



LUNDS
UNIVERSITET

“What Is the ‘Problem’ Represented to Be?” –
A thematic discourse analysis of six reports on the
human rights abuses and lived effects of LGBTQIAP+
persons in Sri Lanka

Clara Nishani Holm

Human Rights Studies

Department of History

Course code: MRSK62

Semester: Winter 2020

Supervisor: Darcy Thompson

Number of words: 14 043



ABSTRACT

NGOs are influential actors in world politics and development efforts. During the last decade increasing numbers of NGOs, international and national, have been reporting on the violations of the human rights of LGBTQIAP+ persons and the challenges these people face in their lives. How they report on these issues matters since language and discourse have an influence over whose voices are heard and how they are used for political ends. In Sri Lanka, there are gender expectations and gender norms that are deeply rooted and those who challenge these gender norms may face abuse from both private individuals and state officials. This is a thematic discourse analysis of the discourse in six different NGO reports used to report on the human rights and lived effects for LGBTQIAP+ persons in Sri Lanka. I have used Carol Bacchi's method and framework "What Is the 'Problem' Represented to Be?" to examine how the lived effects and challenges for LGBTQIAP+ people in Sri Lanka have been constructed and represented in these reports, as well as what the silences are, and what is left unproblematic. The result of this study shows that all of the reports present the dominant 'problem' to be the penal codes of Sri Lanka, mainly section 365 and 365A. Several aspects were left unproblematised or silenced in the reports. The majority of the reports had the same trends and patterns, such as not problematising socio-cultural aspects and overlooking mental health.

Key words: LGBTQIAP+, Sri Lanka, WPR, NGO reports, discourse, gender, sexual orientation, human rights, penal code, representation

Svensk titel: *Hur framställs 'problemet'? – En tematisk diskursanalys av sex rapporter om kränkningar av mänskliga rättigheter och levande effekter för HBTQIAP + -personer i Sri Lanka*

Icke-statliga organisationer är inflytelserika aktörer i världspolitiken och utvecklingsarbeten. Under det senaste decenniet har allt fler icke-statliga organisationer, internationella och nationella, rapporterat om kränkningar av de mänskliga rättigheterna för HBTQIAP+

personer och de utmaningar som de möter i deras liv. Hur de rapporterar om dessa frågor är viktiga eftersom språk och diskurs har inflytande över vems röster hörs och hur de används i politiska syften. I Sri Lanka finns genusförväntningar och könsnormer som är djupt rotade och de som utmanar dessa genusnormer kan utsättas för övergrepp från både privatpersoner och statliga tjänstemän. Detta är en tematisk diskursanalys av diskursen i sex olika NGO-rapporter som används för att rapportera om rättigheter och levande effekter för HBTQIAP+ personer i Sri Lanka. Jag har använt Carol Bacchis metod och teori "Vad är "problemet" som representeras?" för att undersöka hur de levda effekterna och utmaningarna för HBTQIAP+ personer i Sri Lanka har konstruerats och representerats i dessa rapporter, samt vad tystnaderna är och vad som lämnas oproblematiskt. Resultatet av denna uppsats visar att alla rapporter representerar det dominanta 'problemet' till att vara Sri Lankas strafflag, främst 365 och 365A. Flera aspekter lämnades oproblematiserade eller i tystnad i rapporterna. Majoriteten av rapporterna hade samma trender och mönster, som att inte problematisera sociokulturella aspekter och förbise mental hälsa.

Nyckelord: HBTQIAP+, Sri Lanka, WPR, NGO rapporter, diskurs, genus, sexualitet, mänskliga rättigheter, straffkod, representation

ACKNOWLEDGEMENT

I would like to thank my supervisor Darcy Thompson for challenging and encouraging me during this writing process, and my family and friends for their ever support. A special thanks to my mother who is my rock, and to my dear friend Vilma for her enthusiasm and advice.

ACRONYMS

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
FTM	Female to Male (transman)
GOSL	Government of Sri Lanka
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LBT	Lesbian, Bisexual and Transgender
LGBTQIAP+	Lesbian, Gay, Bisexual, Transgender (or Transexual), Questioning (or Queer), Intersex, Asexual (or Aromantic), Pansexual
LST	The Law and Society Trust
MSM	Men who have Sex with Men
NGO	Non-governmental organization
SOGI	Sexual Orientation and Gender Identity
MTF	Male to Female (transwoman)
WMC	Women and Media Collective
WSG	The Women's Support Group
WSW	Women who have Sex with Women

TABLE OF CONTENTS

1. INTRODUCTION.....	1
1.1 Research Question and Purpose of Study	1
1.2 Thesis Outline	2
2. BACKGROUND AND PRESENTATION OF PROBLEM.....	3
2.1. Societal Attitudes towards LGBTQIAP+ People	4
2.2 The history of homosexuality in Sri Lanka	5
2.3. Sri Lanka’s Legal Landscape: “Sodomy Laws”	6
3. LITERATURE REVIEW	9
4. THEORETICAL FRAMEWORK.....	18
5. METHODOLOGY	21
5.1 Data.....	23
5.1.1. Analysis Approach.....	25
5.2 Ethical considerations/Positionality	25
6. FINDINGS/ANALYSIS OF THE REPORTS	26
6.1 Representation of the problem: What is the "problem" represented to be?	27
6.2 Understanding the ‘problem’: What assumed solutions are behind the problem? What assumptions underlie this representation of the ‘problem’?.....	31
6.3 How has this representation of the ‘problem’ come about?	34
6.4 What is left unproblematic? Where are the silences?	35
6.5 DISCUSSION OF THE FINDINGS	38
7. CONCLUDING REMARKS	43
8. BIBLIOGRAPHY	45
APPENDIX I: Terminology.....	50
APPENDIX II: Tables.....	54

1. INTRODUCTION

In the multi-ethnic and multi-religious country Sri Lanka, there are gender expectations and gender norms that are deeply rooted. Those who challenge traditional gender norms, especially LGBTQIAP+ individuals, may face abuse from private individuals and state officials that affects the safety and quality of their lives as well as their ability to access services that are essential to realising their basic human rights. LGBTQIAP+ people in Sri Lanka are discriminated against within health care, housing and employment according to Equal Ground.¹ They are being persecuted by experiencing mistreatment and arbitrary detention, physical and mental abuse from the public, families and state officials.² It has been 137 years since the British Empire introduced their laws to the Sri Lankan Government. It has been over 70 years of Sri Lankan independence, but the Sri Lankan Government still hangs onto these colonial laws. These Victorian-era laws criminalizes consensual same-sexual acts, and this has also resulted in a silent society that denies or rejects the rights and even the existence of people who identify outside of the cisgender and heterosexual norms. During the last decade increased NGOs, international and national, have been reporting on the rights of LGBTQIAP+ persons. They are shedding light on the challenges that LGBTQI+ persons face in their lives. However, important to note is that NGOs are influential actors in world politics. Several NGOs are participating in international conferences to bring their specific concerns on to the world agenda.³ Thus NGOs are significant actors in international development efforts. Making an examination of how both national and international NGOs are representing the lived effects of LGBTQIAP+ persons in Sri Lanka is needed.

1.1 Research Question and Purpose of Study

The purpose of this study is to examine how the lived effects and challenges for LGBTQIAP+ people in Sri Lanka has been constructed and represented in six reports by NGOs. I will critically examine how the challenges of LGBTQIAP+ people are constituted in

¹ Equal Ground (2011), *Struggling Against Homophobic Violence & Hate Crime*

² Ibid (2011)

³ Brown, L. David (1992) "Non-Governmental organizations as development catalysts" *IDR Reports* 9(1): 1-8

reports on human rights and LGBTQI+ lives, and how these problematisations are shaped and advertised. By examining how the chosen NGO reports frame the issue and what is left unproblematic, I explore how their rights as individuals belonging to a particular marginalised group are being affected and how the NGOs portray LGBTQIAP+ persons. Carol Bacchi's poststructuralist approach is applied to these six reports to analyse how the lived effects of LGBTQIAP+ people are constituted; are they being victimised; is it helpful or harmful to frame them like they are being framed. By questioning 'problem' representations, I can examine the NGO reports deeper and analyse the discourse of the reports: how they are framing the 'problem', what the underlying assumptions are and what is left unproblematic. I have chosen this framework since I believe it will be the most useful to uncover the meanings attached to these constructions, and to further discuss the silences. My research question is of importance since analysing and discussing the discourse of NGO reports on LGBTQIAP+ rights in Sri Lanka is a small field of research and is in need of broadening. The following question is my primary research question.

1. *What is the 'problem' represented to be in the chosen six NGO reports regarding LGBTQIAP+ lives?*

Underlying question:

2. *What is left unproblematic and silenced in the NGO reports regarding LGBTQIAP+ lives?*

1.2 Thesis Outline

In the introductory chapter, I have presented the scope and purpose of my study. In the second chapter I will provide the background to my study by giving a historical background in connection with LGBTQIAP+ as well as religious and legislative aspects. In the third chapter I present previous research around the subject. The theoretical framework will be discussed in the fourth chapter and the methodological approach in the fifth chapter. There I go through the foundations and the analytical tool of Carol Bacchi's method which consists of six questions. For my analysis I have chosen to focus on four of them, and in the fifth chapter I will illustrate how I will use them and why I selected the questions. Chapter six contains my analysis and a discussion of my findings. In chapter seven I will provide concluding remarks of the study. Chapter eight contains the bibliography.

2. BACKGROUND AND PRESENTATION OF PROBLEM

In 1883 the British colonial government passed the Penal Code Section 365 and 365A that prohibits “carnal intercourse against the order of nature” and “gross indecency”. Section 399 of the Penal Code bans “cheating by impersonation” (see figure 1). Even though there are no clear explanations to these laws, these vague and broad 137-year-old colonial laws are still being used to target people of the LGBTQIAP+ community.⁴ In 1841 the British colonial government put the Vagrants Ordinance in place, which punishes anyone behaving in a “disorderly manner”.⁵ This can mean begging, believed to be taking part in sex work (“prostitution” by law) or annoy anyone etc. This 179-year-old law is also still being used to target LGBTQIAP+ people and allows the police to take them into custody and even put them in prison. The Government of Sri Lanka (GOSL) has signed treaties at the United Nations (UN) which means that they are obligated to uphold the human rights of their citizens. However, they are not for everyone, here LGBTQIAP+ individuals. Some of these include the International Convention on Economic, Social and Cultural Rights (ICESCR); the Convention on Elimination of Discrimination Against Women (CEDAW); the International Convention on Civil and Political Rights (ICCPR), all of them signed in 1980. The fundamental rights of the Constitution of Sri Lanka include for example: the right to freedom of speech, the right to not be tortured, the right to freedom of thought, conscience and religion, the right to be arrested without reason. Article 12 of the Constitution also promises the right to equality for all people. This includes “race, religion, language, caste, sex, political opinion and place of birth.”⁶ In 2014 the Government of Sri Lanka confirmed that this article also prohibits discrimination based on sexual orientation and gender identity (SOGI).⁷

⁴ Ibid (2011)

⁵ Amnesty International (2019), “Spectrum”

⁶ “The Constitution of The Democratic Socialist Republic of Sri Lanka”, Chapter III – Fundamental Rights (retrieved 30.12.2020)

⁷ OutRight Action International, “Sri Lanka Government says LGBT Rights are Constitutionally Protected”, 2014-10-20, (retrieved 30.12.2020)

2.1. Societal Attitudes towards LGBTQIAP+ People

Sociocultural attitudes of the Sri Lankan society are linked to the discrimination, stigma and abuse experienced by LGBTQIAP+ people. Patriarchal values have an influence over gender relations in Sri Lanka according to a study from 2008 by the Asian Development Bank.⁸ Gender relations in the workplace, society and family are often unequal and these gender norms and patriarchal values continue to underpin several programs and policies.⁹ Further on, these inequalities are reflected in the legal system and in traditional as well as contemporary patriarchal values.¹⁰ Regarding LGBTQIAP+ people, individuals who are gender variant, not only trans people but masculine bisexual and lesbian women, gay and bisexual men whose gender expression is feminine, may be targeted for abuse and discrimination. This means that the individual's assigned sex at birth must "match" their gender expression, in other words, passing (see terminology).¹¹ Nevertheless, this is no guarantee for not experiencing abuse. Adding to this, the Sri Lankan society views homosexuality as a Western imported behaviour that is in averse to the country's culture, as well as a mental illness.¹² In the literature review section I will address this further.

The previous President of Sri Lanka, Maithripala Sirisena hindered the proposal to repeal Sections 365 and 365A of the Penal Code.¹³ Because of this social stigma and intolerance, LGBTQIAP+ people struggle not only to come out but to even come to terms with their own sexuality. Thus, it is not uncommon that people get married or are being forced to marry into a heterosexual life since it is regarded as easier than coming out.¹⁴ However, this is rather paradoxical since prior to colonisation, the Sri Lankan society was rather sexually liberal. I will discuss this further under the history of homosexuality in Sri Lanka.

⁸ Asian Development Bank (2008). *Country Gender Assessment Sri Lanka*. p.viii.

⁹ Asian Development Bank (2008). *Country Gender Assessment Sri Lanka*. p.37.

¹⁰ Asian Development Bank (2008). *Country Gender Assessment Sri Lanka*. p.1.

¹¹ Human Rights Watch (2016). *"All Five Fingers Are Not the Same". Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka*. p.10-11.

¹² Ibid (2016).

¹³ Pothmulla, L. (2017). Activists not so 'gay', *Daily Mirror*, [online], (19 January 2017). (retrieved 13.11.2020)

¹⁴ Women's support Group, (no date), *Not Gonna take It Lying Down"-Experiences of Violence and Discrimination as Told by LBT Persons in Sri Lanka*, (retrieved 7.10.2020)

2.2 The history of homosexuality in Sri Lanka

Polyandry was recognised in the Kandyan law but was considered unacceptable and became illegal by the British in 1859.¹⁵ Kandyan law is customary law that originates from the Kingdom of Kandy. It is applicable to Sri Lankans who are Buddhist and from the former provinces of the Kandyan Kingdom. It is one of three customary laws that are still used in Sri Lanka, the others are Muslim and Thesavalamai law. The colonial aspect is of importance since it has shaped the legislation that is in Sri Lanka today and is being used to target LGBTQ+ people. This will be discussed further in the literature review.

Religion also influences social attitudes and therefore it is worth mentioning that Buddhism is the dominant religion in the country by 70.2%.¹⁶ *Psychological Aspects of Buddhist Jataka Stories* (2015), is written by R.M Jayatunge and according to him the ancient Sri Lankans had a social acceptance of homosexuality and that was probably due to that Buddhist teaching at the time did not condemn LGBTQ+ people. The Buddhist Jataka stories includes discussions of homosexuality but without prejudice Jayatunge concludes.¹⁷ In the book *The New Buddhism: The Western Transformation of an Ancient Tradition* (2001) by Dr. James William Coleman, Coleman states that Buddhism historically does not appear to place stigma on homosexual relations.¹⁸ Coleman notes however, that there is stigmatisation for “lacking in maleness” and for assuming passive “feminine” role in intercourse. In general, the Asian Buddhist attitude toward homosexuality has ranged from neutrality to mild dislike. The perception of the third Precept forbidding believers from engaging in “sexual misconduct” was generally determined by the local cultures.¹⁹ Hence, Buddhism itself does not condemn homosexuality, but specific acts and it impose stigmatisation around gender expectations. Though expectations around SOGI are not teachings themselves but the social and cultural environment has affected and still does. We also understand that the ancient Sri Lanka before

¹⁵ Dissanayake, U. (04.04.2019). Laws that shaped Lanka. *Daily News*

¹⁶ Kimutai too, Kenneth, “Religious Beliefs In Sri Lanka”, *Society*, 2017-04-25 (retrieved 11.11.2020)

¹⁷ Jayatunge, R.M.(2015). *Psychological Aspects of Buddhist Jataka Stories*. Godage Publishers Colombo.

¹⁸ Coleman, Dr. James William (2001) *The New Buddhism The Western Transformation of an Ancient Tradition*. Oxford University Press

¹⁹ Coleman, Dr. James William (2001) *The New Buddhism The Western Transformation of an Ancient Tradition*. pp.164.

being colonised had a social acceptance of homosexuality.²⁰ Though there are no mentioning of other sexualities or gender identities.

2.3. Sri Lanka's Legal Landscape: "Sodomy Laws"

Section 365 and 365A of the Sri Lankan Penal Code are similar to the Penal Code of other former British colonies such as India. Section 365 states that "penetration is sufficient or necessary to constitute the carnal intercourse necessary to the offence"²¹ The term "carnal" has come to signify something unnatural, in the sense that the natural essence of sexual intercourse solely refers to the possibility of conception of human beings. Figure 1 outlines existing laws relating to the abuse of LGBTQIAP+ people.

The term "gross indecency" in Section 365A has not yet been defined. Equal Ground maintains that this leads to uncertainty and those with interpretative power, such as courts can enforce law based on whatever they consider sexually "unnatural" or "indecent".²² Even though only a few people have been arrested under Section 365/365A, these laws are often used to threaten LGBTQIAP+ people. Other provisions of the Penal Code are also being used to harass, intimidate and discriminate LGBTQIAP+ people, namely Section 353 and 354 (see figure 1 for definition). Equal Ground asserts that they are being used against lesbian women who leave their homes with their partners. According to the NGO, this is connected to socio-cultural beliefs and practices of controlling the lives of women.²³ Section 399 (see figure 1) is often targeting transgender people. Transwomen are often arrested for "misleading the public". The Women's Support Group illuminates that there have been many cases of "impersonation" brought up in court where women were found to be "disguised" as men and their "true sexual identity" exposed to the public.²⁴ Lastly, the Vagrants Ordinance from 1842,²⁵ criminalises people behaving in a 'riotous, disorderly manner', 'common prostitutes'

²⁰ Jayatunge, R.M.(2015). *Psychological Aspects of Buddhist Jataka Stories*.

²¹ Equal Ground (2013). *Strengthening of Legal Protection for LGBT in Sri Lanka: road to decriminalization. Situational Analysis*.

²² Equal Ground (2013). *Strengthening of Legal Protection for LGBT in Sri Lanka: road to decriminalization. Situational Analysis*.

²³ Ibid.

²⁴ Women's support Group, (no date), "Not Gonna take It Lying Down"-Experiences of Violence and Discrimination as Told by LBT Persons in Sri Lanka, (retrieved 7.10.2020)

²⁵ Vagrants Ordinance. *Every person behaving in a riotous or disorderly manner in any public street or highway shall be liable to a fine (...). 3. (1) (b) every common prostitute wandering in the public street or highway, or any place of public resort and behaving in a riotous or indecent manner; (...) shall be deemed an idle disorderly person within the true intent and meaning of*

who behave in an ‘indecent manner’.²⁶ It is often used against transgender people. The police not only assault but extort money or sexual favours from them, according to Andrea Nichols article ‘Dance Ponnaya, Dance! Police Abuses Against Transgender Sex Workers in Sri Lanka’ (2010).²⁷ In the next chapter I will present previous research.

Figure 1. Legal Procedures to Convict Individuals through Sections 353/354/365/365A/399

<i>Section</i>	<i>Definition of Offence</i>	<i>Arrest with warrant?</i>	<i>Bailable/non-bailable</i>	<i>Punishment</i>
353	“Whoever by force compels, or by any deceitful means, or by abuse of authority or any other means of compulsion, induces any person to go from any place, is said to " abduct " that person. ” ²⁸	Officer may arrest without warrant	Not bailable	Imprisonment (...) up to seven years, and fine
354	“Whoever kidnaps any person from Sri Lanka or from lawful guardianship shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. ” ²⁹	Officer may arrest without warrant	Not bailable	Imprisonment (...) up to seven years, and fine

this Ordinance, and shall be liable upon the first conviction to be imprisoned, with or without hard labour, for any term not exceeding fourteen days, or to a fine not exceeding ten rupees. (Vagrants Ordinance, 1842).

²⁶ Ibid.

²⁷ Nichols, Andrea, Dance Ponnaya, Dance! Police Abuses Against Transgender Sex Workers in Sri Lanka. *Feminist Criminology*, 2010. 5(2)

²⁸ Sri Lanka Penal Code (Amendment) Act, No. 16 of 2006, section 353 (“Whoever by force compels, or by any deceitful means, or by abuse of authority or any other means of compulsion, induces any person to go from any place, is said to " abduct " that person.”)

²⁹ Sri Lanka Penal Code (Amendment) Act, No. 16 of 2006, section 354 (“Whoever kidnaps any person from Sri Lanka or from lawful guardianship shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”)

365	“Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished...” ³⁰	Officer may arrest without a warrant	Not bailable	Imprisonment (...) for 10 years and fine, whipping in addition
365A	“Any person who.. commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person , shall be guilty of an offence...” ³¹	Officer may arrest without a warrant	Not bailable	Imprisonment of up to 2 years, or fine, or both, whipping in addition
399	“A person is said to ‘ cheat by personation ’ if he cheats by pretending to be some other person , or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.” ³²	Officer may arrest without a warrant	Not bailable	Imprisonment up to 1 year, or a fine, or both

³⁰ Sri Lanka Penal Code (Amendment) Act, No. 16 of 2006, section 365 (“Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be punished with fine and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for injuries caused to such person.”)

³¹ Sri Lanka Penal Code (Amendment) Act, No. 16 of 2006, section 365A (“Any person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, shall be guilty of an offence, and shall be punished with imprisonment of either description, for a term which may extend to two years or with fine or with both and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.”).

³² Sri Lanka Penal Code (Amendment) Act, No. 16 of 2006, Section 399 (“A person is said to ‘cheat by personation’ if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.”).

3. LITERATURE REVIEW

In this chapter I present previous research on topics relating to the challenges of LGBTQIAP+ people in Sri Lanka and the role of NGOs as advocates. My contribution to the research field will be an insight to how the lived effects and challenges for LGBTQIAP+ people in Sri Lanka has been constructed and represented, by focusing on six reports between 2011 and 2019 by different NGOs. My research question is *What is the 'problem' represented to be in the chosen six NGO reports regarding LGBTQIAP+ lives?* My underlying question is *What is left unproblematic and silenced in the NGO reports regarding LGBTQIAP+ lives?* The purpose of this literature review is to find gaps in representation of LGBTQIAP+ persons, discover intersections and research regarding what the lived effects and challenges for LGBTQIAP+ people in Sri Lanka are and how they are portrayed.

Socio-cultural aspects of life for LGBTQIAP+ people in Sri Lanka

This section discusses research on socio-cultural aspects, which is a perspective that refers to how people's behaviour and mental processes and communication with others are shaped by society and/or cultural contexts such as nationality, gender, sexuality and ethnicity. Socio-cultural aspects are central to the lived effects for the LGBTQIAP+ people in Sri Lanka. They are linked to the stigma, abuse and discrimination faced, as well as affecting the decriminalisation of homosexual conduct.

The article "Decriminalising Same Sex Relations in Asia: Socio-Cultural Factors Impeding Legal Reform" (2016) by Dinusha Panditaratne concludes that socio-cultural factors in South and Southeast Asia contribute to the criminalisation of same sex relation in three different ways (a) by asserting moral-arguments, for instance "local" cultural or religious values; (b) by depicting arguments as to the alleged actions of the continued criminalisation of same sex relations, including the maintenance of social cohesion between ethnic and religious groups, or the delimitation of normative independence from the West; and (c) by being elemental to the popular appeal in South and Southeast Asia of a vast variety of arguments that refer to the function of morality of criminalisation, particularly arguments that prioritise the group over

the individual.³³ Panditaratne also argues that the GOSL's decision to raise the maximum penalties of section 365 and 365A in 1995 and integrating those into existing statutory provisions on 'carnal intercourse' and 'gross indecency', reinforced the false association between child abuse (and paedophilia) and homosexuality. Religious and political leaders are eager to resist norms that are popularly, however inaccurately Panditaratne emphasizes, associated with Western countries.³⁴ In the article "Suicidal ideation in gay adolescents in the context of cultural stigma and criminalized homosexuality in Sri Lanka" (2019) Dr. Miyuru Chandradasa writes about the mental health of lesbian and gay (LG) adolescents in Sri Lanka in regard to cultural stigma and the criminalisation of homosexual conduct. Chandradasa highlights that the media portrays homosexuality in a derogatory way and that Indian cinema, which is popular in Sri Lanka, often paints a bad picture of homosexuality. Chandradasa also emphasises that homosexuality is stigmatised by the culture.³⁵ From this we see that the media and pop culture portray homosexuality in a negative way which contributes to the stigmatisation of homosexual people. There are, however, no mentions of others who are part of the LGBTQIAP+ community.

To summarize, both Dr. Chandradasa and Panditaratne discuss the socio-cultural aspects and how they affect the discrimination and marginalisation of the lives of LGBTQIAP+ people. They highlight the cultural and societal stigma in the country and the criminalisation of homosexuality.

Religion, ethnicity and legal considerations for LGBTQIAP+ people in Sri Lanka

Not only socio-cultural aspects but also religion, ethnicity and law influence decriminalisation and thus the lives of the LGBTQIAP+ community and the language around it.

³³ Panditaratne, Dinusha (2016) Decriminalizing Same Sex Relations in Asia: Socio-Cultural Factors Impeding Legal Reform". p.186.

³⁴ Panditaratne, Dinusha (2016) p.192-193.

³⁵ Chandradasa, Miyuru, Suicidal ideation in gay adolescents in the context of cultural stigma and criminalized homosexuality in Sri Lanka, International Journal of Social Psychiatry (2019), Vol. 65(1) p.83–84

Panditaratne (2016) illustrates that retaining jurisdictions in Asia have prioritized religious and ethnic harmony over the potentially conflicting aim of gender equality. This is also the case of Sri Lanka. A direct result of this has been that any legal reform that challenges “traditional” gender roles are more tough to achieve. Here decriminalisation of same sex relations and other LGBTQIAP+ rights are included. Panditaratne argue that these prioritisations are clearly seen in the constitutional and family laws. The Sri Lankan Constitution affirms Buddhism “the foremost place” and requires the state to both protect and foster Buddhism. Panditaratne maintains that the state has set in a strategic bargain with minority communities, where they are given more say over “family” and “private” norms, in exchange for less influence in the public/political spheres.³⁶

Postcolonial History and Resistance to Change

In understanding why the Sri Lankan government has not yet decriminalised homosexual conduct it is also important to take a postcolonial approach. There is a complicated relationship between Western countries and Sri Lanka. The West is criticising Sri Lanka for their neglect of human rights and in turn the Sri Lankan government resists this Western criticism. However, the criminalisation of homosexual conduct is in fact a product of colonial rule and it is not until recent years that LGBTQIAP+ rights has been recognised in some Western countries.

Enze Han and Joseph O’Mahoney discuss this in their article “British colonialism and criminalization of homosexuality” (2014). They state that colonies that once were colonised by Britain are more likely to have laws that criminalise homosexual conduct than other colonies or other countries in general.³⁷ The British institutionalised these laws that criminalise homosexual conduct with the purpose of both correcting and Christianizing ‘native’ custom as well as protecting Christians from ‘corruption of the natives’.³⁸ Han and O’Mahoney point out that it was not until 1967 that homosexuality was legalised in England and Wales, by then many colonies had become independent which lead to that the changes in

³⁶ Panditaratne, Dinusha (2016) p.198-200.

³⁷ Han, E. and O'Mahoney, J. (2014) 'British colonialism and the criminalization of homosexuality'. Cambridge Review of International Affairs, 27 (2). p.1-3.

³⁸ Han and O'Mahoney (2014) .p.5-6.

British law were not similarly conveyed into the colonial context.³⁹ In their article they conclude that being a colony of any type prolongs the decriminalisation process compared to non-colonies, as well as the fact that British colonial experience has left a damaging legacy on its former colonies.⁴⁰

Sinhalese nationalist, among others, claims that homosexuality is a western value which destroys Sri Lankan family values, morals and culture, according to Panditaratne. Both before and after the almost 30-year-long civil war, Western governments condemned Sri Lanka for its failure to advocate for ethnic reconciliation, human rights and accountability, resulting in three resolutions against Sri Lanka in the U.N Human Rights Council. The GOSL has on multiple times rejected foreign conditional aid and external proposals to legalise homosexuality.⁴¹ In 2010 the Prime Minister at the time in Sri Lanka, D.M Jayaratne, asked its LGBTQIAP+ community to define the rights that they sought all at once perceiving that “gay marriage is acceptable in some western countries.”⁴² Panditaratne points out that western countries first now pursue these rights abroad as a part of their foreign policy and that the net political effect of the current dialogue is that Western countries have essentially declared some kind of leadership or ownership of LGBTQIAP+ rights. All this while in silence and historically inaccurately illustrate retaining jurisdictions as normatively “backward.”⁴³

Research Exploring The role of NGOs as Advocates

Since I am analysing how the chosen NGOs included in this study present the problems faced by LGBTQIAP+ people and how they communicate them, it is important to include research on the role of NGOs as advocates.

Ryan Richard Thoreson writes in the article “Power, panics, and pronouns: The information politics of transnational LGBT NGOs”, that when analysing advocacy networks, it is critical to stress that “information” is not a neutral term. Language and discourse always have an

³⁹ Han and O'Mahoney, (2014) p.16

⁴⁰ Han and O'Mahoney, (2014). p. 22.

⁴¹ Panditaratne, Dinusha (2016) p.194-196.

⁴² Panditaratne (2016) p.195-196.

⁴³ Panditaratne (2016) p.197.

influence over whose voices are heard and how they are used for political ends. Concepts signify particular things and generally advise individuals to perceive locally acceptable practices, for example, patronage. As such, concepts are not culturally neutral.⁴⁴ Thoreson remarks that there is a need for a critical exploration of what the partiality of knowledge means. Identifying the strategies that are required to responsibly cabin or control that ambiguity and calling to task those activists or groups who do not appropriately hold themselves accountable.⁴⁵ Thoreson puts emphasis on the language and discourse that NGOs use and as mentioned earlier, the aim of the WPR approach is to interrogate how representations come about. Bacchi and Thoreson derive their perspective from Foucault's power-knowledge center. Thoreson shows that the language of NGOs shapes people's lives and as Bacchi highlights, language is the common factor in analysing social organisation and power as well as meanings. In the article "Humanitarian NGOs as instruments partners advocates and critics in the governance of international humanitarian response: complementary or conflicting roles?" (2016) Eric P. Schwartz notes that often NGOs work independent from governments, sometimes in conflict with them in their role as advocates. Schwartz argues that governments and NGOs should work together to improve communication and procedures for coordination.⁴⁶ Though, in certain occasions, such as NGOs advocating for improved rights for LGBTQIAP+ people in Sri Lanka, it is actually the government denying them rights. Thus, working together in cooperation becomes a challenge when the government is the perpetrator of human rights abuses.

Research Discussing Challenges/lived effects for LGBTQI+ persons

By looking at research regarding the lived effects and challenges faced by LGBTQIAP+ persons in Sri Lanka and how they are portrayed, patterns can be found and used to examine whether the same effects are being represented as the 'problem' in the NGO reports. Previous research also helps discover patterns possibly silenced and/or unproblematised in the NGO reports.

⁴⁴ Thoreson, Ryan Richard "Power, panics, and pronouns: The information politics of transnational LGBT NGOs", Yale Law School, New Haven CT, USA, *Journal of Language and Sexuality* 2:1 (2013), p.148-149.

⁴⁵ Thoreson, Ryan Richard "Power, panics, and pronouns: The information politics of transnational LGBT NGOs", (2013), p.172.

⁴⁶ Schwartz, Eric P. (2016) Humanitarian NGOs as instruments, partners, advocates and critics in the governance of international humanitarian response: complementary or conflicting roles?, *Asia Pacific Journal of Public Administration*, 38:1,

Regarding mental health, Chandradasa (2019) states that there are no publications on psychiatric anguish of sexual minorities in Sri Lanka. However Chandradasa refers to the World Health Organization (WHO) which have concluded that Sri Lanka had the highest age-standardised suicide rates in the world in 2015.⁴⁷ There is no mention about sexuality inclusion regarding the suicide rates, and for that reason confusion arise. Chandradasa claims that it is very likely that LG individuals are faced with a higher level of psychological distress and suicidality considering the social discrimination that they face, both in the public and the private sphere. Even though homosexuality is no longer considered a mental illness in the DSM, it is still common for parents to demand psychiatric treatment for their LG children in Sri Lanka and/or force them out of the house. This leads to further estrangement by society, which could lead to suicide due to insufferable distress Chandradasa states.⁴⁸ I noted that in Chandradasa's article there were no mentions of transgender people or others that are part of the LGBTQIAP+ community. Though this article is of importance since there are a great lack of research regarding the mental health of LGBTQIAP+ people, there are many sexual orientations and gender identities that are left out, which means that there is a grayzone regarding this subject and a limitation.

Andrea Nichols looks at human rights abuses faced by LGBTQIAP+ people, in particular transwomen and men who have sex with men (MSM). Nichols highlights the role of the police as major human rights abusers against them and the difficulties it leads to in getting justice and/or help. Section 365/365A, 399 and the criminalisation of sex work leads to limited aid when they are victimised since sex workers who engage in homosexual conduct is violating the law on multiple levels.⁴⁹ The conclusion was that transgendered female sex workers may be experiencing rape directed at their gender identity, lowered status as sex workers and their homosexuality. Homosexual men and transwomen who both engage and do not engage in sex work are being exposed to all forms of violence, such as physical, sexual and mental abuse.⁵⁰ Transwomen are stigmatised because of stereotypes and assumptions

⁴⁷ Chandradasa, (2019), Suicidal ideation in gay adolescents in the context of cultural stigma and criminalized homosexuality in Sri Lanka, p.83–84

⁴⁸ Chandradasa, (2019), Suicidal ideation in gay adolescents in the context of cultural stigma and criminalized homosexuality in Sri Lanka, p.83–84

⁴⁹ Nichols, Andrea, Dance Ponnaya, Dance! Police Abuses Against Transgender Sex Workers in Sri Lanka. *Feminist Criminology*, 2010. 5(2)

⁵⁰ Nichols, Andrea, Dance Ponnaya, Dance! Police Abuses Against Transgender Sex Workers in Sri Lanka. *Feminist Criminology*, 2010. 5(2)

that they are ‘criminal, immoral street prostitutes’ just because they are transgender.⁵¹ Nichols observes that it looks as if rape of transgender women by police officers is informally institutionalised since interviewees described places that are known to be used for raping transgendered sex workers brought in on charges.⁵² The system that was being described in the interviews shows one that exploit and victimise them.⁵³

There is also research on treatments of LGBTQ+ persons in other parts of the world. Many of the conditions imposed on LGBTQI+ people and the daily challenges they face in Sri Lanka are similar to what LGBTQI+ people face around the world. Since there is little research on the LGBTQIAP+ community in Sri Lanka, it is useful to look more broadly at the general theme of the “lived effects and challenges faced by LGBTQI+ people” to get an impression of what the key issues being communicated and researched are.

In an article by Gitta Zomorodi, “Responding to LGBT forced migration in East Africa” (2016) Zomorodi studies the mass escape of Ugandan LGBT persons to Kenya in 2014-2015 after the passing of Uganda’s Anti-Homosexuality Act in December 2013 and the pre-existing factors such as colonial anti-sodomy laws, media outing and violence. Many LGBT persons had also been suspended from school and lost employment. Zomorodi points out that Kenya differs very little from Uganda since it also has anti-sodomy laws that are used to harass and detain people from the LGBT community.⁵⁴ Like Dr. Chandradasa, Zomorodi also discusses the impact of media and how it portrays LGBT people negatively and how it affects their lives. Even though Zomorodi discusses Uganda it has relevance to the subject since we can draw connections and similarities between the two. Such as media representation and how the laws affect discrimination of LGBTQ+ persons.

The article “Social support relationships for sexual minority women in Mumbai, India/ a photo elicitation interview study”, written by Jessamyn Bowling et al., discusses the consequences of a patriarchal society which is of relevance to this thesis when considering problem representation and underlying assumptions. According to the authors, women in India faces discrimination and stigma regardless of their sexual orientation because of the

⁵¹ Nichols, Andrea, 2010. 5(2) p.198–199.

⁵² Nichols, 2010. p.211-215.

⁵³ Nichols, 2010. p.205-210.

⁵⁴ Zomorodi, Gitta, “Responding to LGBT forced migration in East Africa”, 05.2020, p.92.

patriarchal system that marginalises them.⁵⁵ This leads to poor physical and mental health, and since there is added stigma to sexual minority women it leads to further negative mental health outcome, such as stress-related psychiatric disorders. Many of the participants said that they were hiding their stigmatised identity as well as concealing the genders of their partners from society, family and friends to avoid stigma and discrimination.⁵⁶ The authors also noted that “India’s cultural patriarchy structures gender relations and norms in numerous ways and creates rigid divisions of roles and spaces for different genders”.⁵⁷ For example, daughters live with their natal family until they marry into a heterosexual marriage that is usually arranged. This may, according to the authors, influence what subjects are stigmatised and what is discussed or not. The women then may fear rejection and loss of basic needs such as housing, financial support and food if they come out to their family.⁵⁸ We can see similarities between this article and Dr. Chandradasa’s, they both discuss the psychological distress and the disowning of family members that LGBT+ persons face.

Concluding thoughts about previous research

There are no direct contradictions among authors featured in this literature review, although each paper has different angles and tend to focus on different aspects. One of the reasons for this could be because most of the research is very similar in scope, namely highlighting the challenges faced, without going much deeper in terms of what is actually being advocated and how to the greater world. Something that is overlapping is the discussions of socio-cultural aspects and how it affects the lives of the LGBTQIAP+ community. As well as mental health of the LGBTQ+ lives in India and Sri Lanka. Stigmatisation, discrimination, estrangement, violence and the laws are mentioned in all of the articles. Research regarding the experiences of the LGBTQIAP+ community is of importance to draw connections and to understand the discrimination and violence that they face. Either the articles are excluding some of the LGBTQIAP+ community or not going further into the problems and difficulties that the LGBTQ+ people face. There is a gap within this field of research specifically

⁵⁵ Bowling, Jessamyn, et al., “Social support relationships for sexual minority women in Mumbai, India/ a photo elicitation interview study”, *Culture, Health & Sexuality*, 2018, VOI. 20, NO. 2, p.183.

⁵⁶ Bowling, Jessamyn et al. “Social support relationships for sexual minority women in Mumbai, India/ a photo elicitation interview study 2018, p.194–196.

⁵⁷ Bowling, Jessamyn et al., “Social support relationships for sexual minority women in Mumbai, India/ a photo elicitation interview study, 2018, p.184

⁵⁸ Bowling, Jessamyn, et al. 2018, p.184

regarding Sri Lankan LGBTQ+ people and their experiences as well as how the lived effects and challenges for LGBTQIAP+ people in Sri Lanka have been constructed and represented. Therefore, this thesis is important since it will contribute to the scope of report analysis, what the 'problem' representations of LGBTQIAP+ people in Sri Lanka are and how they are being portrayed. An overview of the theoretical framework will be presented in the next chapter, chapter 4.

4. THEORETICAL FRAMEWORK

I have chosen Carol Bacchi's framework "What's the problem represented to be?". Also known as the WPR approach to help answer my research question *What is the 'problem' represented to be in the chosen six NGO reports regarding LGBTQIAP+ lives?* as well as my underlying question *What is left unproblematic and silenced in the NGO reports regarding LGBTQIAP+ lives?* I applied Bacchi's poststructuralist approach to six NGO reports by using four questions from her proposed framework which are relevant to the scope of this thesis. I chose Bacchi's framework since it will allow me to analyse the language of the reports, and in particular pay attention to how the NGOs are framing the issues of the everyday challenges faced by LGBTQIAP+ people in Sri Lanka, and what it means for their lives. This is relevant since my research questions aims to explore how the reports represents a 'problem' and what the silences are. The point of this thesis is not to analyse it from a problem-solving perspective but from a problem questioning perspective.

Bacchi's approach is used to analyse policies, which she defines as a course of action, a term that is used to describe government programs.⁵⁹ This being said, her approach can be applied to other text or documents as well which share the same characteristics as a policy document, such as the agenda and the formulation of an issue. In Bacchi's book *Analysing Policy: What's the problem represented to be?*, Bacchi sets out the policy analysis: 'What's the problem represented to be?' (WPR) in detail. The approach draws on four traditions: poststructuralism, social construction, governmentality studies and feminist body theory. WPR is built on three assumptions or key propositions. The first one is that *individuals are governed through problematisations*. Meaning problems are constructed, they do not exist 'out there' in society, waiting to be solved'.⁶⁰ The WPR approach analyses policy from a problem questioning perspective and not a problem-solving perspective. The aim of the WPR approach is to interrogate how representations come about, and how these shape solutions and subjectivities.⁶¹ Which is what I am doing in this thesis, analysing how the reports represent a problem, the assumed solutions and what the silences are. Central to the framework is that the apprehensions in the WPR analysis expands beyond 'problem of

⁵⁹ Bacchi, Carol (2009), *Analysing Policy: What's the problem represented to be?*, p.x

⁶⁰ Bacchi, Carol (2009), *Analysing Policy: What's the problem represented to be?*, p.1-3.

⁶¹ Bacchi, Carol (2009), *Analysing Policy: What's the problem represented to be?*, p.21-24

government' to adopt a 'wider conceptualisation of politics including struggles around identities and "differences", such as issues around ethnicity, sexuality, gender, and everyday life'.⁶² The idea of debated concepts, derived from the perspective of Foucault's power-knowledge centre in which producing knowledge involves power and the power to shape people's lives lies in knowledge.⁶³ This is related to problem representations in policies through language. Language is further the common factor in analysing social organisation and meaning as well as power.

This in turn leads to the second key proposition of WPR, *the importance of studying problematisations and not the "problem"*. It is within discourse that problems are constructed and maintained, therefore limiting what can be said, thought or expressed.⁶⁴ For WPR this means emphasis on knowledge as a social construction, knowledge existent only in the statements and/or signs that constitute them and the need to therefore scrutinize how we represent problems as they are constituted in discourse.⁶⁵ The last key proposition or assumption of the WPR approach is that the problematisations should be studied by interrogating/examining the effects of how problems are represented. To evaluate the usefulness or dangers, limitations etc. of a policy, WPR highlights three overlapping implications: Discursive effects, Subjectification effects and Lived effects. I will not analyse the effects of how the problem is represented in the reports, therefore I will not delve deeper into the explanations of the implications. Why I will not analyse the effects is explained further in the next chapter.⁶⁶ The WPR approach consists of six analytic questions applied to policy or other texts or documents, to question the representation of a 'problem' itself. The structured function provides comparability and makes the discourse visible. I will present these questions in the next chapter, the methodology chapter since I am using Bacchi's WPR framework to structure my data.

Criticism against constructivism generally speaking, which is a major aspect of WPR is the lack of researchers' objectivity. Another aspect is the fact that constructivism is based on the

⁶² Mottier, (2001), p. 332, in Bacchi (2009) *Analysing Policy: What's the problem represented to be?*, p.266.

⁶³ Bacchi, C. and Eveline, J. (2010) *Mainstreaming politics: Gendering practices and feminist theory* (Adelaide: University of Adelaide Press). p.118.

⁶⁴ Bacchi, Carol (2009), *Analysing Policy: What's the problem represented to be?*, p.xvi-xxi

⁶⁵ Bacchi, C. and Eveline, J. (2010) *Mainstreaming politics: Gendering practices and feminist theory*, p.118.

⁶⁶ Bacchi,(2009), p.69-70.

knowledge of the researcher, which is based on their experiences. In addition to this, there is also criticism of how important it is to study the representation. It is important to study representation since there could be, for example, patriarchal structures that are hidden in the discourse. Each adopted solution for example contributes to a certain perception of a problem which then has consequences, the representation of a problem is therefore important to study.⁶⁷ Bacchi herself responds to this criticism by arguing that no one is outside the structures in which they are and in which they continue to contribute to creation.⁶⁸ Hence, policymakers are not objective either and so the problem and its assumed solutions will not be objective either.

The first two key propositions are relevant to this study since my research question is about analysing what the 'problem' represented is in the reports as well as what the silences are. Answering these questions requires reading between the lines and therefore a framework such as Bacchi's fits my thesis. Bacchi's theory will allow me to focus on questioning the discourse of the reports and to see beyond as well as examine what is written and to interpret the text by using not only their framework as a theory but as a tool in order to study the understandings of LGBTQIAP+ people and their struggles that are advertised in the NGO reports. Policy documents have a wide variety and NGOs are in a way an institution. Bacchi highlights the power to shape people's knowledge in life and even though their theory is focused on policy analysis I found the theory to be suited for my research question as well considering that it is not only governmental institutional documents that contain power-knowledge and shape people's lives. NGO documents also work in the same way as policy documents, meaning that they influence people's thinking by connecting with us and presenting a problem and how e.g., it should be solved. Much in the same way a policy document is structured.

⁶⁷ Bacchi (2009), p.33-34.

⁶⁸ Bacchi (2009), p.253

5. METHODOLOGY

In this chapter I will present the methodology and continue presenting the WPR tool that I am using to structure my data. The purpose of this study is to examine how the lived effects and challenges for LGBTQIAP+ people in Sri Lanka has been constructed and represented in six reports by NGOs that work within the field of human rights. Carol Bacchi's poststructuralist approach is applied to these six reports to analyse how the lived effects of being a LGBTQIAP+ person is constructed in the chosen reports on human rights and LGBTQI+ lives, and how these problematisations are shaped and advertised. In short, I will be doing a thematic discourse analysis using the WPR approach as guidance in order to study what particular understandings of LGBTQIAP+ people and their struggles are communicated in the chosen NGO reports.

As mentioned in the previous chapter, the WPR approach consists of six analytic questions applied to policy or other texts or documents, to question the representation of a 'problem' itself. By questioning 'problem' representations, I can examine the NGO reports deeper and analyse the discourse of the reports: how they are framing the 'problem', what the underlying assumptions are and what is left unproblematic. I have chosen this framework since I believe it will be the most useful to uncover the meanings attached to these constructions, and to further discuss the possible related effects. WPR affirms that agencies and institutions etc., both of and beyond the state have the power to regulate and shape social behaviours.⁶⁹ Moreover, Bacchi asserts that "problems" constructed by government in particular take on lives of their own; consumed in long-lived legislation or policy.⁷⁰ I am using Bacchi to help focus my attention to *how* problems are constructed, thus it is a focused analysis for the texts. NGO reporting and documents are similar to governmental institutional documents and policies by the fact that they also have the power to shape behaviours and opinions.

These six questions below are the WPR analytical tool that is provided by Bacchi.

⁶⁹ Bacchi, C. and Eveline, J. (2010) *Mainstreaming politics: Gendering practices and feminist theory*, p.119-120

⁷⁰ Bacchi, (2009), p.xi + 35

‘What’s the problem represented to be?’: approach to policy analysis.

1. What’s the ‘problem’ represented to be in a specific policy?
2. What presuppositions or assumptions underlie this representation of this ‘problem’?
3. How has this representation of the ‘problem’ come about?
4. What is left unproblematic in this problem representation? Where are the silences? Can the ‘problem’ be thought about differently?
5. What effects are produced by this representation of the ‘problem’?
6. How/where has this representation of the ‘problem’ been produced, disseminated and defended? How could it be questioned, disrupted and replaced?⁷¹

According to Bacchi these questions are to facilitate the analysis with the objective to encourage critical thinking.⁷² I have decided to mainly focus on Q1, Q2, Q3, Q4. For the research question that I am working with I consider that they will be sufficient in analysing the ‘problem’ representations and the assumptions behind the representations, how the representation has come about and the silences. The goal of Q1 of the WPR approach is to identify implied ‘problem’ representations in the text. The goal of Q2 is to identify and analyse the conceptual logics that construct specific ‘problem’ representations as well as uncover the (assumed) thought that lies behind the specific ‘problem’ representations.⁷³ The goal of Q3 is to highlight how the representation is done and what the patterns are.⁷⁴ When it comes to Q4, the goal is to raise contemplation issues and perspectives silenced in identified ‘problem’ representations.⁷⁵ The reason for why I did not choose Q5 or Q6 is because they explore effects and where as well as how the reports are being used. There is simply not enough time or material to examine those two questions. With the right amount of time and material Q5 and Q6 would be interesting to examine further. Q1-Q4 is therefore sufficient enough for the scope of this study.

⁷¹ Bacchi, (2009), p.2.

⁷² Ibid (2009)

⁷³ Ibid (2009), p2-5.

⁷⁴ Ibid (2009), p.10-12

⁷⁵ Ibid (2009), p.12-14.

5.1 Data

The data that I am using for this study is six documents by NGOs; five reports and one publication that is based on interviews. See Figure 2 for information on the data. The date range of the reports are between the year 2011 and 2019, almost ten years. The data collection consisted of searching for reports on the situation for LBGTQIAP+ persons in Sri Lanka. Both on google but also on specific websites like Equal Grounds webpage and Human Rights Watch webpage. I found the report/comic from Amnesty International during my internship in Sri Lanka during the spring of 2020, while researching minority groups in the country. It was also during my internship that I came across the NGO Equal Ground, from which I searched on their webpage for reports on LBGTQIAP+ rights. By using the internet to find the reports it is possible that I have overlooked some relevant reports or that the search for reports was not completely thorough. All of the data is about the human rights and lives of LBGTQIAP+ persons in Sri Lanka, as well as hardship that they face on a daily basis. The reports delve deeper into the discrimination, violence and harassment that LBGTQIAP+ persons in Sri Lanka encounter.

The data is based on the following six reports by these NGOs; The Women and Media Collective was formed in 1984 in Sri Lanka and according to themselves, work as a “bridge that closes the gap between high-level policymaking and the marginalized in the work for promoting and protecting women’s rights.”⁷⁶ Equal Ground is a non-profit organisation that was founded in 2004 in Sri Lanka that seeks civil and political, social, economic and cultural rights for the Lesbian, Gay, Bisexual, Transgender, Intersex and Queer/Questioning community of Sri Lanka.⁷⁷ According to Amnesty International themselves, they are a global movement who campaigns for a world where human rights are enjoyed by all. They are independent of any ideology, economic, religious or political interests. Their work began in 1961 in the UK.⁷⁸ Human Rights Watch is an international organisation that works for human rights and they are independent of any political, economic or ideology interest. According to themselves they investigate and report on abuses happening around the world. It was founded as Helsinki Watch in 1978.⁷⁹ The Women’s Support Group is a Colombo-based non-

⁷⁶ “Who We Are”, Women And Media Collective (retrieved 8.12.2020)

⁷⁷ “About”, Equal Ground (retrieved 8.12.2020)

⁷⁸ “Who we Are”, Amnesty International, (retrieved 8.12.2020)

⁷⁹ “About us”, Human Rights Watch (retrieved 8.12.2020)

governmental organisation that provides support and advocacy for lesbian, bisexual women and transgender persons.⁸⁰ According to The Law & Society Trust themselves, they are a non-profit organisation engaged in human rights documentation, advocacy and legal research in Sri Lanka. It was founded in 1982 in Colombo, Sri Lanka.⁸¹

Figure 2. The report titles and date

Title of Report	Date and author
“The Status of Lesbians, Bisexual Women and Transgendered”	January 2011, The Women’s Support Group
“Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka: A Shadow Report”	2014, Equal Ground, Center for International Human Rights of Northwestern University School of Law, Heartland Alliance for Human Needs & Human Rights, Global Initiative for Sexuality and Human Rights
“All Five Fingers Are Not the Same” Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka”	2016, Human Rights Watch
“Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka Shadow Report”	13 February – 03 March 2017, Women and Media Collective
“The State of Economic, Social and Cultural Rights in Sri Lanka: A Joint Civil Society Shadow Report to the United Nations Committee on Economic Social and Cultural Rights”	April 2017, The Law & Society Trust, Prashanthi Jayasekara with support from Sandun Thudugala, Vijay Nagaraj and Nigel Nugawela.
“Spectrum”	2019, Amnesty International

⁸⁰ Women’s support Group, (no date), Not Gonna take It Lying Down”-Experiences of Violence and Discrimination as Told by LBT Persons in Sri Lanka, (retrieved 7.10.2020)

⁸¹ “About Us”, The Law & Society Trust (retrieved 8.12.2020)

5.1.1. Analysis Approach

I used thematic discourse analysis since Bacchi's framework depends on that type of analysis. Thematic discourse analysis provides a method for identifying, analysing, and reporting themes or patterns within data.⁸² Therefore, helping me identify underlying assumptions for example. I used it to focus on analysing themes and patterns in the reports to make the discourse of the reports visible. During this process repeated reading of the data has occurred, highlighting what seemed relevant to the research question and so discovering themes and patterns in the data. In the appendix one can find the tables from the analysis.

5.2 Ethical considerations/Positionality

A fundamental ethical consideration is power dynamics. The fact that I live and have been brought up in a western country, studying at a European university and that I am a foreigner reading and researching about the lives of LGBTQIAP+ people in Sri Lanka could have perpetuated unequal social and political power relations. Even though I am Sinhalese, and part of the culture and the culture is part of me, I am still a 'Western(ised) researcher'. Therefore, the theoretical perspectives in this thesis are Western. Further, even though I am part of the LGBTQIAP+ community, my experiences are related to the fact that I live in Scandinavia and not in Sri Lanka. Another consideration that is connected to all of this, is the fact that I am writing about a specific group that could be seen as 'other' and there is a risk of portraying essentiality of another group. Bacchi explains that reflexivity is necessary as "we are immersed in the conceptual logics of our era" and the very problem representations we undertake to analyse have somewhat shaped who we are.⁸³ Therefore it would be problematic to claim that an analysis like this one is "correct" since it is based on my interpretations, and my interpretations are based on how I have been shaped as a person by the world. In the next chapter I will present the analysis.

⁸² Braun, Virginia and Clarke, Victoria (2006) Using Thematic analysis in psychology. *Qualitative Research in Psychology*, 3 (2), p.5-9.

⁸³ Bacchi, Carol (2009), *Analysing Policy: What's the problem represented to be?*, Pearson Australia, p.19.

6. FINDINGS/ANALYSIS OF THE REPORTS

The goal of this study is to understand the ‘problem’ representations that can be found in the reports, in answering my research question, this study will also highlight the challenges that the LGBTQIAP+ community experience and how it affects their lives and to understand the different levels of it. In this chapter I will analyse the six NGO reports by applying the WPR framework to them to delve deeper into how the lived effects and challenges for LGBTQ+ people in Sri Lanka have been constructed and represented in NGO reports, what is left silenced and what assumptions underlie. Furthermore, to answer my research question:

What is the ‘problem’ represented to be in the chosen six NGO reports regarding LGBTQIAP+ lives?

And to answer my underlying question:

What is left unproblematic and silenced in the NGO reports regarding LGBTQIAP+ lives?

The tables of the thematic discourse analysis can be found in the appendix. In section 6.5 I provide a discussion of the findings in this chapter. This chapter is outlined after the WPR questions that I have chosen to apply to each of the NGO reports. I will focus on Q1-Q4 because it will be sufficient enough for the scope of this thesis; analysing the ‘problem’ representations, the assumptions behind the representations and assumed solutions as well as the silences in the reports. These are the four WPR questions:

Q1. What is the "problem" represented to be in a specific policy?

Q2. What presuppositions or assumptions underlie this representation of the "problem"?

Q.3 How has this representation of the ‘problem’ come about?

Q4. What is left unproblematic? Where are the silences? Can the "problem" be thought about differently?⁸⁴

The data that I will be analysing is six reports by different NGOs: five reports and one publication that is based on interviews. The date range of the reports are between the year

⁸⁴ Bacchi, (2009), p.2.

2011 and 2019. I collected the data by searching for reports on the situation for LGBTQIAP+ persons in Sri Lanka. I did that by using specific websites such as Human Right Watch and Equal Ground as well as by using google. I will use Bacchi's 4 questions in her framework to structure the findings/analysis. This I will do because Bacchi's theory requires me to look for specific communication techniques in the text and therefore Bacchi's framework is a tool for structuring the analysis as well as accomplishing it. I will start with Q1 of the WPR framework.

6.1 Representation of the problem: What is the "problem" represented to be?

I am looking for how the reports themselves present the 'problem', their discourse of it and how the NGOs present the lived effects of LGBTQIAP+ persons in Sri Lanka.

The Women's Support Group (WSG) states in their report (2011) that

"The lack of protection of the right to equality and non-discrimination for members of LBT communities in Sri Lanka leads to stigma and discrimination against them as well as to their being rendered invisible in the eyes of society and of the law. This factor plays a role in deterring lesbian, bisexual and transgendered people from reporting acts of discrimination, abuse and violence that they face to the relevant authorities."⁸⁵

They are saying that there is a lack of protection of the rights of here, LBT persons in Sri Lanka and that this in turn leads to stigma and discrimination in the public sector. This also prevents them from reporting the discrimination, abuse and violence that they face. The organisation also presents 4 recommendations for the Government of Sri Lanka to apply, a) repealing Section 365A, b) to amend Article 12 (2) of the constitution, c) to develop and implement "policies for the state sector and corporate sector to enshrine the principles of non-discrimination in the workplace, based on sexual orientation and gender identity", d) to broaden the definition of sexual harassment.⁸⁶ WSG illustrates that the LBT community is in need of greater protection for their rights to equality and non-discrimination. The recommendations indicates that the Penal Code 365A is a factor to what problematises the

⁸⁵ The Women's Support Group, "The Status of Lesbians, Bisexual Women and Transgendered" (2011), p.3

⁸⁶ The Women's Support Group, "The Status of Lesbians, Bisexual Women and Transgendered" (2011), p.10

lives of here lesbian, bisexual women and trans people and the recommendation regarding Article 12 (2) of the constitution indicates that LBT persons are discriminated within the work field. Though the dominant ‘problem’ represented is that the government is failing in protecting the rights and lives of LBT communities in Sri Lanka. They also write regarding lesbian, bisexual women and transgender people:

“Having been socialized within a hetero-patriarchal society that only sanctions the expression of biologically dictated gender identities, non-conforming individuals often resort to suicide and self-harm due to the harassment and humiliation they face.”⁸⁷

There are no statistics on this statement made by the report and it also gives the impression that majority of LB women and transgender persons resort to suicide and self-harm. The report also shows signs of referring to LBT persons as victims of traditional hetero-patriarchal structures. By this representation, it is something that LGBTQI+ people suffer from and something to be rescued from.

Equal Ground states in their report (2014) that there are “serious and ongoing violations” of ICCPR of Sri Lanka’s LGBT population. It presents four major violations of the civil and political rights of LGBT individuals in Sri Lanka: a) The criminalisation of same-sex conduct which leads to violation of Article 2(1), 2(3), 17 and 26 of ICCPR, b) Arbitrary arrests and detentions, abusive and violent police behaviour which leads to violations of Article 19(2), 21 and 22, c) Suppression of freedom of expression, assembly, and association which leads to violations of Articles 19(2), 21 and 22, d) Failures to protect against forced marriages, discrimination and hate crimes by private actors which leads to violations of Article 2(1), 7, 9, 23(3) and 26.⁸⁸ Here the ‘problem’ represented is that the GOSL is failing in protecting the rights and lives of LGBT individuals but also how the private sector is treating LGBT persons and keeping them from enjoying their civil and political rights.

Human Rights Watch (HRW) (2016) presents a list of eleven key recommendations in their report which is aimed at, among others, the Parliament of Sri Lanka, the Ministry of Law and Order, the Police and the Ministry of Health. HRW writes that

⁸⁷ Women’s Support Group (2011), p.4.

⁸⁸ Equal Ground, “Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka: A Shadow Report” (2014)

“Those who challenge gender norms—including many lesbian, gay, bisexual, transgender, and intersex (LGBTI) people—may face a range of abuses from state officials and private individuals that compromise the quality and safety of their daily lives, and their ability to access services that are central to their realizing basic human rights.”⁸⁹

They are saying that people who challenge gender norms may face different kinds of abuse from both the private and public sector which affects their lives and access to basic human rights. Notice that HRW writes that LGBTI people “*may* face a range of abuses”. The report continues by primarily focusing on abuses experienced by transgender people, such as discrimination accessing health care, housing and employment, mistreatment and arbitrary detention.⁹⁰ The ‘problem’ represented is that LGBTI people, and especially transgender persons, encounter abuse from both state officials and private individuals, though by writing the word “*may*”, the report is less forceful in emphasis, in other words, the use of this word lightens the ‘problem’.

In the report by Women and Media Collective (WMC) (2017) they present a list of key recommendations for GOSL with 12 points as well as problems and issues under CEDAW. They write:

The continued criminalisation of same-sex relations between consenting adults reinforces direct discrimination of LBT persons and prevents equal treatment guaranteed by the Constitution of Sri Lanka, despite claims to the contrary by the Sri Lankan State in its 8th Periodic Report to CEDAW. The State report is also silent on the discrimination suffered by LBT persons and on the lack of legal protection available to them, indicating that they are among the most invisible, under-documented, and under-recognized groups in society.⁹¹

From this we see that they are saying that LBT persons are discriminated against due to the legislation and that there is a lack of legal protection. The dominant ‘problem’ represented here is therefore the legislation of criminalisation of same-sex relations and the issues that follows with it for LB women and transgender persons. It follows then that it is the GOSL duty to handle the ‘problem’.

⁸⁹ Human rights Watch, “All Five Fingers Are Not the Same” Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka” (2016) p.1.

⁹⁰ Human rights Watch, “All Five Fingers Are Not the Same” Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka” (2016) p.1.

⁹¹ Women and Media Collective, “Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka: Shadow Report”, (2017) p.4.

The report by The Law & Society Trust (LST) (2017) recommends

“concrete measures to stop harassment and ill-treatment of persons owing to their sexual orientation or gender identity, including and especially ending impunity for such actions by state officials, and ensuring ending discrimination in access to employment and other basic services.”⁹²

With this they are saying that there is ongoing harassment and ill-treatment of people who are gender variant or differ from the heterosexual norm and that state officials need to end the discrimination. They also state that the Penal Codes 365, 365A and Vagrants Ordinance legalises criminalisation and discrimination against LGBTIQ persons. They continue by saying that this leads to denied equal citizenship and access to justice and essential state services.⁹³ The dominant problem represented here is again, the legislation of GOSL regarding criminalisation of same-sex conduct and the difficulties it brings to the LGBTIQ community.

Amnesty International insists that Section 365, 365A and 399 of the Penal code and the Vagrants Ordinance are used to target and discriminate against LGBTI persons. They have four recommendations for the GOSL and two for the people of Sri Lanka. The four recommendations are: a) remove section 365/365A, 399, Vagrants Ordinance so that they cannot be used to target people because of their real or perceived sexual orientation or gender identity, b) make sure no other laws can be used to discriminate against people because of their real or perceived SOGI, c) make sure that LGBTI people are given full protection of the law, and are not extorted, abused or harassed by the police because of their real or perceived SOGI, d) take steps to make sure people are not discriminated against, harassed or subjected to violence in private and public places because of their real or perceived SOGI. “If this happens, make sure there is a mechanism through which complaints can be made and heard safely. And make sure cases are properly investigated, and the perpetrators are held accountable.” The major problem represented here is the laws of the GOSL that are targeting

⁹² The Law & Society Trust, “The State of Economic, Social and Cultural Rights in Sri Lanka: A Joint Civil Society Shadow Report to the United Nations Committee on Economic Social and Cultural Rights” (2017)

⁹³ The Law & Society Trust, “The State of Economic, Social and Cultural Rights in Sri Lanka: A Joint Civil Society Shadow Report to the United Nations Committee on Economic Social and Cultural Rights” (2017)

the LGBTI community, specifically Section 365, 365A, 399 and the Vagrants Ordinance. As well as the public, especially the police, are not protective.

All of the reports mention violence, abuse, harassment, discrimination that comes in many forms. Such as sexual, mental and physical. But the dominant ‘problem’ represented in the reports are the legislation in the country, specifically the Penal Codes and the Vagrants Ordinance and the issues that come with the LGBTQI+ community as well as the GOSL failure to protect the LGBTQIAP+ community. Mostly mentioned is discrimination, violence and abuse in both the public and private sector. They shortly comment on socio-cultural attitudes such as homophobia, transphobia, stigma and a hetero-patriarchal society where “social stigma and discrimination faced by lesbian, bisexual and transgender women is considerably higher when compared with the discrimination faced by heterosexual, heteronormative women.”⁹⁴ The reports are either focusing on LBT or LGBTQI, the acronyms A and P for example are never included, not even by marking a “+” at the end. This leads to thinking that they are excluded from the problem representation and that could be problematic. Some of the reports are focusing specifically on lesbian and bisexual women since their organisation primarily works for women’s rights. However, then they often include transgender people of mostly binary genders, men and women.

6.2 Understanding the ‘problem’: What assumed solutions are behind the problem? What assumptions underlie this representation of the ‘problem’?

In this section I analyse how the problem representation of strategies can contribute to attributing certain characteristics to LGBTQI+ persons through the discourse they create. The assumptions that are found to help substantiate the problem representation presented by the NGOs.⁹⁵ Assumption forms the basis for the view of the problem and can be investigated by identifying the type of knowledge behind the assumptions as well as by distinguishing

⁹⁴ The Women’s Support Group, “The Status of Lesbians, Bisexual Women and Transgendered” (2011), p.3

⁹⁵ Bacchi (2009), p.5.

dichotomies, categories and key terms.⁹⁶ I will be focusing on the assumed solutions as well as attributed characteristics that are presented in the NGO reports.

WSG writes that lesbian and bisexual women and transgender persons often deal with issues related to identity. They highlight that Sri Lanka has a hetero-patriarchal society, with that comes disapproval of non-conforming individuals and that this enforces self-harm and suicide due to the harassment and humiliation that they face.⁹⁷ They continue by saying that several newspapers have reported on joint suicides by two women on at least two occasions, where suicide notes had been left behind that expressed their “inability to face a life of separation. In such cases, it can be concluded that the women committed suicide due to that fact that their same-sex relationship was not recognized by society.”⁹⁸ This portrayal by not only the newspapers but also the report stigmatises the life of the women and their sexual orientation. It stigmatises them by portraying them as victims and people in need of saviour from not only the society, legislation but also from themselves. By not having any proof if the suicide notes specifically said that it was due to society not recognising their relationship that they took their own lives, drastic conclusions are made. Further on, there is no statistic mentioned in the report regarding joint suicides or suicides in general relating to the issues faced by the LGBTQ+ community. Besides that, the report fails to problematise this further by not for example discussing the fact that there is a lack of help within mental health care for not only LGBTQIAP+ individuals but the Sri Lankan population in general.

HRW (2016) writes that “common social attitudes and systemic barriers” construct discrimination and violence against transgender people and others who do not conform to social expectations of SOGI. They continue by citing Nalinda Jayatissa from an interview in December 2015 where he expressed unfavourable feelings and opinions of LGBTQ+ rights.⁹⁹ They continue by writing:

“For many Sri Lankans, attitudes toward gender non-conformity and homosexuality are shaped by social and cultural beliefs about how women and men should look and act, according to which a “normal” sexual relationship is between a woman and man and homosexuality is an illness and “foreign” import counter to national culture.”¹⁰⁰

⁹⁶ Bacchi (2009), p.7.

⁹⁷ The Women’s Support Group,(2011) p.4

⁹⁸ The Women’s Support Group,(2011) p.4+9.

⁹⁹ Human Rights Watch (2016) p.10

¹⁰⁰ Ibid (2016)

It is unclear what HRW means by “for many Sri Lankans”. There are no statistics included in the report that supports this statement. This quote from the reports portrays Sri Lankans or “many Sri Lankans”, as they write, as victims of a hetero-patriarchal society. Important to note is that this NGO is a western-based NGO which could influence the language of the reports, certain connotations and stereotypes.

LST (2017) writes: “The criminalisation of same-sex relations means that the family in Sri Lanka is defined in heteropatriarchal terms as being built around a male-female union.”¹⁰¹ They continue by writing that there has been “recorded incidents of forced marriages, especially of lesbians, which have led to suicides of LGBTIQ persons.”¹⁰² Here they assume that family in Sri Lanka is defined by heteropatriarchal terms and that is why the criminalisation of same-sex relations is constructed in the way it is. There is a neglect of the historical aspect here. They also say draw conclusions that forced marriages “especially of lesbians” have led to suicides of LGBTIQ persons. LST throws all the acronyms in there even though they specifically mention forced marriages of lesbians, perhaps to attempt to broaden the perspective. However, LST seems to jump to conclusions by writing that.

In the same way as HRW, LST portrays them as victims of a hetero-patriarchal society by writing that forced marriages has taken place as well as suicides. There are no statistics on the “suicides of LGBTIQ persons”, and they write “especially lesbians”, but then include GBTIQ persons as well. This leads to a homogenous group portrayal and several assumptions. In addition to these assumptions, they write that the criminalisation of same-sex relations “means that the family in Sri Lanka is defined in heteropatriarchal terms”. For whom? For all of the different Sri Lankan citizens? This assumption also portrays, not only LGBTQIAP+ persons as homogenous but also individuals who do not define themselves as LGBTQIAP+.

In the report by Amnesty International (2019)¹⁰³ there seem to be no assumptions that underlie the ‘problem’, since it reports about four different LGBTQ+ individuals in the form of a comic. It does not comment in the way the report does. All of the reports assume that decriminalisation of Section 365, 365A, 399 and a change of the Vagrants Ordinance will solve the ‘problem’ that is represented. Namely that the criminalisation of same-sexual conduct is the root of the problem for LGBTQIAP+ lives in Sri Lanka and by

¹⁰¹ The Law & Society Trust (2017), p.34

¹⁰² Ibid (2017)

¹⁰³ Amnesty International (2019), “Spectrum”

decriminalisation the challenges that LGBTQIAP+ people face will reduce. The report by Amnesty International (2019) also highlights that education and training for institutions in the public sector is of worth and importance to “solve the ‘problem’” that is represented.¹⁰⁴ However, it is not clear for the reader what kind of education that is needed. Human Rights Watch for example, writes that the GOSL should “urgently repeal criminal law provisions that criminalize same-sex sexual relations.”¹⁰⁵ It continues by saying that police need “sensitivity training” and guidance on their duty to respect the rights of all people. “Doctors, nurses, other medical practitioners, and support staff in the health system need better training, guidelines, and accountability systems to uphold the right to the highest attainable standard of health for LGBTI people in Sri Lanka.”¹⁰⁶ The report could be more specific in what kind of training it is that the public sector of Sri Lanka needs. The reports tend to overlook the fact that the socio-cultural aspects have deep influence, as well as the post-colonial resistance. This I will discuss further in the discussion section, section 6.5.

6.3 How has this representation of the ‘problem’ come about?

In this section I analyse the conditions that allow this ‘problem’ representation to take shape to assume dominance by examining their origins, history and mechanisms. The focus is on the process, how something came to be. Bacchi highlights that the ways ‘problems’ are understood, are the inevitable product of ‘natural’ evolution over time. Bacchi concludes that by identifying specific points in time when key decisions were made, taking an issue in a particular direction, we can see that the problem representation under scrutiny is contingent and therefore susceptible to change. By analysing how this representation came about an insight into the power relations that affect the success of some problem representations and the defeat of others can also be provided. Attention is directed to non-discursive practices, who, for example, had institutional authority in this certain domain.¹⁰⁷

5 of the reports mentions the history of the legislation around criminalisation of homosexuality and “impersonation” (see table 4 in the Appendix). It was not illegal until 1883, when the British colonizers passed the Penal Code Section 365 and 365A and before

¹⁰⁴ Amnesty International (2019)

¹⁰⁵ Human Rights Watch (2016)

¹⁰⁶ Human Rights Watch (2016) p.4.

¹⁰⁷ Bacchi (2009), 10-12.

that the Vagrants Ordinance in 1841. The reports are saying that therefore it was not a legal ‘problem’ to be LGBTQI+ until the laws were put in place. I will discuss this further in section 6.5. The only report that does not mention any historical origins is the report from Women and Media Collective (2017).¹⁰⁸ Though it mentions that Sri Lanka has, during several occasions, “been cited by international human rights review mechanisms for persisting with laws that discriminate on the basis of sexual orientation and gender identity.”¹⁰⁹ The report illustrates that by exemplifying concerns and recommendations that were made at the 2008 and 2012 Universal Periodic Review process, by CEDAW Committee in 2011, and the Human Rights Committee in 2014. These are key decisions during historic and contemporary times that were made by ‘outsiders’. First by the British that it is a crime to be LGBTQIAP+ or conduct in same-sexual activity, then again later by institutes that originally derive from a Western position.¹¹⁰ This I will also discuss further in the discussion section.

6.4 What is left unproblematic? Where are the silences?

In this section I will analyse where the silences are and what is left unproblematic. The focus is to raise contemplation issues and perspectives silenced in identified ‘problem’ representations. As well as considering the limits in the underlying ‘problem’ representations.¹¹¹ Bacchi believes that focusing on women's needs still constructs women as 'needy' and that it is instead beneficial to look at the 'interests' that men or women have, and which depend on gender, class, ethnicity or other factors. By shifting it, this can help to see women as a less homogeneous group and at the same time shift more focus on men.¹¹² Since the reports I am analysing is not only about women but everyone that is included within the LGBTQIAP+ spectrum, it does not rely on gender binaries. Nonetheless it is still of importance to look on ‘interests’ since lesbian transwomen for example might have other ‘interests’ and ‘needs’ than bisexual cisgender males. One thing to consider is that bisexual

¹⁰⁸ Women and Media Collective (2017),

¹⁰⁹ Women and Media Collective (2017), p.4.

¹¹⁰ Ibid (2017)

¹¹¹ Bacchi (2009), p.12-14.

¹¹² Bacchi, C. and Eveline, J. (2010) *Mainstreaming politics: Gendering practices and feminist theory*, p.27.

cisgender males still enjoy certain privileges in being a man and that sometimes can also pass as heterosexual to the ignorant public if one is in a relationship with a woman.

All of the reports mention violence, abuse, harassment, discrimination and the laws. They discuss the violence and discrimination within both the private and public sphere, they shortly comment on socio-cultural attitudes such as homophobia, transphobia, stigma and a hetero-patriarchal society. Though the reports could have problematised these subjects further in relation to the 'problem' representation to broaden the understanding of the 'problem' representation. Since the report from Amnesty International is in the form of a comic that only mentions four persons' stories. They could have included more stories to broaden the perspective on the problem even further as well as to broaden the inclusion of LGBTQIAP+ persons. The comic does however speak about challenges and lived effects of these four people, and similar experiences are very common for other LGBTQIAP+ individuals. Though, one could see these four stories as insufficient representation. Perspectives that I noticed that are often overlooked is e.g., lesbian transgender women. Another perspective or interview could have been included to broaden the spectrum and representation further. Further on, an ethnic, class or age perspective could also have been something to add to broaden the reports' representation.

However, all the other reports (see table 5 in the Appendix) fail to discuss how the 'problem' affects different age, language, ethnic and/or religious groups. This leads to a homogenous group portrayal of LGBTQIAP+ people though there are differences within ethnicities, religions, socio-economic factors and within age groups. Neither do the majority of the reports comment on mental health. Five of the reports do however mention aversion therapy and how LGBTQIAP+ persons often are forced into therapy to be "cured" of their sexuality or gender identity and how it is required for transgender persons to go to therapy before going through with their Gender Confirming Surgery. Nonetheless none of the reports mentions anything on access to mental health care, except for the report from the Law & Society Trust (2017). They highlight that mental healthcare in general in Sri Lanka has poor funding, insufficient number of trained psychologists and that there is also a lack of systematic programs for prevention and promotion of mental health care at a community level.¹¹³ The report from WSG (2011) does nonetheless comment that persons with a lower socio-

¹¹³ The Law & Society Trust (2017), p45.

economic status are the most vulnerable to sexual harassment and especially transwomen while in Police custody.¹¹⁴

Equal Ground briefly mentions two incidents where a 19-year-old trans woman had been raped and another case where a 16-year-old bisexual male had been raped in the school bathroom by two older students.¹¹⁵ This is the only report that shortly includes anything on age, though they do not problematise or comment on this further. Human Rights Watch (2016) does however shortly comment this regarding ethnic, religious etc. group differences:

“Ethnic, educational, religious, regional, and linguistic background can influence how individuals experience daily life, with those further down the economic and social ladder more likely to be targets of mistreatment and discrimination.”¹¹⁶

Though it does not delve further into it, nor does it discuss it again in the report. It states that 46 ethnic Sinhalese were interviewed, 11 ethnic Tamil and 4 were “Muslim, Burgher, Sinhalese/Tamil, and Sinhalese/Indian.”¹¹⁷ From this we see that the majority that was interviewed was still ethnic Sinhalese which could lead to silences on experiences on lived effects of other ethnicities within the LGBTQIAP+ community in Sri Lanka. They shortly commented on socio-cultural aspects, one of the interviewed, a transman (FTM), tells that when he was a child and went to an all-girls’ school the teachers insisted that he should wear flowers or a bow in his short hair. These gender cues (see terminology) and socio-cultural aspects could have been further problematised in the report. I will discuss this further in the next section. Neither do any of the reports discuss or problematise education and school in relation to LGBTQIAP+ individuals, with that I mean the experiences for LGBTQIAP+ individuals within school and education. HRW (2016) as written above, includes a short section on experiences during school, but the grade for example is left out as well as further problematisation.

¹¹⁴ Women’s Support Group (2011), p.5.

¹¹⁵ Equal Ground (2014), p.10.

¹¹⁶ Human Rights Watch (2016), p.10

¹¹⁷ Human Rights Watch (2016), p.8.

6.5 DISCUSSION OF THE FINDINGS

In this section I will discuss the outcome from the analysis and link it with the literature review. The purpose of this study has been to examine how the lived effects and challenges for LGBTQIAP+ individuals in Sri Lanka has been constructed and represented in the six reports by different NGOs by answering the research questions presented in the introduction. The research questions concern how the lived effects and what the ‘problem’ for LGBTQIAP+ people represented was and what was left unproblematic and silenced in the report regarding the lived effects and problems for LGBTQIAP+ individuals.

All of the reports discuss the lived effects of LGBTQIAP+ individuals, such as violence, abuse, harassment and discrimination that comes in many forms, such as mentioned earlier, sexually, mentally or physically. These take place in both the private and public sector. The primary research question reads: *What is the ‘problem’ represented to be in the chosen six NGO reports regarding LGBTQIAP+ lives?* To answer the question, the reports represent the dominant ‘problem’ and the root of this marginalisation to be the Penal Codes, in particular Section 365, 365A, 399 of the Penal Code as well as the Vagrants Ordinance and the failure of the GOSL in protecting in protecting the rights and lives of LGBTQ+ communities in Sri Lanka. None of them mentions section 352 or 353 that are related to “abduction” and that are being used against specifically lesbian women who leave their homes with their partners.¹¹⁸ By representing the dominant problem to be the legislation, the reports assume that the major solution to the ‘problem’ will be to decriminalise same-sex sexual conduct, the “impersonation” law and change the Vagrants Ordinance. The reports overlook the socio-cultural aspects as well as post-colonial resistance and how they affect the decriminalisation of homosexual conduct as well as the discrimination and marginalisation of the lives of LGBTQIAP+ individuals. Panditaratne points out that the decriminalisation in western countries does not count on it happening in South and Southeast Asian countries. Further Panditaratne highlights that by asserting moral-arguments, such as local cultural or religious values contributes to the criminalisation of same-sex relation.¹¹⁹

¹¹⁸ Equal Ground (2013). *Strengthening of Legal Protection for LGBT in Sri Lanka: road to decriminalization. Situational Analysis.*

¹¹⁹ Panditaratne, (2016) p.186.

The reports are focusing on either LBT or LGBTQI. Asexuality and pansexuality are for example not included in the reports. This could be because of asexuality being culturally accepted within Buddhism as Buddhist monks do usually not engage in sexual activity. Pansexuality however is often confused with bisexuality. The reports discuss the stigma that LGBTQIAP+ persons encounter and the homo- and transphobia that exist in the country, however they do not consider them enough. While decriminalisation would change the legal perspective, it would not directly erase the stigma and phobias that exist. These things would probably take a longer time for the country to adjust. With that comes education, for example broadening the sex education. Though a change within the legislation could spark a societal and cultural discussion regarding the discrimination and stigma that the LGBTQIAP+ community is facing.

Another big contributor to consider to why decriminalisation has not happened and is affecting the decriminalisation, is as Panditaratne points out, the misconception that criminalisation of homosexuality is of importance to oppose child abuse. By integrating penalties for child abuse into Section 365 and 365A the false association between homosexuality and child abuse was reinforced by the GOSL.¹²⁰ Unless the GOSL takes these things into consideration decriminalisation seems far away.

Considering postcolonial resistance in relation to decriminalisation of the Penal Codes and change of the Vagrants Ordinance, Panditaratne asserts that there is a complicated relationship between the GOSL and Western countries. They mention that both before and after the civil war, Western governments condemned Sri Lanka for its failure to advocate for human rights, which resulted in three resolutions. They also publicly rejected, in 2014, a demand by the U.K.¹²¹ The report by WMC (2017) also mentions the fact that Sri Lanka has been receiving recommendations and concerns regarding the laws that inflict on sexual orientation and gender identity rights.¹²² The reports therefore exclude these factors when assuming that firstly, decriminalisation will take place and secondly, that it is the sole problem to the 'problem' that is represented in the reports. These reports are between 2011 and 2019, almost 10 years and decriminalisation of the Penal Codes has not happened. The answer to my underlying research question, *What is left unproblematic and silenced in the*

¹²⁰ Panditaratne, (2016) p.192-193.

¹²¹ Panditaratne, (2016), p.195-196,

¹²² Women and Media Collective (2017), p.4.

NGO reports regarding LGBTQIAP+ lives? is complex and a simple answer cannot be given. The reports do not problematise the assumed solution (decriminalisation) enough, they do not take the postcolonial resistance or socio-cultural effects enough into consideration. They also fail to portray a diverse group portrayal and instead a homogenous one emerges. Mental health and ethno-religious aspects are also silenced. Five of them mention aversion therapy but not *how* the aversion therapy has affected the individuals that had been forced to undergo it. I will continue discussing these findings further in this section.

The root of the lived effects and challenges for LGBTQIAP+ individuals are more complex. The laws could be seen as a justifying mechanism for the violence, discrimination, abuse and harassment that is happening, but not solely the root of the lived effects for LGBTQIAP+ individuals of Sri Lanka. While having this in mind, it is important to remember the historical aspects as well. It is conflicting since it was Western values that constructed and institutionalised the Penal Codes and the Vagrants Ordinance. With these laws came homo- and transphobic values with a purpose during that time to “correct and Christianize ‘native’ customs and protect Christians from ‘corruption of the natives’”.¹²³ Not only are these laws homo- and transphobic but also racist. The colonial heritage discriminates, marginalise and oppress the LGBTQ+ community. But at the same time, it is Western values that emerged during the latter half of the 20th century that now claims that these anti-homosexuality laws are “backward”. The colonizers changed their laws and now include it in their foreign policy, but the former colonies are left with these laws and now consider LGBTQ+ to be a Western concept. These considerations regarding postcolonial resistance and socio-cultural aspects are not included in the reports and therefore the assumed solution recommended by the reports is not adequate. I want to remind the reader that these are my interpretations, and they are based on how I have been shaped as a person by the world, which Bacchi points out in their theory, that the problem representations we undertake to analyse have also somewhat shaped who we are.¹²⁴ My interpretations are therefore not necessarily “correct”, but they are reflective.

As mentioned, the reports portray a homogenous group and also fail to problematise mental health, age, ethno-religious and socio-economical aspects further, and as a result these aspects are silenced. LST (2017) illuminates that funding for mental healthcare in general is

¹²³ Han and O'Mahoney, (2014), p.5-6.

¹²⁴ Bacchi, Carol (2009), p.19.

poor¹²⁵, and as concluded in the literature review, there is not much research around mental health of LGBTQIAP+ individuals. WSG (2011) points out that persons with a lower socio-economic status are the most vulnerable to sexual harassment.¹²⁶ Though they do not problematise it further by, for example, looking into the access to mental health care or what it is like while accessing it. The reports could also have discussed gender cues further associated with socio-cultural aspects, HRW (2016) shortly mentions that a transman had received comments on his short hair during his time at an all-girls' school. Neither does the report mention what grade this incident took place. By assuming that decriminalisation will solve the problem other changes within the society seems disregarded. For example, 'sensitivity training' for the Sri Lankan police is mentioned in the report by HRW (2016). But what that signifies is not discussed, nor is it mentioned *who* should give this training.

Another notable aspect to address is the portrayal of LGBTQI+ issues and persons. We understand that the media has an impact in how they portray the LGBTQI+ community. The media, from what we know by reading Dr. Chandradasa's article and the reports, portrays homosexuality in a degrading way which in turns strengthens the stigmatisation of LGBTQIAP+ people. Half of the reports mentions a 'system' that lays a foundation to violence and discrimination. The report from LST (2017)¹²⁷ and from WSG (2011)¹²⁸ specifies this as a 'hetero-patriarchal society'. This, as mentioned before, gives a portrayal of LGBTQI+ individuals as victims of hetero-patriarchal structures. The stories, chosen interviews and centrepieces in the reports tend to focus on how LGBTQI+ people are victims of discrimination by the 'hetero-patriarchal society' or a system and that they are criminalised by the government. The 'victim narrative' can certainly be convenient to give forth on the struggles faced by the LGBTQI+ community in Sri Lanka. The portrayal of joint suicides and the inability to live alone by WSG (2011) and media could add to the stigmatisation of LBT women who is in need of therapy and also LBT women who are not in need of therapy. It could, for example, make it more difficult for them to reach out for help.

Nonetheless, as mentioned earlier, the reports do not quite take the multiplicity of identities which LGBTQIAP+ people have in the society into consideration. Such as mentioned before,

¹²⁵ The Law & Society Trust (2017), p45.

¹²⁶ Women's Support Group (2011), p.5.

¹²⁷ The Law & Society Trust (2017), p.34

¹²⁸ Women's Support Group (2011), p.4.

ethnicity, age, SOGI, socio-economic background etc. Nichols also discusses a victimising system in their article, though they never mention “hetero-patriarchal society”, Nichols highlights that transgender sex workers and MSM are being exploited and victimised by the system, further on, that rape of transgendered sex workers seemed to be informally institutionalised.¹²⁹ This portrayal also indicates that queer persons are victims of a stigmatising and discriminating system. With this in mind, we go back to Thoreson’s’ article. Thoreson stresses the fact that “information” is not a neutral term and like Bacchi, highlights that language and discourse has an influence over whose voices are heard and how they are used for political ends.¹³⁰ The NGO reports therefore influence people’s thinking in the way they portray LGBTQIAP+ people and how they present the ‘problem’. None of the reports mention what the GOSL or what the country in general has done for LGBTQ+ people. By not mentioning anything at all, it is under assumption that there have been no changes at all for the rights of LGBTQIAP+ rights in Sri Lanka. This in some ways supports the postcolonial resistance perspective presented by Panditaratne by only pointing out what has not been done.

¹²⁹ Nichols, 2010. p.211-215.

¹³⁰ Thoreson,(2013),p.148-149.

7. CONCLUDING REMARKS

As mentioned in the introductory chapter, research on the discourse of NGO reports on LGBTQIAP+ rights in Sri Lanka or the effects of the reporting on this, is a small field of research. In this study I have analysed six different reports from six different NGOs, by applying Carol Bacchi's WPR framework. I used Q1-Q4 of the framework as a tool to analyse the reports and to answer my research question: *What is the 'problem' represented to be in the chosen six NGO reports regarding LGBTQIAP+ lives?* As well as my underlying question: *What is left unproblematic and silenced in the NGO reports regarding LGBTQIAP+ lives?* I found that all of the reports presented the dominant 'problem' to be the legislation, namely Section 365, 365A and 399 of the Penal Code as well as the Vagrants Ordinance. Several aspects were left silenced or unproblematised in the reports. The majority of the reports had the same patterns and trends, such as not problematising postcolonial resistance, socio-cultural aspects and mental health which was also overlooked even in previous research. I found the portrayal of LGBTQIAP+ persons in Sri Lanka interesting since both the national and international NGOs portrayed a homogenous group and half of the reports portrayed LGBTQIAP+ people as "victims of a hetero-patriarchal society". This could lead to further stigmatisation by portraying them as victims and people in need of saviour from not only the society, legislation but also from themselves.

This type of analysis that I have done is of importance since it contributes to the scope of report analysis on the discourse of how NGOs represent and construct problem representations and lived effects for LGBTQIAP+ people in Sri Lanka, as well as what is left silenced and what assumptions underlie assumed solutions. By examining how the chosen NGO reports frame the issue and what is left unproblematic, I have explored how the NGOs portray LGBTQIAP+ persons and how their rights as individual belongings to a particular marginalised group are being affected.

For further research it would be interesting and important to look at the effects of this kind of 'problem' representation presented in these NGO reports in a long-term outlook. Namely, analyzing trends and how NGO reporting and other factors may have influenced how organizations and institutions work with SOGI inclusion and equality, in ways we might not

notice or be aware of in the present. With other words, a continuation of the analysis by researching the last two questions of the WPR framework, Q5 and Q6.¹³¹

¹³¹ Bacchi, (2009), p.2.

8. BIBLIOGRAPHY

Articles

Bowling, Jessamyn, Dodge, Brian, Banik, Swagata and others, “Social support relationships for sexual minority women in Mumbai, India/ a photo elicitation interview study”, *Culture, Health & Sexuality*, 2018, VOL. 20, NO. 2, 183–200 URL:

<https://doi.org/10.1080/13691058.2017.1337928>

Braun, Virginia and Clarke, Victoria (2006) Using Thematic analysis in psychology. *Qualitative Research in Psychology*, 3 (2), p.77-10.1

Brown, L. David (1992) “Non-Governmental organizations as development catalysts” *IDR Reports* 9(1): 1-8.

Chandradasa, Miyuru, Suicidal ideation in gay adolescents in the context of cultural stigma and criminalized homosexuality in Sri Lanka, *International Journal of Social Psychiatry* 2019, Vol. 65(1) pp.83–84.

Han, E. and O'Mahoney, J. (2014) ‘British colonialism and the criminalization of homosexuality’. *Cambridge Review of International Affairs*, 27 (2). pp.268-288.

Nichols, Andrea, “Dance Ponnaya, Dance! Police Abuses Against Transgender Sex Workers in Sri Lanka”. *Feminist Criminology*, 2010. 5(2) pp.195-222.

Panditaratne, Dinusha (2016) “Decriminalising Same Sex Relations in Asia: Socio-Cultural Factors Impeding Legal Reform”. *The American University journal of international law and policy / Washington College of Law*. pp.171-207.

Schwartz, Eric P. (2016) Humanitarian NGOs as instruments, partners, advocates and critics in the governance of international humanitarian response: complementary or conflicting roles?, *Asia Pacific Journal of Public Administration*, 38:1, 43-59, DOI:

<https://doi.org/10.1080/23276665.2016.1152725>

Thoreson, Ryan Richard, “Power, panics, and pronouns: The information politics of transnational LGBT NGOs”, Yale Law School, New Haven CT, USA, *Journal of Language and Sexuality* 2:1 (2013), 145–177, © John Benjamin’s Publishing Company.

Zomorodi, Gitta, “Responding to LGBT forced migration in East Africa”, 05.2020, pp.91-92

Books

Bacchi, Carol (2009), *Analysing Policy: What’s the problem represented to be?*, Pearson Australia.

Bacchi, C. and Eveline, J. (2010) *Mainstreaming politics: Gendering practices and feminist theory* (Adelaide: University of Adelaide Press).

Coleman, Dr. James William (2001) *The New Buddhism The Western Transformation of an Ancient Tradition*. Oxford University Press.

Jayatunge, R.M. (2015). *Psychological Aspects of Buddhist Jataka Stories*. Godage Publishers Colombo.

News articles, Websites and Other

Amnesty International, “Who we Are”, Available at: <https://www.amnesty.org/en/who-we-are/> (retrieved 8.12.2020)

Dissanayake, U. (2019). Laws that shaped Lanka. *Daily News*, [online] (Last updated 01.00 on 4 February 2019). Available at: <http://www.dailynews.lk/2019/02/04/supplement/176439/laws-shaped-lanka> (retrieved 13.11.2020)

Equal Ground, “About”, Available at: <https://www.equal-ground.org/> (retrieved 8.12.2020)

Food and Agriculture Organization of the United Nations, “Sri Lanka: Customary Laws” Available at: http://www.fao.org/gender-landrights-database/country-profiles/countries-list/customary-law/en/?country_iso3=LKA (25.12.2020)

Godbole, Tanika, India grapples with legality of same-sex marriage, *DW*. (Last updated 19.10.2020), URL: <https://www.dw.com/en/india-same-sex-marriage-homosexuality/a-55324279> (retrieved 18.11.2020)

Human Rights Watch, “About us”, Available at: <https://www.hrw.org/about/about-us> (retrieved 8.12.2020)

ILO (2007). Sri Lanka Penal Code (Ordinance No. 2 of 1883). Available at: http://www.commonlii.org/lk/legis/consol_act/pc25130.pdf (retrieved 28.11.2020)

Jayawardane, Ishara, Extreme to no Extremism, *Daily News*. (Last updated 10.12.2015) Available at: <http://dailynews.lk/2015/12/10/features/extreme-no-extremism> (retrieved 13.11.2020)

Kimutai too, Kenneth, “Religious Beliefs In Sri Lanka”, *Society*, 2017-04-25 (retrieved 11.11.2020) URL: <https://www.worldatlas.com/articles/religious-beliefs-in-sri-lanka.html>
Ramachandran, Dr. Sudha, Sri Lanka’s Anti-Muslim Violence, *The Diplomat*. 2018-03-13 (retrieved 11.11.2020)

OutRight Action International, “Sri Lanka Government says LGBT Rights are Constitutionally Protected”, 2014-10-20, <https://outrightinternational.org/content/sri-lanka-government-says-lgbt-rights-are-constitutionally-protected> (retrieved 30.12.2020)

Pothmulla, L. (2017). Activists not so ‘gay’, *Daily Mirror*, [online], (19 January 2017). Available at: <http://www.dailymirror.lk/article/Activists-not-so-gay--122389.html> (retrieved 13.11.2020)

“The Constitution of The Democratic Socialist Republic of Sri Lanka”, Chapter III – Fundamental Rights Available at:

<https://www.ilo.org/dyn/travail/docs/1683/CHAPTER%20III%20CONSTITUTION.pdf>

(retrieved 30.12.2020)

The Law & Society Trust, “About Us”, Available at: <https://lstlanka.org/about-us/#lst-today>

(retrieved 8.12.2020)

Varadas, Thyagaraja & Wickramasinghe, වෛද්‍ය නලින්ද ජයතිස්සගේ හෝමෝෆෝබියාව හා ජ. වි. පෙ. නිශ්චලිතාව, *Colombo Telegraph*. (Last updated 27.12.2015) (retrieved 18.10.2020)

We Are Family, “LGBTQI+ Glossary of Terms” Available at:

<https://www.wearefamilycharleston.org/lgbt-glossary-az> (retrieved 4.1.2021)

Who We Are, Women And Media Collective <https://womenandmedia.org/who-we-are/>

(retrieved 8.12.2020)

Reports (Primary material)

Amnesty International (2019), “Spectrum ” (retrieved 29.05.2020)

Equal Ground, (2014), “Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka: A Shadow Report” (retrieved 30.11.2020)

Human Rights Watch (2016). “All Five Fingers Are Not the Same”. Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka”. Available at:

<https://www.hrw.org/report/2016/08/16/all-five-fingers-are-not-same/discrimination-grounds-gender-identity-and-sexual> (retrieved 7.10.2020)

The Law & Society Trust, (2017) “The State of Economic, Social and Cultural Rights in Sri Lanka: A Joint Civil Society Shadow Report to the United Nations Committee on Economic Social and Cultural Rights” (retrieved 7.10.2020)

The Women’s Support Group, (2011), “The Status of Lesbians, Bisexual Women and Transgendered. NGO Shadow Report to the Committee on the Elimination of All Forms of

Discrimination Against Women” (retrieved 5.10.2020) Available at:

https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LKA/INT_CEDAW_NGO_LKA_48_9524_E.pdf

Women and Media Collective, (Feb. 13-Mar. 3, 2017), “Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka”. Available at:

http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LKA/INT_CEDAW_NGO_LKA_26252_E.pdf (retrieved 7.10.2020)

Studies

Asian Development Bank (2008). *Country Gender Assessment: Sri Lanka*.

Equal Ground (2013). *Strengthening of Legal Protection for LGBT in Sri Lanka: road to decriminalization. Situational Analysis*.

Women’s support Group, (no date), “Not Gonna take It Lying Down”-Experiences of Violence and Discrimination as Told by LBT Persons in Sri Lanka, (retrieved 7.10.2020)

Asexual – Person who is not sexually attracted to anyone or does not have a sexual orientation. This varies for every asexual person.

Bisexual – A person sexually, emotionally and/or physically attracted to males and females or to more than one sex or gender. The attraction is not necessarily split equally between genders, there may be a preference for one gender over others.

Cisgender – a person who feels comfortable with the gender identity and expectations assigned to them at birth based on their physical sex.

Coming Out – can refer to the process by which one accepts one’s own sexuality, gender identity, or status as an intersexed person. May also refer to the process by which one shares one’s sexuality, gender identity, or intersexed status with others. This can be a continual, life-long process for some people of the LGBTQIAP+ community.

Gay – 1. A term used in some cultural settings to represent males who are attracted to males in an emotional, physical and/or sexual sense. Though not all men who engage in “homosexual conduct” identify as gay. 2. Term used to refer to as an individual identity label for anyone who does not identify as heterosexual or as the LGBTQIAP+ community as a whole.¹³²

Gender Confirming Surgery – Medical surgeries used to modify one’s body to be more coinciding with one’s gender identity.

Gender Cues – What humans use to try to tell the gender/sex of another person. Examples include vocal inflection, hairstyle, body shape, clothing, bearing. This varies by culture.

Gender Identity – A person’s sense of being masculine, feminine, or other gendered.

¹³² We Are Family, “LGBTQI+ Glossary of Terms” (4.1.2021)

Gender Normative – A person who by choice or nature conforms to gender-based expectations of society. ¹³³

Gender Variant – A person who either by nature or by choice does not conform to gender-based expectations of society (e.g., transgender, transsexual, intersex, genderqueer, cross-dresser, etc.).

Heteronormativity—The assumption, in institutions, society and individuals, that everyone is heterosexual, and that heterosexuality is superior to homosexuality and bisexuality etc.

Homophobia – The irrational fear or hatred of homosexuality, homosexuals, or any behaviour that does not conform to sex role stereotypes. ¹³⁴

Homosexual – A person primarily emotionally, physically, and/or sexually attracted to people of the same sex.

Intersexed Person— A person whose combination of chromosomes, hormones, sex organs, and/or genitals differs from one of the two expected patterns. Someone whose sex a doctor has a difficult time categorizing as either male or female.

Lesbian –female-identified people attracted emotionally, romantically and/or erotically to other female-identified people. ¹³⁵

Pansexual – A person who is emotionally, romantically and or/sexually attracted towards people regardless of their gender identity or sex.

Passing – Describes a person's ability to be seen as heterosexual and/or cisgender or to be accepted as their preferred gender/sex.

Queer – 1. An umbrella term which embraces all sexual preferences, genders, orientations, and habits of the not-exclusively- heterosexual-and-monogamous majority. 2. Is sometimes

¹³³ We Are Family, "LGBTQI+ Glossary of Terms" (4.1.2021)

¹³⁴ We Are Family, "LGBTQI+ Glossary of Terms" (4.1.2021)

¹³⁵ We Are Family, "LGBTQI+ Glossary of Terms" (4.1.2021)

used as a sexual orientation label instead of ‘bisexual’ as a way of acknowledging that there are more than two genders to be attracted to, or as a way of stating a non-heterosexual orientation without having to state who they are attracted to.¹³⁶

Sex - A medical term allocating a certain combination of genitalia, external gender organs, chromosomes, hormonal balances and secondary sex characteristics. This category does not recognise the existence of intersexed bodies since usually subdivided into ‘female’ and ‘male’.

Sex Identity – How a person identifies physically: female, male, beyond, in between, or neither.

Sexual Orientation – The desire for intimate emotional and/or sexual relationships with people of the multiple genders/sex, same gender/sex or another gender/sex.

Sexuality – A person’s exploration of sexual orientation, desire sexual pleasure and sexual acts.

Trans - Can be used to refer to the gender variant community as a whole, a gender variant person. This term allows a person to state a gender variant identity without having to disclose hormonal or surgical status/intentions.¹³⁷

Transgender – A person who lives as a member of a gender other than that expected based on anatomical sex. Note that sexual orientation varies and is not dependent on gender identity.

Transman—An identity label sometimes adopted by female-to-male transsexuals to signify that they are men while still affirming their history as females.

Transphobia – The irrational fear of those who are gender variant and/or the inability to deal with gender ambiguity.

¹³⁶ We Are Family, “LGBTQI+ Glossary of Terms” (4.1.2021)

¹³⁷ We Are Family, “LGBTQI+ Glossary of Terms” (4.1.2021)

Transsexual – A person who identifies psychologically as a gender/sex other than the one to which they were assigned at birth. Transsexuals often wish to transform their bodies hormonally and surgically to match their inner sense of gender/sex.

Transwoman – An identity label sometimes adopted by male-to-female transsexuals to signify that they are women while still affirming their history as males.¹³⁸

¹³⁸ We Are Family, “LGBTQI+ Glossary of Terms” (4.1.2021)

Table (1) Phase 2

Title	Date	Author	Conclusion	Key words/theme
“The Status of Lesbians, Bisexual Women and Transgendered”	January 2011	The Women’s Support Group	Report about key issues and critical concerns under Articles 1,2,5,6,7,11,12,13 and 16 of CEDAW as well as 19, 21 and 28 of the General Recommendations.	CEDAW, key issues, discrimination, effects, violence, health care, homophobia, transphobia, hetero-patriarchal society, persecution, marginalisation, denied,
“Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka: A Shadow Report”	2014	Equal Ground, Center for International Human Rights of Northwestern University School of Law, Heartland Alliance for Human Needs & Human Rights, Global Initiative for Sexuality and Human Rights	Report on human rights issues in regard to International Covenant on Civil and Political Rights (ICCPR). Discusses the violations of the Covenant rights of LGBT people in Sri Lanka.	ICCPR, discrimination, violation, laws, violence, arbitrary arrests, rights, harassment, abuse, equality, un-equality, denied, persecution, legitimise, marginalisation
“All Five Fingers Are Not the Same” Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka”	2016	Human Rights Watch	Report based on interviews with 61 LGBTI people, focuses primarily on abuses experienced by transgender people and MSM. Discrimination in employment, housing, health care. Discusses the legal landscape that is failing to recognise the gender identities and sexual orientations.	Discrimination, harassment, violence, health care, mental health, socio-cultural aspects, laws, difficulties and barriers, sexual abuse, physical abuse, public and private sector, housing, employment, transphobia and homophobia
“Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka Shadow	13 February - 03 March 2017	Women and Media Collective	Report about discrimination, violence against lesbian, bisexual and transgender persons. Barriers that they face.	Discrimination, physical violence, sexual violence, verbal violence, health care, mental health, stigma,

Report”			33 LBT individuals were interviewed	marginalisation, vulnerable, reluctance
“The State of Economic, Social and Cultural Rights in Sri Lanka: A Joint Civil Society Shadow Report to the United Nations Committee on Economic Social and Cultural Rights”	April 2017	The Law & Society Trust, Prashanthi Jayasekara with support from Sandun Thudugala, Vijay Nagaraj and Nigel Nugawela.	Report on the Economic, Social and Cultural rights in Sri Lanka. Discusses the laws and problems (will be focusing on the LGBTQI rights).	Difficulties and barriers; employment, housing, physical abuse, verbal abuse, discrimination, laws, familial rights, transphobia and homophobia, health care, private and public sector
“Spectrum”	2019	Amnesty International	Comic, real stories drawn from interviews conducted by Amnesty International of LGBTI people in Sri Lanka.	Discrimination, violence, marginalisation, employment, threats, harassment, arbitrarily arrest, police, familial issues, religion

Table 2: Analysis Q1

Title	Year and NGO	What’s the ‘problem’ represented to be in a specific policy?
“The Status of Lesbians, Bisexual Women and Transgendered”	January 2011, The Women’s Support Group	Lack of protection of the right to equality and non-discrimination for LBT persons → stigma and discrimination against them, as invisible in the eyes of the law and society. → hinders LBT people from reporting acts of abuse, violence and discrimination that they face. The Penal Codes are presented as a factor to the problem. They present 4 recommendations for the GOSL to apply. Key categories: Sex roles and Stereotypes, Trafficking and Prostitution, Political and Public life, Employment, Healthcare, Economic and Social Benefits, Marriage and Family life, Violence against women.

<p>“Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka: A Shadow Report”</p>	<p>2014, Equal Ground, Center for International Human Rights of Northwestern University School of Law, Heartland Alliance for Human Needs & Human Rights, Global Initiative for Sexuality and Human Rights</p>	<p>Serious and ongoing violations of ICCPR of Sri Lanka’s LGBT population. Presents these three problems as headings: Criminalisation of same-sex conduct (violation of Art. 2(1), 2(3), 17 and 26. Arbitrary arrests and detentions, abusive and violent police behaviour (violation of Art. 19(2), 21 and 22 Failures to protect against forced marriages, discrimination and hate crimes by private actors (violations of Art. 2(1), 7, 9, 23(3) and 26) Delve deeper into the effects and problems of each of these violations.</p>
<p>“All Five Fingers Are Not the Same” Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka”</p>	<p>2016, Human Rights Watch</p>	<p>List of key recommendations. Abuse, arbitrary detention, mistreatment and discrimination within healthcare, employment and housing. The legal landscape fails to recognise the gender identity of transpersons without abusive requirements, it enables a range of abuses against LBGTI persons and makes same-sex relations between consenting adults a criminal offense. Public and private sector discrimination, societal attitudes towards gender non-conformity and homosexuality</p>
<p>“Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka Shadow Report”</p>	<p>13 February - 03 March 2017, Women and Media Collective</p>	<p>List of key recommendations for GOSL, 12 points, e.g.: Decriminalisation of same-sex conduct <i>Amend</i> discriminatory law that breach on human rights of LBT persons <i>Amend</i> art. 12 of the constitution <i>Recognise</i> the specific concerns of LBT persons in legal reform and policy formulation in key areas <i>Undertake</i> educational reforms to sharpen children of school-going age, as well as teachers, parents, administrative staff and principles about gender identity and sexuality Problems and issues under CEDAW: Equality and non-discrimination (violations against Art. 1-4, GR 28 and 33)</p>

		<p>Stereotypes and Harmful Practices towards LBT (violations of Art. 5)</p> <p>Gender-based violence against LBT (violations against Art. 1-4, 6, GR 19)</p> <p>Health (violations against Art. 11, 12, GR 19, 24)</p>
<p>“The State of Economic, Social and Cultural Rights in Sri Lanka: A Joint Civil Society Shadow Report to the United Nations Committee on Economic Social and Cultural Rights”</p>	<p>April 2017,</p> <p>The Law & Society Trust, Prashanthi Jayasekara with support from Sandun Thudugala, Vijay Nagaraj and Nigel Nugawela.</p>	<p>The Penal Codes, 365, 365A and Vagrants Ordinance legalises criminalisation and discrimination against LGBTQ persons. This leads to denied equal citizenship and access to justice and essential state services. Recommendations: “concrete measures to stop harassment and ill-treatment of persons owing to their sexual orientation or gender identity, including and especially ending impunity for such actions by state officials, and ensuring ending discrimination in access to employment and other basic services.”</p>
<p>“Spectrum”</p>	<p>2019, Amnesty International</p>	<p>The laws: 365/365A, 399 of the Penal Code and Vagrants Ordinance are used to target and discriminate against LGBTI persons. Other than discrimination, they also face, threats, abuse, violence, harassment and their rights are violated within both the private and public sphere. Arbitrary arrests and detentions, stereotypes and social attitudes.</p> <p>Recommendations e.g.:</p> <p>Remove section 365/365A, 399, Vagrants Ordinance so that they cannot be used to target people because of their real or perceived sexual orientation or gender identity</p> <p>Take steps to make sure people are not discriminated against, harassed or subjected to violence in private and public places -”-.</p> <p>Recommendations for the people of SL p.4</p>

Table 3: Analysis Q2

Title	Year and NGO	What presuppositions or assumptions underlie this representation of this ‘problem’?
“The Status of Lesbians, Bisexual Women and Transgendered”	January 2011, The Women’s Support Group	Decriminalisation of same-sex sexual conduct and Section 399 as well as the Vagrants Ordinance will solve the ‘problem’ Portrayal on p.4: Suicide and self-harm “Hetero-patriarchal society” p.4+9
“Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka: A Shadow Report”	2014, Equal Ground, Center for International Human Rights of Northwestern University School of Law, Heartland Alliance for Human Needs & Human Rights, Global Initiative for Sexuality and Human Rights	Portrayal on p.4: Not seeking help
“All Five Fingers Are Not the Same” Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka”	2016, Human Rights Watch	Decriminalisation of same-sex sexual conduct and Section 399 as well as the Vagrants Ordinance will solve the ‘problem’ Assumed solutions: “Sensitivity training” and “better training”, p4. “Systemic barriers” p.10
“Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka Shadow Report”	13 February - 03 March 2017, Women and Media Collective	Decriminalisation of same-sex sexual conduct and Section 399 as well as the Vagrants Ordinance will solve the ‘problem’
“The State of Economic, Social and Cultural Rights in Sri Lanka: A Joint Civil Society Shadow Report to the United Nations Committee on Economic Social and Cultural Rights”	April 2017, The Law & Society Trust, Prashanthi Jayasekara with support from Sandun Thudugala, Vijay Nagaraj and Nigel Nugawela.	Decriminalisation of same-sex sexual conduct will solve the ‘problem’ “Hetero-patriarchal terms” p.34
“Spectrum”	2019, Amnesty International	Decriminalise same-sex sexual conduct

Table 4: Analysis Q3

Title	Year and NGO	How has this representation of the ‘problem’ come about?
“The Status of Lesbians, Bisexual Women and Transgendered”	January 2011, The Women’s Support Group	Criminalisation of same-sex conduct, was not illegal until 1883 Vagrants Ordinance 1841 The legislation was created by the British colonizers
“Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka: A Shadow Report”	2014, Equal Ground, Center for International Human Rights of Northwestern University School of Law, Heartland Alliance for Human Needs & Human Rights, Global Initiative for Sexuality and Human Rights	Criminalisation of same-sex conduct, was not illegal until 1883 Vagrants Ordinance 1841 The legislation was created by the British colonizers
“All Five Fingers Are Not the Same” Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka”	2016, Human Rights Watch	Criminalisation of same-sex conduct, was not illegal until 1883 Vagrants Ordinance 1841 The legislation was created by the British colonizers
“Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka Shadow Report”	13 February - 03 March 2017, Women and Media Collective	Doesn’t mention any historical aspects, though about human rights reviews, recommendations and concerns that were made to Sri Lanka by Universal Periodic Review in 2008 and 2012, by CEDAW committee in 2011 on p.4
“The State of Economic, Social and Cultural Rights in Sri Lanka: A Joint Civil Society Shadow Report to the United Nations Committee on Economic Social and Cultural Rights”	April 2017, The Law & Society Trust, Prashanthi Jayasekara with support from Sandun Thudugala, Vijay Nagaraj and Nigel Nugawela.	Criminalisation of same-sex conduct, was not illegal until 1883 Vagrants Ordinance 1841 “Archaic laws”
“Spectrum”	2019, Amnesty International	Criminalisation of same-sex conduct, was not illegal until 1883 Vagrants Ordinance 184. The legislation was created by the British colonizers

Table 5: Analysis Q4

Title	Year and NGO	What is left unproblematic in this problem representation? Where are the silences? Can the ‘problem’ be thought about differently?
“The Status of Lesbians, Bisexual Women and Transgendered”	January 2011, The Women’s Support Group	Nothing on age, ethno-religious factors → homogenous group portrayal: LBGT. Does not talk about mental health challenges, mentions aversion therapy. Nothing on education and school and LGBTQI+. Not problematising the socio-economic factors enough. Shortly about socio-economic factors on p.5 regarding e.g., transwomen.
“Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka: A Shadow Report”	2014, Equal Ground, Center for International Human Rights of Northwestern University School of Law, Heartland Alliance for Human Needs & Human Rights, Global Initiative for Sexuality and Human Rights	Nothing on age, ethno-religious factors → homogenous group portrayal: LBGT. Does not talk about mental health challenges, mentions aversion therapy. Nothing on education and school and LGBTQI+. Not problematising the socio-economic factors enough. Shortly about age on p.10 regarding two rape cases.
“All Five Fingers Are Not the Same” Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka”	2016, Human Rights Watch	Not enough on age, ethno-religious factors → homogenous group portrayal: LBGT. Does not talk about mental health challenges, mentions aversion therapy. Nothing on education and school and LGBTQI+. Not problematising the socio-economic factors enough. Shortly about ethnic, religious differences on p. 10. “Ethnic, educational, religious, regional, and linguistic background can influence how individuals experience daily life, with those further down the economic and social ladder more likely to be targets of mistreatment and discrimination.”. Based on interviews, 46 ethnic, Sinhalese, 11 ethnic Tamil, 4 others Muslim,

		Burgher, Sinhalese/Tamil and Sinhalese/Indian p.8. Shortly about mental health on p45-47. Interesting quote on p.11 about school and gender cues
“Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka Shadow Report”	13 February - 03 March 2017, Women and Media Collective	Nothing on age, ethno-religious factors → homogenous group portrayal: LBGT. Does not talk about mental health challenges, mentions aversion therapy. Nothing on education and school and LGBTQI+. Not problematising the socio-economic factors enough
“The State of Economic, Social and Cultural Rights in Sri Lanka: A Joint Civil Society Shadow Report to the United Nations Committee on Economic Social and Cultural Rights”	April 2017, The Law & Society Trust, Prashanthi Jayasekara with support from Sandun Thudugala, Vijay Nagaraj and Nigel Nugawela.	Nothing on age, ethno-religious factors → homogenous group portrayal: LBGT. Does not talk about mental health challenges, does not mention aversion therapy Nothing on education and school and LGBTQI+. Not problematising the socio-economic factors enough. Shortly about healthcare services being insufficient and poorly funded on p.45
“Spectrum”	2019, Amnesty International	Focuses on 4 individual stories Suddenly ¾ had good jobs, but how was the road to that? Speak about challenges and lived effects of these four people that are very common for other LGBTQIAP+ individuals. Effects by the laws but also how socio-cultural attitudes are affecting in both the private and public sphere. Fails to problematise that here trans women seem to have it more difficult. Insufficient portrayal?