# Innspill til rapport om beskyttelse mot vold og diskriminering basert på seksuell orientering og kjønnsidentitet

Vi viser til oppdrag om rapportering fra FNs uavhengige rapportør på beskyttelse mot vold og diskriminering basert på seksuell orientering og kjønnsidentitet sendt Bufdir fra BLD gjennom virksomhetskanalen 20. februar 2019, og svarer med dette ut spørsmål 1-7.

### What are the current efforts by States to increase their knowledge of the LGBT population? Specifically, are questions about sexual orientation and gender identity included in government surveys (e.g. the census, national health surveys, income and living condition surveys, or other surveys funded or mandated by the State), administrative records (e.g. birth certificates/birth registries, identity Cards, school records, professional licenses, social security and public benefit records, and other government documents)?

Questions about sexual orientation and gender identity are not included in any official regular surveys, such as national health or living conditions surveys.

However, Statistics Norway were tasked with assessing the potential for including these background variables in the EU-SILC living conditions survey in 2018. The assessment concluded that sexual orientation and gender identity could not be included in Statistics Norway’s living conditions survey at this point due to practical and methodological challenges.

Neither is sexual orientation and gender identity included in any administrative records of any form.

The Norwegian government makes dedicated efforts to increase knowledge of the LGBT population, both in terms of living conditions, experiences with discrimination and violence, and the general population’s attitudes to the LGBT group as well as LGBT rights and issues. The government’s action plan against discrimination on the grounds of sexual orientation, gender identity, and gender expression 2017-2020 includes several measures aiming to increase LGBT knowledge. Amongst these measures is the development of indicators, as well as research on LGBT families and smaller groups under the LGBT umbrella (which may include queer people with disabilities, queer people that belong to the national minorities, and intersex persons). The action plan also dictates that research studies initiated by authorities should, where relevant, include questions about sexual orientation, gender identity and gender expression.

In 2017, Parliament decided that a new national-level survey on the living conditions of LGBTI people should be conducted. Work on this study has been started, and the survey results are expected to be made public in 2020. This study will provide quantitative data on living conditions as well as experiences with discrimination and violence.

### What kinds of data can be collected by government to understand the nature and extent of violence (e.g. through statistics on LGBT-phobic hate crimes and hate speech), discrimination, and disparities in health, education, labour, civic participation, and other important areas?

There are various forms of data collection on the nature and extent of violence, discrimination, disparities in health, education, labour, civic participation, and other areas of life.

With regards to the nature and extent of violence and hate crimes, including hate speech, there are three primary sources of data. The first of these is statistics recording the number of criminal cases motivated by hate that have been reported to the police. This has been recorded since 2012, and the police publish these numbers annually. This data is unlikely to give a comprehensive understanding of the extent of violence and hate crimes, however, as it is probable that many instances of hate crimes are unreported. The second source of data is complaints filed to the Equality and Anti-Discrimination Ombudsman and the Discrimination Board. Both publish anonymised accounts of, and conclusions of, cases to the public. As with hate crimes, it is likely that cases reported to the Ombudsman and Board do not reflect the actual scope of discrimination and violence. Thirdly, a recent study of LGBT people’s experience with hate speech finds that the group are significantly more likely to have been subjected to derogatory comments, speech they perceive as hateful, and concrete threats than the general population (Fladmoe, Nadim, and Birkvad, 2019). Additionally, surveys on the general population’s attitudes to LGBT people may indirectly suggest whether, and how, discrimination occurs, assuming that the presence of negative attitudes correlates with negative behaviours.

Data on disparities in health, education, labour, civic participation, and other important areas is collected through living conditions surveys, such as the one mentioned above, which is to be completed in 2020. Although there are no regular living conditions surveys, there have been two previous ones in Norway – one from 1999 (Hegna, Kristiansen, and Moseng, 1999) and another from 2013 (Anderssen and Malterud, 2013). Both included data comparing the abovementioned outcomes in the lesbian, gay, and bisexual population (the latter only in the 2013 study) with those of heterosexual men and women. The forthcoming living conditions survey will complement and expand on the themes from the previous two surveys. With regards to health, new incidences of HIV as well as form of transmission (e.g., ‘homosexual’, ‘heterosexual’, ‘via blood transfusion’, etc.) are recorded by the health authorities.

### What safeguards are in place, and what safeguards are needed, to protect the human rights of individuals providing personal data as well as individuals collecting such data? This question includes the following: a. Safeguards to protect the privacy of individuals who provide data about their sexual orientation/gender identity, and the confidentiality of the data provided by these individuals. b. Broader statutory rules or administrative policies to insure transparency and accountability of government institutions such as statistical bodies.

Norway has implemented GDPR legislation. All research projects that involve the processing of personal data must be notified to NSD (Norwegian Centre for Research Data). In addition to this, the personal data act ensures the privacy of research subjects. Information on sexual orientation is classified as sensitive personal data, and thus the handling of this information requires further safeguarding.

### What are the risks associated with the collection and management of data on sexual orientation and gender identity and initiatives to overcome those?

It is widely accepted that existing legislation and other measures, such as the need for approval from NSD, reduces such risks considerably. Other ethical considerations are always considered in research projects.

### Are there circumstances where data collection is ill-advised, such as in countries that criminalize same-sex behavior or where particular government agencies have demonstrated a cause for concern regarding their treatment of issues related to sexual orientation and gender identity?

Not applicable for Norway.

### When States engage in data gathering activity, to what extent is civil society able to meaningfully participate in the design and implementation of these programs? This question includes the following: a. Do states have policies that guide the process of civil society participation national statistical programs and other State efforts to increase knowledge about LGBT populations?

Civil society regularly contribute both to research projects and policy development. The abovementioned Action plan stipulates that there shall be regular meeting points between government and civil society, including regular meetings between sectoral authorities (e.g., health, education, justice, etc.) and civil society actors regarding data gathering activities.

### Does civil society have the capacity, in terms of expertise and technical knowledge, to meaningfully participate in State efforts to gather data?

### What constitutes meaningful participation in this area?

B and C): Civil society provides first-hand knowledge of specific needs and issues for the LGBT population, both nationally and on the local level, and provide input on research needs and knowledge gaps. Civil society actors also routinely participate in advisory groups for ongoing research projects. Additionally, civil society are regularly asked to provide input on completed research, including how the research should be implemented.

### Does the lack of a global classification scheme carry risks that data will not be useful for international comparisons or will not accurately reflect the identities and lived realities of local populations?

A global classification scheme, or an agreed-upon set of indicators for LGBT inclusion, would be useful both for establishing a ‘golden standard’ of measurable outcomes and for international comparison. It is unlikely that all indicators will be useful or relevant in all contexts/states, but we believe the potential benefits of such a scheme would outweigh the negative aspects, for instance that they could not fully and accurately reflect lived experiences.

## Works cited

Anderssen, N. og Malterud, K., (2013), eds. Sexual orientation and living conditions [Seksuell orientering og levekår]. Bergen: Uni Helse. <https://www.bufdir.no/Lhbt/Dokumentside/?docId=BUF00002184>

Fladmoe, A., Nadim, M., and Birkvad, S.R. (2019). Hate speech. Experiences among LGBT-people and other minority groups [Erfaringer med hatytringer og hets blant LHBT-personer, andre minoritetsgrupper og den øvrige befolkningen]. Oslo, Norway: Institutt for samfunnsforskning: <https://www.bufdir.no/Global/Erfaringer_med_hat_ytringer_og_hets_blant_LHBT_personer_andre_minoritetsgrupper_og_den_ovrige_befolkningen.pdf>

Hegna, K., Kristiansen, H.W., and Moseng, B.U. (1999). Living conditions and quality of life forr lesbian women and gay men [Levekår og livskvalitet blant lesbiske kvinner og homofile menn]. Oslo, Norway: NOVA. <https://www.bufdir.no/bibliotek/Dokumentside/?docId=BUF00001271>