**Call for Inputs**

**Deadline 31 May 2019**

**Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

6 May 2019

In accordance with my mandate as Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolution 32/2, I intend to present a thematic report at the 74th session of the General Assembly, The report will examine how inclusion protects people from violence and discrimination, and the key role of the State in promoting and nurturing that inclusion in the social, cultural, political and other fields. Finally, it will formulate recommendations to States and other relevant stakeholders.

My report will examine these issues in relation to the themes of education, health, housing, employment/economic empowerment and an adequate standard of living. I will also consider the following sub-themes/actors (among others): culture, family, faith, migration, urban/rural, older persons, youths, political participation, social security/benefits, business sector, and media.

**Background**

Discriminatory laws and socio-cultural norms continue to marginalize and exclude lesbian, gay, bisexual, trans and gender diverse persons from education, health care, housing, employment and occupation, and other sectors. The marginalization and peripheralization are part of a vicious cycle that give rise to a host of other problems; in a context where access to economic, social and cultural rights is hampered, a series of negative impacts on individuals, their families, groups and communities can be observed, resulting in poverty and exclusion, lower socioeconomic status, and limiting access to assets that are essential to enjoy the full range of human rights. The excluding environment inevitably lends themselves to violence and discrimination, as it hampers access to their rights, creates inequality of opportunity and access to resources.

A [joint statement](https://www.ohchr.org/EN/Issues/Discrimination/Pages/JointLGBTIstatement.aspx) released by 12 UN entities in 2015 expressed concern about these issues:

“Children face bullying, discrimination or expulsion from schools on the basis of their actual or perceived sexual orientation or gender identity, or that of their parents. [...] Discrimination and violence contribute to the marginalization of LGBTI people and their vulnerability to ill health including HIV infection, yet they face denial of care, discriminatory attitudes and pathologization in medical and other settings. [...] The exclusion of LGBTI people from the design, implementation and monitoring of laws and policies that affect them perpetuates their social and economic marginalization.”

Some important steps are already being taken at the international, regional and national levels to address these issues. For example, UNESCO convened an international [consultation on homophobic bullying in educational institutions](https://unesdoc.unesco.org/ark:/48223/pf0000216493) in 2011, bringing together education ministries, UN agencies, NGOs and academia from more than 25 countries around the world. The World Bank is managing a [project](https://www.worldbank.org/en/topic/sexual-orientation-and-gender-identity#3) aimed at filling the LGBT data gap, focused on inclusion in markets, services, and other spaces. UNDP is leading and partnering in the development of the LGBTI Inclusion Index, which will measure inclusion of LGBTI people in health, civic and political participation, personal safety and security, education, and economic empowerment. Together with the World Bank, civil society, governments and academics UNDP has developed a proposed set of [51 indicators for the LGBTI Inclusion Index](https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.undp.org%2Fcontent%2Fundp%2Fen%2Fhome%2Flibrarypage%2Fhiv-aids%2Flgbti-index.html&data=02%7C01%7Cboyan.konstantinov%40undp.org%7C481ab2dfe96a4b9e807008d6ccb98799%7Cb3e5db5e2944483799f57488ace54319%7C0%7C0%7C636921494552244721&sdata=6NY65rZdCmz13%2BnFO6vPax3EZDoQV%2Bd%2BNsm4IZYMVe8%3D&reserved=0), aligned with the framework of the SDG with a view to identifying who is “left behind” and why. Trade unions and employers’ organisations have worked to promote the meaningful inclusion of LGBT people in the workplace, and around 240 businesses have expressed support to the [Standards of Conduct for Business](https://www.unfe.org/standards/) in tackling discrimination based on sexual orientation and gender identity. States have passed legislation explicitly protecting LGBT people from discrimination in housing and access to social security.

A glance at these issues quickly affirms the interdependence and inter-relatedness of all human rights. Addressing the social and economic rights of LGBT people is critical to any efforts to address violence and discrimination on the basis of sexual orientation and gender identity. Under the 2030 Agenda for Sustainable Development, the international community committed to leaving no-one behind. In order to lift LGBT people from cycles of exclusion and abuse, we must critically examine these issues as well as emerging good practices. With my report I further seek to highlight the unique role of leaders in different fields, which will allow to break the cycle of exclusion and which can have a positive impact on misconceptions, fears and prejudices that fuel violence and discrimination.

**Call for input**

To inform my report, I am seeking inputs from relevant stakeholders (Member States, National Human Rights Institutions, civil society organizations, United Nations agencies, regional institutions, corporate entities, etc.) on the basis of the following topics:

1. Key areas in which people (in your country, region or worldwide) suffer socio-cultural and economic exclusion as a result of violence and discrimination on the basis of sexual orientation and/or gender identity; in particular,

We express with great pride that Nepal is one of the most open countries in Asia for LGBTI rights, with a robust movement for sexual and gender minorities' equality. Especially recognizing the constitutional guarantees under the following articles -

1. What knowledge, including data, exists in the State planning bases in relation to socio-cultural and economic exclusion based on sexual orientation and gender identity, including levels of poverty, homelessness, education, employment, health, political participation and any other relevant social indicator?

**Article 12** states that citizens have been guaranteed the right to choose their preferred gender identity on their citizenship document. The choices available are male, female or other.

**Article 18** states that gender and sexual minorities will not be discriminated against by the State and by the judiciary in the application of laws. It further adds that the government may make special provisions through laws to protect, empower and advance the rights of gender and sexual minorities and other marginalized and minority groups. This is spelled out in the provision of positive discrimination.

**Article 42** lists gender and sexual minorities among the groups that have a right to participate in state mechanisms and public services to promote inclusion.

Though there are progresses on LGBTI issues but still effective implementation of laws are not in the place. Most of them are excluded from family as they fear that their family and community will alienate them from their family, lack of job opportunities are making them homeless and poor, they are discriminated in education just because of LGBTIQ, no proper and accessible health facilities are for them and in society they are not accepted as LGBTIQ.

1. How are individuals, groups or communities differently affected, based on their sexual orientation and/or gender identity?

First of all most of the people are not even aware about the LGBTI people and who are aware they are not ready to accept them as they think that being a gay, lesbian and trans is disease that can be transmitted to others as well. Because of this reason, LGBTIQ people are alienated from the society and community people don't even want to hear that they exists.

1. What are the main barriers in ensuring equal access to education, health care, employment and occupation, housing and other relevant sectors?

Every individuals has equal rights for education, health care, employment and occupation but they are not getting what they deserve regardless of any gender. Many LGBTI people have faced discrimination and violence in educational, health and service sectors just they belong to LGBTIQ community.

The main barriers to ensure equal access to them in these sector is understanding and accepting them as a human. They are seen as different person and is alienated from all these sectors though these things are their fundamanetal rights.

1. Root causes and structural factors responsible for marginalisation and socio-cultural and economic exclusion, such as laws, public policies, institutional practices, organizational behaviours, and prevailing ideologies, values and beliefs?

There are laws and policies related to LGBTIQ people but implementation is not in the place, the policy makers are not accountable. Thus, they need to effectively implement the existing laws and policies. Some of the institution doesn't discriminate LGBTIQ people but most of the people don't want them in their institution as they might affect their credibility and trust among other organizations.

They think that gay, lesbian, trans people doesn't exist and they are not ready to accept them.

1. State efforts to address socio-cultural and economic exclusion through legislation, policies, data gathering, and other means, for example:
2. Destitution and poverty;

Due to exclusion from each and every sector, LGBT people are not being able to provide themselves shelter, proper food, education and services. Thus, resulting on extreme poverty and lack of security. Thus, government should plan some strategy to provide them certain amount of allowances to support themselves.

1. Current efforts by States to address bullying and exclusion of LGBT people from education, including in education curricula teacher training, measures to promote continuing education or reinsertion in education settings and vocational training;

We recommend that the Ministry of Education be accountable for the effective implementation of curricula (at all levels) that includes LGBT issues in the education system. It is recommended to urgently implement teacher training programs that discuss sexual orientation and gender identity.

**One of the transgender could not continue her education because of her gender marker ; “other” category. In other hand one of transgender man denied for job opportunity in security force because of having ‘Others” gender marker in his citizenship. Government has not reflected provision of “others” on its various line agencies and service from the government agencies. So, after changing gender marker, many gender minorities are discriminated from equal opportunity in education and employment.**

1. Homelessness among LGBT people, particularly youth, and inclusion in shelter programs;

There are currentlt no any programs for homelessness LGBTI people. Thus, we want to request government to plan strategy to care and support homelessness LGBTI People in all three level, Local, Provincial and state.

1. Coverage by social security and benefits, as well as public and private health insurance (Taking into account survivor’s pensions for same-sex couples, insurance coverage for gender affirming care, social housing for LGBT youth and older persons etc.);

We demand that in line with the new constitution Public and Private businesses should provide equal treatment to everyone at the workplace on issues relating to job opportunity, remuneration, insurance, and social welfare. We urge business leaders to positively discriminate for LGBTI persons so as to make them economically stronger and have equal opportunities for livelihoods. Article 18 talks about positive discrimination on employment. But now laws guarantee this constitutional provision.

1. Equal access to health (including through training and sensitisation of health care personnel), regardless of sexual orientation, gender identity or expression;

We urge the Government not to mention medical proof in recently introduced citizenship act (under consultation in the parliament) to access citizenship for those who wish to amend their citizenship. It should be based on self-determination.

1. Complaints mechanisms available and accessible to LGBT people facing discrimination.

**Article 18** states that gender and sexual minorities will not be discriminated against by the State and by the judiciary in the application of laws. It further adds that the government may make special provisions through laws to protect, empower and advance the rights of gender and sexual minorities and other marginalized and minority groups. This is spelled out in the provision of positive discrimination. But effective implementation is not in the line. SO, we demand to have a proper mechanism to file complaint against the discrimination and violence faced by LGBTIQ people.

1. Actions to ensure socio-cultural and economic inclusion based on sexual orientation and gender identity in measures undertaken to ensure implementation of the Sustainable Development Goals at the national and regional levels.

SDGs goal number 3 & 5 speaks about gender equality and health and well-being, Government of Nepal has also ensured to achieve gender equality and health and well-being and government of Nepal has make strategy as well to achieve it in National and regional levels. So, we want to urge that, marriage equality needs to be legalized as it is fundamental rights of each individuals.

1. Actions taken to raise public awareness and sensitisation on issues of sexual orientation and gender identity, in order to promote the meaningful socio-cultural and economic inclusion of LGBT people.

Right Here Right Nepal has started to advocate on the issue related to CSE, safe abortion and legalization of same sex marriage. To achieve all these within a timeframe of 2020: policy makers, parliamentarians, government ministries, educational sector and health sector are sensitized and aware to legalize marriage equality. Similarly, public support and youth are engaged to advocate to legalize the rights of marriage equality.

1. Services provided by civil society to excluded and marginalised LGBT people.

There are only few organizations that have provided job opportunities for excluded and marginalised LGBT people as most of the organization doesn't want to create space for them. So, civil society organization can play vital role to make them accepted in every sector by providing equal opportunities to them and media can play vital role to spread positive message through their media house.

Responses to the questions above can be submitted in English, French or Spanish, and in Word format. Please note that if you wish your submissions to be kept confidential, you are required to make an explicit request in your submission, as otherwise information may be referenced in the report and / or published.

I would be particularly grateful to receive the information requested at your earliest convenience, and preferably by 31 May 2019 at the latest. Responses may be addressed to the Independent Expert at the Office of the UN High Commissioner for Human Rights and can be submitted by email ([ie-sogi@ohchr.org](mailto:ie-sogi@ohchr.org)).

For any further question or clarification, please do not hesitate to contact me through the Office of the United Nations High Commissioner for Human Rights (Ms. Catherine de Preux De Baets, telephone: 022 917 93 27, email: [cdepreuxdebaets@ohchr.org](mailto:cdepreuxdebaets@ohchr.org) or Ms. Alice Ochsenbein, telephone: 022 917 32 98, [aochsenbein@ohchr.org](mailto:aochsenbein@ohchr.org)).

Warm regards,



Victor Madrigal-Borloz

Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity