



SAHRA

2019

HUMAN RIGHTS VIOLATIONS REPORT

SOUTH ASIAN HUMAN RIGHTS

ASSOCIATION OF PEOPLE

MARGINALIZED BECAUSE OF THEIR

SEXUALITIES AND GENDER

IDENTITY/EXPRESSION

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CREDITS

SAHRA is supported by FRI - The Norwegian Organisation for Sexual and Gender Equality, and implemented through LGBTI organisations, activists and networks in Bangladesh, Bhutan, Nepal, India, Pakistan and Sri Lanka.

This report is written by country officers of the partner organisations with Rajesh Jha, Offbeat Innovations, as lead author.

Report design by Arne Walderhaug

Contact: www.sahra.asia

ABBREVIATIONS AND LIST OF TERMS¹⁾

Bisexual A person who emotionally and/or sexually is attracted to more than one gender.

Gender identity Refers to each person's internal and individual experience of gender, which may or may not correspond with the sex assigned at birth.

Heteronormativity The widespread idea that everyone is and/or should be heterosexual and identify as the same gender they were assigned by birth.

Homophobia The irrational hatred, intolerance, and fear of lesbian, gay and bisexual people.

Homosexual/Gay A man who is emotionally and/or sexually attracted to men. The terms homosexual and gay are sometimes also used to cover lesbian women and bisexual people, but this is disputed.

Intersex Intersex people are born with physical, hormonal or genetic features that are neither wholly female nor wholly male; or a combination of female and male; or neither female nor male

Lesbian A woman who is sexually and/or emotionally attracted to women.

LGBTI Lesbian, Gay, Bisexual, Transgender and Intersex.

Marginalised genders and sexualities All regional variations that exist of sexual orientation, gender identities and expression, such as hijra, zenana, kothi, nachi, meti, third gender, lesbian, gay, bisexual, transgender, intersex, and queer.

NHRC National Human Rights Commission.

SAHRA South Asia Human Rights Association of People Marginalised Because of their Sexualities and Gender Identity/Expression.

Sexual orientation Refers to each person's capacity for profound affection, emotional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender (ILGA).

SOGI Sexual Orientation and Gender Identity.

Transgender A person whose gender identity differs from the gender assigned to them at birth.

ABOUT SAHRA The South Asia Human Rights Association of People Marginalised Because of their Sexualities and Gender Identity/Expression (SAHRA), is a regional network of grassroots organisations and activists in South Asia, with a mission to systematically document human rights violations against sexual and gender minorities in the region, to respond to these violations, and to strongly advocate for an increase in the recognition, protection and promotion of human rights. It was founded in 2008 by a group of 20 human rights activists from Bangladesh, India, Nepal, Pakistan and Sri Lanka, after consultations with around 500 lesbian, gay, bisexual, transgender and intersex (LGBTI) persons across South Asia.

VISION SAHRA believes in the inherent right to dignity, security, equal opportunity, and freedom of all in South Asia, regardless of their sexual orientations and gender identities and expressions. It envisages a world where every LGBTI person enjoys the human rights enshrined in the Universal Declaration of Human Rights (UDHR) and as expressed in the Yogyakarta Principles, and codified in the fundamental rights given in the respective constitutions of the South Asian countries.

MISSION SAHRA's mission is to protect, promote, and fulfil the human rights of LGBTI persons and their defenders in South Asia by strengthening the impact and influence of organisations, advocates and movements working to advance the rights of LGBTI persons in the region; and by holding the South Asian states accountable for these rights.

ABOUT THIS REPORT

While the world commemorated the 70th anniversary of the Universal Declaration of Human Rights in 2018, the human rights situation remained austere in South Asia. Repression is on the rise, with clampdown on civil society, increased restrictions on foreign funding, attempts to make human rights a dirty word, religious extremism, the labelling of political dissent as anti-national and seditious, and increased hate crimes. In this milieu, sexual and gender minorities are particularly vulnerable. They are punished with violence and discrimination for their non-conformance to norms of “masculine” and “feminine” as also for their suspected sexual conduct. “Culture” as a monolithic realm of civilizational values becomes the precinct where political rhetoric, nationalism, religious intolerance combines to exclude sexual and gender minorities.

In September 2018, after 18 years of litigation, the Supreme Court of India decriminalised consensual adult homosexual acts. It ruled that criminalising consensual adult same-sex sexual acts would violate the privacy, life, liberties, and equality provisions of the Constitution of India. However, most countries in South Asia continue to have colonial-era “sodomy” laws in place, effectively criminalising consensual homosexual conduct. Pakistan has a second layer of religious laws against homosexuality in place, called the Hudood Ordinances, that make it the only country in the region which enforces whipping and death penalty for homosexuality. Despite the legal status and the positive legislations regarding transgender rights in some parts

of South Asia, laws are still in place against ‘indecent’, ‘public nuisance’, ‘unnatural sex’ and sex work, that allow widespread police harassment of sexual and gender minorities.

On a positive note, the sexual and gender minorities’ social status is consolidating in a slow manner, with transgender rights progressing at a faster pace than the rights of sexual minorities. This consolidation is a result of a concerted effort of grassroots movements in the South Asian countries, led by Community-Based Organisations (CBOs). However, the technical and financial support for these CBOs has primarily been within the framework of response to sexual and reproductive health needs, with relatively minimal investments for direct work on human rights. Hardly any effort has been made until now in strengthening the research capacity of grassroots level organisations. This has led to an acute paucity of data for evidence-based advocacy work. SAHRA - The South Asia Human Rights Association of People Marginalised because of their Sexualities and Gender Identity/Expression, aims to address this gap through supporting documentation of human rights violations on the basis of sexual orientation and gender identity/expression, which could then be leveraged upon by various organisations to analyse and generate evidence for their in-country and regional advocacy initiatives.

This report presents a regional and country analysis of 810 cases of human rights violations recorded from sexual and gender minorities in 2018, in five of the South Asian countries:

Bangladesh, Bhutan, India, Nepal and Pakistan. The report captures only those violations that have been triggered on account of the sexual orientation and gender identity/ expression of the victims. This lens makes the report probably the first of its kind at the South Asia level and contributes to filling a gap in the available research and official records. SAHRA believes that this report will strengthen the impact and influence of organisations, advocates, and movements working to advance the rights of persons who are marginalised due to their sexualities and gender identity/expression in the region, and thus contribute towards an increase in the protection, promotion and fulfilment of the human rights of lesbian, gay, bisexual, transgender, and intersex persons and their defenders in South Asia.

DATA COLLECTION METHODOLOGY

NGOs, CBOs, designated staff members and volunteers have been trained on human rights violation documentation in all SAHRA countries. They learn about human rights violations through their other engagements with the community, or through active outreach (focus group interviews, documentation events, community engagement forums, social media campaigning, etc) and report cases to a designated SAHRA officer in each country. Cases are also reported through the media, social media or connections with human rights movements. Wherever possible, the information is verified through interviews with the victims. When available, the victims' accounts are verified through documentation such as medical records, media clips, photographs and witness statements. Basic descriptive statistical tools have been used alongside basic bi-variate analysis of some variables to identify trends.

DATA LIMITATIONS

All trends presented here are valid only for project data and at the most be interpreted as indicative of larger picture, bearing in mind that the sample size per country is not large enough for any statistical inferences and hence not be considered as a representative picture of the human rights violations faced by sexual and gender minorities in South Asia as a whole. Drawing country specific inferences from a data set demands the sample to be randomly selected from a sampling frame where every element in the sample has an equal probability of being selected. This is not possible as the data used for this report is from cases of human rights violations that are documented as they get known to the SAHRA team through their networks, and therefore is more a function of data collection and outreach strategy than a representation of the sample frame.

This report presents only a few of the millions of human rights violations cases in South Asia. Only one CBO per country (two in India) do not have the resources to collect more than a small sample, and only the victims connected in some way to that CBO will know how to report. In addition, victims and witnesses are often unwilling to report human rights violations. This unwillingness stems from concerns for personal safety, trauma, fear of re-traumatisation, fear of being booked under archaic laws which criminalises same-sex sexual activity, the normalisation of violence against sexual and gender minorities, lacking understanding of their rights and of redressal mechanisms, and lacking incentives to report without any remuneration or reward. The voices of the most marginalised communities are most likely underrepresented.

REGIONAL FINDINGS

In 2018, the SAHRA network reported 810 cases of violations. Almost half the cases (372) were reported from India, followed by 176 cases from Nepal, 133 cases from Bangladesh, 105 cases from Pakistan and 24 cases from Bhutan. Sri Lanka did not document cases in 2018.

The total number of cases recorded are just the tip of the iceberg; the large majority of the violations remain unknown, unheard and therefore unreported. The environment within which cases are documented remains repressive. State responses towards creating a more enabling environment remain wanting, while fearless voices continue to champion the cause and explicitly advocate for their rights. Such voices co-exist with a vast majority of community voices that remain silenced by the religious and fascist forces in a predominantly heteronormative space.

TYPES OF VIOLATIONS

The top 5 violations that constitute 69% of the total of the reported cases are physical assault (34%), sexual harassment (12%), unlawful arrest (11%), rape (6%), and different forms of discrimination (5%). There is no change from the previous years in this pattern of recorded violations.

Transwomen continue to report the most instances of violations. Almost 65% of the cases documented are of violations suffered by transwomen, followed by gay men (18%) transmen (9%) and lesbian women (4%). In addition, there were viola-

tions reported by 19 bisexual men and 13 intersex persons. On the one hand, transwomen are vulnerable to human rights violations due to their visibility and their low social status. On the other hand, transwomen are more organised, increasingly aware of their rights, and the target of many outreach strategies. The overrepresentation of transwomen in this sample can therefore be interpreted both as a positive and a negative sign. The lack of reports from lesbian and bisexual women suggests that in particular, social structures impede women to report violations and access support.

AGE OF VICTIMS

39 per cent of the victims are in the age group of 14-25 years and 47 per cent between 26 and 35 years. The spiral of exclusion, poverty and violence catches from a young age and has lifelong consequences. 'Youth of a nation are the trustees of prosperity' says Benjamin Disraeli. The prosperity of a nation is at stake when 37 per cent to 39 per cent of all rapes, sexual harassments cases and physical assaults in our sample happen to people in the age group of 14-25 years, the prime of teenage and adolescence. Another half of all rapes and sexual harassment cases are reported by victims in the age group of 26-35 years. This is a continued case for greater investments in working with and empowering the younger LGBTI persons by building appropriate support systems that are responsive to their challenges.

Accounts of the youngest victims show the bankruptcy of human values in all countries.

- A 14-year old intersex student in Nepal was bullied and discriminated against in school, resulting in the victim being severely depressed and dropping out.
- A 15-year old transgender man in Bangladesh was sexually harassed by a neighbour. There was an acid attack and an attempt to murder, leaving the victim petrified.
- A 16-year old transgender woman in Bhutan was physically assaulted, abused and insulted by a teacher.
- A 18-year old transwoman in India was physically assaulted and then unlawfully arrested.
- A 19-year old transwoman in Pakistan was sexually harassed and physically assaulted.

The old are not safe either. We have an account of a 64-year old transwoman in India physically abused by her son because of her identity and her relationship.

While studying in school in her 9th Grade, Ugyen did not have any knowledge about being transgender. The only thing she knew was that she was not comfortable in the gho (male school uniform), keeping her hair short and playing with other boys of her grade. School was not a good place for her because in her own way she was trying to transition and the school environment did not let her do it. On one occasion, the school Vice Principal shaved Ugyen's hair in the middle of the head because she was keeping her hair long. On another occasion, her gho was pulled up in front of the whole morning assembly revealing her innerwear to the entire school. She was also slapped by her science teacher, who accused her of flirting with all her female friends. She stopped going to school the next year and instead she resorted to alcohol to cope up with her emotions. She tried telling her family but they were unable to understand what she was going through.

SOCIAL STATUS OF VICTIMS

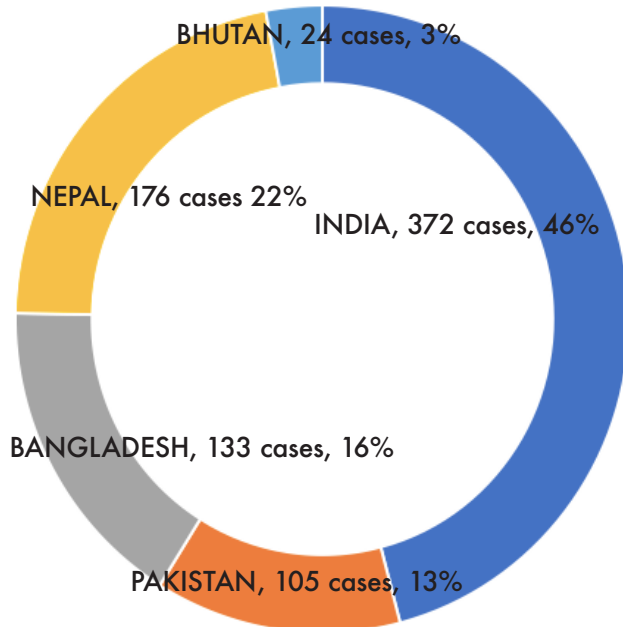
The majority of the victims (39%) had primary education. 26% had secondary education. Whereas 18 per cent of the victims had higher education, 16 per cent had no education. Most of the transwomen have little education. This is both evidence of and a contributing factor towards their vulnerability.

Our data continues to show an over-representation of sexual and gender minorities in sex work. One out of every three victims are sex workers. This is consistent with other studies, and point toward the marginalisation faced by this community and the difficulty of accessing other forms of employment. Almost half of the transgender women in our sample are sex workers. First-hand accounts from the victims indicate that the police harass trans women on suspicion of being sex workers. And even when sex work is not criminalised, sex workers are common suspects for petty crimes like theft. Insights into the data clearly indicate that decriminalisation of same-sex relationships is an essential step but in itself it may not be adequate, unless larger challenges related to stigma and discrimination remain unaddressed. In Nepal, where same sex relationship is decriminalised, discrimination and stigma still leave a disproportionate number of LGBTI persons with little choice other than sex work.

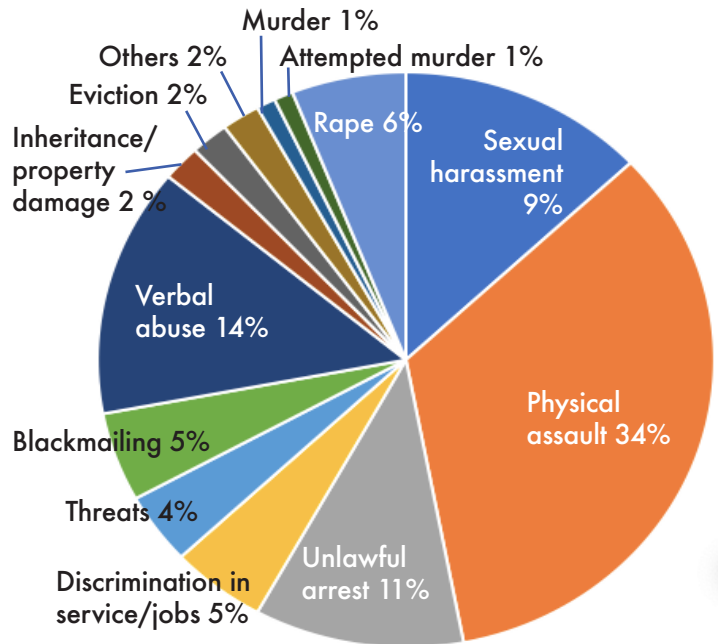
The second largest share of victims are private enterprise workers (18%), followed by students and NGO workers (10% each). 4 per cent of the victims were unemployed, 16 per cent were employed in professions that did not fall in any of the above categories, and in 7 per cent of the cases, the profession was unknown.

DOCUMENTATION IN 2018:

VIOLATIONS BY COUNTRY:



VIOLATIONS BY CASE:



VIOLATION BY TYPE:

Violation by type	Lesbian/ bisexual women	Gay Men	Trans Women	Trans Men	Bisexual Men	Inter- sex	Total
Murder	-	4	6	1	-	-	11
Attempted murder	-	2	4	2	-	-	8
Rape	-	10	30	5	2	-	47
Sexual harassment	1	19	75	4	1	1	101
Physical assault	9	41	200	17	4	5	276
Unlawful arrest	6	12	65	4	6	-	93
Discrimination in services/job	3	9	20	7	-	3	42
Threats	-	3	25	3	-	-	31
Blackmailing	-	20	11	2	3	2	38
Verbal abuse	9	19	66	12	3	1	110
Property damage, inheritance	-	-	10	2	-	1	13
Eviction, discrimination in rent	1	1	7	8	-	-	17
Forced medical procedures	-	-	1	0	-	-	1
Missing data	-	-	3	1	-	-	4
Others	3	4	8	3	-	-	18
TOTAL	32	144	530	71	19	13	810

Though we see that a high percentage (78%) of the victims in our sample are unmarried, evidence from all the five countries indicate high levels of family and social pressure to get married, at times bordering on physical assault, verbal abuse and mental torture. While the predominantly heteronormative South Asian culture stigmatises remaining unmarried, society and governments fail to realise that marriage is a human right and not a heterosexual privilege.

OPENNESS OF VICTIMS

Only 29% (a number of 238) of the total violations documented are experienced by those who are open or “out in public” about their sexual orientation and gender identity and expression (SOGIE) as compared to 41% last year. This could be due to increased number of cases from the smaller towns and rural areas, due to change in outreach strategy in India. The share of those who are out to some extent or the other (either to most people or to some people) is 61 per cent. In only 9% of the cases, victims were not out about their SOGIE. 90 per cent of those who are ‘out’ in public or out to some extent or the other (either to most people or to some people) are unmarried.

Sexual and gender minorities who are open about their sexual orientation or gender identity (either open in public or open to most or open to some) are reporting a greater number of human rights violations, but even those ‘not out’ have suffered from sexual harassment, rape, unlawful arrest and physical assault. We continue to see a difference in the types of human rights violations faced: while being out exposes LGBTI persons to a range of human rights violations, not being out increases vulnerability to blackmail and extortion, including by the police.

THE PERPETRATORS

“Shall they be a family in name only; or shall they in all their actions be true to the name?” - *Plato, Republic, Book V*

For the LGBTI population, the responses of families are often contrary to their name. Families, including partners of choice, comprise 22% of the perpetrators, going hand-in-hand with strangers who were the perpetrators in 23% of the cases. When families and strangers behave alike, there is a complete breakdown of social structures. The state aggravates the problem, with 18% of the perpetrators being the police themselves. In this situation, violence from other constituents of the society spring no surprise. This constituency is wide-ranging from clients, supervisors, neighbours and service providers (health facilities, schools / colleges, landlords).

Families, friends, neighbours, relatives, workplace and even the police hardly leave any social space that the sexual and gender minorities can feel safe in. This shrinking social space silences many people in the LGBTI population. This silence further leads to lack of reporting, and thus contributes to dearth of data and evidence for influencing systemic corrective measures. This vicious trap provides a breeding ground for the prejudiced to continue perpetrating.

POLICE REPORTS

The share of documented cases not reported anywhere reduced from 69% last year to 37 % this year. Whereas this may be an encouraging trend, only 12 per cent of the cases were reported to the police. 37% of the cases are not reported anywhere; and 44% of those who reported to the police remained further victimised.

Of those who reported the cases to the police,

- 15 percent were rejected
- 11 percent were illegally detained or arrested
- 6 per cent were abused and blackmailed
- 3 per cent were demanded sexual favours and/or bribes

The stories of those who did not report at all leaves much for the state and the civil society to ponder. We see a normalisation of rape and physical assault within the LGBTI community as such crimes are often not deemed serious enough to report. Whereas it is the responsibility of the state to ensure that its law enforcement officers are sensitive and uphold human rights, civil society activists need to have more focused outreach strategies ensure greater awareness about reporting.

- 47 per cent of total cases reported to the police were of physical assault, rape & sexual harassment.
- 68 per cent of total cases reported to the CSO/NGO were of physical assault, rape, sexual harassment & illegal detention by the police.
- Almost half of cases not filed were rape, sexual harassment & physical assault.

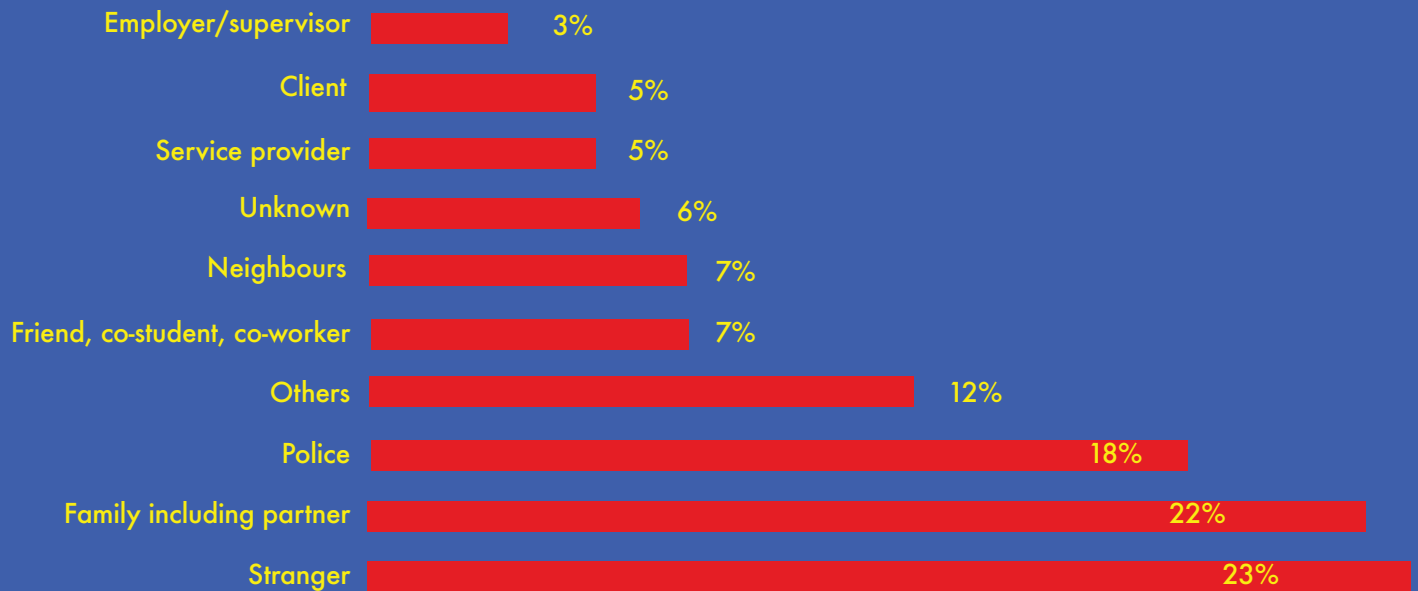
It is a travesty of justice and a mockery of constitutional rights if 37% of the victims do not find the environment enabling even to file a complaint against human rights violations. The distrust in the police continues to be a cause of serious concern that questions the governance fabric of all the South Asian countries. This further substantiates the need to remove the laws that criminalise LGBTI persons.

SUMMARY

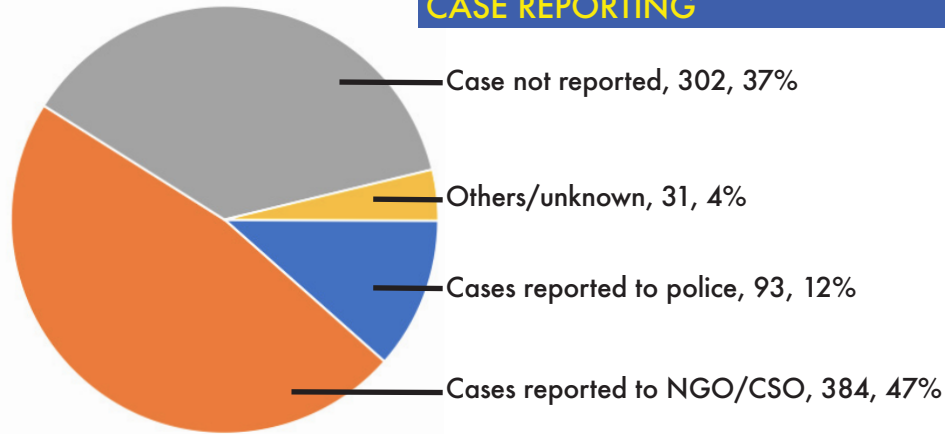
The existing heteronormative structures and mindsets seem to legitimise human rights violations against sexual and gender minorities. Existing civil and criminal laws are clearly inadequate to deter the perpetrators. Whereas murder, rape and sexual harassment outrage humanity, the state remains comatose. For them, the numbers are probably too inadequate to act. Five murders in Pakistan, 63 persons raped and sexually harassed in India, 50 physical assaults in Bangladesh or 50 unlawful arrests in Nepal may not be sufficient for this featuring in the political discourse, but the numbers in this report are but a tip of the iceberg. Lives are being lost, and those that manage to survive go through unfathomable collateral damage, that is at the same time social, psychological and economic in nature. Discrimination is widespread – in health facilities, educational institutions and workspaces as well.

Judging by the extent of impunity with which they perpetrate violence, perpetrators seem to believe that it is their right to violate because of the SOGIE of the victims, despite the existence of general laws that prohibit such acts. It is a reflection of times where the governance structures and judicial system are rendered insignificant by their inaction. Responsive laws are essential, but not adequate. Where is the accountability?

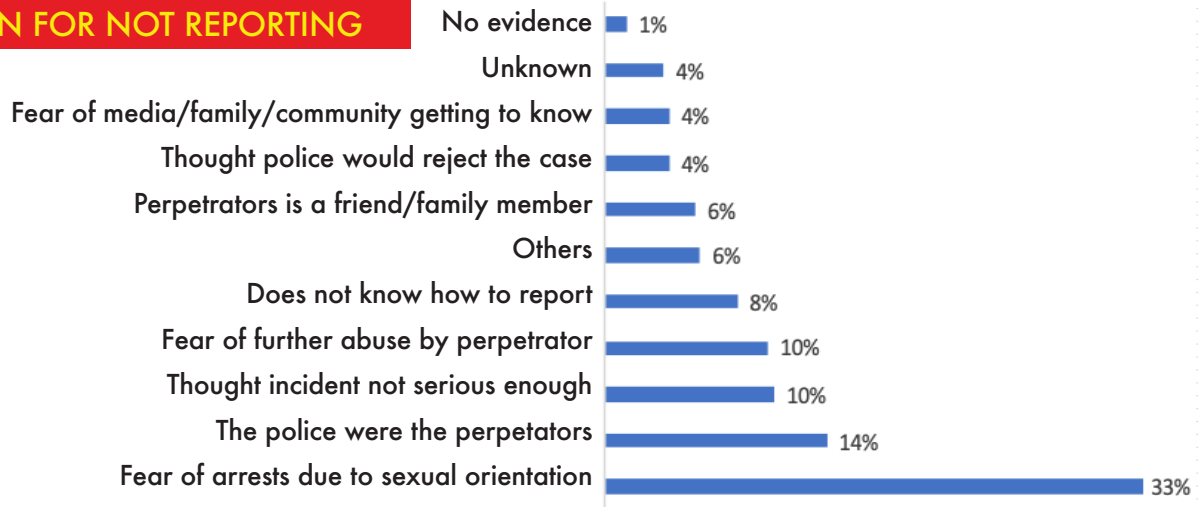
RELATION BETWEEN THE PERPETRATOR AND THE VICTIM



CASE REPORTING



REASON FOR NOT REPORTING



COUNTRY INSIGHTS

BANGLADESH

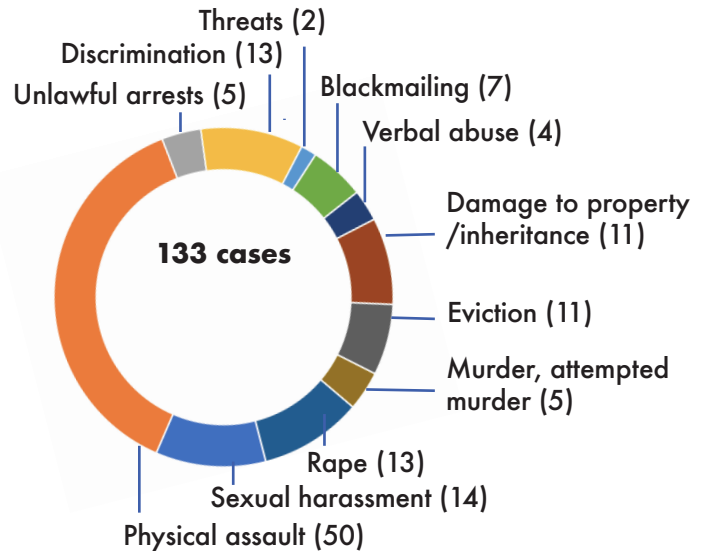
Two murders of LGBTI persons in Bangladesh were documented in 2018. This may not have drawn the national and international media attention that was seen following the murders of two LGBTI rights activists in 2016, but highlights how Bangladesh continues with its steadfast antagonism to the rights of sexual and gender minorities under the pretext of archaic repressive laws, and heteronormative interpretations of religion and tradition.

Section 377 of the Penal Code remains, criminalising consensual same-sex sexual activities. Section 54 of the Criminal Procedure Code in Bangladesh along with Section 86 of the Dhaka Metropolitan Police Ordinance are grossly misused to harass, torture and even illegally detain LGBTI persons. State inaction speaks loudly.

At a United Nations review, the Bangladeshi government accepted a recommendation to train the police to deal with women and children, but rejected the call to protect LGBTI persons, stating that “sexual orientation is not an issue in Bangladesh”.

The impact of the National Human Rights Commission of Bangladesh’s effort to educate the public on intrusive physical examination of transwomen by the government officials is unknown. Whereas we do have sporadic instances of the ‘third gender’ getting employment opportunities in government institutions, including municipalities and the private sector; there

is a need for more intense and concerted efforts from both the state and the civil society to facilitate structural changes that may have some impact on the plight of the LGBTI population in Bangladesh.



DATA HIGHLIGHTS

- 68% of the victims are under 35 years. Almost all the victims are either transwomen (72%) or transmen (23%). 72% are unmarried.
- Only 5% of the victims are not out about their SOGIE. 32% are out in the public and 63% are out to some or most.
- Transwomen constitute 72% of those physically assaulted and sexually harassed, 80% of those unlawfully arrested and 85% of those who reported some form of discrimination.
- 47% of violations occurred in public spaces and 33% at the victim's home. Neither the home is safe, nor public places.
- 43% of the cases are not reported anywhere. Half of these unreported cases were from victims with no formal education.
- Victims approached NGO/CSO in 26% of the cases.
- Of the 18 cases that were reported to the police, 2 cases were rejected. In one case the police demanded bribes and sexual favours and one victim was blackmailed by the police. The police accepted 7 cases and the outcome is unknown for the others.
- 21% of those who did not report cited fear of the police as the primary reason. 20% feared re-victimisation and 21% did not know how to report. 9% thought the incident was not serious enough and for 11% of the cases, the reasons for not filing are unknown.

INTERPRETATIONS AND KEY MESSAGES

Despite recognition of the third gender in Bangladesh, the plight of the LGBTI population still continues. State response

has to move beyond legislation and look at social security systems for the sexual and gender minorities. Youth are more prone to violations, and youth policies need to be more sensitive and inclusive.

Human rights violations are wide-ranging. Civil society including the media has to develop innovative messaging to the government. Physical assault, sexual harassment and rape are the most common forms of violations experienced by LGBTI people. Social prejudices cannot assume greater priority over constitutional safeguards available to all citizens of Bangladesh, including the LGBTI population.

Mechanisms for reporting human rights violations and redressal appear largely dysfunctional and need to be strengthened. A large share (43%) of cases were not reported anywhere. Only 14% of the cases were reported to the police. Greater sensitisation of the alternate dispute redressal mechanisms in Bangladesh may be required alongside systems for greater accountability of the police. Civil society efforts to sensitise the police are not yielding results. In 14 of the 57 cases that were not filed, the victims reported fear of re-victimisation from the police as the primary reason for not reporting.

Demand side interventions are needed to make the LGBTI population more aware of the mechanisms of reporting violations. 1 out of every 5 human rights violations cases that were not reported to the police, were because the victim did not know how to report.



TRANSWOMEN DENIED THEIR ALLOWANCES

In Rajshahi, Bangladeshi transwomen are entitled to a small government allowance. Previously they used to collect it without being physically examined or questioned in any way. However, in July 2018 to prevent fraudulent claims, the Social Welfare Department announced that medical test will be done to identify actual transgenders. The medical test involves an ultrasonography, a blood test and a test of the transwomen's sexual organs. To get their allowance, transwomen have to go through the humiliation of unclothing themselves in front of an examination board.

These tests are not only violating the bodily autonomy and right to privacy of the transgender women. They are also redundant as medical examination cannot establish a person's gender identity. The Social Welfare Department has refused to discuss the issue, and the matter has now been brought to the National Human Rights Commission.

THEFT AND THREATS AGAINST TRANSWOMAN

Azeeza is a transgender woman who has been in a relationship with Zain for the past 8 years. Zain said that he would marry Azeeza, but instead he got married to someone else, and stole some of Azeeza's belongings and important documents. When Azeeza asked to get her things back, Zain threatened her and said she would be in deep trouble if she ever told anyone about their relationship. Azeeza asked several NGOs to help her, but Zain first avoided the mediation meetings, and later turned up with some local goons and said he would accuse Azeeza of being a drug peddler and make sure she died in a cross-fire. She still has not gotten her belongings and documents back.

The problem is that Azeeza does not want to file a formal suit. Her identity is not known to her family and she thinks her family's reputation will be at stake if her identity is revealed.

47

PEOPLE WERE RAPED

276

PHYSICAL ASSAULTS

101

CASES OF SEXUAL HARASSMENT

93

UNLAWFUL ARRESTS

FEATURED REGIONAL DATA

BHUTAN

The coming out of Bhutan's first public gay couple and its coverage in the media are isolated episodes of increased social acceptance, that need to gain further momentum. The rights of LGBTI people in Bhutan are unrecognised by law, and homosexuality is criminalised. Those who seek acceptance struggle against culture and tradition.

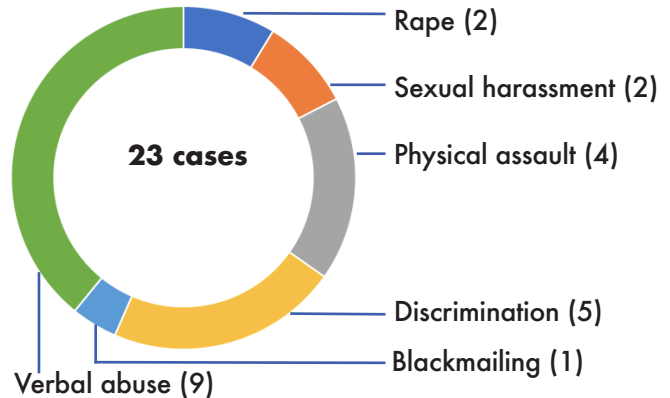
The attitudes of the new 3rd democratically elected government ushers in some hope. The media response to LGBTI persons has been positive. Bhutan Observer, one of the country's leading weekly newspapers has given wide coverage to LGBTI issues, that attracted a lot of public interest and comments.

Elected members of the parliament started calling for repealing of laws that discriminate against LGBTI persons as early as 2013. In 2018, Bhutan went through the National Council and the National Assembly elections. Interestingly, LGBTI issues featured in the election discourse of the political parties. One of the political parties made explicit reference to LGBTI human rights in their election manifesto. Another party, which ultimately went on to win the elections, held consultation meeting with the Rainbow Bhutan, an LGBTI network, as a part of the election campaign.

In 2015, Bhutan formed the first ever Law Review Task Force through an executive order of the cabinet. The legal review is up for deliberation by the Parliament during their tenure as the

new government and the LGBTI community in Bhutan hopes that Sections 213 & 214 of the Penal Code of Bhutan, which criminalises consensual same-sex relation, shall be repealed.

With the ongoing third UN Universal Periodic Review cycle, Bhutan is up for its review in May 2019. In partnership with national CSOs, the UN, government officials and the concerned individuals, Bhutan has submitted its first national NGO report to the Universal Periodic Review (UPR) committee. The recommendation to decriminalise consensual same sex relations has been made by other countries in previous UPR cycles, but the state has failed to accept. them. This year, with the new government, the LGBTI community in Bhutan is hopeful that the government will accept the NGO report's recommendation to repeal Sections 213 & 214.



DATA HIGHLIGHTS

- 24 LGBTI human rights violations cases are documented, with 17 of the victims being in the age group of 14-25.
- 10 of the victims are transmen, 6 are transwomen and 8 are gay or bisexual men.
- Most of the victims are open about their SOGIE.
- 18 of the victims have only up to secondary level of education. 2 have none.
- The more serious violations include 3 cases of rape, 2 cases of sexual harassment, and 2 cases of physical assault.
- In addition, we also see 5 cases of discrimination, 9 cases of verbal abuse and one instance of blackmailing.
- Almost one third of the violations took place in the victims' homes, and one fifth in their place of employment.
- In half of the cases, the perpetrators are strangers.
- 21 out of 24 of the cases documented were not reported or filed to the police.

INTERPRETATIONS AND KEY MESSAGES

- Victims are mostly youth, and most of the violations go unreported. Though most of the victims have only up to secondary education, it is too premature to say if formal education could protect them against violations or empower them to resist.
- The overwhelming majority of cases do not get reported because the victims either do not know how to report, or do not believe the incidents are serious enough. The fear of outing themselves or bringing shame to the family acts as an additional barrier to reporting. The lack of reporting could also be due to the male victims' inhibitions and widely prevalent notions of masculinity that expect men to be stronger.

- Lesbian and bisexual women are repressed. Like in other South Asian countries, patriarchal norms limits women's social spaces and increases their vulnerability to violence, and also inhibit their ability to report human rights violations and organise to demand their rights.
- Even with just 24 documented cases, we see the grossest forms human rights violations. Instances of rape, sexual harassment and physical assault shake the essence of the Bhutanese society that otherwise prides itself for its social capital of peace and happiness for all.
- Anecdotes reveal a high degree of substance abuse and mental health issues among the victims, due to lack of social space for expressing their sexual orientation and gender identity, and for speaking of their trauma and tribulations resulting from violence and discrimination.
- The fear of re-victimisation further aggravates the victim's trauma, as almost half the violations are occurring at victims' homes or their places of employment.



KIDNAPPING AND GANG RAPE OF A TRANSWOMAN

Sonam is a 34-year-old transgender woman living in Thimphu. She works as a dancer to make a living in the capital. One night after a get-together with her friends, Sonam was heading home and on the way she was offered a ride by a group of four men. Instead of driving to Sonam's home, the men took her to an isolated road and forced her to take off all her clothes to see her genitals. After stripping, they raped her, robbed her and left her on the road. Shattered and in deep distress and pain, Sonam barely managed to gather all her clothes and walk back home. Bhutan measures its progress through the happiness index of its people. In contrast, many transgender women in Bhutan have resigned to normalising being raped as a part of their reality, and very few people file police complaints. Sonam is just one of many such transgender women.

BLACKMAIL AND EXTORTION OF GAY MEN ENABLED BY PENAL CODE OF BHUTAN

Norbu and Wangchuk are two young gay men who met online. After chatting on Facebook for more than a month, Wangchuk invited Norbu over. At Wangchuk's place, the two men had consensual sex. When he was going home, Norbu got a text from Wangchuk saying he had taken a sexual video of their encounter, and would upload it on the internet unless Norbu paid him money. Norbu pleaded with Wangchuk not to upload the video and explained how it would ruin his life, but in the end, he had no choice but to pay Wangchuk. Norbu could not go to the police, because gay sex is a criminal offense in Bhutan and the video could be seen as evidence. He was also scared that his friends and family would find out. Wangchuk, and other perpetrators, know that the victims of their crime will never report it to the police due to fear and stigma, and they can easily get away with it. Law and police are supposed to empower victims. Here, fear of the police and misuse of law is empowering the perpetrators.

CYBER-HARASSMENT AND THREATS AGAINST GAY MAN

Tshering is an openly gay man who is feminine and uses make-up. It took him years to accept the way he is and to express himself freely. Because of this, Tshering was very disturbed when he posted pictures of himself on social media, and received harassing comments from anonymous accounts. People wrote to him that because of his feminine expression, he was "sick", "disgusting" and "fake", and that he was making the society dirty. Some even threatened to beat him up if they ever saw him in public spaces. The societal norms for masculinity and femininity is very narrow and limits an individual's ability to express themselves. When people like Tshering break with the gender norms, they are vulnerable to harassment and discrimination. This form of cyber harassment is not only disturbing, it also scares people like Tshering from moving around in public. Other people who see or hear about these threats would also become scared to express themselves.

INDIA

After 18 years of litigation, on the 6th of September 2018, the Supreme Court of India decriminalised consensual adult homosexual acts. It ruled that criminalising consensual adult same-sex sexual acts would violate the privacy, life, liberties, and equality provisions of the Constitution of India.

Following the judgment, various government ministers and functionaries have made public statements to the effect that beyond his decriminalisation, no other rights for LGBTI persons would be considered. Effectively the government is pushing back on extending the rights afforded by others to the LGBTI community, for instance legislation against discrimination in the education sector and the workplace, partnership rights, inheritance rights, adoption rights, marriage rights, etc.

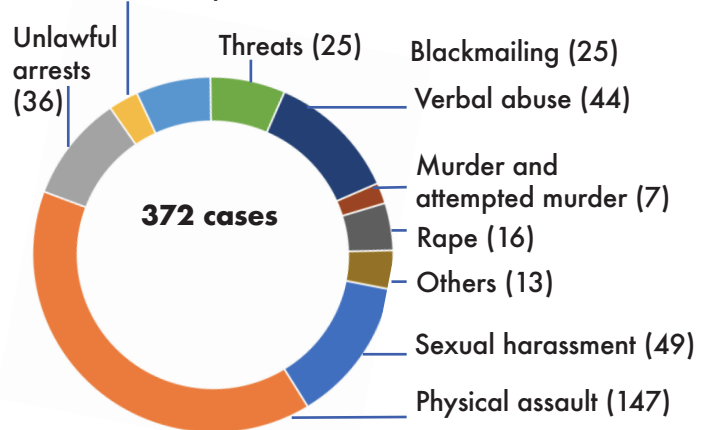
Last year we reported about the Supreme Court ruling on transgender rights in a case commonly known as the NALSA judgment. After the judgment, a bill was introduced by the government in the Parliament and passed by the Lower House. Provisions of this bill rolled back the rights given in the NALSA judgment, while simultaneously criminalising begging and sex work, two of the traditional means of livelihood of trans women in India. LGBTI groups are opposing this bill, and are advocating with the Upper House, where it is presently pending, to stop its passing.

In India the courts have consistently been supportive of LG-

BTI human rights. Recently in at least two instances lesbian women have been given the right to live together with the partner of their choice, and their families have been restrained from interfering in their lives.

The present government has a tendency towards conservative legislation. They have passed a bill on surrogacy, effectively barring LGBTI people from availing commercial surrogacy. They have also introduced a trafficking bill that will criminalise and target trans sex workers. The National Human Rights Commission has formulated a LGBTI working group, the exact mandate and powers of which is still not clear.

Discrimination in jobs/services (10)



DATA HIGHLIGHTS

- In 36% of the cases documented, the victims are under the age of 25 years. In 51%, the victims are in the age range of 26-35 years.
- 43% of the victims have primary education, 18% have secondary education and 23% have higher education.
- 35% of the victims are sex workers and 25% of them are in some form of private or individual enterprise. 9% of the victims are students.
- 66% of the reported cases are from trans women, followed by 23% from gay men. 5% of the victims are lesbians and 4% bisexual men.
- In 88% of the reported cases, the victims are out in some form about their SOGIE. Almost all trans women are out.
- The most commonly reported violations include physical assault (40% of the cases). Rape and sexual harassment together constitute almost 17% of the cases. 10% of the cases are of unlawful arrests, and 7% of the reported cases are of blackmail.
- In three out of every four cases, multiple violations were reported. Most of the cases of physical assault were accompanied by threats and blackmails.
- Only 9% of the cases were reported to the police. However, 72% of the victims reported the matter to a non-state actor like NGOs/CSOs. 17% of the cases were not reported /filed anywhere.
- Of the 35 victims who reported their cases to the police, 11 of them were re-victimised by the police either blackmailing them, demanding sexual favours or detaining and illegally arresting them. In a few cases, the police simply refused to accept the case.

INTERPRETATIONS & KEY MESSAGES

- The data indicates high vulnerability of young LGBTI people to violence and human rights violations. Social and caste status has a direct correlation with education, but also increases the probability of remaining closeted. This in turn increases vulnerability to blackmail and abuse.
- Victims who are engaged in sex work have an increased vulnerability to violence and human rights violations, as laws against sex work impede access to justice and creates impunity for the perpetrators.
- The data reveals an increasing trend of perpetrators using Grindr and other gay dating apps to entrap and blackmail LGBTI community members, specifically gay men. In most of these cases, the police are a part of the entrapment, and filing complaints becomes almost impossible.
- The police is used to separate lesbian women from their partners. Lesbian women are arrested based on complaints from their families or the families of their partners. The police is abused to bring the women back under the control and power of their families.
- Perpetrators exhibit the greatest amount of impunity in subjecting trans women to physical assault. Most cases go unreported and there is almost zero access to justice.
- We see high trust deficit of victims with the police. Not a single case of rape or sexual harassment was reported to the police. Almost one of every three cases that were reported to the police suffered different forms of re-victimisation by the police themselves, that included sexual abuse and illegal detention. In many cases the police are the perpetrators. However, data clearly shows that victims are not averse to seeking mitigation or justice, as they have overwhelmingly approached CSOs/ NGOs for support.



KIDNAPPING AND GANG-RAPE OF GENDER NON-CONFORMING MAN

Hari is a gender-fluid 22 year-old man, living in New Delhi. He was going home from a party, and hired an auto rickshaw from outside the hotel. On his way home, the driver started becoming aggressive toward Hari, saying that anyone dressed this way were only inviting people to have sex with them. When Hari talked back, the driver got even angrier, and sped the auto into a forest. He stopped the auto, tied Hari up, and beat him again and again while screaming at him. The driver made a phone call, and within ten minutes another man arrived. Together the two men tore off Hari's clothes and took turns to rape him. When they were done, they left Hari at a nearby road, and somehow Hari managed to find his way home. After his experience in the forest, Hari is extremely traumatised. Despite receiving counselling, he barely leaves his house any more, and he is too scared and depressed to socialise with others. He refuses to file the case to the police, and the auto rickshaw driver will not face any justice for what he did.

This case shows that gay men are often treated as sex objects, and any refusal by them is taken as an insult, often resulting in violence and sexual assault. Hari's gender non-conforming clothes was the first trigger for the driver. The second trigger was that

THE SEXUAL ABUSE OF A GAY, DALIT MAN

Vivek is a 23-year old gay man, who belongs to the Dalit caste. Vivek works as a municipal cleaner. Somehow, one of his supervisors had found out that he was gay. One day, the supervisor asked Vivek to meet him in a municipal warehouse. When Vivek arrived, the supervisor told him that he would report him for being gay, unless he had sex with him. Fearing that he might lose his job, Vivek allowed the supervisor to have sex with him against his will.

After the incident, Vivek is scared that others might demand sex from him as well. He has missed several days of work, and he feels demeaned and undignified. Vivek has not reported the case to the police, but asked an NGO to speak with the supervisor directly.

Vivek was being targeted for several reasons. First, he was a Dalit, which disempowered him against a higher caste superior. Secondly, he was not highly educated, which meant he could easily be cowed by threats to his employment. And finally, he knew that as a government servant he could be targeted with dismissal in light of the criminalisation of homosexuality, which was in place when this incident happened.

ENTRAPMENT, KIDNAPPING AND BLACKMAILING CONDUCTED WITH IMPUNITY

Shrey is a 24-year old government servant from New Delhi. One day he met a man online, who seemed interested in him and asked him out to a restaurant. The last thing Shrey remembers is that he had a couple of drinks. When he woke up, he was in a hotel room. The man he had met online was also there, together with two people Shrey had never seen before. One of them was dressed in a police uniform. Shrey realised that the man must have drugged him, and he got very scared. The three men told Shrey that he would be arrested for having had gay sex, unless he paid them. Afraid and confused, Shrey went with the men to an ATM and withdrew 13 000 rupees. The men took his money, and left him to take an auto rickshaw home. Shrey remained scared and disturbed for several days, and had to receive counselling to recover from the experience.

The perpetrators knew that Shrey was a government servant, who might have lost his job if he had been outed as a gay man. This made him an easy target. Shrey refused to file a police complaint for fear of losing his job, and for fear that the police were involved. This case highlights the vulnerability of gay men to entrapment and blackmailing, and the impunity with which these crimes are committed.

NEPAL

The 2015 Constitution of Nepal refers to sexual and gender minorities in Article 12 (Right to Citizenship), Article 18 (Right to Equality) and Article 42 (Right to Social Justice). While the Constitution says that separate laws and acts can be formed for the listed disadvantaged groups, no action has been yet taken to formulate an act for gender and sexual minorities' rights. Despite the constitutional provision, the law does not ensure positive discrimination, which is available to other constitutionally listed disadvantaged groups. The provisions have just been limited to the Constitution and not translated into action.

Recently, more than 16 bills related to fundamental rights have been endorsed by the Nepalese Parliament. These fundamental rights bills are based on Nepal's new 2015 Constitution. However, LGBTI issues are not adequately mainstreamed wherever required. The exceptions are the Safe Motherhood and Sexual and Reproductive Health and Rights bills, which include access to non-discriminatory health services for sexual and gender minorities.

There is a need for increased allocation and greater publicity of the budget provisions for LGBTI people made by the local governments, districts and village committees. Information related to how these funds are utilised should also be available in the public domain.

The recently tabled Citizenship Bill requires evidence of sexual reassignment surgery to legally amend the gender of transgender persons in government identity documents. The language of the Bill is not gender-neutral; thereby reinforcing the prevalent gender binary and contradicting constitutional provisions and many a court decision from the past. A proposal for amending the regressive provisions has been tabled by two members of the Parliament.

Right to Equality guaranteed by Article 18 of the Constitution of Nepal remains a distant dream for the LGBTI population. Experience from Nepal provides a lesson for LGBTI rights movements across the region. Mere legislations are not adequate. We continue to see the grossest forms of human rights violations experienced by the LGBTI despite more than a decade of being recognised by law. Clearly, enforcing the law and addressing stigma and deep rooted structural discrimination are greater challenges.

DATA HIGHLIGHTS

- 176 cases were documented in 2018. 42% of the victims are between 14 and 25 years old, and 48% between 26 and 35 years old. Most of the victims (56%) have secondary education.
- 48% of the victims are sex workers, 16% are NGO workers and 9% are students. Of the remaining, 4% are unemployed, 4% work with private enterprise and the profession of 19% of the victims are unknown.
- The majority of the victims are transwomen (74%). Transmen constitute 15% of the victims. 5% of the victims were gay men. Lesbians and intersex persons are underrepresented in our database, with 2% of the victims belonging to either group.
- Physical assault (30%) and unlawful arrest (28%) constitute more than half the cases documented. 9% of the victims were either raped or sexually harassed. 20% of the victims were verbally abused.
- The majority of the transwomen were either illegally arrested (35%) or physically assaulted (31%). 11% of them were either raped or sexually harassed.
- Among the 26 transmen in our sample, we see 12 cases of physical assaults and verbal abuse and 3 cases of unlawful arrests. We have documented one attempted murder.
- In 40% of the cases, the police were the perpetrators. Strangers comprise 22% of the perpetrators. In 13% of the cases we see families, friends and neighbours as the perpetrators. The other perpetrators were service providers, clients, employers/supervisors and partners of choice.
- 69% of the reported violations occurred in public places; 21% took place in victims' homes.
- 37% of the cases are not filed with the police. 45% of the

victims approached the CSO/NGO to get help. Only 18% of the victims went to the police after the incident.

- Almost half the cases that were reported to the police were either rejected, or the victims were detained / arrested by the police.
- Of the 65 victims who did not file any report anywhere, 33 of them did not do so as they feared re-victimisation from the police. For 21 of these victims, the police were the perpetrators.

Police officers gang rape transwoman in Nepal

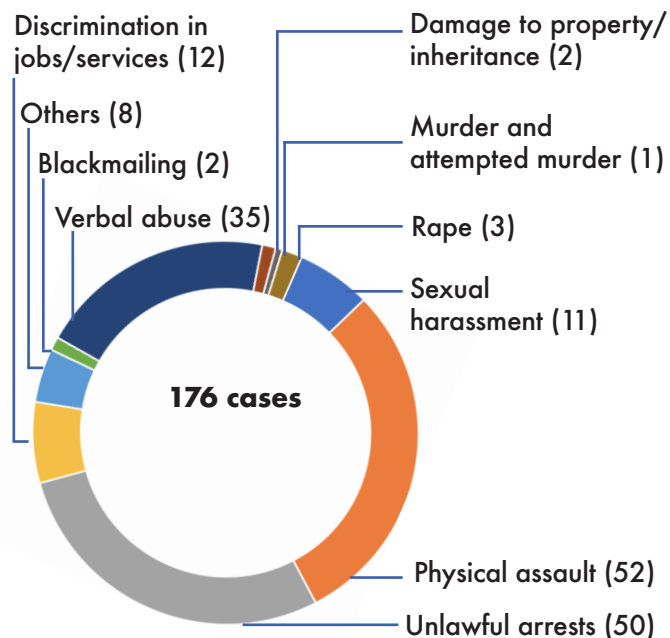
Aruna is a 23-year old trans woman. She was returning home around midnight. A group of police officers were in the street, and they called her to come to them and started touching her body and face. Uncomfortable and shocked, Aruna began shouting in protest. In response, the police officers threatened to take her into custody. She was intimidated and left with no option but to do as the police said. The policemen took her to a dark stretch of the road, and one by one they raped her. After raping, the policemen threatened Aruna of arrest and dire consequences if she ever spoke to anybody of the incident.

But Aruna shared the trauma with some of her friends, who also warned her not to go to the police because she could be harassed further. Instead, now Aruna is staying away from the area where she was raped, and she told others to do the same. She is scared that the police will rape her again, and she needs someone with her when she moves around the city.

INTERPRETATIONS & KEY MESSAGES

- Younger LGBTI are at greater risk of human rights violations. So are transgender women, especially those in sex work. The data indicates a higher vulnerability of younger LGBTI persons including students.
- Transwomen are the most visible and therefore the most affected. Almost 63% of transwomen victims are sex workers and almost all the sex workers (83 of 84) in our data were transgender women.
- Of the 83 transwomen sex workers, 48% were illegally arrested and 20% were physically assaulted. 93% of these violations occurred in public places and in 65% of the cases, the perpetrators were the police. This is a clear case for increased protection measures for transwomen who are sex workers, along with increased need for physical and mental health support systems, provisions for compensation for victims and the establishment of crisis response centres by the government.
- The majority of the perpetrators are from the police forces. The impunity with which law enforcement agencies are violating human rights despite constitutional guarantees for LGBTI persons is shocking. Police violence remains unabated while the state remains silent. In 2018, out of all the documented cases, 40% of the perpetrators in Nepal were the police. There is an urgent need to address police apathy and the further abuse of victim.
- The advocacy agenda may probably need to include civil rights like marriage for the LGBTI population. With adverse public and domestic space (90% violations occurred either at public place or victims' homes), the need for social support system increases. 95 percent of the victims do not even get to live with partners of their own choice.

- There is a need to support interventions for the lesbian and bisexual women. The underrepresentation of lesbian and bisexual women in our data is testimony to the challenges this group faces in being open about and seeking support in the aftermath of human rights violations they experience. We have reports from only 4 lesbian victims, three of whom experienced brutal physical assault at the hands of their families and none of them had support systems to report the cases to the police. More outreach to lesbian and bisexual women is needed.





LESBIAN WOMAN BEATEN AND DISCRIMINATED IN HER OWN HOME

Shailee is a 35-year old lesbian woman Kathmandu, who is the victim of rejection and discrimination in her own home. It started one day when Shailee’s younger sister insulted her by calling her “hijra” and “chaaka”, and beat her up. When Shailee asked why her sister was being cruel to her, the sister said that Shailee brought shame upon the family because of the way she dressed, and that neighbours and others were talking about the family behind their backs. After this, Shailee feared that her own family will reject her and throw her out of her own home. She has isolated herself within her own family, and experienced severe depression. She has resorted to drinking and smoking, and has also developed suicidal tendencies.

It is important to note that families of LGBTI persons are also stigmatised, and some, like Shailee’s sister, deal with this societal embarrassment through violence and harassment of their LGBTI relative. This case shows how vulnerable lesbian women are to violence within the family, which should be a safe space for everyone.

NEIGHBORS BEATING AND ABUSING DALIT TRANSMAN

Sujan is a 25-year old transman who belongs to the Dalit caste. He was driving on his motorbike in his village when some members of a neighboring family forcefully stopped him. The family members started throwing stones at Sujan, and also beat him up. At the same time, they insulted Sujan because he had relationships with girls, calling him a “hijra”. Sujan managed to get away, and the next day he visited a police station with help from an NGO. The neighbors confessed to the police that they had beaten Sujan because he was a transman and a dalit, and because he had relationships with girls.

Sujan had to take bed rest for a week as he had serious injuries in his eye and waist. Even though the neighbor’s family compensated him for his medical expenses, he was afraid that the family would attack him again. Because of this risk, Sujan decided to leave the area after his recovery.

PAKISTAN

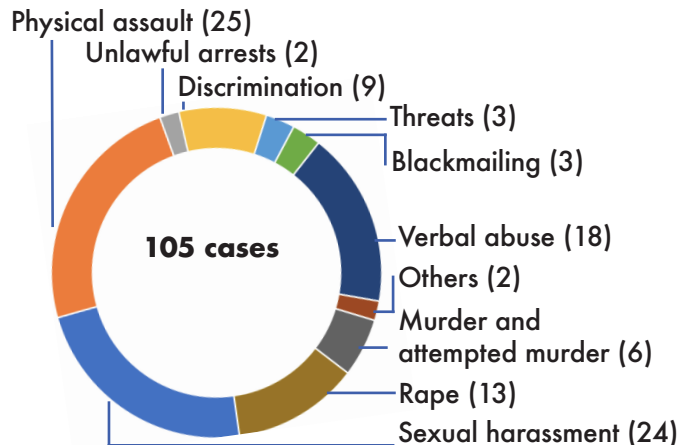
Sexual and gender minorities in Pakistan are living their lives in silence and invisibility due to different cultural, religious, legal and political factors. Punitive laws from the colonial era criminalising same-sex relations labelled “Unnatural Offences” under Section 377 of Pakistan Penal Code, along with sharia-inspired laws from 1980s, penalise offenders for up to twenty-five years in prison – although convictions are rare.

In May 2018, Pakistan’s Parliament passed Transgender Persons (Protection of Rights) Act 2018, guaranteeing fundamental rights, including economic, cultural and social rights, to transgender persons. Following this verdict, the Supreme Court issued directives to the federal and all provincial governments to formulate policies for the welfare of the transgender community. In September 2018, on directives of the Supreme Court, the Social Protection Authority of Punjab drafted a policy for the welfare of transgender persons. The School Education Department of Punjab issued notifications to all district education authorities in August 2018 to ensure fair and equal treatment of transgender children in schools.

The trans community has won other victories as well. In June 2018, a committee of trans activists and government officials was constituted to facilitate the issuance of computerised National Identity Cards to the transgender community. In February 2018 Peshawar High Court took firm action against police brutality against transwomen in Mardan. In March

2018, driving licenses were issued to transgender persons based on their recognised gender identity in Peshawar. Pakistan saw its first Trans Pride in Lahore in December 2018.

Although major developments have transpired for the rights of the transgender community in Pakistan, the implementation of the Transgender Persons (Protection of Rights) Act 2018 is still slow. While attempts are being made to improve access to public facilities for transgender people, discrimination in education, employment and health on the basis of sexual orientation remains a major concern – particularly for the lesbian, gay and bisexual identified people. The repeal of Section 377 in India in September 2018 evoked a major wave of criticism and shaming in the Pakistani media.



DATA HIGHLIGHTS

- 105 cases of violations have been documented. In 52% of the cases, the victims are between 14 and 25 years old, and in 46%, the victims are between 26 and 35 years.
- The majority of the victims (53%) have higher education, and 35% of them have either secondary or primary level of education.
- Almost all the victims are either sex workers (30%), engaged in private or individual enterprises (27%), NGO workers (22%) or students (19%).
- 50% of the victims are transwomen and 39% gay men. 9% were lesbian.
- The major violations were physical assault (24%), sexual harassment (23%), rape (12%), discrimination and threats (11%) and murder (5%).
- 90% of the complaints were not reported to the police.
- 84% of the cases were not filed because the victims thought that the police would re-victimise them.
- Of the 9 cases that went to the police, 7 were accepted. In one instance the police demanded bribe and sexual favours from the victim, and one case was rejected.
- 8% of the perpetrators were the police. 37% of the perpetrators were strangers and 33% of them were families and friends of the victim. In 10% of the cases the perpetrators were the clients and in 5% the employers / supervisors of the victims.

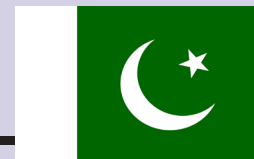
INTERPRETATIONS & KEY MESSAGES

- Sexual and gender minorities in Pakistan, especially the young, face a range of gross human rights violations. In 2018, only 105 cases of human rights violations have been reported. These cases of violence, triggered on the basis

of the sexual orientation and gender identity of victims, are violations of their human rights and several international obligations that Pakistan is a signatory to; these also reflect a violation of the constitutional rights of the citizens of Pakistan which guarantee dignity and equality to everyone. However, there is no protection against discrimination on the basis of sexual orientation and gender expression in the constitutional framework. Youth are more vulnerable and can easily be targets of violence.

- Despite legal recognition, transwomen remain vulnerable. All five murders, 77% of the rapes and 67% of all sexual harassments reported are from transwomen. None of the cases were reported to the police due to fear of persecution, inadequacies in legal procedures and other related factors. Gay men are also vulnerable to rape. These numbers paint a bleak picture regarding the stigma faced by men who do not align themselves to the heteronormative notions of masculinity, when it comes to sexual violence. None of these cases were reported to the police either.
- Fear of the police reigns supreme in the minds of the LGBTI people. The overwhelming majority (90%) of the victims did not approach the police to seek justice. The most common reasons for not reporting to the police includes fear of being arrested due to their sexual orientation and gender identity (73%), fear that the police would reject the case (8%) and in some cases because the police were the perpetrators themselves. Antiquated colonial laws on public morality are often used by the police to harass, blackmail or cause bodily/mental harm to LGBTI people. Intense stigmatisation, ambiguity in the law and a stark absence of accountability mechanisms inhibit reporting crimes to the police.

- LGBTI people are not safe, even in their homes. In almost 33% of the cases, the place of incident was recorded as the victim's home. The majority of violations at home are perpetrated by family members. More than half of those cases were of physical assault and almost all such assaults were accompanied by verbal abuse. In 44% of the cases where the perpetrators are family members, the victims were unemployed indicating that financial dependency on the family can make individuals more prone to being victimised.
- The vagueness of the law and subsequently inadequate legal procedures are a major hindrance to reporting. Furthermore, almost no support mechanisms exist at societal or state level for rape victims, most of whom are treated with suspicion. This indicates not only a dire need for hate crime legislation and reform of criminal laws but also sensitisation of police and judiciary regarding issues of sexual violence faced by sexual and gender minorities.



26 MEN GANG RAPE A TRANSWOMAN

Chandni is a 25-year-old transwoman sex worker living in Rawalpindi. She attended a wedding out of city with one of her clients. After the wedding, her client asked her to spend the night at one of his relatives' home, and he ensured her that they will take good care of her until he picked her up the next morning. She went to the relative's house, where 26 men were already present. The men started bullying and physically assaulting her. One by one, the 26 men raped her the entire night and kicked her out of the house in the morning. Chandni couldn't even stand or walk. She dragged herself to the street and rested for a while on the roadside. Later she got a bus and returned home in Rawalpindi.

The case shows how transwomen are seen as sexual objects in Pakistan, making them vulnerable to violence and rape. Chandni did not report this incident to the police, because she feared being arrested. She started spending her life in isolation. She was too afraid to go out for sex work after this incident, and lost her only livelihood.

CONCLUSIONS

The consequences of human rights violations, including the direct and indirect psychosocial impact, are well documented. Human rights violations prevent sexual and gender minorities in South Asia from accessing education, employment and opportunities, and affect their potential to contribute to the society. With most of the violations faced by the LGBTI persons in the economically most productive age group, the impact on the economy at the micro and the macro levels cannot be underestimated.

Evidence from the South Asian countries shows that LGBTI persons are vulnerable to mental health disorders. We can relate this to range of violations documented in this report. Given the violence and discrimination experienced by each of the 810 victims, post-traumatic stress disorders are likely to be quite common among them. Whereas the South Asian countries are gearing up their responses to non-communicable diseases and mental health issues and aligning the national responses to the Sustainable Development Goals (SDG), we do not see any visible effort towards integrating mental health responses with the protection of the human rights of LGBTI.

Upholding LGBTI persons' access to human rights and advocating for sensitive laws and access to justice for the LGBTI populations can directly contribute to SDG 16 (Promote peaceful & inclusive societies for sustainable development, provide access to justice for all & build effective, accountable and inclusive institutions at all levels"). Advocacy efforts of all

SAHRA partners has the potential to contribute to both the results under this SDG (Result 16.1: Significantly reduce all forms of violence and related deaths everywhere; & Result 16B: Promote & enforce non-discriminatory laws and policies for sustainable development). Without this, the LGBTI populations will remain excluded from the social mainstream.

A fitting conclusion to this report is excerpts from the historic judgement of the 5-judge constitution bench of the Supreme Court of India that defanged Section 377 of the Indian Penal Code and ruled that consensual same-sex relationships will no longer be criminalised.

“Respect for individual choice is the essence of liberty... This freedom can only be fulfilled when each of us realises that the LGBTI community possesses equal rights. (Justice Dipak Misra, Supreme Court of India)

“It is difficult to right the wrong of history, but we can certainly set the course for the future. (Justice D Chandrachud, Supreme Court of India)

“History owes an apology to the members of this community and their families, for the delay in providing redressal for the ignominy and ostracism that they have suffered through the centuries... (Justice Indu Malhotra, Supreme Court of India)

RECOMMENDATIONS

Based on the current social, political, cultural and religious contexts as well as the trends emerging from the documentation of human rights violations, SAHRA would like to submit the following recommendations:

TO GOVERNMENTS

- Acknowledge and accept the existence of the sexual and gender minorities in the country.
- Reform punitive laws, policies and law enforcement practices to protect the rights of people who are marginalised due to their sexualities and genders.
- Implement laws, judicial decisions and policies in order to recognise and fulfil the human rights of transgender persons.
- End impunity against those who commit violence and discrimination against sexual and gender minorities.
- Allow self-expression and self-identification of gender identities without insisting on intrusive medicalisation.
- Adopt inclusive approach in implementation of existing welfare policies.
- Allocate adequate resources for protection of human rights of gender minorities.

TO NATIONAL HUMAN RIGHTS COMMISSIONS

- Recognise that the rights of sexual and gender minorities are human rights, and integrate this group into your work.

TO FUNDING ORGANISATIONS

- Recognise the need to support the promotion of human rights for sexual and gender minorities and integrate this within your existing funding support for social development.

TO CIVIL SOCIETY ORGANISATIONS

- Recognise the rights of sexual and gender minorities within the human rights framework and development agendas.
- Develop an understanding of marginalisation, violence and discrimination that includes marginalised sexualities and genders.
- Collaborate with sexual and gender minority movements in the respective countries to demand for their recognition and the realisation of human rights.
- Integrate, where feasible, issues and programs for people marginalised due to their SOGIE in their work.

TO ACADEMIC INSTITUTIONS, ACADEMICS AND RESEARCHERS

- Build knowledge and scholarship on issues related to sexual and gender minorities that are led by and grounded in the realities of the community.
- Include age-appropriate content on gender, sex and sexuality into education curriculum at different levels.
- Ensure non-discrimination of people marginalised because of their SOGIE within academic institutions to improve their access to education.

TO THE MEDIA

- Highlight the human rights violations faced by sexual and gender minorities and sensitise the general public on marginalised sexualities and genders.
- Strive to imbibe rights-affirming principles when reporting on issues related to sexual and gender minorities.

TO FAITH-BASED ORGANISATIONS

- Recognise the human rights and human dignity of sexual and gender minorities.
- Advocate for the acceptance and inclusion of people who are marginalised because of their sexualities and genders within faith communities.
- Speak out against violence and enticement to violence by religious leaders.

“Where, after all, do universal human rights begin? In small places, close to home – so close and so small that they cannot be seen on any map in the world... Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world

(Eleanor Roosevelt)



SAHRA