

Nepal

LGBTI

Landscape Analysis of Political,
Economic, and Social
Conditions

June 2021



Executive
Summary



ASTRAEA LESBIAN FOUNDATION FOR JUSTICE

Contents

Executive Summary.....	3
Online Communities and Digital Activism	5
Recommendations for Funders.....	6

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We are grateful to the following movement actors and organizations without whose valuable insights and generosity this report would not be possible: Body & Data, Blue Diamond Society, Inclusive Forum Nepal, Campaign for Change, Sudur Paschim Samaj Nepal, Queer Youth Group, Unity for Change, Madhesh, Mitini Nepal

This report was produced by The Astraea Lesbian Foundation for Justice, the only philanthropic organization working exclusively to advance LGBTQI rights around the globe. Astraea supports hundreds of brilliant and brave grantee partners in the U.S. and internationally who challenge oppression and seed social change. We work for racial, economic, social and gender justice, because we all deserve to live our lives freely, without fear, and with profound dignity.

Cover photo: Intersex Nepal

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Executive Summary

Building on Astraea’s 2015 case study, this landscape report provides an overview of progress and challenges in advancing the rights of LGBTQI+ people in Nepal, and the complexities and priorities of LGBTQI+ movements in the country.¹ From recognition of a “third gender” to constitutional rights and non-discrimination guarantees for gender and sexual minorities, Nepal’s achievements are unique in the region. At the forefront of these developments are non-governmental and community-based organizations that continue to shape and reshape Nepal’s queer movements.

Unlike its neighboring countries, Nepal does not have a legacy of British colonial rule and therefore did not inherit a penal code criminalizing same-sex acts. In fact, Nepal became the first country in the region to offer protections to the LGBTQI+ community after a landmark 2007 Supreme Court ruling.² The court ordered the government to ensure that people of different gender identities and sexual orientations could enjoy their rights without discrimination; enjoined the creation of a legally recognized third gender category; and dictated that a committee be established to study same-sex marriage. In 2015, Nepal’s democratic transition entered a new phase with the promulgation of a new constitution that enshrined protections for LGBTQI+ communities.

Despite these successes, LGBTQI+ communities still contend with deeply patriarchal systems, unequal treatment before the law, as well as violence and discrimination. Requirements for legal gender recognition are onerous and degrading, and force people to choose a category of “other” gender. A 2020 proposal to amend

¹ For the purposes of this report, LGBTQI+ and queer are used interchangeably while acknowledging that these terms are insufficient to capture the diversity of Nepal’s communities, whose members may identify as one or more culturally and regionally specific identities.

² International Commission of Jurists (2017, December 21). Nepal: Implement Supreme Court Ruling on Protecting the Rights of LGBTI Persons. Retrieved from <https://www.icj.org/nepal-implement-supreme-court-ruling-on-protecting-the-rights-of-lgbti-persons/>

Nepal’s Citizenship Act requires those seeking the “other” marker to provide medical and surgical verification of a sex change. Nepal’s Civil Code does not recognize



Photo credit: Intersex Nepal

same-sex marriage.

LGBTQI+ rights movements gathered pace in Nepal in the late 1990s to early 2000s and were fused with the country’s movements for democratic rights in which queer communities played active roles. While early organizing spaces and networks emerged in connection to HIV and AIDS programs and primarily centered gay men and trans women, there has been a flourishing of newer organizations attuned to the various interests and demands of Nepal’s diverse queer communities. Reflective of the country’s many pluralities, their interests intersect with and vary based on class, caste, religion, geographic location, and other factors. Unlike countries where homosexuality is criminalized, Nepali organizations, networks, and collectives can openly organize, allowing them to build long-term partnerships with like-minded organizations and create coalitions around specific demands.

Nepal’s LGBTQI+ movements continue to organize for policy, legal, and regulatory changes, primarily because legal protections on paper have not translated into structural, systemic changes. Current laws are not comprehensive enough to guarantee rights, and there are discrepancies



Photo credit: Body & Data

and confusion in their application. A 2020 *National Charter of Demands on Legal Recognition of Gender Identity* created by queer activists and organizations calls for ending the use of the “other” gender category, simplifying official processes, and removing barriers so that individuals can change their gender marker and name on the basis of self-identification and self-determination.³ While same-sex marriage recognition remains an advocacy priority, activists are calling for a more complex understanding of marriage as an institution. Alongside these demands, LGBTQI+ organizations are pursuing physical and mental health programs, and expansion of education and employment opportunities for queer communities.

In the words of grassroots activists, Nepal cannot rest on praise from the international community promoting it as a bastion of progress on LGBTQI+ rights when the country has a long way to go in achieving widespread and sustained progress. There is a growing field of engagement and approaches around LGBTQI+ issues in Nepal, with organizations balancing short- and long-term priorities with emerging needs and available resources. In supporting this work, funders should understand the diversities within LGBTQI+ communities as they advocate for their interests, and any meaningful progress must reflect those multiplicities.

³ Youth Voices Count (2020, May 19). National Charter of Demands Legal Recognition of Gender Identity. Retrieved from <https://yvc-asiapacific.org/2020/05/19/national-charter-of-demands-on-legal-recognition-of-gender-identity>

Online Communities and Digital Activism

LGBTQI+ activism gained pace in Nepal around the same time that the internet became widely accessible, including as a tool for political activism. The internet became a space for networking, building community, and exploring sexual expression, as well as a place where women and queer people faced harassment and bullying and had to practice self-censorship. The report by Body & Data, *Beyond Access: Women and Queer Persons with Disabilities Expressing and Exploring Sexuality Online*, illustrates these tensions, describing how people with disabilities use digital spaces to explore their many identities as well as the challenges they experience around privacy, disclosure, and expectations related to disability in these spaces. As one interviewee in the report put it, “In [the] queer community, everything starts from online.”⁴

More recently, young queer-led organizations like Queer Youth Group are using digital activism to expand the movement and engage with increasingly internet-savvy youth. Digital rights and freedom of expression in online spaces, inclusive of sexual rights and expression, have emerged as areas of advocacy.

Body & Data encapsulates the approaches and strategies of such newer organizations, working at the intersection of digital rights, gender and sexuality as opposed to LGBTQI+ issues broadly. A feminist organization with a staff and board comprised of indigenous women and queer-identified people, Body & Data works to ensure that women’s and queer people’s digital experiences are based on autonomy,

4 Kayastha, S. and M. Pokharel (2020). Women and queer persons with disabilities expressing self and exploring sexuality online. Body & Data. Retrieved from <https://files.bodyanddata.org/nextcloud/index.php/s/etpDJAS7w7Po3B#pdfviewer>



Photo credit: Body & Data

agency, and rights to expression. The organization deploys a variety of methods to address online gender-based violence, surveillance and censorship, privacy and data protection, and internet access—including research and policy analysis, online advocacy and campaigning, and community workshops on holistic security and digital storytelling.

It is important to note, however, that although queer activists and women’s rights organizations have viewed digital spaces as an important tool for their work, a 2017 study found that those using it for organizing were primarily young, urban, educated and English-speaking activists from privileged and higher caste groups.⁵

5 Nepal, I. (2017). Exploring the use of the internet among gender equality and sexual rights advocates in Nepal. EROTICS South Asia exploratory research: Sex, rights and the internet. Retrieved from https://taannepal.org.np/wp-content/uploads/2021/04/Erotics_1_LOOM.pdf

Recommendations for Funders:

- Recognize the diversities within LGBTQI+ communities and prioritize support to organizations addressing the needs of those most marginalized within them.
- Allocate resources to organizations and collectives that face structural barriers in accessing funding and other critical resources for movement building due to location, caste and class discrimination, and other factors.
- Build long-term partnerships with organizations to support their growth and sustainability, providing general operating support as well as capacity building support and accompaniment.
- Provide funding in line with the short, medium, and long-term goals of LGBTQI+ organizations.
- Provide funding, logistical, and technical support to LGBTQI+ Nepali organizations looking to develop local, regional, and international advocacy networks of solidarity.
- Support programs, advocacy, and research which address sector-specific issues (e.g., housing, employment, online safety) for LGBTQI+ communities.

