**Written Submission to Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity (SOGI)**

In response to call for inputs for thematic report on data and management addressed to the

Human Rights Council

**Submission Date:** 15 March 2019

**Introduction:**

This submission has been put together by the Asian Pacific Resource & Research Centre for Women (ARROW)[[1]](#footnote-1) with inputs from ASEAN SOGIE Caucus,[[2]](#footnote-2) Blue Veins, Pakistan,[[3]](#footnote-3) and Bandhu Social Welfare Society, Bangladesh.[[4]](#footnote-4) it provides an overview of current practices, gaps, and challenges in relation to data collection on violence and discriminatory practices against LGBTIQ persons in Bangladesh, China, Fiji, India, Indonesia, Nepal, Pakistan, Philippines, and Vietnam.

Existing researches and studies conducted by government and non-government entities and civil society organisations served as the primary source of information for this submission and have been cited accordingly. In addition, we reached out to ARROW’s national and regional partners for secondary sources, case studies and field notes.

**Responses to the Questionnaire:**

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)?**

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| **Country** | **Assessment of Current Practices** |
| Bangladesh | Homosexuality is criminalised in Bangladesh, but transgender and *hijra* are recognised as third gender according to a ruling issued by the Supreme Court in 2013. The last census was held in 2011 and didn’t include any provision on gender diversity. The latest demographic and health survey (DHS)[[5]](#footnote-5) was conducted and concluded in 2014 and did not include any questions or indicators on health related issues of persons with diverse gender identities. In terms of administrative documents, while transgender and intersex persons can apply for a national identity card or passport, the knowledge about issuance of identity cards and passports with a new gender identity box is very limited among the community. Further, in practice the process of applying for a gender change in the identity card is not very consistent nor well-defined, and there have been instances where applicants were required to go through physical examination and tests. Hence the option is often not pursued and there is a hesitance among the transgender population to apply for the identity documents.[[6]](#footnote-6) More recently, election authorities also included third gender option in the voter forms[[7]](#footnote-7), but to what extent it was used to assess the participation of third gender persons in the 2018 general elections is still unknown. Several UN agencies and non-government and civil society entities have attempted to study the discriminatory practices against LGBT population in the country.[[8]](#footnote-8) While these studies provide critical evidence for policy and programming purposes, they are not comprehensive due to limited samples sizes and tend to focus on urban demographics only. Further, due to the criminalisation of homosexuality, outreach to persons with diverse sexual orientation remains highly restricted due to societal stigmatisation and fear of harassment, abuse, and violence.  |
| China | While same-sex activity has been legal in China since 1997, the LGBTI community keeps facing legal and social discriminations and violations and as such there are no laws in place to protect LGBTI persons from discrimination. Demographic surveys in China haven’t acknowledged gender diversity yet. Gender change in administrative documents is only possible after gender reassignment surgery which is not allowed for minors and can only be done after the age of twenty.[[9]](#footnote-9) While official data collection has not taken place to study lived realities of Chinese LGBTI population, they are very actively participating in digital activism and community building. Some academic institutions and CSOs have undertaken independent studies and evidence generation initiatives to study the discriminations and disparities faced by LGBTI population in China, however the scope of these studies remain limited in terms of content and sample sizes.[[10]](#footnote-10)  |
| Fiji | Fiji is one of the few countries in the world that provide protection against SOGIE-based discrimination in the constitution itself. Fijian legal framework also provides protection against hate speech on the basis of SOGIESC. While same-sex relationships are not illegal, same-sex marriage is not legally recognised yet. Gender change in administrative documents is allowed after gender reassignment surgery. So far, the state agencies have not undertaken any initiatives to study and document the disparities experienced by the LGBTI population.  |
| India | While third gender and self-identification right of persons with diverse gender identity was recognised through a Supreme Court ruling in 2014[[11]](#footnote-11), the third gender as a gender identity option was included in the national census in 2011 and it was the first country’s first demographic survey which included third gender as a gender identity. However, National Family Health Survey 2015-16[[12]](#footnote-12) limits its study and indicators to male and female only. National Crime Records Bureau, which tracks complaints lodged by the police, could also shed light on the complaints of violence/abuse/harassment lodged by persons with a non-binary gender identity.[[13]](#footnote-13) The Supreme Court ruling also allows persons with non-binary gender identity to acquire passports or register as a voter. However, there is great reluctance among the transgender community to opt for it due to bureaucratic challenges such as screening and chromosome tests. Others feel changing the gender officially could bar them from exercising their inheritance rights as there is no legal clarity available on personal laws for third gender.[[14]](#footnote-14)[[15]](#footnote-15)  |
| Indonesia | The national laws do not recognise or support the rights of LGBTI people. Homosexuality is not criminalised, but same-sex marriage or adoption by same-sex partners is not permitted.[[16]](#footnote-16) Gender change is only allowed after gender reassignment surgery. As such there are no legal provisions in place to provide protection against SOGIESC-based discrimination and harassment.[[17]](#footnote-17) There are no state-run programmes in place to systematically study the experiences of LGBTI persons, but Indonesia has a vibrant LGBTI human rights movement and small scale studies and researches have been conducted by CSOs and local NGOs to understand the nature and extent of discrimination and violence against the community.[[18]](#footnote-18)  |
| Nepal | A Supreme Court ruling in 2007 authorised a third legal gender category on “self-identification” basis.[[19]](#footnote-19) In 2011, country’s first third gender inclusive census took place though there were several administrative challenges which affected the quality and comprehensiveness of the data collected.[[20]](#footnote-20) The demographic and health survey (DHS) of Nepal does not study the health indicators for people with diverse SOGIESC.[[21]](#footnote-21) Several researches have been conducted to study the disparities and discrimination experienced by LGBTI persons in Nepal by CSOs and non-government organisations, notably a joint effort by Blue Diamond Society, UNDP and the Williams Institute.[[22]](#footnote-22)  |
| Pakistan | Third gender received legal recognition in Pakistan in 2009 when a Supreme Court ruling declared them equal citizens of the country.[[23]](#footnote-23) However, issuance of identity documents with a third gender category could only be possible several years later due to administrative challenges.[[24]](#footnote-24) In 2018, the country passed the landmark Transgender Protection Act which guarantees legal recognition rights on “self-identification” basis.[[25]](#footnote-25) It was followed by amendments in the Election Act 2016 which gave voting rights and priority registration of voter forms for persons with diverse gender identities.[[26]](#footnote-26) National and provincial governments have established implementation committee to provide oversight to implementation status of Transgender Protection Act, which includes data collections and evidence generation to inform implementation strategies.[[27]](#footnote-27) Transgender persons were included in the last census conducted in 2017, however, due to several administrative lapses, the data collection was not comprehensive and was questioned for its quality and comprehensiveness.[[28]](#footnote-28)[[29]](#footnote-29) Transgender persons or a third gender category has not been included in the last demographic and health survey of the country.[[30]](#footnote-30) Due to the limited resources and criminal status of same-sex relationships, local CSOs and NGOs have not been able to conduct large-scale surveys or researches on lived experiences of LGBTI persons in Pakistan vis-a-vis health, education and economic opportunities. However, several studies have been conducted to study and document experiences of violence and harassment against LGBTI persons.  |
| Philippines | A bill on prevention of discrimination on the basis of sexual orientation and gender identity has been proposed, but it has yet to be passed and adapted as a law.[[31]](#footnote-31) However, anti-discrimination ordinances have been issued by city administration in several provinces. These ordinances have called for different measures to receive and address complaints against SOGI based discrimination,[[32]](#footnote-32) but it doesn’t call for any data collection or evidence generation interventions to understand the nature of violations and discriminations. The last census took place in 2015 and did not include third gender in the surveys. LGBTI CSOs and human rights community are very vibrant and has taken several independent studies and research initiatives to document the lived experiences of LGBTI persons vis-a-vis health, education and employment opportunities.[[33]](#footnote-33)  |
| Vietnam | The ban on same-sex marriage was lifted in 2016,[[34]](#footnote-34) however the country has yet to undertake demographic studies and surveys to study the lived experiences of its LGBTI population. Some initiatives have been implemented by local CSOs and UN agencies to study the discriminations faced by LGBTI youth in education facilities and health care access, but no such interventions have been implemented on a large scale by any government or non-government entity.[[35]](#footnote-35)  |

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?**

To study and understand the disparities, discriminations and violence experienced by persons with diverse gender identities and sexual orientations, it is important to develop a comprehensive set of indicators which could gather information on and address the multi-faceted discriminations, abuse, and violence faced by the LGBTI persons. Further, the indicator set should consider the socio-cultural contexts and intersectionalities of identities such as sexual orientation and gender identity, race, caste, ethnicity, among others.

We are proposing following thematic indicators which could help government institutions and other stakeholders to understand the nature and extent of violence and discrimination against LGBTI persons in a more comprehensive manner:

* 1. **Citizenship Status:** Does the legal and policy framework recognise diverse gender identities and allow to change the gender on identity and administrative documents (including identity cards, passports, voter forms, etc)? Does the legal and policy framework recognise the right of self-identification with regards to gender identity? If not, what are the administrative procedures required to change identity? What are the institutional and structure barriers that prohibit individuals to acquire new identity documents? Does the legal and policy framework provide inheritance rights protection in cases of change in gender identity?
	2. **Health:** In Asia Pacific region, the discourses around health issues of LGBTI persons have remained limited to HIV/AIDS only in the policy and programmatic contexts and hence currently no state-led data collection systems on broader health issues of the LGBTI population exist. To understand the health disparities persons with diverse sexual orientations and gender identities face, it is pertinent to include relevant demographic attributes in national demographic and health surveys. Barriers to access health care services (including provider’s attitude), utilisation of health care services and related subsidies (health insurance, etc), mental health, availability, access and utilisation of transition-related and sexual and reproductive health services are some of the health related indicators which should be studied to better understand the health care needs of LGBTI persons. Further, indicators on accessibility of health care centres as well as quality and safety, provision of services without stigma and discrimination are also necessary. This could, for example, include number of trained and sensitised health care service providers and number of health care centres with trained staff and adequate facilities for LGBTI persons’ specific health needs.
	3. **Education:** It is a well-documented fact that LGBTI youth are routinely subjected to discriminatory administrative and institutional policies and practices, and bullying, harassment and violence by their peers in schools and other educational settings.[[36]](#footnote-36) To fully understand the extent of disparities in accessing education and discriminations in schools and other education institutions, it is important to look deeper into institutional discrimination and administrative policies and practices that directly or indirectly discriminate against LGBTI youth, representation and misrepresentation of LGBTI persons in the educational curricula, teachers’ attitude towards LGBTI youth, experiences of LGBTI youth in relation to peer bullying (including physical and verbal bullying and harassment, psychosocial bullying and cyberbullying). It will help to better inform the policies and programmes to make educational institutes and learning spaces safe and truly inclusive for LGBTI youth.
	4. **Living Situation:** Acquiring decent housing is a challenge for LGBTI persons in several countries studied for this report. Even in contexts, where homsexuality is not criminalised and/or diverse gender identities are legally recognised, prevalent social stigma poses a huge barrier and LGBTI persons are often denied accommodations by landlords and house owners. Homelessness is also common in intersex and transgender populations which can be attributed to their financial vulnerabilities. It is therefore critical to collect data on living situations of LGBTI persons to inform relevant policies and programmes and social welfare initiatives and affirmative actions.
	5. **Social Discrimination and Marginalisation:** Experiences of social discrimination, exclusion and marginalisation are well-documented. However, more thorough studies and data collection exercises are needed to understand the extent of it. Indicators could include lived experiences of LGBTI persons in their daily interactions within the family, community, and at the broader societal level. Are public transportations safe and accessible for LGBTI persons? Do they face any mistreatment in banks, parks, shops, markets and other public spaces? What are the laws and regulations to provide against social discrimination and to what extent are they being implemented? Do public service providers such as banking services have a complaint mechanism to report discriminatory or ill-behavior? These are some of the indicators to kick start a more detailed discussion on evidence generation on social discrimination and marginalisation.
	6. **Gender-based Violence & Domestic Violence:** While gender-based violence is being increasingly reported in many of the countries and the higher rates of reporting violent crimes can be attributed to legal recognition of non-binary gender identities. However, homosexuality still remains criminalised in majority of the countries studied for this submission, and therefore, reporting of violence against LGB persons remains invisible and undocumented in official records. Further, reporting intimate partner violence is quite challenging even among transgender and intersex populations because in most cases the country laws don’t recognise intimate partner violence or domestic violence among persons with non-binary gender identity.[[37]](#footnote-37) Data collection on all forms of violence, including violence in both public and private spheres, is needed to fully understand the nature and types of violence and abuse experienced by LGBTI persons. Further, indicators of such a data collection initiative should also include institutional violence against LGBTI persons (for example, forced mental health treatment, conversion and rehab therapies, etc) to inform policies and programmes to prevent violence against LGBTI persons. Finally, data on availability and accessibility of shelter homes and help centres for victims and availability of trained and sensitised staff can also inform policies and programmes around domestic violence and gender-based violence.
	7. **Labour & Economic Participation:** Access to decent work and equal employment opportunities are fundamental human rights of LGBTI persons and are key for their socio-economic empowerment and meaningful civil and public participation. Experiences of discrimination, harassment and bullying due to SOGIESC are widely known and documented in the region.[[38]](#footnote-38) However, in most of the countries, the laws don’t provide protection against such harassment. In contexts, where the national or local laws and directive do provide protection against discrimination and abuse at workplace on the basis of SOGIESc, implementation and, in many cases, awareness of these provisions remains limited.[[39]](#footnote-39) Which sectors are more LGBTI inclusive and why and vice versa? What kind of discrimination LGBTI persons experience during job search? At workplace, what kind of discrimination, hostility, abuse or violence they experience? Is the vulnerability greater in some types of jobs than others? If yes, why? Does the laws and policies provide protection against ill-treatment on the basis of SOGIESC? If yes, to what extent they are practiced and what are the challenges to invoke such legal provisions? What type of reporting and remedial resources are available to LGBTI persons at the workplace and within the broader legal system? Is there awareness about these resources? How often they have been utilised? Are they effective and adequate? These are some of the questions which can inform the indicators for data collection on discrimination and harassment at workplace based on SOGIESC. Indicators on harassment, abuse and violence experienced by LGBTI sex workers is also necessary to inform programmes aimed at keeping them safe and protecting their human rights.
	8. **Law Enforcement & Legal Systems:** Inaction and harassment and abuse against LGBTI persons has been well-documented in all of the countries studied for this submission (references can be provided upon request). However, very few countries have attempted to study the nature of harassment and the lapses in the law enforcement institutions that enable misconduct by police authorities. Does the law, policies and institutional directives stipulate how to respond and treat LGBTI persons? Are the police officers sensitised and trained on how to respond on issues reported by or against LGBTI persons? Do these directives and regulations provide protection against harassment, abuse and violence by law enforcement agencies? Are the police officers trained on responding to intimate partner violence, gender-based violence and domestic violence in same-sex relationships? Are there monitoring and accountability frameworks within the law enforcement institutions to address issues of inaction, harassment or abuse by police officers? Are there any remedial resources available to victims of police harassment and abuse in such cases? If yes, is there awareness of it? How often are they accessed and utilised? Is the judicial system sensitised and trained on how to respond to issues related to LGBTIQ persons? Is there awareness about their rights among the LGBTIQ persons? What initiatives are being taken by the government to increase awareness about these rights and remedial pathways? These are some of the possible indicators to study and improve the policies and regulations vis-a-vis law enforcement agencies. Further, there have been several noteworthy researches and models available to inform policy-related discussions around police reform.[[40]](#footnote-40)[[41]](#footnote-41)
	9. **Civic Participation:** Several noteworthy initiatives have been taken by the governments in the region to increase civic participation of LGBTI persons including recognition of third gender in the voter forms. However, implementation remained weak due to administrative challenges. For example, in Pakistan’s case, while the voting right of transgender person is formally recognised, the voter roll did not include a separate third gender category and options were limited to male and female only.[[42]](#footnote-42) Further, there was very little awareness of voter registration rights among the transgender community.[[43]](#footnote-43) There was also little information and knowledge on how to cast a vote and no measures were taken to ensure registered transgender voters have sufficient information about the voting process to meaningfully participate in the process. The polling staff was not trained on how to respond and properly guide transgender voters. Further, while there were gender segregated polling booths for men and women, no such facilities were provided for transgender persons. Several reports of misgendering also came forward which perpetuated fear of discrimination among their peers. Barriers to acquiring correct identity cards in time was another contributing factors.[[44]](#footnote-44)

These challenges faced by the transgender voters are not unique to Pakistani context and have been documented in other country contexts as well.[[45]](#footnote-45) In order to address these barriers faced by persons with non-binary gender identity, data collection on these issues is necessary so informed policy and programme making can happen.

* 1. **Stereotyping, Hate-speech and Hate Crimes:** Hate crimes and hate speech against LGBTI persons is prevalent in all countries. However, very few accountability and protective measures have been taken to address the issue. Further, in some contexts, such as Indonesia, public pronouncements by politicians and religious authorities against LGBTI persons led to increased negative perception among the general public against LGBTI persons and it also contributed to escalation of violence and intimidation against the community.[[46]](#footnote-46) Negative stereotyping in media is another dimension that needs to be studied to understand the nature of hate speech and its prevalence. Cyber attacks, threats and trolling on social media is also very common and should be studied to inform policies and programmes to enhance cyber protection and digital security and inclusivity.
	2. **Disaster & Risk Mitigation & Humanitarian Response:** In some of the country contexts, especially Philippines and Fiji, small scale initiatives have been implemented by civil society and non-government organisations to study the experiences of LGBTI persons in humanitarian responses. In a fact finding mission conducted by ASEAN SOGIE Caucus in Philippines in Marawi in 2017, LGBTI persons shared their experiences of discrimination in the IDP (internally displaced persons) shelter homes. They also shared that the humanitarian response was non-sensitive and non-inclusive of needs and protection required by LGBTI persons. During the conflict situation as well, persons with non-conforming gender identity were subjected to increased violence by the Islamic fundamentalist forces.
	In Fiji, persons with diverse sexual orientation and gender identity have shared their experiences of isolation, trauma, exclusion and violence during the disaster response.[[47]](#footnote-47) While the discourses around human rights-based approach to disaster and humanitarian responses have been taking place in many country contexts, it remains cisgendered and heteronormative. There is very little capacity within organisations and entities working on DRR and humanitarian response to understand and respond to the needs of LGBTI persons. There is very little policy research being conducted in this regard. Further, lack of documentation of lived experiences is another challenge. Data collection on experiences of LGBTI persons in disaster and conflict situation can be the first step towards the ambitious goal of designing “how-to” guide for SOGIESC-sensitive and responsive humanitative response.
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:**
	* 1. **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.**
		2. **Broader statutory rules or administrative policies to insure transparency and accountability of government institutions such as statistical bodies.**

Given the fact that homosexuality is criminalised in most country contexts and there is a huge stigma against LGBTI persons at societal, community, and family levels, the reluctance of LGBTI persons to reveal their identity and sexual orientation is understandable and reasonable. Even in cases where they are “open” about their sexual orientation and gender identity, they would still wish to have full knowledge about the objectives of any data collection activity and how it will be used and who will use it and/or have access to it.

Anonymous online surveys have been employed as measures to ensure privacy and confidentiality in several EU countries[[48]](#footnote-48) and could be explored as a measure in the Asia Pacific region as well. However, lack of access to internet for some LGBTI persons should be acknowledged as a potential barriers towards inclusivity and should be addressed as such.

Survey takers should be informed fully about the objectives of the data collection exercise and how the data will be used and managed and consent should be acquired prior to any data collection exercise. Further, staff employed for data collection exercises should be sensitised on LGBTI-sensitive and responsive data collection methodologies and practices.

Government must also ensure that there are administrative regulations and practices in place to ensure data security for survey results as well as any other administrative data which could reveal a person’s gender identity and sexual orientation. In smaller sample sizes, raw data should not be available and only aggregated data should be made available to ensure privacy and anonymity of survey respondents.

1. **What are the risks associated with the collection and management of data on sexual orientation and gender identity and initiatives to overcome those?**
	1. Privacy and confidentiality is a huge concern as breach of privacy can have far reaching effects on LGBTI persons’ employment, family relationships, friendships and even personal safety. Country’s privacy laws and data security measures must guarantee fundamental human rights, such as right to privacy, to all individuals, including LGBTI person.
	2. Lack of consistency in gender identity related information in various administrative documents of a transgender person could lead to privacy and other issues. For instance, documentation shows that in the post-9/11 contexts, federal agencies alerted employers if a person’s name and gender did not match in official administrative documents such as Social Security records.[[49]](#footnote-49)
	3. Defining gender identity or sexual orientation for demographic studies can be challenging. But the region can learn from researches and practices taking place in other parts of the world. For instance, in United States, measures are being taken by researchers to standardise the use of terminology around sexual orientation and gender identity to improve interpretability and comparability of the data for Behavioral Risk Factor Surveillance System (BRFSS).[[50]](#footnote-50) Similarly, New Zealand has also introduced measures to standardise concepts and terminologies around sexual orientation and gender identity to ensure collection, organisation and management of the data remains consistent in all data systems used by the Government. Further, cultural contexts and indigenous identities and terminologies should be taken into account during the standardisation process to ensure the concepts and terminologies are culturally appropriate and inclusive.
	4. Data collectors and field workers employed to conduct surveys should be sensitised and trained on LGBTI-sensitive and responsive data collection methodologies and practices. Reluctance to reveal the SOGIESC due to fear of discrimination and harassment has been documented as one of the major barriers in both Nepal and India’s first transgender inclusive census.[[51]](#footnote-51)[[52]](#footnote-52) Lessons must be learned from the previous experiences to inform programmes around training of statisticians and field workers.
	5. Protocols around data collection must provide guidance around age at which response can be collected on questions around SOGIESC, and it should be consistent across all data collection systems.
	6. Finally, there is a need to recognise that within the LGBTI community some groups are more marginalised than others. They are not a homogenous group and the marginalisation and vulnerabilities should be addressed in risk mitigation strategies of data collection initiatives. For example, in some South Asian contexts, homosexuality is criminalised but transgenders are more recognised/accepted in legal and social landscapes, and these complex vulnerabilities and marginalisation should be taken into account and addressed during the design and implementation of any data collection programme.
2. **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?**
	1. In countries that criminalise same-sex behavior, there have been attempts by civil society and non-government organisations to collect data on LGBTI persons for research purposes. However, privacy and confidentiality as well as informed consent and principle of self-identification have been used to guide the data collection and management methodologies and practices. It cannot be ascertained that state-led initiatives in these country contexts will employ same principle of respect for privacy and confidentiality, and hence caution should be maintained.
	2. The recent data breach by online same-sex dating platforms like Grindr[[53]](#footnote-53) flag the need to revise data protection regulations to ensure that private and sensitive information about online users are not shared with third parties without their informed consent. Health and sexuality related data is sensitive, and therefore, data protection regulation should be issued/amended to ensure digital apps comply fully with data security requirements and remain safe for all users.
	3. Although not well-documented, there have been instances of harassment and intimidation by state and non-state actors against particular minority groups including LGBTI persons in conflict situations. In the case of Marawi, for example, LGBTI and Christian populations were specifically targeted by militants during the ISIS attack.[[54]](#footnote-54) It is hence pertinent to reflect on what open data could mean for marginalised and highly stigmatised communities and what kind of data protection measures should be introduced to minimise risks.
	4. Increased attacks against human rights defenders of LGBTI have been documented in many countries in the region and that raises serious questions over the safety of LGBTI population if their identity is revealed.
3. **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:**
	* 1. **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?**
		2. **Does civil society have the capacity, in terms of expertise and technical knowledge, to meaningfully participate in State efforts to gather data?**
		3. **What constitutes meaningful participation in this area?**

Experiences from Nepal, Pakistan and India show that inclusion of a third gender category in the census was a result of advocacy and lobbying by civil society and LGBTI activists. However, participation of civil society during the design and implementation of the enumeration processes remained limited.[[55]](#footnote-55)[[56]](#footnote-56) Further, no clear guidance were issued on inclusion and participation of CSOs and non-governmental stakeholders, such as UN agencies, in the surveys design and implementation processes.

CSOs and UN agencies have undertaken several researches and surveys on discriminations faced by the LGBTI population in the region which serve as the only sources of information on lived experiences of the LGBTI population in many countries in the Asia Pacific region. The lessons learned and insights from these research exercises would be critical to inform any data collection initiative designed and implemented by the state.

Further, engagement of representatives of the LGBTI community and CSOs in conceptualisation, designing, implementation, and management stages of any data collection initiative is critical to ensure that methodologies and practices are rights-based, culturally appropriate and inclusive, and transparent.

Meaningful participation would entail: consultation with CSOs during the conceptualisation and designing of the programme and standardisation of data collection methodologies and tools, monitoring and review of the staff training by CSOs, monitoring and evaluation by CSOs during the implementation, and finally, creation of a data management system for transparent curation and dissemination of the data.

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?**

It is critical to ensure that statistical concepts and terminologies reflect indigenous concepts and terminologies accurately and are culturally appropriate and inclusive, and hence a national level classification scheme is necessary. However, a global classification scheme which builds on local standards can be useful for international comparisons without compromising on the quality of the sample and misrepresentation of indigenous gender and sexual identities.

1. ARROW is a regional organisation striving to advance women and young people’s sexual and reproductive health and rights in Asia Pacific since 1993. More details about ARROW’s work can be found here: www.arrow.org.my [↑](#footnote-ref-1)
2. The ASEAN SOGIE Caucus (ASC) is a network of human rights activists from Southeast Asia. The ASC works for the inclusion of Sexual Orientation, Gender Identity, Gender Expression, and Sex Characteristics (SOGIESC) in the mandate of human rights duty bearers in the ASEAN region. More details about ASC’s work can be found here: https://aseansogiecaucus.org/about [↑](#footnote-ref-2)
3. Blue Veins, Pakistan, is a national civil society organisation working towards gender equality and human rights in Pakistan. [↑](#footnote-ref-3)
4. Bandhu Social Welfare Society is a civil society organisation and has been consistently working for advocating the rights of third gender community in Bangladesh through policy advocacy, research, and capacity strengthening. More details about Bandhu’s work can be found here: http://www.bandhu-bd.org/ [↑](#footnote-ref-4)
5. Bangladesh Demographic and Health Survey. (2014). Link: https://dhsprogram.com/pubs/pdf/FR311/FR311.pdf [↑](#footnote-ref-5)
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8. References can be provided upon request. [↑](#footnote-ref-8)
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13. Schultz, K. (2018, June 2). Gay in India, Where Progress Has Come Only With Risk. *The New York Times*. Retrieved from https://www.nytimes.com/2018/06/02/world/asia/gay-in-india-where-progress-has-come-only-with-risk.html [↑](#footnote-ref-13)
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