Reviewer’s report

Title: Human Rights Violations Among Sexual and Gender Minorities in Kathmandu, Nepal: A Qualitative Investigation

Version: 1 Date: 25 May 2011

Reviewer: Vincent V Iacopino

Reviewer’s report:

The manuscript provides useful information on the experiences of sexual and gender minorities in Kathmandu, Nepal that will likely inform future research and/or remedial interventions.

Major Compulsory Revisions:
There is considerable confusion in the use of the term “human rights violations.” In some cases the authors use the term to refer to participant’s reported experiences of abuse and discrimination, including teasing and social exclusion, by non-state actors. States have the duty to ensure rights i.e. respect, protect and fulfill rights. The state’s failure to ensure non-discrimination by non-state actors should be considered a human rights violation, but not the acts of discrimination and abuse by non-state actors. The manuscript should have a consistent definition of human rights, if not international human rights law, then the authors should clarify that they are referring to a participant-generated definition of rights; it is important not to conflate these two definitions. Similarly, the term “legal human rights violations” should be clarified simply as human rights violations if the authors are referring to violations of human rights law by states. “Legal human rights violations” is a contradiction in terms, i.e. violations which are legal.

Minor Essential Revisions:
Abstract and Methods Sections: Please provide additional information on the convenience sample referred to in the abstract and methods sections. Who was invited to participate and how were they invited? Please include in the limitation section any additional bias related to sampling. Also please specify the number of each category of participant, i.e. MSM, third gender and transgender.

Page 4, Para 2: Please indicate which human rights summaries and documents were shared with the participants. Also, it would be helpful to clarify whether the participants were asked to generate and rank a list of human rights violations based on their experiences or on their perceptions. The ranking of importance of reported “human rights violations” implies the former, but this should be clarified.

Page 5, Para 2: It is not clear what is meant by “subtle shifts in focus. Please clarify.

Results Section: As mentioned above the headings should be reconsidered and
reflect a consistent and accurate definition of human rights violations. The section “What are Human Rights Violations” implies that participants were asked their opinions on what human rights are and violations thereof. How does this related to the distribution of human rights summaries and documents to the participants. Were the participants asked to report and rank human rights violations as they defined them or as defined in international instruments?

Results Section: Again reports of teasing, being shunned, excluded from cultural ceremonies, and cursed are not human rights violations in international human rights law.

Discretionary Revisions:
Page 5, Para 3, Sentence 2: Please include the number of participants in for each category of sexual and gender minority listed.

Results Section, “Legal Human Rights Violations,” Page 9: Consider discussing the merits of the reported violations in relation to current domestic and international law in Nepal.

Page 12, Para 2: Can “legal rights violations” be clarified? Were the participants referring to legal protections against discrimination and/or provisions to ensure equality before the law? Again, it is confusing to make a distinction between “human rights” and “legal rights.”

Discussion, Page 12: Consider adding discussion on the relationship between acts of discrimination by non-state actors and human rights violations by state actors, including acts of commission and omission. As you may know, human rights law makes some mention of individual duties to respect the rights of other. The idea of individual duties is included in the Preamble of both the ICCPR and ICESCR: “Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant.” It would be interesting to discuss the problem of discrimination and violence against gender and sexual minorities from a human duties point of view.

Page 13, Para 2, Sentences 1 & 2: Please explain the “decriminalization of homosexuality” and “change in the legal environment” that is referred to.

Page 13, Para 3: Perhaps it would be helpful to refer to the principles of interdependence and indivisibility of rights in discussing participants’ ranking of importance.

Level of interest: An article of importance in its field

Quality of written English: Needs some language corrections before being published

Statistical review: No, the manuscript does not need to be seen by a
statistician.

**Declaration of competing interests:**

I declare that I have no competing interests.