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## General situation of LGBTI people

In Myanmar, lesbian, gay, bisexual, transgender and intersex (LGBTI) persons face discrimination from the society, where the notions of gender identity and sexual orientation follow traditional norms, as well as the state. During the dictatorship LGBTI organisations have, like other democratic movements, been affected by the censorship. In the light of recent political development, the LGBTI movement has experienced some improvement regarding the right to assemble and the right to spread information on sexuality and gender variety. An important step was taken when the International Day Against Homophobia and Transphobia (IDAHO) were celebrated openly for the first time inside Myanmar on May 17, 2012. The celebrations that took place in both Rangoon and Mandalay were described by the organisation HREIB as “a momentous occasion for those involved and a significant indicator of the change that has happened in the past year.”

In 2013, Aung San Suu Kyi, leader of LND, spoke about the situation of LGBTI persons in Myanmar at the International Congress on AIDS in Asia and the Pacific, saying that criminalisation of homosexuality was hampering efforts to treat HIV. The fact that Aung San Suu Kyi finally spoke on LGBTI matters was of value and recognition for the movement.

Needs of LGBTI persons in Myanmar are identified by the LGBTI organisations as: to be reached by resource materials on human rights and health issues in their own languages, Enabling laws that protect LGBTI persons from discrimination and violence and that promote equality and the need of access to Health and Human Rights Education information.

The Asian Human Rights Commission has expressed concerns over the police violence against transgender persons that commonly taken place across the country. Especially transgender persons are affected by violence and arbitrary arrests of police.

## Legal and human rights instruments

### Constitutional provisions and legal framework

Contrary to its neighbouring countries on the Indo-Chinese peninsula, same-sex sexual acts are illegal in Myanmar, as stated in the Penal Code, Act 45/1860 and there are other sections of the penal code that can be used against LGBT people as well.

Furthermore, there is no hate crime or anti-discrimination legislation, nor recognition of sex change. In the chapter (8) of the 2008 Constitution, the article 348 that relates with the non-discrimination fails to include “sexual orientation and gender identities”.

Regarding the Myanmar Human Rights Commission, there is still work to do to make it LGBTI-inclusive. The commission is supported by Swedish Raoul Wallenberg Institute, but so far no attention has been given to LGBTI issues.

### Regional or international human rights instruments

UN Special Rapporteur on the situation of human rights in Myanmar in 2014 urged the government of Myanmar to ensure that new legislation combats and does not increase discrimination against LGBTI community, to be in full compliance with the obligations of Myanmar under the CEDAW and the Convention on the Rights of the Child.

Myanmar has still not ratified a number of international conventions, such as the Convention Against Torture, the International Covenant on Economic, Social and Cultural Rights (ECOSOC) and the International Covenant on Civic and Political Rights, (CCPR) which would help protect the human rights of the LGBTI community as well as all people of Myanmar.

In 2011, The Human Rights Council adopted a resolution (A/HRC/27/L.27/Rev.1), on sexual orientation and gender identity and has since addressed LGBTI rights in different forums. This could be used as an advocacy tool.

There was an attempt to include writings of LGBTI in the ASEAN Human Rights declaration, a joint declaration by the Governments of the Member States of the Association of Southeast Asian Nations ("ASEAN"). The text passed the draft but was removed in the final version. The ASEAN principles are marked by non-interference and consensus decision-making and reluctant states can thus have great influence of the final result.

## **Sexual and Reproductive Health and Rights and HIV/AIDS**

The National Strategic Plan on HIV and AIDS, Myanmar 2010–2015 addresses the work of MSM as a target group, which is an important statement by the government and opens up for support to work with HIV-prevention as well as to other measurements of rights of MSM and LGBTI-persons. Intervention programs reach mainly those who are open with their sexual practices. There is a need to know more about the hidden population, like men who have sex with men that are married and conceal it from their wives.

Migrants are generally vulnerable to exploitation and harassment by both employers and authorities, but the LGBTI group has not been visible and thus neglected by social outreach. Their situation has not been widely acknowledged and few programs have been carried out. As a result, LGBTI migrants are very vulnerable to social discrimination and health problems, particular sexually transmitted diseases and HIV/AIDS, and exposed to harassment in their daily life.

The UNAIDS' report 'Global AIDS Response Progress' states that targeted interventions for men who have sex with men (MSM) have grown considerably during the last five years. According to UNAIDS country report 2014, the last published statistics from 2013 indicated prevalence in the sentinel group of MSM as 10.4% which was an increase from 7.8% in 2011 and the number of MSM reached by prevention decreased in the reporting period.

Violence against LGBTI persons is often based on non-conforming gender identity or sexuality. Lesbians with masculine expression, transgender persons, FTM, are at risk of being raped and others that have non-conforming gender expressions risk violence. LGBTI persons are at risk of coming under scrutiny by health care workers who are both ignorant about and biased against sexuality or gender identity. LGBTI organisations and activists throughout the country report that abuse and violence is regularly perpetrated against LGBTI people on the basis of their sexual orientation and gender identity.

The LGBTI movement sees a problem that HIV/AIDS work over a long time has highlighted the situation of MSM (men who have sex with men), which has connected LGBTI persons with disease in a negative way. The LGBT community in Myanmar is focusing on a more rights based approach, promoting LGBTI gender identities to be socially and politically recognised, empowering non-LGBTI stakeholders to address the issue with confidence and collaboratively hold dialogue with the government to guarantee equality and rule of law in the country. Interventions to reduce stigma and discrimination and create a more enabling environment for the HIV prevention among key affected populations are on-going but need significant political support.

## **Civil society organisations and institutions active in LGBTI field**

Equality Myanmar (EQMM), formerly known as the Human Rights Education Institute of Myanmar (HREIB), is a non-governmental organisation that facilitates a broad range of human rights education activities, advocacy programs, and research projects which target civil society organisations and grassroots communities. The organisation has for many years worked with LGBTI rights in Myanmar with its program 'Colours Rainbow', at first in exile, but in recent years through outreach projects inside Myanmar. There is also a magazine, TV programs and a website that are produced within the program 'Colours Rainbow'. Rainbow TV and Rainbow Magazine: <http://tvnews.colorsrainbow.com/O>. Over 400 partici-

pants from LGBT communities in Myanmar and Myanmar border areas have attended CR's LGBT rights trainings and follow-up discussions. In 2012 and early 2013, Colours Rainbow transitioned inside Myanmar as the secretariat of Myanmar's LGBT Rights Network, established in November 2012. The network is comprised of representatives from 16 areas throughout Myanmar and over 25 Burmese LGBT CBOs. Colours Rainbow oversees the four working groups' and 23 focal points' implementation of advocacy projects, capacity building, trainings, and other network activities. The Swedish Foundation for Human Rights (MR Fonden) has a long-time engagement with the movement in Myanmar.

Human Rights Education Institute of Myanmar (HREIB): <http://www.hreib.com/>

ILGA Asia, organising a number of LGBTI organisations in the region:  
[www.ilga.org/en/organisations/ILGA ASIA](http://www.ilga.org/en/organisations/ILGA_ASIA)

## What Sweden can do – 9 questions to discuss

Within the broader context of support to the work for increased respect for human rights, freedom of expression and accountability Sweden has a great opportunity to include issues related to the rights of LGBTI persons. When addressing LGBTI in a non-supportive government context as Myanmar, it is very important to consult LGBTI organisations in the country to make sure not to overrule their agenda. LGBTI organisations and non-LGBTI groups can bring the issue to the government and have effective dialogue, but need empowerment and support from lawyers, parliamentarians, local authorities etc.

Questions to consider:

- Could Sweden do more to stay updated on the legal and security situation and the judgements and priorities of the LGBTI movement?
- Could Sweden do more to include LGBTI rights in the dialogue with government on human rights? Invite them to cultural, social and professional events and networks (as was done in Vietnam)?

- Could Sweden do more to seek strategic alliances and synergies with other donors and international organisations that have LGBTI as a key interest? E. g. UN, EU, US Netherlands.
- Could Sweden do more to include LGBTI persons and their organisations in local democracy, peace building and human rights efforts? Support could for example be directed towards participation of LGBTI persons/organisations in mainstream HR and CSO Forums and ASEAN People Forums.
- Could Sweden do more to include LGBTI organisations in CSO capacity development programmes so that they can improve their effectiveness, networking, advocacy and service provision?
- Could Sweden do more to promote inclusion of LGBTI rights monitoring and reporting in the support to human rights institutions and organisations? Especially in relation to the work of the Human Rights Commission?
- Could Sweden do more to include LGBTI issues in the support to SRHR and GBV initiatives?
- Could Sweden do more to promote inclusion of LGBTI rights in joint donor programmes for example the EU initiative focussing on training of the police force?
- Could Sweden facilitate other networking opportunities for activists, such as participation in ILGA Asia meetings, ASEAN SOGIE Caucus (<http://aseansogie.wordpress.com/>) or reach to core members of the ASEAN countries to stay updated and provide support to LGBTI organisations or the caucus?

For further advice on dialogue regarding LGBTI issues, download the [Sida 'Human Rights of Lesbian, Gay, Bisexual and Transgender persons - Conducting a Dialogue](#) and the Ministry of Foreign Affairs [Dialogue brief](#). Also refer to the [EU tools](#) and guidelines in the reference list. More specific advice and support measures, as well as contact information to mentioned groups, can also be provided through ILGA or RFSL, should the Embassy wish for a dialogue.

## References

### General references

ILGA, *State-sponsored Homophobia: A world survey of laws prohibiting same sex activity between consenting adults*. (See updated version at [www.ILGA.org](http://www.ILGA.org))

MSM Global Fund <http://www.msngf.org>

RFSL, *LGBT in Development*, An introduction in how to include LGBT in programming in development: [http://www.rfsl.se/public/LGBT\\_in\\_development.pdf](http://www.rfsl.se/public/LGBT_in_development.pdf)

Sida 'Human Rights of Lesbian, Gay, Bisexual and Transgender persons - Conducting a Dialogue' and the Ministry of Foreign Affairs [Dialogue brief](#).

EU news, tools and guidelines: [http://eeas.europa.eu/human\\_rights/lgbt/index\\_en.htm](http://eeas.europa.eu/human_rights/lgbt/index_en.htm)

The EU Guidelines (2013): [Guidelines for supporting LGBTI persons' human rights](#)

### Specific references

Asian Human Rights Commission, 2013, *Burma Police torture of gay and transgendered people* <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-137-2013>

Equality Myanmar, 2014, *Annual report 2013*, <http://books.equalitymyanmar.org/images/download/reports/EQMM%202013%20Annual%20Report.pdf>

UNAIDS 2014, Country report, [http://www.unaids.org/en/dataanalysis/knownyourresponse/countryprogressreports/2014countries/MMR\\_narrative\\_report\\_2014.pdf](http://www.unaids.org/en/dataanalysis/knownyourresponse/countryprogressreports/2014countries/MMR_narrative_report_2014.pdf)

The human rights of LGBTI persons have been a Swedish government priority since 2009. As a service to staff, guidance notes have been prepared to provide basic information about the situation of this (often forgotten) group and inspire discussions on what Sweden could do to better include LGBTI rights in diplomacy and programming.