: 64):

*The interviews also reveal a striking gap between the needs articulated by people with diverse SOGIESC and the level of awareness and engagement regarding diverse SOGIESC issues amongst shelter specialists. As one participant noted "I can't think of having a discussion with someone about LGBT and shelter before", a view repeated in several other interviews. Only two of twenty-five reported substantive engagement people with diverse SOGIESC in their previous work.*

Legitimate concerns about do-no-harm are that much harder to overcome, because the humanitarian sector has not invested the resources needed to adapt its ways of working. ***The Only Way Is Up*** demonstrates that inclusion mechanisms – such as the Core Humanitarian Standard - within the humanitarian system do not specifically address people with diverse SOGIESC (including women and girls) and that inclusion mechanisms that – on the surface – are designed to address all people tend to let people with diverse SOGIESC fall through the cracks. A critical and common omission across humanitarian response is the lack of partnerships with diverse SOGIESC CSOs (or allied CSOs that engage with women and girls with diverse SOGIESC), adequate and consistent funding for those CSOs and a genuine place for them in the humanitarian architecture.

3. Please provide examples of concrete measures taken by your Government or organization to respect, protect and fulfill the human rights of women and girls in humanitarian settings. In the context of the humanitarian programme cycle, please provide examples of measures taken to ensure protection of the human rights of women and girls in the different stages of programming (design, implementation, monitoring and evaluation).

Edge Effect has undertaken participatory research on diverse SOGIESC inclusion that included women and girls with diverse SOGIESC. The most recent report ***The Only Way Is Up*** was commissioned by UNWomen, and includes an assessment of diverse SOGIESC inclusion in humanitarian settings global research in Cox's Bazar, Mindanao and Vanuatu. It also includes an evaluation/assessment tool now available for use (see question 7 for details). This report includes a systematic set of findings and recommendations for the humanitarian sector to address large gaps in diverse SOGIESC inclusion (including for women and girls with diverse SOGIESC). A key recommendation is for the establishment of a global level process to address the major gaps in diverse SOGIESC inclusion in the humanitarian system. Such processes have occurred for other inclusion domains, such as people with disabilities, and people of different ages. A global process for inclusion of people with diverse SOGIESC is not overdue.

Edge Effect worked with UNWomen, IPPF, APCOM, APTN and the ASEAN SOGIE Caucus to organise ***Pride in the Humanitarian System***, which provided a ground-breaking opportunity to start dialogue between humanitarian actors and diverse SOGIESC CSOs. Much of the discussion and recommendations in the Consultation Report and the community



Call-for-Action are directly relevant for women and girls with diverse SOGIESC in humanitarian settings.

Edge Effect provides training for humanitarian actors to better understand the rights, needs and strengths of people with diverse SOGIESC (including women and girls) and how to address those across the program cycle,

Edge Effect has supported capacity strengthening of diverse SOGIESC CSOs so that they are better placed to partner with humanitarian actors and to ensure that humanitarian actors implement programs in ways that respect the safety and dignity of people with diverse SOGIESC (including women and girls).

4. What challenges does your Government or organization face in promoting, protecting and respecting women's and girls' full enjoyment of human rights in humanitarian situations? Please elaborate on the nature of these challenges and steps taken to address them.

A key challenge is that frameworks within the humanitarian system and organisations working within those frameworks fail to recognise that many people with diverse SOGIESC (aka LGBTIQ+ people) are women and girls. Acronyms including LGBTIQ+ are sometimes added to lists of marginalised groups as an entirely separate category of people. However (and it seems unusual to have to repeat this in so many contexts) lesbians, bisexual women, trans women, intersex women and queer women are ... women. As such, their rights, needs and strengths can and should be addressed by programs focused on women and girls. However this is not the reality. Most programs focused on women and girls implicitly mean heterosexual and cisgender women and girls.

Where humanitarian programs do mention people with diverse SOGIESC (which includes women and girls), it is usually in passing, for example adding the acronym LGBTIQ+ to a long list of marginalised groups that should be 'consulted'. While it is a step in the right direction to acknowledge people with diverse SOGIESC by naming them, unfortunately current inclusion efforts often end there. A much more substantive commitment is required, in which the humanitarian system undergoes reform to eliminate heteronormative, cisnormative, gender binary and endosexist assumptions, and where organisations invest in research, training, tools adaption, community partnerships and other measures. This needs to include significant funding and support for diverse SOGIESC CSOs, including CSOs that focus on trans women and CSOs that focus on LBQ (lesbian, bisexual and queer women) amongst other CSOs.

There is very little data about women and girls with diverse SOGIESC in humanitarian settings. Most assessments and evaluations do not include consideration of women and girls with diverse SOGIESC, and gender statistics collected by governments, UN agencies and INGOs routinely omit women and girls with diverse SOGIESC. This issue has been addressed by the IE SOGI ([A/HRC/41/45](#)).

5. Please provide information on international cooperation, technical assistance and humanitarian support provided by the international community, including Member

States, and by relevant United Nations agencies and humanitarian actors, to address the human rights of women and girls in humanitarian situations, with a focus on good practices, challenges and lessons learned.

A limited number of government donor agencies, UN agencies and humanitarian actors have made substantive contributions to the inclusion of people with diverse SOGIESC (including women and girls). Examples include:

- Australian Government funding received by Edge Effect to develop a diverse SOGIESC content hub ([www.42d.org](http://www.42d.org)), a diverse SOGIESC training course for humanitarian actors and other resources, and an upcoming report on social protection and cash-based assistance for people with diverse SOGIESC (including women and girls).
  - UNWomen commissioning the Edge Effect report ***The Only Way Is Up** on the state of diverse SOGIESC inclusion in the humanitarian system*.
  - Collaboration between diverse SOGIESC CSOs and humanitarian actors at the Pride in the Humanitarian System Consultation (<https://www.42d.org/2020/07/06/pride-in-the-humanitarian-system-consultation-report/>) organised by ASEAN SOGIE Caucus, APCOM, APTN, Edge Effect, UNWomen and IPPF.
  - FCDO support for ODI, LVCT and Edge Effect to explore gender based violence (GBV) experienced by people with diverse SOGIESC (including women and girls). A full report will be released shortly, and the project literature review is available at: <https://www.42d.org/2021/06/21/intersecting-exclusions-displacement-and-gender-based-violence-among-people-with-diverse-sexualities-and-gender-identities-in-kenya/>
  - Work by Women's Refugee Commission of violence and discrimination experienced by refugees with diverse SOGIESC (including women and girls) in urban settings in ***Mean Streets*** (<https://www.42d.org/2020/04/29/mean-streets-identifying-and-responding-to-urban-refugees-risks-of-gender-based-violence/>) and CSO consultations facilitated by UNHCR on refugees with diverse SOGIESC (including women and girls).
  - Establishment of a Gender Diverse Working Group within the Protection and Gender in Humanitarian Action areas in Cox's Bazar.
6. Please provide information on the barriers women and girls face in reporting and seeking justice, as well as protection for violations of their human rights in humanitarian settings, including women and girls who face intersecting forms of discrimination? Please also provide information on mechanisms that operate in your context to ensure access to justice and remedies for human rights violations and abuses that women and girls may experience, thus ensuring accountability. (E.g. judicial and non-judicial mechanisms; truth-seeking initiatives; community-based initiatives; investigative and independent monitoring and/or reporting bodies, community complaint mechanisms; parliamentary-led oversight etc.).

Women and girls with diverse SOGIESC who experience violence and discrimination – for example sexual violence<sup>1</sup> - often have very few options for seeking justice. Where they live in contexts where being a women with diverse SOGIESC is heavily stigmatised, there may be significant risks of secondary discrimination and violence from authorities, and the risk of being outed and all that may follow from that. Perpetrators may target women and girls with diverse SOGIESC in part because of the limited options that they have for seeking justice.

Women, Peace and Security or (Gender, Peace and Security) mechanisms also tend to avoid addressing violence and discrimination experienced by women and girls with diverse SOGIESC, or providing any space for them to participate in peacebuilding and other processes (Hagen 2016).

7. What steps has your Government or organization taken to ensure women's and girls' meaningful participation, empowerment and leadership, including that of survivors and victims, in efforts to prevent, reduce the risk of, prepare for, resolve and rebuild from humanitarian emergencies. Please elaborate on any lessons learned, good practices as well as challenges faced.

As part of the UN Women commissioned The Only Way Is Up project, Edge Effect developed a diverse SOGIESC specific version of the UN Women Rapid Assessment Tool To Evaluate Gender Equality and Women's Empowerment Results In Humanitarian Contexts. The new tool is called the Diverse SOGIESC Rapid Assessment Tool. This Tool allows humanitarian actors to assess the extent to which their existing humanitarian response is inclusive of people with diverse SOGIESC, including lesbian, bisexual, transgender, intersex and queer women. The tool results in a score, along a Diverse SOGIESC Spectrum, which itself was adapted by Edge Effect from gender continuums used in the humanitarian and development sectors. The Diverse SOGIESC Spectrum incorporates a norms-based approach, focusing attention of the humanitarian agency on the extent to which its programs reproduce the norms of heteronormativity, cisnormativity, the gender binary and endosexism. These four norms underpin the discrimination, violence and exclusion experienced by people with diverse SOGIESC. This Diverse SOGIESC Rapid Assessment Tool was also designed with Accountability to Affected Communities in mind: the humanitarian agency undergoing the self-assessment needs to engage a local diverse SOGIESC CSO to be a partner in the assessment. As partner, the CSO seeks community input, and helps the humanitarian agency to understand its score and how to improve. This tool was piloted by UN Women and CSO partner Bandhu Social Welfare Society in the Cox's Bazar Camps, with the focus of the assessment being the extent to which hijra, gender diverse people and transgender women could safely access services at the Multi-Purpose Women's Centers in the camps. The tool is now available for use by other humanitarian actors.

## Literature Cited

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<sup>1</sup> Sexual violence takes many forms and perpetrators have various motivations. At times sexual violence against women and girls with diverse SOGIESC is a weapon of war, at other times it is – horrifically - a 'corrective' practice to challenge non-normative identities that clash with the requirements of a patriarchal system, at other times they are perpetrated by family or people who are well-known, but who believe they will get away with it.



*For additional relevant literature please visit the content hub at 42 Degrees ([www.42d.org](http://www.42d.org))*

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