

Executive Summary

Main Findings

Sexual and gender minorities face discrimination in all sectors and all countries examined.

Although more countries have taken steps toward equality for sexual minorities, legal recognition of and protection for transgender people is not yet a reality in most.

The findings provide insight into how the COVID-19 pandemic is adversely affecting sexual and gender minorities.

Countries score best in the criminalization and access to the labor market indicator sets.

Access to inclusive education, access to public services and social protection, civil and political inclusion, and protection from hate crimes are often overlooked.

The existence of inclusive laws and regulations does not always ensure that sexual and gender minorities are free from discrimination. Enforcement of these laws is crucial.

The *Equality of Opportunity for Sexual and Gender Minorities* (EQOSOGI) report benchmarks laws and regulations that affect the lives of sexual and gender minorities. Despite important legal advances over the past two decades, sexual and gender minorities continue to face discrimination and violence in both developing and developed countries. Such marginalization has harmed sexual and gender minorities as well as the communities and economies in which they live.¹ Laws and regulations that discriminate against sexual and gender minorities not only impede social and economic prosperity for the individuals concerned, but probably limit a country's wider economic prosperity and development. Yet, the absence of data on many aspects of protective and discriminatory legislation related to sexual orientation and gender identity (SOGI), prevents meaningful cross-country comparisons and analysis.

In 2019, the World Bank launched the EQOSOGI study to collect comparable cross-country data on legal frameworks that impact sexual and gender minorities. This is a first report that pilots the application of an established methodology in a new field (SOGI inclusion in development) in a limited number of countries intended for further expansion to a larger set of countries. Currently, the small sample size of countries in this report does not allow for economic analysis, simple or sophisticated. In future reports, when more countries are included, a simple correlation analysis would allow a comparison of this initiative's findings with measures of economic growth and prosperity and would facilitate an examination of connections.

As with similar initiatives—Women, Business and the Law, for example—the more data points there are, the more robust the benchmarking features.

The current report highlights the current legal situation of sexual and gender minorities in 16 countries—Bangladesh, Canada, Costa Rica, India, Indonesia, Jamaica, Japan, Kosovo, Lebanon, Mexico, Mozambique, Nigeria, South Africa, Tunisia, Ukraine, and Uruguay. This selection of countries was deliberate. It was designed to represent (a) a diversity of geographies (across all World Bank regions); (b) a range of income levels (low-income, middle-income, and high-income countries); (c) a variety of legal traditions of the world; and (d) a range of inclusiveness of sexual and gender minorities (from less inclusive to more inclusive)—all with the goal of presenting a diverse and holistic picture of these issues in the countries analyzed.

The EQOSOGI report measures aspects of six indicator sets to identify differences in the legal treatment of sexual and gender minorities (figure ES.1). The six indicator sets, which are not exhaustive, give a sense of the challenges experienced by sexual and gender minorities. The study highlights the protections and rights embedded in the legal and regulatory framework in these six broad areas concerning the treatment of sexual and gender minorities in the analyzed countries. The methodology also allows comparisons with the best performer in each indicator set (termed *distance to frontier*). Although some of the 16 countries provide broader protections to sexual and gender minorities than others, no country has fully eliminated discriminatory laws.

Starting with the fundamental question of whether a country treats sexual and gender minority identities as “legal” or not, the study finds that some countries continue to criminalize sexual and gender minorities, either by banning same-sex intimacy or by associating transgender expression with criminalized behaviors contrary to public morals.

FIGURE ES.1**What the EQOSOGI Indicator Sets Measure**

Criminalization and SOGI	Examines the level of criminalization of same-sex behavior and legal inclusion of sexual and gender minorities
Access to inclusive education	Examines the ability of LGBTI individuals to equally access public education
Access to the labor market	Identifies gender identity–motivated or sexual orientation–motivated restrictions in accessing the job market and the existence of workplace protections against such discrimination
Access to public services and social protection	Examines the ability of LGBTI individuals to equally access public services and social protection
Civil and political inclusion	Examines the degree of participation by sexual and gender minorities and civil society actors in the political process, as well as the freedom of nongovernmental organizations to operate freely; also analyzes different aspects related to family law and laws related to same-sex marriage and partnership
Protection from hate crimes	Examines the existence of laws and mechanisms that criminalize hate crimes and provide protection for sexual and gender minorities or those perceived as sexual and gender minorities

Source: World Bank Group, Equality of Opportunity project.

The study findings also demonstrate that sexual and gender minorities can face many barriers in accessing inclusive public services,² education, and employment that are essential to develop human capital and generate livelihoods. Students belonging to sexual and gender minorities experience discrimination in education in many forms—from challenges enrolling in public or private schools to falling victim to bullying and harassment. Schools in most analyzed countries also fail to provide inclusive sex education curricula and SOGI-inclusive language in textbooks, and teachers lack appropriate antidiscrimination training. The resulting lower levels of education for these students lead to reduced skills and diminished capacity to secure employment. As adults, sexual and gender minorities frequently face barriers to accessing the labor market

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when applying or interviewing for jobs. Even after securing employment, sexual and gender minorities are often confronted with discrimination and harassment by colleagues or managers, unequal remuneration, and lack of equal benefits for their partners, as well as dismissal based on their perceived or actual SOGI.

Equal participation in society requires that people be treated equally under the law. However, equality is often not a reality for sexual and gender minorities. For example, many countries prohibit same-sex couples from entering into civil unions, partnerships, marriages, and/or adopting children. Similarly, transgender and gender nonconforming people are not always provided with the appropriate legal framework to change their gender markers in official documents without pathologizing requirements.³ Sexual and gender minorities also often face discrimination when obtaining identity documents. The legal prohibition of invasive gender-affirming surgeries on intersex infants and children is almost nonexistent. Conversion therapy and a lack of protections for sexual and gender minorities remain a reality in many countries.

The study also reveals that access to political and civic spaces is more limited for sexual and gender minorities. Nongovernmental organizations (NGOs) advocating for sexual and gender minorities' rights can face legal and financial barriers to the provision of relevant services.⁴ In some countries, these organizations face legal and bureaucratic hurdles to registration and often operate in fear of persecution. Living as an equal citizen also includes the right to freely exercise one's political rights by participating in politics while being open about one's SOGI. However, politicians who are sexual or gender minorities are open about their own SOGI in very few countries analyzed in this study.

Several of the countries analyzed in the report inadequately address hate crimes. A majority of the countries do not consider crimes based on a person's SOGI to be aggravating circumstances under the law, nor do they require the monitoring and collection of hate crime-related data and training of professionals. A minority of analyzed countries provide services for victims of hate crimes, including legal assistance, shelter or housing, forensic or medical examinations, and medical certificates.

Laws do matter but they are not enough. Implementation varies across countries and a key factor is the ability to report discrimination through the legal mechanisms of the state. The report looks at the presence of national equality bodies or national human rights institutions responsible for handling SOGI-based discrimination claims and the existence of national action plans that specifically address sexual and gender identity issues. While the existence of such plans, bodies, and laws may not always translate into a better environment for sexual and gender minorities, they are nonetheless critical elements of an enabling environment for improved SOGI inclusion.

This very uneven legal and regulatory framework across the 16 countries probably has had important ramifications for how sexual and gender minorities in each country have been able to cope with the COVID-19 pandemic. Challenges in accessing health care or other critical public services due to restrictions or lack of health insurance for partners has made sexual and gender

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minorities more vulnerable to the impacts of COVID-19 and will also make the recovery more difficult and drawn out. Looking ahead, having data on the legal and regulatory framework will be critical to building resilience among sexual and gender minorities to future shocks.

This report offers numerous good practice policy actions to address discriminatory measures. It also aims to inspire countries to review their legal frameworks and ensure equal opportunities for all citizens. EQOSOGI's ultimate goal is to encourage governments to reform laws that hold sexual and gender minorities back from working and actively participating in society. The following good practice policy actions are advised for consideration by countries to improve the equality of opportunity for sexual and gender minorities (a more comprehensive set of actions can be found at the end of each section of the report):

- Repeal laws, constitutional provisions, and regulations that criminalize people based on their sexual orientation, gender identity, gender expression, and sex characteristics.
- Introduce progressive legislation and effective legal protections to combat discrimination, bullying, cyberbullying, and harassment in educational settings and to create more inclusive educational systems for students and teachers who are sexual and gender minorities.
- Amend existing laws or create more inclusive and protective legal frameworks in the workplace to explicitly protect people from discrimination on the basis of sexual orientation, gender identity and expression, and sex characteristics.
- Establish a comprehensive legal framework to regulate nondiscriminatory access to public services.
- Introduce legislation or amend current laws or regulations to allow sexual and gender minority organizations to register and operate freely and ensure that activists can advocate for sexual and gender minority equality.
- Enact or amend laws to specifically prohibit hate crimes against sexual and gender minorities.

In this first 16-country report, the drivers behind specific laws and policies in different countries are not explored, nor are the implications of discriminatory legislation on economic performance. It will be important to expand this analysis to a larger set of countries to be able to do this more detailed analysis to better understand the key factors that drive reform and to fully assess the impact of SOGI-related discrimination on economic performance. Yet, to date, investment in data collection on institutional discrimination has been limited. The International Labour Organization (ILO) reports that “. . . data [on discrimination] are typically collected through ad hoc research or situation tests, but seldom in a systematic way” (ILO 2011). Only 5 percent of global funding for sexual and gender minority issues supports research (World Bank and UNDP 2016). EQOSOGI provides a useful methodology to effectively analyze the impact of SOGI exclusion on inclusive growth.

Notes

1. For more information, see the World Bank's Sexual Orientation and Gender Identity website at <https://www.worldbank.org/en/topic/sexual-orientation-and-gender-identity>.
2. These public services can include health care, social housing, public transportation, electricity, water supply, waste disposal, microcredits, health insurance, social pensions, unemployment insurance, and child benefits, among others.
3. Pathologizing requirements can include sterilization, sex-affirming surgeries, psychiatric diagnosis, and divorce, among others.
4. These services include access to vaccinations, sanitation, transportation, family planning, health services, HIV prevention services, information on vulnerable sexual practices, antiretrovirals, medication for gender-reassignment surgery, and support for transgender individuals during and after gender reassignment survey, among others.

References

- ILO (International Labour Organization). 2011. "Equality at Work: The Continuing Challenge—Global Report under the Follow-Up to the ILO Declaration on Fundamental Principles and Rights at Work." Geneva: International Labour Office. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_166583.pdf.
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