



POLICY BRIEF

EVIDENCE TO ACTION

Addressing Violence Against LGBTIQ+ People in Nepal

Nepal has made progress in advancing the rights of LGBTIQ+¹ individuals. However, despite some legal advancements, LGBTIQ+ people in Nepal continue to face various forms of violence throughout their lifetime, perpetrated by a range of actors, including family members, teachers, colleagues, police and healthcare providers. In light of this concerning reality, this policy brief presents an evidence-based account of the experiences of violence based on sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) experienced by lesbian, gay, bisexual, transgender, intersex and queer people (LGBTIQ+ people) in Nepal, along with the consequences of such violence and help-seeking behaviours of victims-survivors. The policy brief also proposes a set of actions for diverse stakeholders, including the development of a supportive legal and regulatory framework, the design and implementation of policies and services that are responsive to the needs of LGBTIQ+ people and the establishment of appropriate monitoring and evaluation mechanisms. The recommendations outlined in this brief are informed by a rigorous analysis of the perspectives shared by LGBTIQ+ victims-survivors and service providers who interface

directly with LGBTIQ+ people and policymakers at the decision-making level. The policy brief is based on the larger study report “Evidence to Action: Addressing Violence Against LGBTIQ+ People in Nepal.”

“LGBTIQ+ communities have faced a long struggle for recognition and acceptance. Although their existence has been acknowledged, their issues have only recently received attention from the government. The inclusion of their rights in the constitution is a significant accomplishment, but the next step is to educate and raise awareness among the government and ensure that the provisions of the constitution are reflected in laws and policies. While I believe that progress is being made, the journey towards equality and acceptance is far from over. I also believe that advocacy efforts in this regard need to be further strengthened.”

(KII with Policy Maker-08-Ministry of Law Justice and Parliamentary Affairs)

INTRODUCTION

There have been significant achievements in advancing LGBTIQ+ rights in Nepal over the past two decades, particularly legal reforms. The judgment of the Supreme Court in 2007² is considered an important landmark for LGBTIQ+ rights. Similarly, in 2015,³ Nepal became one of the only countries in the world to specifically offer protection to LGBTIQ+ communities in its constitution, through provisions in Article 12, 18(3) and 42(1) on the rights to citizenship, equality and social justice. These legal and constitutional provisions gave a significant push to the LGBTIQ+ rights movement and provided a platform for activists and groups to organize, mobilize and strengthen their advocacy for legal reform and equal rights.

Despite these gains, stigma, discrimination and violence against LGBTIQ+ people remain pervasive issues in Nepal.⁴ LGBTIQ+ people face discrimination, as they are perceived to challenge assumptions of heterosexuality, gender norms and compulsory heteronormativity. Nepal’s human rights organizations have documented widespread violations and abuses targeting LGBTIQ+ people across the country, despite various international

human rights standards that affirm equality and dignity for all human beings.⁵ Violence against LGBTIQ+ people in Nepal – both in person and in digital spaces – has been studied to some extent; however, more specific and comprehensive research is needed. A preliminary literature review indicated only a few studies on violence against Nepal’s LGBTIQ+ communities.⁶ Against this backdrop, M&C Saatchi World Services, Blue Diamond Society and Viamo Nepal conducted a national study on violence against LGBTIQ+ people with the support of UN Women Nepal.

STUDY DESIGN

The research study covered all seven provinces in Nepal. The respondents represented a wide range of sub-groups within LGBTIQ+ communities and come from diverse caste/ethnic groups, occupying different positions in Nepal’s social hierarchy. The study used mixed methods of data collection, including both qualitative and quantitative research. In total, 1,181 LGBTIQ+ people undertook a national survey between June and October 2022 and 52 LGBTIQ+ people participated in the qualitative discussions. The study underwent an ethical review at the national level.

Table 1 QUALITATIVE SAMPLE

	LGBTIQ+ Population		Service Providers	Policymakers (PM)	Review of Literature and Policy Documents
Data Collection Method	IDIs	FGDs	KIIs	KIIs	
Sample	10	8	10	8	

SOGIESC-BASED EXPERIENCES OF VIOLENCE

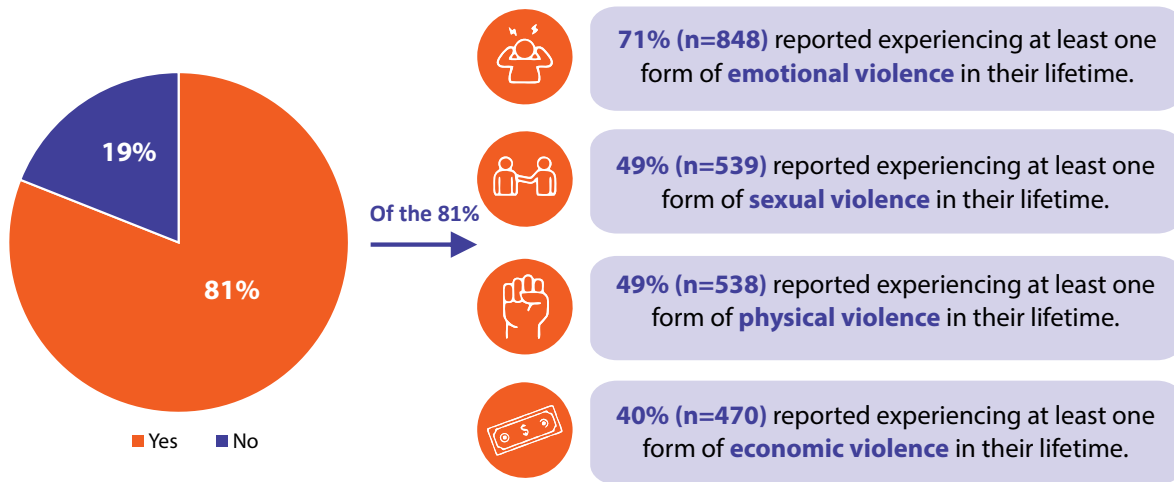
The national survey revealed a pervasive pattern of violence among LGBTIQ+ people in Nepal. The survey covered various forms of violence, including physical, emotional, sexual and economic violence. The results indicated that 81 per cent (n=958) of the LGBTIQ+ respondents reported being a victim-survivor of at least

one instance of violence based on their SOGIESC during their lifetime. Survey data was further substantiated by qualitative accounts depicting a lifelong narrative of discrimination, abuse and marginalization, marked by lifetime instances of emotional, economic, physical and sexual violence.

“My family was planning to kill me.”
(IDI-03-Lesbian)

“I called the police for help, but their response was extremely negative. They told me, ‘Who told you to go there? We only have a duty to help ‘normal people’ and we have no responsibility towards those who are ‘chhakka’ or ‘hijada.’”
(IDI-08-Trans woman)

Figure 1 BREAKDOWN OF EXPERIENCES OF VIOLENCE



The findings of this study highlight the complex interplay of socio-economic status, disability and caste/ethnicity as contributing factors to the increased vulnerability of LGBTIQ+ people to violence. Results show that those with lower socio-economic status, including no formal education and low income, experience a heightened risk of violence. This risk is further exacerbated for those who have a disability, as they were found to have lower income levels and a higher likelihood of experiencing violence. Furthermore, this study found a distinct trend regarding the intersection of caste/ethnicity and violence among LGBTIQ+ people. Results indicate that Muslim LGBTIQ+

respondents were the most likely to experience any form of violence in their lifetime and reported lower levels of educational attainment and income compared to other castes/ethnicities.

The study’s findings also highlight the importance of considering the systemic drivers of violence, particularly heteronormativity, which is embedded in legal, societal and community norms. The study found that both the immediate community and wider society are significant perpetrators of SOGIESC-based violence. The survey results indicate that the most common perpetrators of sexual (69%, n=373), physical (58%, n=308) and emotional (46%, n=389) violence were strangers or individuals not known to the victims. This finding is of particular importance, as it diverges from previous research that suggests violence is often perpetrated by those closest to the victims. The high prevalence of violence from strangers could be attributed to the influence of heteronormative structures in society and institutions. The study also revealed that violence from service providers (e.g. police and healthcare providers) and one’s immediate social circle (e.g. family and friends) are also prevalent.

“I belong to Muslim society; it is more difficult in that community. People laugh at me and often threaten me in the name of religion. I also receive death threats. People like me are not allowed to enter the mosques and are restricted from reading out the holy book [Quran]. When I walk on the streets people call me with humiliating names like “hijada”, “chhakka” and ask my parents why I am allowed in their house.”
(FGD-05-Trans man)

Figure 2 FACTORS THAT INCREASE VULNERABILITY TO VIOLENCE



Figure 3 COMMON PERPETRATORS OF SOGIESC-BASED VIOLENCE

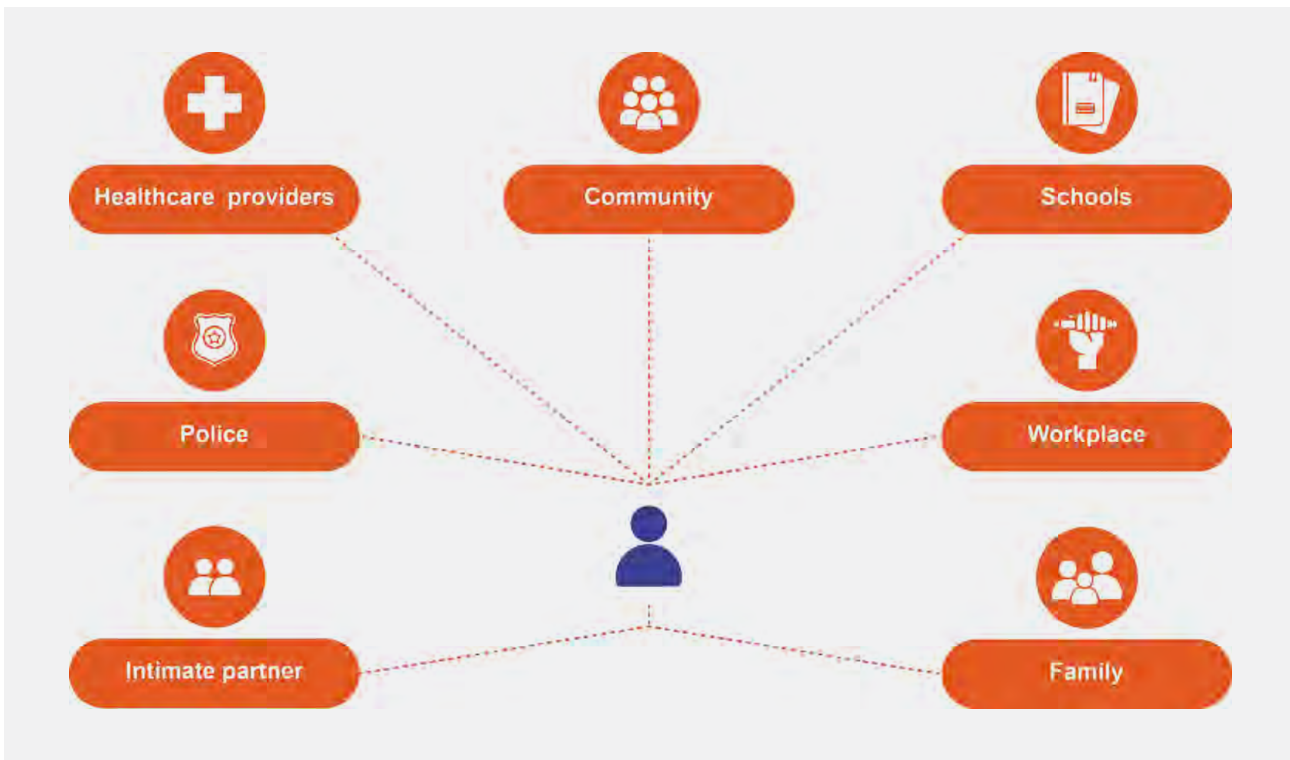
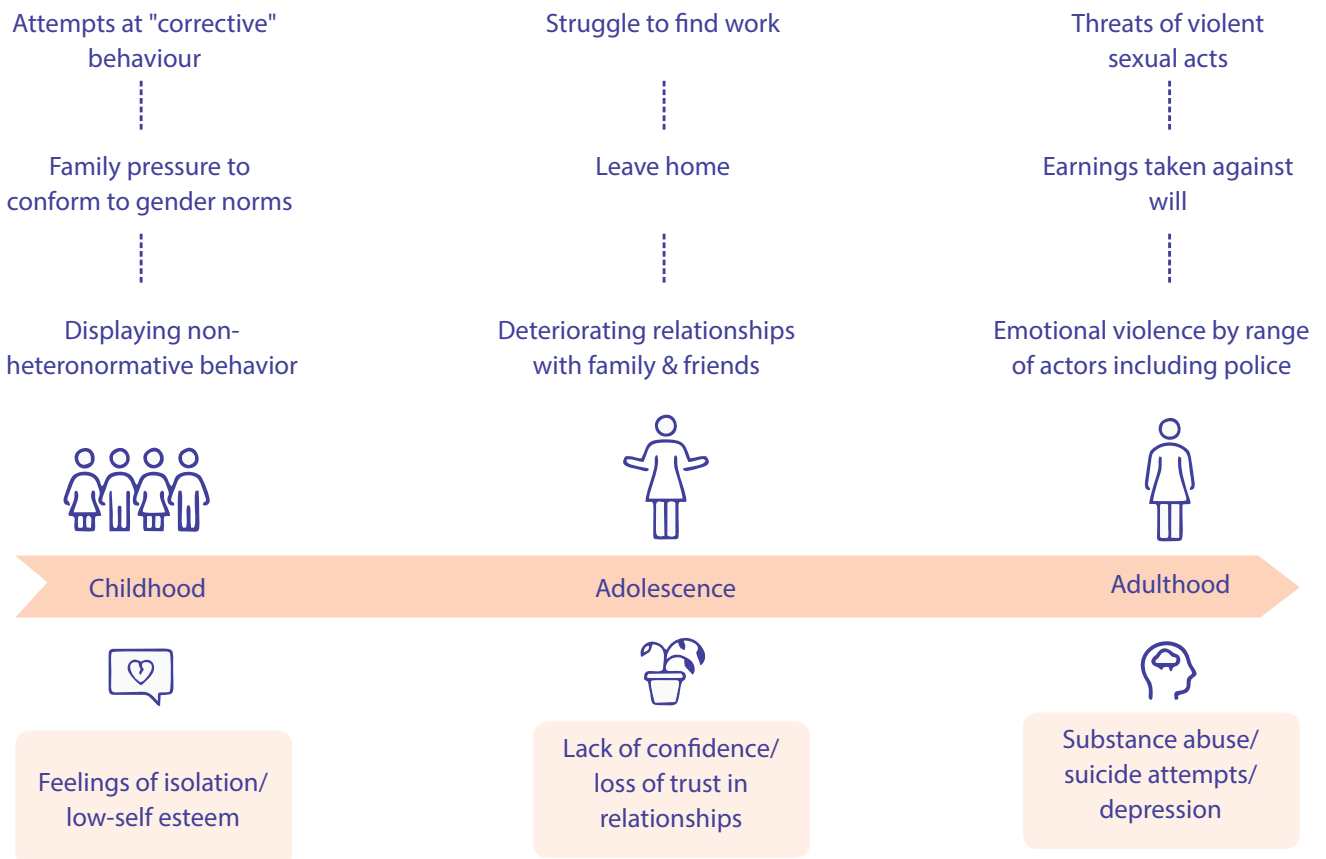


Figure 4 CONNECTIONS BETWEEN SOGIESC-BASED VIOLENCE AND IMPACT ON HEALTH

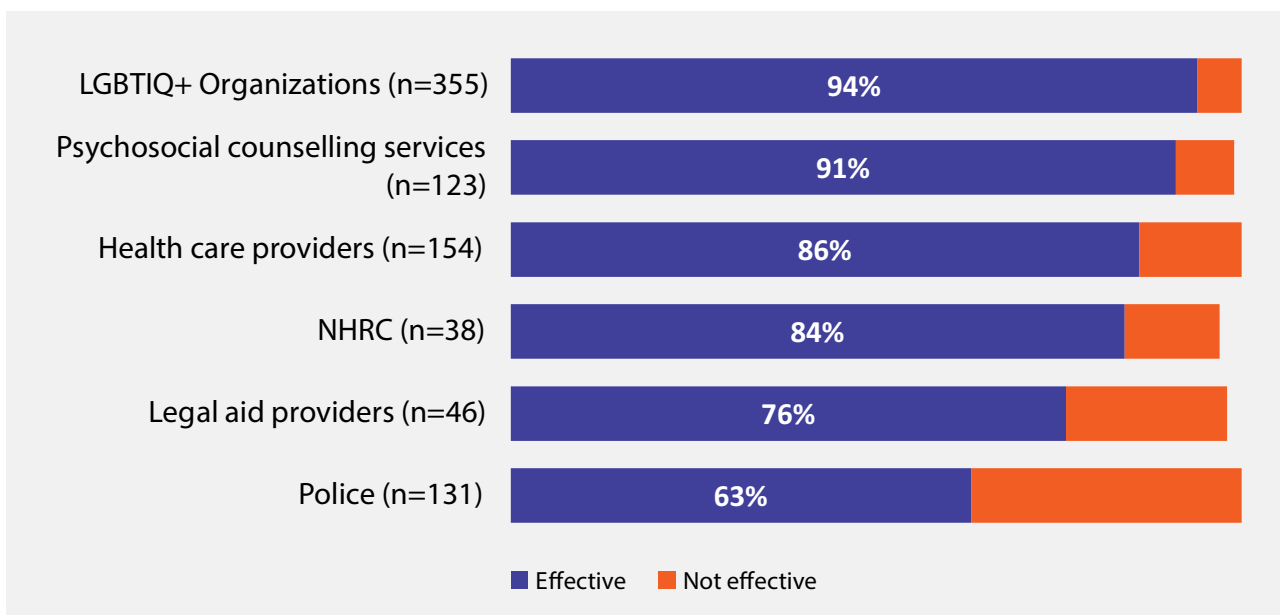


REPORTING AND HELP-SEEKING BEHAVIOURS

Despite the presence of formal support services for LGBTIQ+ people who experienced violence, the results of this study highlight a significant gap in the sensitivity of some of these providers towards the specific needs and experiences of LGBTIQ+ communities. Participants

identified the police as the least effective in providing appropriate support. Furthermore, data also suggest that abusive behaviour and violence from police officers only exacerbate the trauma of LGBTIQ+ communities and create an environment of distrust. Receiving inadequate support after experiencing violence also leads to feelings of marginalization and loneliness, hindering the recovery process.

Figure 5 RESPONDENTS' PERCEIVED EFFECTIVENESS OF SERVICES



RECOMMENDATIONS



What can policymakers do?

Criminalize rape and other forms of sexual violence against LGBTIQ+ people.

This will require amending the National Penal (Code) Act, 2017, to make its legal provisions more inclusive of all individuals based on SOGIESC. For instance, section 219 of the National Penal (Code) Act, 2017 limits rape to an act imposed by “men” on “women” or “girls,” specifying “men” as perpetrators and “women” and “girls” as victims-survivors. The Act should include terms that are inclusive of all SOGIESC. These terms should be developed in consultation with LGBTIQ+ organizations and advocates. It will also require amending the definition of rape in section 219 (2C) to include all forms of penetration in any orifice. Furthermore, all laws, policies and mechanisms intended to address violence – including the Domestic Violence Act, 2009; the Human Trafficking and Transportation Act,

2007; and the Crime Victim Protection Act, 2018 – should be amended to incorporate LGBTIQ+ inclusive provisions.

Recognize the rights of people who identify as trans women, trans men, third gender, intersex men, intersex women and non-binary to citizenship so that every individual’s right to identity can be guaranteed.

This will require the issuance and enforcement of a government directive explicitly stating that trans men, trans women, third gender, intersex men, intersex women and non-binary people have the right to change their legal gender marker and names as they prefer across all relevant identification documents based solely on self-identification and without proof of medical intervention. Similarly, it will be equally important to address the challenges faced by trans men, trans women, third gender, intersex men, intersex women and non-binary people during the acquisition of citizenship documents for the first time.

Guarantee LGBTIQ+ people the right to marriage equality.

This will require amending section 67 of the National Civil (Code) Act, 2017 to recognize marriage as between all people, irrespective of SOGIESC. Furthermore, laws and regulations must ensure that LGBTIQ+ people can exercise equal rights in all matters relating to their families, including civil registration for vital documents, adoption, their children's citizenship, parental responsibility or authority, divorce, inheritance, property partition, property transfer to spouses/partners and visa rights/entry permits. Similarly, laws should include SOGIESC-inclusive terms such as "parent" in place of "mother" or "father" and "spouse" in place of "husband" and "wife."



What can the education sector do?

Establish safe school environments for LGBTIQ+ students.

This will require the development of anti-bullying policies that explicitly address the risks faced by LGBTIQ+ students and confidential reporting mechanisms and procedures. Furthermore, it is important to enhance the capacity of teachers and other staff to effectively respond to violence against LGBTIQ+ students.

Integrate sexual orientation and gender identity topics into the national school curriculum.

This will involve developing new content that is inclusive of LGBTIQ+ people and removing stigmatizing content, accompanied by training and capacity building for teachers to deliver content relating to sexual and gender diversity.



What can service providers do?

Enhance the capacity of duty bearers and service providers to effectively address violence against LGBTIQ+ people.

This would include initiatives on social norm change to address discriminatory attitudes and behaviours towards

LGBTIQ+ people. Raising awareness and knowledge among policymakers on LGBTIQ+ rights and issues would be central to these initiatives. This would also require fostering dialogues between the government and LGBTIQ+ advocacy organizations by providing a platform for LGBTIQ+ people to engage with policymakers and service providers. Both stakeholders should use this opportunity to better understand the needs and concerns of LGBTIQ+ communities and identify ways to collaborate on initiatives aimed at increasing awareness of LGBTIQ+ rights and issues.

Ensure that GBV prevention and response programmes and policies for LGBTIQ+ people address the intersecting risk factors of violence, particularly in relation to caste/ethnicity, socio-economic status and disability.

The study's findings highlight the need for a nuanced understanding of the risk factors and intersecting forms of discrimination that increase vulnerabilities of LGBTIQ+ people to violence. By considering the interplay of socio-economic status, disability and caste/ethnicity, policymakers and service providers can develop more targeted and effective interventions to address the challenges faced by LGBTIQ+ people. As data collected in this study indicate, further research is needed to provide an in-depth understanding of the ways in which intersectional factors increase the likelihood of violence against LGBTIQ+ communities and how these factors can be effectively implemented into GBV response and prevention programmes.

Ensure effective and appropriate police responses to violence against LGBTIQ+ people.

This will involve the development of programmes and interventions specifically designed to respond to violence against LGBTIQ+ people and their regular evaluation. Awareness and knowledge amongst Nepal Police enforcement staff must be increased, and designated officers should be provided with training to enable them to serve as first points of contact for victims-survivors. Particular attention must also be paid to guaranteeing the confidentiality of LGBTIQ+ people who report acts of violence.

Ensure effective and appropriate healthcare delivery for LGBTIQ+ people.

The Public Health Act of 2008, which mandates confidentiality and states that patients shall not be discriminated against based on their SOGIESC, should be strictly enforced. Healthcare providers should be required to undertake training to help ensure that LGBTIQ+ people seeking care experience safety and have their dignity respected. Mental health policies and plans must include specific protocols on giving services to LGBTIQ+ people to ensure non-discrimination and increase their access to mental health care. Health service facilities should develop LGBTIQ+ friendly policies and spaces that ensure their confidentiality.

Ensure that LGBTIQ+ people can access GBV support services.

Further research and analysis – beyond the scope of the present study – is required to determine whether existing support services for victims-survivors of GBV (such as shelters, counselling, financial assistance and legal aid) are fully accessible to LGBTIQ+ people. It is important to determine whether existing services can be modified to better respond to their needs or if new, targeted services should be established.



What can LGBTIQ+ organizations do?

Recognize the essential liaison role played by LGBTIQ+ organizations.

The LGBTIQ+ people participating in this study consistently identified better outcomes in reporting violence and seeking support when they were assisted by LGBTIQ+ organizations. Service providers such as the police and the healthcare system should formalize and solidify liaison relationships with LGBTIQ+ organizations.

Ensure the representation and participation of LGBTIQ+ people and their organizations in the development of all laws, policies and decision-making that affect their lives.

Their full engagement will be especially important in relation to the specific reforms recommended in this study.

Ensure adequate and sustained funding to LGBTIQ+ organizations.

LGBTIQ+ organizations are a lifeline to the members of their community. They provide information, guidance and emotional support; help LGBTIQ+ people navigate often-hostile service systems; and amplify voices that often go unheard. Further progress in realizing the rights of LGBTIQ+ people depend on the strength of these organizations.

ENDNOTES

- 1 “UN Women uses both ‘LGBTIQ+’ and ‘diverse SOGIESC’ in global contexts while also respecting their distinctions. The research team notes that neither term is universally applicable, nor reflects the full diversity of sexual and gender formations, practices and identities that exist, that terms and their usage are constantly evolving and that SOGIESC applies to all people. In practice, various culturally, linguistically and context-specific terms may be used, where appropriate.” This explanation is from the “LGBTIQ+ Equality and Rights-internal resource guide” of UN Women authored by Sophie West-Browne in 2022. The guide can be made available on request.
- 2 Supreme Court of Nepal. (2007). *Sunil Babu Pant and Others v. Nepal Government and Others*. Writ No. 917 of 2064 BS.
- 3 Nepal. (2015). Constitution of Nepal, 2072 (2015). Retrieved from <http://www.lawcommission.gov.np/uploads/2015/06/The-Constitution-of-Nepal-2072.pdf>.
- 4 Khadgi, A (2020). Nepal might have made progress when it comes to Queer rights but it still has a long way to go. *Kathmandu Post*. Retrieved from: <https://kathmandupost.com/national/2020/05/17/nepal-might-have-made-progress-when-it-comes-to-Queer-rights-but-it-still-has-a-long-way-to-go>.
- 5 Blue Diamond Society. (2013). *The violations of the rights of lesbian, gay, bisexual, transgender, and Intersex persons in Nepal*. Author. Retrieved from: http://www2.ohchr.org/english/bodies/hrc/docs/ngos/GlobalInitiativeForSexualityAndHumanRights_Nepal108.pdf.
- 6 Knight, K. (2014). *Surveying Nepal's sexual and gender minorities: an inclusive approach*. Williams Institute, UCLA School of Law. Retrieved from: <https://williamsinstitute.law.ucla.edu/publications/survey-sgm-nepal/>; Creating Resources for Empowerment in Action (CREA). (2012). Count me IN!: Research report on violence against disabled, Lesbian, and sex-working women in Bangladesh, India, and Nepal. *Reproductive Health Matters*, 20(40), 198-206.



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