

SOUTH ASIA SEXUALITY POLICY MATRIX

Sexuality Policy for Structural Change in South Asia

6-7 December 2014, New Delhi

SOGI				
No.	Country	Laws and policies	Problems / Controversies	Reference Links
1	India	<ul style="list-style-type: none"> • Protection of sexual orientation and gender identity rights - Penal Code, Section 377 • Self-Identification and legal recognition of a third gender 	<ul style="list-style-type: none"> • Validity and legality of homosexuality law under Section 377 • No known anti-discrimination protections exist for sexual orientation or gender identity, rights of sexual minorities lacking 	<ul style="list-style-type: none"> • Assessing the Capacity of National Human Rights Institution in South Asia to Address Discrimination and Human Rights Relating to HIV
2	Bangladesh	<ul style="list-style-type: none"> • Penal Code, Section 377 • Official recognition to people who identify as hijra, including the extension of several state benefits such as priority access to education, housing and health services, and the option of reflecting their gender identity in passports and other identity cards • Analysis of protective laws (focusing on people living with HIV, MSM and transgender people) and development of a resource to support legislative drafting, law reform and advocacy initiatives - Hijra Pride by the Gov. of Bangladesh (2014) 	Uplifting socio-economic status of the hijra (Transgender) population and their human rights issues	<ul style="list-style-type: none"> • Bandhu Social Welfare Society • Bangladesh: Legal Reference Brief
3	Pakistan	Recognition of a separate gender for Pakistan's hijra community, which includes transgendered people, transvestites, and eunuchs. People are allowed to identify as hijras when registering for	Fear of persecution by the authorities or by non state actors due to the sexual orientation or perceived sexual orientation, or gender identity	Pakistan: Sexual orientation and gender identity



4	Nepal	<p>a national identity card.</p> <ul style="list-style-type: none"> • A 2007 Supreme Court decision made homosexuality and third gender legal • National Human Rights Commission of Nepal includes desk on violence against LGBTI in 2010. • Government added a “third gender” category to national census surveys and citizenship documents in 2011. • Government issues third gender citizenship ID from 2012. • LGBTI human rights programs included under the Prime Minister's 3 year human rights programs. 	<p>Gender identity on citizenship documents - many not attempted Socio-economic vulnerability of the third gender</p>	<p>Surveying Nepal's Sexual and Gender Minorities: An inclusive approach</p>
5	Sri Lanka	<p>Prohibition of same-sex activities and relations - Penal Code, Articles 365 and 365A</p>	<p>Inadequacy of policies to effectively address the gap created by the absence of legislation and constitutional protections. Dearth of documented legal cases relating to the protection of PLHIV and high-risk populations.</p>	<p>Protective Laws related to HIV, Men who have Sex with Men and Transgender People</p>
6	General Regional Update	<p>GBT inclusion and economic development- Emerging economies</p>	<p>Survey on emerging economies (relevant to South Asia region)</p>	<ul style="list-style-type: none"> • The Relationship between LGBT Inclusion and Economic Development: An Analysis of Emerging Economies • South Asia: Policy Brief



VIOLENCE AND DISCRIMINATION

No.	Country	Laws and policies	Problems / Controversies	Reference Links
1	India	<ul style="list-style-type: none"> • (PWDVA) Protection of Women from Domestic Violence Act (2005) section 498A of the Indian Penal Code • Protection from sexual harassment at the workplace - Sexual Harassment at the Workplace Act (2013) and establishment of guidelines for prevention - Vishakha Guidelines, Supreme Court (1997) • Protection of Children from Sexual Offenses - POCSO Act (2012) and Justice Verma Committee Recommendations (2013) • Juvenile Justice Act (Care and Protection of Children) Act (2014) • Recognition of rights to equality of persons with disabilities, including protection from inhuman treatment and equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters - The Rights of Persons With Disabilities Bill (2014) • The Persons with disabilities (Equal Opportunities, Protection of Right and full Participation) Act 1995 • National Trust Act for the welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities (1999) • Mental Health Act (1987) for care and rehabilitation of “mentally ill persons” • Punishment for publishing or transmitting “offensive messages and material” in electronic form - Information Technology Act, section 66 (2000) 	Caste discrimination, violence against women	<ul style="list-style-type: none"> • IMADR’s statement at 22nd session of the Human Rights Council (2013) • Remarks by Chief Justice of India, HL Dattu • Assessing India’s Domestic Violence Laws • Disability Laws in India



2	Bangladesh	Domestic Violence (Prevention and Protection) Act (2010)		Domestic Violence (Prevention and Protection) Act (2010)
3	Pakistan	Domestic Violence Bill for Women, Sexual Violence and the Law in Pakistan (2011)	<p>Limited interpretation of the MDGs – even the specific goal 3 is restricted. Gender equality goes beyond education and poverty and gender roles are critical regarding women’s control of land and the division of labour. GBV is very important in every sector.</p> <p>Punishing domestic abuse still raises doubts about its ability to meet the goal it sets out to do: end violence against women</p>	<ul style="list-style-type: none"> • Sexual Violence and the Law in Pakistani • Protection against domestic violence bill • Reactions to domestic violence bill • Addressing Gender-based Violence in the Post-2015 Agenda
4	Nepal	Domestic Violence (Crime and Punishment) Act, 2066 (2009)	<p>High rates of discrimination, harassment and abuse in public transportation, bullying in schools, lack of protection from discrimination by employers</p> <p>No specific law to protect LGBTI from violence and discrimination despite 2007 supreme court order to amend all discriminatory laws and policies, implementation has been extremely slow. Williams Institute study suggest 60% LGBTI in Nepal face violence or discrimination.</p>	<ul style="list-style-type: none"> • Domestic Violence (Crime and Punishment) Act, 2066 (2009) • The Relationship between LGBT Inclusion and Economic Development



5	Sri Lanka	<ul style="list-style-type: none"> • National Child Protection Authority (NCPA) for minors • Domestic Violence Act (PDV Act), No. 34 (2005) • General criminal offences in the Penal Code, such as hurt, grievous hurt, grievous sexual abuse and offences against the human body - (Amendment) Act, No. 22 (1995) 		<ul style="list-style-type: none"> • Myths and Facts on domestic Violence
6	General Regional Update	Underlying drivers of gender inequality or discriminatory social institutions – social norms, laws and practices that restrict women and girls’ access to opportunities, resources and power	Son bias, missing women and fertility preferences presenting serious demographic challenges and skewed sex –ratios thus leading to social unrest and violence	Tackling the root causes of gender inequalities in the post-2015 development agenda

HIV				
No.	Country	Laws and policies	Problems / Controversies	Reference Links
1	India	<ul style="list-style-type: none"> • HIV/ AIDS Bill (2007) • HIV sensitive policy (2011) • Legal provisions in Immoral Trafficking Prevention Act (1986) • Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Bill (2010) • National Policy on HIV/AIDS and the World of Work Policy • Legal provisions in Indian Medical Council Act (1956) • Professional Conduct & Ethics Regulations (2002) • National AIDS Control Organisation (NACO) – National Health Mission (NHM) Merger 	Health-seeking strategies and sexual health among female sex workers in urban India	<ul style="list-style-type: none"> • The HIV/AIDS Bill (2007) • Health-seeking strategies and sexual health among female sex workers in urban India: Implications for research and service provision • National Human Rights Commission of India (NHRC) • UNDP, Asia Pacific



2	Bangladesh	National HIV & AIDS Policy		<ul style="list-style-type: none"> • Population mobility and HIV and AIDS: review of laws, policies and treaties between Bangladesh, Nepal and India • National Health Policy (2011) • Criminalize Hate not HIV. Perspectives • National AIDS Committee 1985- • Third National Strategic Plan for HIV and AIDS Response 2011-2015
3	Pakistan	<ul style="list-style-type: none"> • The HIV & AIDS Prevention and Treatment Act (2007) • The Sindh HIV and AIDS Control, Treatment and Protection Bill (2013) • Voluntary Counseling and Testing (VCT) 	Pakistan and Nepal have engaged in a mutually beneficial knowledge exchange to strengthen community-based organizations (CBOs) working on HIV and STI service delivery, and promoting and advocating for human rights and sexual health of men who have sex with men (MSM) and transgender people.	<ul style="list-style-type: none"> • The HIV & AIDS Prevention and Treatment Act (2007) • HIV Voluntary Counseling and Testing (VCT) Guidelines for Pakistan • “Law to Control HIV Passed” • Naz Male Health Alliance (NMHA) • “Pakistan and Nepal Team Up Addressing Community Capacity”
4	Nepal	<ul style="list-style-type: none"> • National HIV/AIDS Strategy (2002-2006) • HIV & AIDS Action Plans (NAP 2006-2008 and NAP 2008-2011) 	HIV discrimination in denial of health care services, paucity of programming to address the reproductive health needs of lesbians, and lack of sensitive HIV healthcare for transgender women and gay men who are at exponentially higher risk of HIV infection than the general population, lack of awareness among MSM and transgender	<ul style="list-style-type: none"> • National HIV/AIDS Strategy (2002-2006) • Population mobility and HIV and AIDS: review of laws, policies and treaties between Bangladesh, Nepal and India • Surveying Nepal’s Sexual and Gender Minorities • The Blue Diamond Society • Dareecha Male Health Alliance



			people about safe sex practices and opportunistic infections.	
5	Sri Lanka	No laws that specifically deal with HIV/ AIDS	Policy reaction to HIV/AIDS is the Draft Health Care of Public ACT (1996)-bill never got passed due to opposition	<ul style="list-style-type: none"> • HIV/AIDS in Sri Lanka
6	General Regional Update	SAARC Regional Strategy on HIV & AIDS (2006-2010)		<ul style="list-style-type: none"> • Population Mobility and HIV and AIDS: review of laws, policies and treaties between Bangladesh, Nepal and India • Global Commission on HIV and the Law. HIV and the Law: Risks, Rights & Health (2012)



COMPREHENSIVE SEXUALITY EDUCATION

No.	Country	Laws and policies	Problems / Controversies
1	India	<ul style="list-style-type: none"> • Early identification and early intervention for children from birth to 18 years to cover 4 'D's viz. Defects at birth, Deficiencies, Diseases, Development delays including disability - Rashtriya Bal Swasthya Karyakram initiative (RBSK) • National Population Education Project/ Population Education introduced in 1980 with UNFPA • AEP (Adolescence Education Programme) '93 • Adolescent Reproductive & Sexual Health (ARSH) under NPEP implemented by HRD, NCERT, NACO, MOHFW. • 2005 Adolescent Education for Life Skills Development • Justice Verma Committee Recommendations • School Health Programme launched in 2008 under the National Rural Health Mission (NRHM) • Red Ribbon Clubs (RRCs) established under the National AIDS Control Project NACP-II and NACP-III • National Strategy on Adolescent Health (Rashtriya Kishor Swasthya Karyakram) launched by MOHFW. • Rajiv Gandhi Sabla Scheme • RMNCH+A • Menstrual Hygiene Scheme 	<p>Lack of ministry ownership/ Rejection of Adolescence Education Program (AEP) / 2 Versions of the AEP NACO-UNICEF and NCERT-UNFPA/ Change in political leadership/ ABC approach throughout NACO and NYKS/ Protection of Children Against Sexual Offences Act (POCSO) – mandatory reporting and conflation with access to safe and confidential abortion services.</p>

- [A review of the revised sexuality education in India](#)
- [Indian Government Says No to Sex Education in Schools](#)



2	Bangladesh	Policies on school health and nutrition (SHN)	Inclusion of sex education in school curriculums, government opposes ICPD's LGBT rights move	<ul style="list-style-type: none"> • Sex Education in Bangladesh • Bangladesh Opposes ICPD's LGBT rights move • Inclusion of Sex Education in School Curriculum of Bangladesh: Parents' Attitude • Sexuality Education in Asia: Are we Delivering?
3	Pakistan	<p>Policies on school health and nutrition (SHN):</p> <ul style="list-style-type: none"> • SRHR curriculum initiatives started in 1997 by Aahung, Rutgers WPF, Rahnuma Family Planning Association of Pakistan (IPPF) and others. • Adapted UNFPA's "It's All One" framework to produce "Aware for Life" school based curriculum in 2006. • Expanded curriculum to cover younger children (ages 5/6 through 16) with school based SRHR content in 2008. • Merging of the curricula in creation of new Life Skills Based Curriculum (skill building and SRHR content) in 2011. • Some modifications made in the sexual health curriculum – Hayat Lifeline Campaign in 2013. 		<ul style="list-style-type: none"> • Hopes for better sex education in Pakistan • First sexual health curriculum launched in Pakistan
4	Nepal	<ul style="list-style-type: none"> • Policies on school health and nutrition (SHN) • Education Ministry introduces SOGI into high school curricula for 6,7,8 grade at high school from 2014. 		<ul style="list-style-type: none"> • Issue Brief on Sexuality Education in Nepal



5	Sri Lanka	<ul style="list-style-type: none"> • Policies on school health and nutrition (SHN) • Global obligation to protect the youth from sexual diseases through education 	Sri Lanka prepares sex education policy
6	General Regional Update	<ul style="list-style-type: none"> • National HIV, Population/RH/education strategy 	Sexuality Education in Asia and the Pacific

SEX WORK

No.	Country	Laws and policies	Problems / Controversies
1	India	<ul style="list-style-type: none"> • Indian labour law • Prostitution Law • Sexual Rights Initiative • SITA: Suppression of Immoral Traffic in Women and Girls Act (1956) • ITPA: Immoral Traffic Prevention Act (1956) • Prostitution: Limited Legality. Prostitution is not a criminal offense, but soliciting prostitution and prostitution in a public place are illegal 	<p>Prescribed penalties discriminate on the basis of sex (SITA), organized prostitution is illegal, criminalisation, stigma, social exclusion and climate of impunity, conflation of trafficking and migration, leading to denial of labour rights. Prevention act failure to prevent and intercept women trafficking</p> <ul style="list-style-type: none"> • ITPA: Immoral Traffic Prevention Act (1956) • Prostitution: Legal Provisions in India • Prostitution in India: Make it Legal • Sexual Rights Initiative • Concluding Comments of the CEDAW Committee • Beyond Sexual Humanitarianism: A Post-Colonial Approach to Anti-Trafficking Law



2	Bangladesh	<ul style="list-style-type: none"> • Suppression of Immoral Traffic Act of 1933 • Human Trafficking law • Prostitution: Limited Legality Female prostitution with minimum age 18 is legal. Male prostitution is illegal. • Brothel Ownership: Legal • Pimping: Legal 		<ul style="list-style-type: none"> • Penal Code • Current Legal Framework: Prostitution in Bangladesh • 100 Countries and Their Prostitution Policies
3	Pakistan	<ul style="list-style-type: none"> • The Punjab Suppression of prostitution ordinance (1961) • Assessment of Adolescents and Reproductive Health in Pakistan • Population policy • National AIDS Control Program (NACP) 		<ul style="list-style-type: none"> • The Punjab Suppression of prostitution ordinance (1961) • Adolescent and Youth Reproductive Health in Pakistan
4	Nepal	<ul style="list-style-type: none"> • The National Policy, Action Plan, and Institutional Mechanism to Combat Against Trafficking in Women and Children for Commercial Sexual Exploitation (2000) • Suppression of Immoral Traffic in Women and Girls Act (SITA) (1956 & 1958) 	<p>Definition of prostitution as the act of a female who offers her body for promiscuous sexual intercourse for hire. Penalizing only women</p>	<ul style="list-style-type: none"> • An Assessment of Laws and Policies for the Prevention and Control of Trafficking in Nepal • Age of Consent
5	Sri Lanka	<ul style="list-style-type: none"> • Legal Aid commission • The Vagrants Ordinance 	<p>Sex work is said to be technically legal but practically illegal</p>	<ul style="list-style-type: none"> • Using human rights for SRH: improving legal and regulatory frameworks • Legal Aid Commission • Sri Lanka Advocacy Framework
6	General Regional Update			<ul style="list-style-type: none"> • South Asia Legal Environments for Men who have Sex with Men and Transgender People • Laws and Policies Affecting Sex Work • Responses to Human Trafficking Commercial Sexual Exploitation and Sexual Abuse of Children



REPRODUCTIVE HEALTH

No.	Country	Laws and policies	Problems / Controversies
1	India	<ul style="list-style-type: none"> • Right to Equality Act, CEDPA • MTP Act, ART Bill, PCPNDT Act • National Health Mission (NHM) –National Rural Health Mission (NRHM) Merger • Medical Termination of Pregnancy Act (MTP) Revision (2002) 	<ul style="list-style-type: none"> • Sexual and Reproductive Health of Young People in India • UN Criticizes India’s Health Policy on Women
2	Bangladesh		<ul style="list-style-type: none"> • Adolescent and Youth Reproductive Health in Bangladesh • Peace Women
3	Pakistan		Pakistan Gender News
4	Nepal	Reproductive health and rights are guaranteed but usually for heterosexual married couples only.	Eldis
5	Sri Lanka	<ul style="list-style-type: none"> • Legally enforceable fundamental rights were defined in several articles of Chapter III of the Constitution (1978) • Elimination of All forms of Discrimination Against Women (CEDAW, 1979). Ratified • Convention on the Rights of the Child (CRC) (1989). Ratified 	<p>Recurring debates on unsafe abortion</p> <p>Commonwealth Youth Forum 2013</p>
6	General Regional Update		Human Rights Watch