

National Consultation Meeting

Pokhara Declaration

Date: 1st September, 2016

Blue Diamond Society, supported by the Global Fund's Multi-Country South Asia Phase 2 Regional HIV Programme (DIVA), organized a National Consultation Meeting bringing together 200 community members, civil society members and stakeholders, National Human Rights Commission, government officials and members of legislative Parliament on 31st August and 1st September 2016 in Hotel Grande Pokhara, Pokhara, Nepal.

We, the sexual and gender minorities of Nepal have made this declaration at the conclusion of the National Consultation Meeting.

Preamble: We express with great pride that Nepal is one of the most open countries in Asia for LGBTI rights, with a robust movement for sexual and gender minorities' equality. Especially recognizing the constitutional guarantees under the following articles -

- 1) **Article 12** states that citizens have been guaranteed the right to choose their preferred gender identity on their citizenship document. The choices available are male, female or other.
- 2) **Article 18** states that gender and sexual minorities will not be discriminated against by the State and by the judiciary in the application of laws. It further adds that the government may make special provisions through laws to protect, empower and advance the rights of gender and sexual minorities and other marginalized and minority groups. This is spelled out in the provision of positive discrimination.
- 3) **Article 42** lists gender and sexual minorities among the groups that have a right to participate in state mechanisms and public services to promote inclusion.
- 4) **Article 258** The provision of setting up an **inclusive commission**

Recalling the Supreme Court's verdict to amend all the laws against third gender and sexual minorities and to refrain from drafting such provisions in the future

Recall our commitment to the 2014 Pokhara declaration and through this reaffirm our commitment to the principles and objectives of this meeting for ensuring the empowerment and quality of life of the LGBTI people in Nepal.

We, participants of the National Consultation Meeting, call the upon the Govt of Nepal, Legislative and Judicial Authorities, UN and other multilateral partners, International Agencies, Civil Society Organizations, media, the private sector and all the Nepali citizens to engage, contribute and play an active role in implementing the Pokhara Declaration and its recommendations.

We collectively prioritized the following 8 point declaration and strongly call on the Government of Nepal and all concerned authorities for its immediate and effective implementation and further leadership:

1. We urge the Govt and the health department to permit all medical treatment necessary for gender reassignment and that they amend their legislation so as to permit a transgender person to change their legal sex to the one that corresponds to their gender identity without undergoing any clinical intervention, these changes need to be reflected in all identity documents and academic credentials. The govt also needs to look into current practices of forced genital mutilation of intersex people and act on the recommendations of the Convention of the Rights of Child 2016.
2. We demand that the Govt without further delay -
 - Implement laws and policies that fully protect and promote the rights of people of diverse sexual orientations and gender identities, including laws to prosecute people who continue to discriminate against LGBTI persons through speedy amendment of civil and criminal code. Especially in the areas of unnatural offences, rape laws, adoption etc and making laws gender neutral
 - In the absence of any specific commission or authority for LGBTI persons, we demand that the inclusive commission be mandated to ensure protect and promote the rights of LGBTI persons in Nepal
 - Legalize same-sex marriage, and make provisions for adoptions and other related issues
 - Nondiscriminatory access be assured to a wide range of holistic health services for LGBTI persons
 - Inclusion of LGBTI issues into the planning cycle of the National Planning Commission.
3. We recommend that the Ministry of Education be accountable for the effective implementation of curricula(at all levels) that includes LGBT issues in the education system. It is recommended to urgently implement teacher training programs that discuss sexual orientation and gender identity.
4. We demand that in line with the new constitution Public and Private businesses should provide equal treatment to everyone at the workplace on issues relating to remuneration, insurance, and social welfare. We urge business leaders to positively discriminate for LGBTI persons so as to make them economically stronger and have equal opportunities for livelihoods.
5. We urge that the media contribute and work with community organizations in breaking down stereotypes, and promote a realistic visibility of LGBTI people.
6. We recognize the role of families, communities, schools, workplaces, religious institutions, and community organizations in the lives of LGBTI people, hence strongly recommend that the Govt through its various machinery promote SOGI sensitivity and create role models to speak out and advocate on LGBTI rights
7. As the global HIV movement strives to achieve the 90-90-90 targets, we -
 - Welcome the new NHSP2016-2021 and express our commitment to support the National Center for AIDS and STD Control in the roll out of the National HIV Strategic Plan (Nepal HiVision 2020) through community led test treat and retain interventions.
 - Demand that national and International resources in Nepal dedicated to the treatment and prevention of HIV be increased, along with efforts to assist key affected communities to address treatment access and testing barriers
 - We demand the Govt to ensure that the Ministry of Health and Population (MoHP) and Law and Justice (MoLJ) amend and approve the HIV Bill to protect the rights of HIV-positive individuals, including LGBTI people.

- The strategic use of ARVs for treatment and prevention, such as PrEP, must be offered to transgender people, men who with have sex with men (MSM) and at risk groups
8. We must all commit to reducing and eliminating the social and structural impediments that continue to discriminate against LGBTI people, through inclusion in every structure of state at local, national and federal level. We place specific onus on the political parties for inclusion of LGBTI for candidacy in parliament and their structure.

In solidarity,

Members of the Sexual and Gender Minorities in Nepal

Pokhara, Nepal