

**International Conference on Human Rights, Sexual Orientation and Gender Identity
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The Asia-Pacific Regional Seminar on Human Rights, Sexual Orientation and Gender Identity brought together 150 delegates from 24 countries, including representatives from civil society organizations, governments and the United Nations. The seminar was held in Kathmandu, Nepal on March 22nd and 23rd, preceded by a civil society dialogue held on March 21 that focused on key violations, challenges and recommendations to address obstacles to LGBT equality.

VIOLATIONS

In testimonial after testimonial as well as panel presentations and breakout groups, we heard that LGBTI people are denied rights to security, privacy, non-discrimination, freedom of expression, freedom of peaceful assembly, access to health, housing, work and, in essence to a peaceful life. The violators of LGBTI people are state agencies across the board and law enforcement in particular, the general public, conservative religious groups, and family members.

British colonial law that penalizes acts “against the order of nature,” criminalizes people with non-conforming sexual orientation. Public offence, impersonation, and morality laws are also used to stigmatize and harass LGBTI people. The presence of these laws makes LGBTI people vulnerable to societal violence and discrimination as well as arbitrary detention, blackmail, extortion, physical, mental and sexual harassment and assaults, including custodial rape by police.

Participants reported instances where police deliberately misuse anti-trafficking laws to charge partners of LGBTI people with human trafficking because the partner’s families object to their relationships. Participants recalled false allegations of theft and robbery filed against them by their own family members and family members of their partners because of disapproval of their same sex or transgender relationships. Lesbians are additionally subjected to forced marriage, physical violence in the home, and aggravated rape, including “corrective rape,” which is committed on the pretext of changing lesbians into heterosexual women. Intersex people talked about “corrective” surgery based on parental consent without intersex individuals themselves being allowed the opportunity to affirm their own identities.

Many existing anti-rape laws have narrow definitions of rape and do not redress the sexual violations that LGBTI people suffer. Reporting sexual assaults is often out of the question for many LGBT people since it involves revealing sexual orientation or gender identity in unsafe environments, which can result in family recriminations, criminalization, and negative publicity through media sensationalism.

Transgender people in many Asia Pacific countries are still struggling to be legally recognized, and are denied the right to assert their identity in legal documents including citizenship documents and travel documents, which makes them even more susceptible to harassment and discrimination

Discriminatory health services pose a major obstacle for the LGBTI community in most Asia Pacific countries, primarily because health professionals do not recognize the specific and unique health care issues related to the sexual and reproductive health of the LGBTI community. In addition, the prohibitive cost of gender reassignment surgeries makes it inaccessible to many transgender people, particularly those who are already living in poverty.

Many gay, lesbian and transgender people are denied access to education because their sexual orientation or gender expression is not accepted. Those who are in school often have to endure bullying, stigmatization and, in some instances, violent disciplining from school principals or teachers – which contribute to LGBT youth experiencing depression and other mental health issues, often in isolation, without positive counseling support. Some LGBTI youth find these violations too much to bear and commit suicide.

CHALLENGES

Several challenges to LGBTI rights were identified. I will highlight four. Religious homophobia and transphobia are a major challenge in the Asia Pacific region. Some religious groups demonize LGBTI people and spread intolerance in the name of religion. They label homosexuality, cross-dressing and other non-conforming gender expression as deviant, sinful, immoral, and against religious teachings. In several countries, LGBTI people are not only denied access to places of worship and prevented from practicing their religion safely, but also subjected to violent hate crimes by members of religious fundamentalist groups, some of which have state endorsement and the support of politically conservative government officials.

The failure of states to comply with international human rights law is a second major challenge. This failure manifests in three ways. First, national and state level agencies often lack capacity – they are unaware, do not understand, or are resistant to LGBTI issues. Second, there is lack of coordination amongst various agencies within the state. What state leaders commit to at the UN is not communicated to state officials and law enforcement agencies on the ground. Law enforcement agencies are often unaware that the state is obligated to protect LGBTI rights. Third, there is also a lack of independent agencies to monitor compliance and implementation of UN recommendations relating to sexual orientation and gender identity. This makes it difficult to hold states accountable.

A third major challenge in the region is that many Asian governments promote “Asian Values” as a homogenizing identity when in fact there are many diverse societies in Asia and the Pacific. Participants emphasized that in a region as vast as the Asia-Pacific, “Asian Values” must encompass respect for diversity, pluralism and inclusion. They also noted that gay, lesbian, bisexual, third gender and intersex people, as well as cross-dressing, same sex attraction and same sex relationships have all been an integral part of Asia-Pacific histories and cultures from time immemorial. However, many Asian and Pacific government leaders inaccurately label

homosexuality and transgenderism as “western' concepts,” overlooking the inclusive traditions in indigenous cultures and communities.

A fourth challenge has to do with taking a one-size fits all approach to addressing LGBTI issues. LGBTI people are part of many communities. They belong to different ethnic, racial, religious or economic groups; they have different class backgrounds and social standing. Not recognizing this plurality impedes understanding of how discriminatory practices affect different communities differently. Policies that try to address LGBTI concerns without understanding the particularities end up prioritizing some communities over others and the needs of some groups of LGBTI people above others, often creating divisions and negatively impacting LGBTI movement building and intra community alliances, which are needed to engage more effectively with the state.

PROGRESS

In terms of progress, participants noted that there has been increased acceptance of LGBTI people over the last ten years in countries like Australia, Mongolia, Nepal, New Zealand and Tonga. This is largely attributed to LGBTI movements carrying out successful awareness-raising activities, and the increased formation of LGBT groups even if many governments will not allow groups to be registered.

There have also been positive legal reforms in countries like Australia, India, Nepal and Mongolia (and if I might add, also in Taiwan and Hong Kong).

RECOMMENDATIONS

The regional dialogue in Kathmandu concluded with several recommendations for various actors and stakeholders. I will list the top six priorities.

1. States must recognize the rights of LGBTI people and amend or remove laws that discriminate. Before making the amendments, governments must hold consultations with LGBTI groups and communities, as well as law enforcement agencies. Once amendments are made, governments must raise the awareness of all state officials and law enforcement officers, and take measures to ensure implementation. States must also recognize third gender as an identity and take measures to legalize changed gender status.
2. Participants recommended creating the position of LGBTI liaison officers in state structures to enhance LGBTI participation in decision-making, increase the state's understanding of LGBTI issues, and frame better government policies to address LGBTI issues. Members of local LGBTI groups and organizations that understand the local cultural nuances and challenges are best for this type of engagement.
3. Creating a dedicated fund that would engage LGBTI people at the grassroots level is another recommendation. This would improve advocacy and broaden outreach to LGBTI communities in the often-discounted rural areas where LGBTI communities encounter much discrimination.

4. The role of National Human Rights Institutions is important for carrying out independent assessments of human rights violations against LGBTI people, and bringing attention to these realities through the Universal Periodic Review.

5. A UN mechanism on sexual orientation and gender identity was recommended – such as a Special Rapporteur or a Working Group on sexual orientation and gender identity. Such a mechanism would help bridge the current “disconnect” between debates at the UN and realities for LGBTI people on the ground, pressure governments and ensure ongoing commitment at the UN to LGBTI issues, encourage better documentation and reporting on violations against LGBTI people, and ensure that states implement UN recommendations on sexual orientation and gender identity in all states, including in countries that don’t have an organized LGBTI movement. Such a UN mechanism would encourage LGBTI civil society to engage with states and the UN, and foreground the work of LGBTI human rights defenders.

6. Finally, participants recommended that states violating the human rights of LGBTI people should be held accountable and shamed.

A comprehensive list of recommendations can be found in the [written report](#) from the Asia Pacific meeting.