



**FRIEDRICH NAUMANN  
FOUNDATION** For Freedom.

South Asia

# **THE STATUS OF LGBTQIA+ INDIVIDUALS IN SOUTH ASIA: OPPORTUNITIES, CHALLENGES, AND THE PATH AHEAD**

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**ANALYSIS**



**The status of LGBTQIA+ individuals  
in South Asia: opportunities,  
challenges, and the path ahead**

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## About FNF



**FRIEDRICH NAUMANN  
FOUNDATION** For Freedom.

South Asia

The Friedrich Naumann Foundation for Freedom (FNF) is committed to advancing liberal democratic values, human rights, good governance, economic freedom and digital transformation globally. In line with this mission, FNF seeks to facilitate cooperation and mutual understanding between South Asian countries and European nations on LGBTQIA+ (Lesbian, Gay, Bisexual, Transgender, Queer, Intersex and Asexual) rights and issues.

## 1

# Executive Summary

Over the last two decades South Asia's progress towards legal recognition and social integration of LGBTQIA+ individuals across countries is marked with small steps forward and some major setbacks. In 2007, Nepal's Supreme Court ruled in favor of legal recognition of the third gender and decriminalization of homosexuality making Nepal the first South Asian and second Asian country after Taiwan to ascribe legal recognition to LGBTQIA+ individuals. In 2018, Pakistan's National Assembly passed the Transgender Persons Act (Protection of Rights), 2018 while in the same year the Supreme Court of India repealed parts of the Section 377 of its erstwhile penal code that criminalized homosexuality marking significant strides towards upholding human dignity and freedom of LGBTQIA+ individuals in the region.

This progress is however marked with prevalent social stigma, partial legal recognition of subsections of the LGBTQIA+ community, multiplicity of regulation and limited political will to pass comprehensive legislation safeguarding sexual and gender minorities. In India and Nepal, the decriminalization of homosexuality and the recognition of same-sex marriages are propelled by judicial decisions, while the respective legislatures are reluctant to pass supportive legislation. Bangladesh, India, and Pakistan have passed legislations recognizing transgender individuals, however the enactment of the acts is incomplete and continues to face political and social opposition. In 2023, Pakistan's Federal Sharia Court ruled some of the progressive provisions of Transgender Persons Act (protection of rights), 2018 incompatible with Islamic principles recommending significant amendments to the Act. In Bhutan and Sri Lanka there are promising developments towards legal recognition of LGBTQIA+ individuals; however, the trajectory of change has been slow and supported by a small section of policymakers. In parts of South Asia, LGBTQIA+ individuals face hostility and active threats to life with active interpretation of religious codes such as the Sharia Code.

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Social visibility of LGBTQIA+ individuals in the region has increased over the last two decades with the presence of active civil society groups, growing support by the corporates, and increased representation of LGBTQIA+ individuals in media, politics and judiciary. In recent years, social media presence of LGBTQIA+ individuals and advocacy groups has increased significantly providing both social visibility and global connections to the community. However the social stigma surrounding LGBTQIA+ individuals and the cases of harassment at the hands of law enforcing agencies are common across the region. Similarly, occupational barriers for LGBTQIA+ individuals prevail, and adverse experiences in access to health and educational opportunities are common, limiting dignity, individual freedom and opportunities of LGBTQIA+ individuals.

Keeping up with the global trends, south Asian countries are also witnessing the rise of socially conservative governments, the rise of populism<sup>1</sup>, economic crises and limited regional cooperation. These together pose a significant challenge to the progress towards comprehensive legal recognition and social integration of LGBTQIA+ individuals across the region. Over the next few years LGBTQIA+ individuals of South Asia will require global support of governments, policymakers, civil society groups, private sector, and opinion makers towards removing opportunity barriers and safeguarding individual freedom and dignity.

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<sup>1</sup> Chacko, Priya & Jayasuriya, Kanishka. (2018). Asia's Conservative Moment: Understanding the Rise of the Right. *Journal of Contemporary Asia*. 48. 1-12. 10.1080/00472336.2018.1448108.

## 2 An opportunity to advance human dignity, individual freedom and constitutional rights of LGBTQIA+ individuals in South Asia

The South Asian queer community has a distinctive historical coexistence and deep cultural roots. In the Indian subcontinent, terms like “Hijra,” “Khwaja Sarah,” “Nachchi,” and “Koti” exist in various regional languages, recognizing a distinct ‘third gender’. References to gender diversity and same-sex relationships also appear in Hindu mythology<sup>2</sup>. Yet a large share of the population perceives LGBTQIA+ rights as a ‘western’ or an ‘urban elitist’ concept and a threat to traditional values of the region. A survey by Pew Research Centre in 2019, observed that over 60% of respondents in India do not believe that homosexuality should be accepted by society.

The legislators and policymakers in the region remain less forthcoming towards LGBTQIA+ rights. Over the years, only a handful of members of Parliament in Bhutan, India and Sri Lanka have proposed decriminalization of homosexuality and same sex relationships through private member bills. None of the current ruling parties in the region are actively in support of LGBTQIA+ rights whereas a handful of opposition parties have LGBTQIA+ rights on their official agendas. The ruling parties of Afghanistan and the Maldives nurture active hostility towards LGBTQIA+ rights. Physical attacks on LGBTQIA+ individuals by fringe political groups, although on a mend, are common across South Asia.

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<sup>2</sup> <https://www.galva108.org/single-post/2014/05/15/Homosexuality-Hinduism-the-Third-Gender-A-Summary>

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The current political environment in the region, similar to the global trend, is marked with emergence of conservative governments, social polarization, and economic crisis. Regional cooperation in South Asia remains low with limited transport networks, and weak trade relations within the region, in addition to the political hostility between countries. Some of the traditional platforms such as SAARC have become defunct over the last few years owing to the political hostility between the member countries.

In the backdrop of these challenges, there are some remarkable legal and social developments in the region that provide opportunities to safeguard human dignity and freedom of LGBTQIA+ individuals in South Asia in the near future. Over the last two decades, there has been a positive change in legal status of LGBTQIA+ individuals in six out of eight South Asian countries. Two significant changes include

1. Legal recognition of transgender rights in Bangladesh, India, Nepal, and Pakistan
2. Steps towards decriminalization of homosexuality in Bhutan, India, Nepal and Sri Lanka. Similarly, in 2019, The Human Rights Commission, Sri Lanka (HRC SL)'s passed guidelines for its police officers to protect transgender persons against harassment, In 2021, Bangladesh announced tax incentives for businesses employing transgender individuals and in 2022, the Ministry of Social Justice, India launched a national portal for transgender persons to boost comprehensive social and economical integration of the community, marking early signs of openness of government institutions towards LGBTQIA+ inclusion.

Over the years, a supporting ecosystem comprising key stakeholders such as civil society groups, private companies, media and opinion makers that supports LGBTQIA+ rights has developed across South Asia. Younger populations in urban pockets such as Colombo, Delhi and Karachi are becoming aware and supportive of the rights of the LGBTQIA+ community. Rapid digital growth and access to mobile internet have connected South Asian communities with the rest of the world more strongly in recent years<sup>3</sup>. The emergence of digital

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<sup>3</sup> <https://www.tbsnews.net/economy/south-asia-least-integrated-region-world-report-668658>

platforms has also contributed significantly to a thriving South Asian queer subculture. There is an increased connection between members of the LGBTQIA+ community via dating applications and social media platforms. Positive representation of LGBTQIA+ stories in mainstream media has increased with the emergence of OTT platforms.

There is an immense opportunity amidst political and social complexities to support incremental policy changes advancing LGBTQIA+ inclusion, to enhance human dignity through better access to health and education and to advance individual freedom of sexual and gender minorities through removal of occupational barriers and opening economic opportunities. South Asia is home to some of the world's ancient cultures, largest democracies and a quarter of the world's population. An advancement in constitutional rights of LGBTQIA+ individuals in the region holds the potential to catalyze advancement of democracy, human dignity and individual freedom across the world.

# 3 Status of key indicators of legal recognition and social integration of LGBTQIA+ individuals

## 3.1. Legal Status

Since 2010, Bangladesh, Bhutan, India, Nepal, Pakistan and Sri Lanka have progressed towards legal recognition of transgender identity. Bhutan, India, Nepal and Sri Lanka have also made progress in decriminalizing homosexuality, with Nepal recently taking a step forward towards formal recognition of same-sex relationships<sup>4</sup>. In Afghanistan and the Maldives, the LGBTQIA+ community has witnessed setbacks with the respective governments' interpretation of the Sharia law, which has stringent punishments for gender diversity and same-sex activity.

### **Country-wise status of legal recognition of gender identities and sexual orientations In progress**

**Table 1: Legal Status of LGBTQIA+ Communities in South Asia**

Source: Official documents and interpretations of the respective legislations across countries

	Legal as per the international inclusion standards
	Conditional / In progress
	Illegal / No Provision

<sup>4</sup> <https://www.reuters.com/world/asia-pacific/activists-hail-nepal-ruling-allowing-same-sex-marriage-2023-06-30/>

S.no	Areas of Inclusion	Identities Affected	Afghanistan	Bangladesh	Bhutan
1	Decriminalisation of same-sex activity between consenting adults	Same sex activity	<p>1. Illegal as per the The Penal Code of 1976</p> <p>2. Illegal as per the Islamic law of Afghanistan</p> <p>3. Provision for death penalty</p>	<p>1. Illegal as per the Section 377 of Bangladesh Penal Code, 1860.</p> <p>2. Provision for death penalty, lifetime imprisonment with hard labour, and fine</p>	<p>1. Legal as per the Section 213 of the Bhutan Penal Code amended in 2021</p>
2	Official recognition of same sex relationships, marriages or civil unions	Same sex activity	<p>1. Illegal</p>	<p>1. Illegal</p>	<p>1. Same-sex relationships, marriages and civil unions are not recognised</p> <p>2. Revision proposed to the parliament in 2018</p>
3	Recognition of gender identity beyond male and female binary (as other, or third gender)	Gender identity	<p>1. Illegal as per the Islamic law of Afghanistan</p>	<p>1. Can register as Hijra gender as the the gazette notification by Ministry of Social Welfare of Bangladesh, 2015</p>	<p>No Provision</p>
4	Provision for gender self identification	Gender identity	<p>No provision</p>	<p>No provision</p>	<p>No provision</p>
5	Provision for updating gender in official documents	Gender identity	<p>No provision</p>	<p>No provision</p>	<p>No provision</p>

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India	Maldives	Nepal	Pakistan	Sri Lanka
1. Legal via partial reading down of Section 377 by the Supreme Court judgement in 2018	1. Illegal as per the section 411(2) of Maldives Penal Code. 2. Provision for up to 8 years of imprisonment with whippings, house arrest, fines, and deportation	1. Legal as per the Supreme Court ruling 2007	1. Illegal as per the Article 377 of Pakistan Penal Code 2. Illegal as per the Hudud Ordinances, 1979. 3. Provision for imprisonment between 2 to 10 years and fine	1. Illegal as per the Article 365 of Sri Lanka Penal Code. 2. Article 365 ruled unenforceable by the Supreme Court with proposed legalisation 3. Private member bill proposed in the parliament for repeal of Article 365
1. Same-sex relationships and marriages are not recognized 2. Supreme Court hearing ongoing on Same-sex marriages	1. Illegal	1. De jure legal as per the Supreme Court judgement of 2023	1. Same-sex relationships and marriages are not recognized	In progress
1. Legal as per the Transgender Persons (Protection of Rights) Act, 2019 with a requirement for gender affirmation surgery	No Provision	1. Legal as per the Supreme Court judgements in 2007, 2017, and 2022	1. Legal as per the Transgender Persons (Protection of Rights) Act, 2018 2. Illegal as per the judgement of Federal Shariat Court, May 2022 3. Amendment to the 2018 Act proposed in senate	In progress
1. Option to recognize as Third Gender or Other 2. District Magistrate's approval required confirming gender identity	No Provision	1. Option to recognize as Third Gender or Other as per the Supreme Court judgement, 2007	1. Legal as per the Transgender Persons (Protection of Rights) Act, 2018 2. Illegal as per the judgement of Federal Shariat Court, May 2022	In progress
1. Yes. Article 15 of the Constitution of India 2. Provisions under Transgender Persons (Protection of Rights) Act, 2019	No Provision	1. Yes. Articles 18(3) and 42(1) of the Constitution of Nepal (2015)	1. Legal as per the Transgender Persons (Protection of Rights) Act, 2018 2. Illegal as per the judgement of Federal Shariat Court, May 2022	In progress

**Table 2: Individual rights of LGBTQIA+ community: A comparative table**

S.no	Social Inclusion parameters	Afghanistan	Bangladesh	Bhutan	India	Maldives	Nepal	Pakistan	Sri Lanka
1	Protocols for businesses, employers, and educational institutions against discrimination based on sexual orientation	No	No	Limited	Limited	No	Limited	No	Limited
2	Protocols for businesses, employers, and educational institutions against discrimination based on gender identity	No	Yes	Limited	Yes	No	Yes	Limited	Limited
3	Right to adopt, and/or have a child through legal surrogacy or IVF for same sex individuals	Illegal	1. No provision for same-sex couples 2. Single persons can adopt	1. Partial 2. No provision for same-sex couples 3. Single persons can adopt with conditions	1. Partial. 2. No provision for same-sex couples 3. Single persons can adopt	Illegal	1. Partial. No provision for same-sex couples 2. Single persons can adopt	Illegal	Illegal
4	Prohibitions in social participation such as blood donation	Not known	No	Not known	Yes	No	Yes	Yes	Yes
5	Existence of laws that restrict freedom of expression, and complete social participation of LGBTQIA+ individuals	Yes	Yes	No	Limited	Yes	No	Yes	Yes
6	Presence of government bodies such as Human Rights commissions with sensitisation towards LGBTQIA+ persons	No	Yes	Yes	Yes	No	Yes	No	Yes

### Recent Developments

#### 1. Decriminalization of same-sex activity between adults:

In Bangladesh, India, Pakistan and Sri Lanka, the sections criminalizing consensual same-sex activity among adults were originally part of the colonial-era penal codes. These were partially struck down in India and Sri Lanka in the last decade. The Supreme Court of Sri Lanka, in its 2017 judgment, termed sections of Article 365 and 365 A of the Sri Lanka Penal Code, 1883, as unenforceable. Bhutan's parliament amended Section 213, in 2021, as a step towards legal recognition of LGBTQIA+ individuals.

#### 2. Formal recognition of same-sex relationships:

In June 2023, the Supreme Court of Nepal passed a judgment recognizing same sex marriages. In October 2023, the Indian Supreme Court bench comprising five judges ruled that the decision of same sex marriages lies with the parliament. A curative petition is filed in the apex court seeking revision to its ruling. Over the previous decade, provincial High Courts in India have upheld the rights of cohabitation of same-sex couples.

#### 3. Recognition of Transgender and Intersex rights<sup>5</sup>:

Since 2015, the legal recognition of transgender rights has gained reasonable momentum in the region. Six out of eight countries in the region have initiated the process of recognition of transgender rights to varying extents, barring Afghanistan and the Maldives. Of these, Bangladesh, India and Pakistan have passed formal legislation recognizing transgender rights; in Nepal and Sri Lanka, court judgements have upheld transgender rights. In Bhutan, while there is no specific legislation recognizing transgender rights, an overarching discussion on LGBTQIA+ rights has gathered steam in its parliament in recent years.

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<sup>5</sup> <https://apnews.com/article/pakistan-transgender-courts-b1674911f47712782e8947ef273382ba>

#### 4. Partial recognition of transgender rights:

The two main concerns in this regard are:

A. The use of restrictive terms such as ‘Third Gender’ or ‘Hijra’. These terms exclude intersex individuals (gender ambiguity at birth) and those who do not conform to the conventional male and female gender binary (gender identity different from that at birth).

B. The requirement of validation of the ‘transgender statuses’. In India, the rules of Transgender Act of 2019 require individuals to procure a certificate from a district magistrate affirming the individual’s transgender status. This contradicts the principle of self-determination of gender. The requirement of a mandatory medical certificate of Gender Reassignment Surgery, among other procedural ambiguities, contradicts with individual rights.

#### 5. Setbacks in Afghanistan and Maldives with active interpretation of religious laws:

In 2018, the Afghan Penal Code was amended to allow for imposition of the death sentence for same-sex sexual relations<sup>6</sup>. In the Maldives, consensual same-sex activity was largely blindsided under its civil law. A new Penal Code informed by Sharia code was introduced in 2015, which criminalizes same-sex sexual acts for both men and women of all religious faiths<sup>7</sup>. In 2022, Pakistan rolled back key provisions of its progressive Transgender Persons (Protection of Rights) Act, 2018, due to directives of the Federal Sharia Court and mounting pressure from religious political factions<sup>8</sup>.

#### 6. Multiplicity of legal provisions:

Multiple legislations in employment, family and civil rights domains across South Asian countries impact the legal status of the LGBTQIA+ community. Some examples of these legislations include India’s laws against commercial sex work, which impact its transgender community, and Sri Lanka’s anti-vagary and impersonation laws that deprive transgender individuals of formal identity and access to government schemes attached to the same. Cases of discrimination

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6 <https://www.uscirf.gov/sites/default/files/2021-03/2021%20Factsheet%20-%20Sharia%20and%20LGBTI.pdf>

7 Maldives’ Penal Code - Law No. 6/2014; [accessible here](#)

8 [https://na.gov.pk/uploads/documents/1526547582\\_234.pdf](https://na.gov.pk/uploads/documents/1526547582_234.pdf)

of LGBTQIA+ individuals at the hands of police and other government authorities using provisions under these legislations are common across the region.

### 3.2. Health

There are some noteworthy efforts made in recent years in enhancing healthcare access and experience of the LGBTQIA+ community. These include, government initiatives for sensitization of healthcare workers towards transgender issues in Bangladesh, India and Pakistan, inclusion of LGBTQIA+ health issues in medical curriculum in India and provision of queer affirmative health services by charitable organizations etc. The prevalence of HIV and Sexually Transmitted Diseases (STDs) among the LGBTQIA+ community in South Asia is high. Several charitable organizations working in this area have been primary sources of support for queer individuals over the years. Their community awareness programs have been a strong link between the LGBTQIA+ community and society. Some common healthcare challenges that the South Asian LGBTQIA+ community faces are as follows.

#### 1. Stigma around sexual and reproductive health:

Accessing sexual and reproductive health is considered taboo in South Asian societies that embrace traditional values. Research<sup>910</sup> indicates that individuals are uncomfortable accessing sexual health services and communicating their sexual health concerns with families and healthcare professionals. Some of the key barriers to sexual healthcare include a sense of shame, concerns about confidentiality and a lack of trained sexual healthcare providers, among others.

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9 Kiridaran V, Chawla M, Bailey JV. Views, attitudes and experiences of South Asian women concerning sexual health services in the UK: a qualitative study. *Eur J Contracept Reprod Health Care.* 2022 Oct;27(5):418-423. doi: 10.1080/13625187.2022.2096216. Epub 2022 Jul 28. PMID: 35899823. [10 https://www.gripp.net/post/sexual-reproductive-health-services-in-south-asia-the-need-for-an-intersectional-approach](https://www.gripp.net/post/sexual-reproductive-health-services-in-south-asia-the-need-for-an-intersectional-approach)

## **2. Need for enhanced access to healthcare by LGBTQIA+ individuals:**

LGBTQIA+ affirmative healthcare is yet to develop in most South Asian countries. In its absence, discrimination is commonplace, limiting LGBTQIA+ individuals' access to and quality of healthcare services. Research shows that the individuals who openly express their LGBTQ+ identity or appear "visibly queer" to healthcare face more direct forms of discrimination including care refusal, inadequate treatment or sexual abuse<sup>11</sup>. Apart from discrimination, other factors such as the urban-rural divide, caste and financial status also limit their avenues to healthcare.

## **3. Cost of healthcare services an issue for economically weaker members of the LGBTQIA+ community:**

Countries like Bangladesh, India, Nepal, Pakistan and Sri Lanka spend less than 3% of their GDP on healthcare<sup>12</sup>. In addition, available public healthcare services are often of poor quality, which necessitates resorting to private healthcare. Reports indicate that only sub-Saharan Africa has poorer public healthcare than most South Asian countries, barring Sri Lanka. Costs of private healthcare in South Asia have increased, making them inaccessible to LGBTQIA+ individuals, many of whom cannot seek family support in bearing such costs. For instance, some of the specific services required by LGBTQIA+ individuals such as gender affirmation surgeries cost anywhere between 1000 to 9000 euros in countries like India and Pakistan.

## **4. An underserved need for quality mental health services:**

Members of the LGBTQIA+ community across the region are exposed to prolonged social invalidation, lack of acceptance from families, bullying and harassment. These issues collectively make them vulnerable to a range of mental health issues. Research on this aspect is limited, but several small studies in Bangladesh, India, Nepal and Pakistan show an alarming prevalence of moderate to severe depression and suicidal tendencies among LGBTQIA+ individuals.

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<sup>11</sup> Data inferences for this report from "Healthcare, culture & curriculum: addressing the need for LGBTQ+ inclusive medical education in India" Lancet Regional Health, 2021

<sup>12</sup> van Weel C, Kassai R, Qidwai W, Kumar R, Bala K, Gupta P.P, Haniffa R., Hewagegana N.R., Ranasinghe T., Kidd M., Howe A. Primary healthcare policy implementation in South Asia. *BMJ global health*. 2016 Sep 1;1(2)

Some of the most commonly reported reasons for these include lack of acceptance by family and society, institutional discrimination and harassment and fear of prosecution.

**Note:** Status of access to specific health services such as surrogacy and IVF are mentioned under civic participation, see table 2

### 3.3. Education

As global awareness of inclusive education with an LGBTQIA+ focus increases, South Asia is also beginning to take steps in this direction. In recent years, some remarkable governmental and civil society initiatives have been launched across the region to cater to the educational needs of the transgender community. Similarly, there are some notable state-driven educational efforts towards inclusive education e.g. Inclusion of LGBTQIA+ awareness in school curriculum in Tamil Nadu, India<sup>13</sup> and 'Transeducation', an initiative of the school education department, South Punjab, Pakistan, that focuses on teacher training programs for education for the transgender community<sup>14</sup>. There are other notable examples, such as the opening of the first madrasah, a religious school, for transgenders in Bangladesh by a private charitable organization, and the start of a free school for transgenders in Lahore, Pakistan.

Some challenges that persist in terms of access and quality educational experience of LGBTQIA+ students are discussed below.

#### **1. Bullying and harassment in educational institutions:**

LGBTQIA+ students experience harassment, sexual exploitation and bullying more often than other students on educational campuses across the region. Several surveys in Bangladesh, India and Pakistan have pointed towards an alarmingly high prevalence of negative educational experiences by LGBTQIA+ students. As per the National Human Rights Commission of India report, 2020, 82 % students experienced bullying targeting sexual orientation the past

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<sup>13</sup> <https://thelogicalindian.com/lgbtq/tamil-nadu-govt-include-lgbtqia-issues-school-curricula-work-towards-inclusivity-39172>

<sup>14</sup> <https://schooleducation.southpunjab.gov.pk/transeducation/>

year, despite laws against ragging and bullying. There are limited institutional safeguards preventing such harassment.

## **2. Limited infrastructure:**

Public schools in the region have major infrastructure issues. The specific requirements of access to washrooms, privacy in shared spaces (such as hostels) are absent.

## **3. Sensitization of key stakeholders:**

Countries like Bangladesh, India, Nepal and Pakistan have large public schooling and thriving private schooling systems. A significant share of children from low income families are enrolled in affordable private schools. Often, teachers in such schools are not trained on advanced pedagogical practices as well as sex and sexuality education. In absence of such training, cases of insensitive remarks invalidation, and labeling of students are common.

**Note:** *Due to limited data on education achievement levels, drop-outs of LGBTQIA+ students, the insights on the same are not shared. There are some surveys pointing towards low education levels among the transgender community. In some countries census surveys have collected data on transgender communities however, these datasets were not available in the public domain at the time of writing this report.*

### 3.4. Employment

In the last decade, there are some significant advancements towards removal of occupational barriers and providing meaningful employment opportunities to LGBTQIA+ individuals in South Asia. In case of the transgender community, several governmental and civil society initiatives towards skill development and employment stand out as noteworthy examples of enhanced employment opportunities. In 2021, Bangladesh announced tax rebate to enterprises employing a certain number of transgender individuals, recently India removed barriers to employment of transgender individuals in government jobs. These initiatives, among other benefits, also allow for formal employment of transgender individuals- a progress from begging and sex work which were traditional professions of the transgender community in the Indian subcontinent.

#### **1. Inclusive private sector workplaces:**

Large private sector firms in the region are increasingly recognizing the business case of diversity and inclusion, which in turn has propelled workplaces adapting inclusive practices. There is limited data available in terms of experiences of LGBTQIA+ employees employed in small private firms as well as in government sector jobs. However, it is an important area of focus considering that the small private enterprises and lower-level government jobs employ a sizeable portion of the population in South Asia.

#### **2. Occupational barriers exist:**

Occupational barriers, such as prevention of LGBTQIA+ individuals in armed forces prevail across the region. In 2023, an appointment of an individual from LGBTQIA+ community as the High Court judge in India was contested by the government on the grounds of sexual orientation. The Supreme Court collegium of India termed government's stands as invalid while upholding the appointment. There are several such examples of denial of employment to LGBTQIA+ individuals on the grounds of sexual orientation.

### **3. Workplace harassment:**

There are significant gaps in data on employment status and experiences of LGBTQIA+ individuals in the region. However, surveys by civil society groups and some large private sector firms demonstrate alarmingly high rates of negative workplace experiences of LGBTQIA+ individuals. While codes for prevention of sexual harassment at workplaces exist, there is a scope to enhance the ambit of these codes to sexual and gender minorities. Research shows that social stigma around sexuality and gender identity also prevents individuals from seeking formal help in case of negative workplace experiences.

# 4 A solutions-driven approach to advance individual dignity and freedom of LGBTQIA+ individuals

Recent policy changes in South Asia have opened opportunities for progress across key indicators that include increased civic participation, improved healthcare access, inclusive education and meaningful economic growth opportunities for LGBTQIA+ individuals. Strategic interventions in these domains can act as building blocks towards achieving overarching policy objectives. In this section, some potential areas of intervention are discussed against the backdrop of status, opportunities and challenges explored in the rest of this report.

## **1. Build blocks towards major policy wins, with a solutions-driven approach:**

An ecosystem supporting LGBTQIA+ rights is gathering in Bhutan, Bangladesh, India, Nepal, Pakistan and Sri Lanka. This is an opportunity for strategic engagement with key government and quasi-governmental agencies, viz. Human Rights Commissions, members of the judiciary and policymakers on the issues of legal recognition. Similarly, institutions such as schools and school education departments, employers and health providers increasingly forthcoming about LGBTQIA+ issues provide opportunities for inclusion of LGBTQIA+ individuals in important domains such as education, employment and health, respectively. A sustained engagement with the existing ecosystem can help achieve several small wins, building towards greater social inclusion and major policy changes.

## **2. Implementation of policies with a focus on economic empowerment:**

The traction that transgender rights have recently gained in critical parts of the region provides a great opportunity to ensure last-mile reach of the policies. In Bangladesh, India and Pakistan, the governments have moved towards institutionalization of transgender rights through agencies such as Transgender Welfare Boards. Several noteworthy initiatives of these agencies are described in the sections above. In countries like Bhutan and Nepal, there is an excellent opportunity to build knowledge partnerships with the federal governments in advancing same-sex relationship reforms with European expertise in the domain.

## **3. Scope to drive evidence-based LGBTQIA+ policy reforms:**

There is potential to collect and analyze quality data on the LGBTQIA+ community in most countries of the region. Policy reforms and implementation of policies require quality as well as independent data that can support the judiciary as well as policymakers. Between academic research and advocacy campaigns, a gap exists in terms of policy-focused research with respect to LGBTQIA+ rights. Examples of such gaps include the experiences of intersex and asexual individuals and those of LGBTQIA+ individuals in rural areas, belonging to historically marginalized groups within the country, among others.

## **4. Crisis support for LGBTQIA+ individuals in Afghanistan and the Maldives:**

There is an increasing need for active support to individuals from the LGBTQIA+ community seeking refuge and asylum in Europe, owing to threats to their life and dignity.

## **5. Country and segment-specific approaches can yield greater impacts:**

With vast differences in cultural, social attitudes and political environments in the region, a country-specific approach to reforms is required. Cluster-specific approaches for countries that are at a similar stage of policy reforms could be another route to staging direct interventions. Similarly, different subgroups within the

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LGBTQIA+ spectrum are at different stages of acceptance and social recognition. The political and cultural contexts for the same are discussed in this report; hence, nuanced approaches catering to specific subgroups might prove effective.

# 5 An opportunity for greater cooperation between South Asia and Europe on LGBTQIA+ issues

The relationship and cooperation between South Asia and Europe have been on an upwards trajectory in recent years. Per the European parliament fact sheet, 2021<sup>15</sup>, the European Union (EU) has become one of South Asia's largest trading partners and a key source of foreign investment. Countries across the South Asian region have historical ties with Europe spanning trade, tourism, security, health, education, culture and human rights. In countries in economic crisis, such as Pakistan and Sri Lanka in the region, the EU and individual European countries have played a significant role via its financial assistance as well as aid in recent years. With the SAARC being largely defunct over the last decade, the current cooperation between Europe is through two channels

1. Country to country relationships
2. EU to individual South Asian countries. In this section, current prospects of cooperation between Europe and Asia in the context of LGBTQIA+ rights are discussed

## **1. The EU's strategic focus on cooperation with South Asia, provides an opportunity for advancement of LGBTQIA+ rights in the region:**

EU's 2021 strategy<sup>16</sup> for greater cooperation in the Indo pacific region includes fostering democracy, good governance and human rights. The EU has been a significant development and aid grantmaker for most South Asian countries over the last two decades. Similarly,

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<sup>15</sup> <https://www.europarl.europa.eu/factsheets/en/sheet/181/south-asia>

<sup>16</sup> IBID

countries such as Germany<sup>17</sup> have an exclusive LGBTQIA+ inclusion focus in their foreign policy strategy. In South Asia, there is some recent progress on LGBTQIA+ rights, especially in the area of transgender rights and decriminalisation of homosexuality. Together, these provide an opportunity for greater inter-government cooperation towards advancing LGBTQIA+ rights.

### **2. Europe has led the path for LGBTQIA+ rights, setting an example for South Asia:**

Per the ILGA report, 2022 (citation), major parts of Europe are at an advanced stage of LGBTQIA+ rights. Apart from wider social acceptance, the countries have a vast body of research, concrete legislation, and strategic focus on LGBTQIA+ inclusion. Through greater knowledge sharing between the change ecosystem in South Asia and European LGBTQIA+ community and policymakers, South Asian countries can benefit from Europe's expertise.

### **3. There is a thriving South Asian diasporic LGBTQIA+ community in Europe:**

There is a vast community of South Asian students, and skilled workforce from LGBTQIA+ community in Europe. This community has been exposed to the European reforms in the areas of LGBTQIA+ rights. With its strong linkages back home, the diaspora LGBTQIA+ community remains a strong area of connection between Europe and South Asia.

### **4. European cultural institutions form a critical part of the emerging support system for LGBTQIA+ rights in South Asia:**

The EU mission offices and other country specific cultural institutions such as the Goethe Institut, Alliance française exist in parts of South Asia. Over the last two decades, these institutions have played a pivotal role in promotion of LGBTQIA+ art and artists, and activists in respective South Asian countries, among other areas of work. These institutions can continue to serve as Europe's on-ground champions advancing LGBTQIA+ acceptance in South Asia.

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17 <https://www.auswaertiges-amt.de/blob/2445310/7a532b519e092ed-6117535b78209162e/210226-inklusionskonzept-pdf-data.pdf>

### **5. European countries remain safe havens for LGBTQIA+ refugees from South Asia:**

Active hostility and violence towards LGBTQIA+ community members is not a distant past for many South Asian countries. In Afghanistan and Maldives active threats and fear of persecution of LGBTQIA+ individuals remains a reality. Many European countries have provided refuge and asylum to South Asian LGBTQIA+ individuals in distress. There is a growing need for such efforts with the rising threat to LGBTQIA+ communities in Afghanistan and Maldives.

### **6. Intergovernmental relationships between Europe and South Asia on LGBTQIA+ issues are limited:**

LGBTQIA+ issues are politically sensitive hence the EU representation in South Asia is often hesitant to advocate these issues directly, especially with the government. Current governments in South Asian countries such as India are actively opposed to international intervention in the country's Human rights issues. Hence, the EU's proactive role in advancing LGBTQIA+ rights in South Asia is desirable, but political cooperation on LGBTQIA+ rights remains unpredictable in parts of the region.

## 6 Use of terminologies

1. In this paper, commonly used terms, such as LGBTQIA+ or Queer, are used as umbrella terms for persons of various sexual orientations, gender identities, gender expressions and sex characteristics.

2. Full forms of L (Lesbian), G (Gay), B (Bisexual), T (Transgender), I (Intersex) and A (Asexual) are used while referring to the specific identity/ orientation.

3. The term SOGIESC or SOGIESC persons is more commonplace in current international research literature and discourse. The author understands that some of these terminologies are evolving; hence, the omission of terminologies, identities and expressions, if any, is purely accidental.

UNDP in its LGBT Inclusion Index<sup>18</sup> provides following the definitions of commonly used terminologies related to the LGBTQIA+ community:

4. **Sexual orientation** can refer to a self-identity, to attraction to people of the same and/ or different sex, or sexual behavior with people of the same and/ or different sex. In this paper, we use gay (for men) and lesbian (for women) to refer to people with those self-identities or who are primarily attracted to or have sex with people of the same sex.

5. **Gender identity** refers to each person's deeply felt internal and individual experience of gender.

6. **Gender expression** refers to how people express femininity, masculinity, or characteristics associated with a non-binary gender in their appearance, speech, or other behaviors. Individuals may express themselves in ways that do not match their assigned sex at birth, putting them at risk of stigma, violence, and discrimination,

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18 Badgett, M.V.L., & Sell, R. (2018). A Set of Proposed Indicators for the LGBTI Inclusion Index. New York: UNDP.

regardless of their gender identity or sexual orientation. In “LGBTI”, “transgender” stands for people with gender identities other than their sex assigned at birth as well as those with gender expressions that do not match their sex assigned at birth.

7. **Sex characteristics** refer to biological aspects that relate to sex and are divided into primary and secondary sex characteristics. Primary sex characteristics are those that are present at birth – chromosomes, gonads, hormones, outer and inner genitalia. Secondary sex characteristics are those that develop at puberty, such as breasts, facial and pubic hair, the Adam’s apple, muscle mass, stature and fat distribution. A person is considered intersex if they are born with, or during puberty develop, sex characteristics that do not fit the typical binary understandings of male or female categories. Some people with such characteristics explicitly identify as “intersex,” while others do not.

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## About the Author

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Ruhaan is an experienced public policy professional working at the intersection of public policy, and financial and individual inclusion. For a large part of Ruhaan's career, he has worked with non-profits, government agencies and think tanks driving large-scale policy reforms in education and skilling domains in South Asia.

Currently, Ruhaan works as an independent public policy consultant driving regulatory reforms advancing economic freedom collaboration with central and state governments. Other part of Ruhaan's work focuses on public policy pertaining to financial and social inclusion of LGBTQIA+ community across South Asia. Rohan has a master's degree from Tata Institute of Social Sciences where he read education, child cognitive development and policy.



