



राष्ट्रिय मानव अधिकार आयोग

National Human Rights Commission, Nepal

केन्द्रीय कार्यालय Central Office

हरिहर भवन, पुल्चोक, ललितपुर, Harihar Bhawan, Pulchowk, Lalitpur, Nepal



Press Note
1 July 2020

Human Rights status report of sexual and gender minorities made public **Various recommendations to the three tiers of governments**

On behalf of National Human Rights Commission of Nepal Chairperson Anup Raj Sharma released a study report on Human Rights Status of Sexual and Gender Minorities on 1 July 2020. Terms like lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) individuals are used to refer to the gender and sexual minorities in Nepal. The number of this community in accordance with the national census 2011 is 1500, the persons getting citizenship certificate in other' category are 170, and the persons listed in the voter list in previous election are 167, this number, the Commission concludes that the mentioned number does not represent the real number. A huge number of people could not identify their sexuality due to social causes and another reason behind this is in the childhood the persons themselves and their parents do not know their sexual desire so that it is very difficult to get their real number.

The report is based on interaction/consultation with Gender and Sexual minorities people in Jhapa, Morang, Bara, Parsa, Rautahat, Mahottari, Kaski, Rupandehi, Kailali and Kathmandu over the period of six months started from April 2019. It explores how sexual and gender minorities have been deprived of the human rights guaranteed by the constitution and various national and international laws. It has also suggested the ways to address the problems facing the people from the LGBTI communities.

The main requirement of the sexual and gender minority people is guarantee of social prestige, easy access to the Citizenship Certificate and Passport with their gender identity, legalization of same-sex marriage, use of gender friendly terms, exact data, reservation in the employment and policy level, the adequate arrangement of health and education.

फोन नं. ५०१००१५, फ्याक्स नं. ००९७७-१-५५४७९७३ पो.ब.नं. ९१८२ काठमाण्डौ, नेपाल

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The study conducted in the national and international context, it is positive aspect that the Constitution of Nepal (2015) ensures the rights of sexual and gender minority people's rights and in 2008, the Supreme Court had passed a judgement to end discrimination, reiterating that LGBTI people are defined as 'natural persons' and their physical growth as well as sexual orientation, gender identity, expression is all part of natural growing process. Thus, equal rights, identity and expression must be ensured regardless of their sex at birth. But the apex court legalised same-sex marriage in 2015, and a committee formed to study this in 2009 has also submitted its report in 2014 but it has yet to be implemented. As laws in 29 countries worldwide allow the same-sex marriage, the Government of Nepal should also be positive towards same sex marriage.

Out of the 9 commitments made by the Commission itself for the protection of rights of the sexual and gender minorities providing legal aid to the persons who are deprived from their citizenship certificates, continuous monitoring for ensuring their rights to education supervising their dropout rates being despised at the educational institutions, conduct monitoring requesting the concerned all not to include the terminology and visuals which disrespect this community in the jokes, tele-serials and literature, lobby for making all concerned positive towards gender and sexual minority people's reservation in the all sectors' recruitment process as per their qualification, regular monitoring of the recommendations made by the international conference of this community held at Indonesia in 2006 which also proclaimed Yogyakarta Principle.

The report makes a number of recommendations to the federal, provincial and local governments for the protection of rights of lesbian, gay, bisexual, transgender and intersex people. This makes a 24-point recommendation to the federal government. The recommendations include formulation of special laws by incorporating provisions to guarantee rights and interests of sexual and gender minorities, protection of this community against criminal activities towards this community; providing skill training and study scholarships; guarantee of employment;

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simplification in issuance of citizenship certificate and passport; making arrangement of necessary amount for surgery to be undergone for sex change, both from male to female and female to male; allowing them to adopt children; guarantee of paternal property and right to divorce.

It has made a 13-point recommendation to provincial governments, directing them to maintain records of sexual and gender minorities, providing training for school teachers to encourage them to create LGBTI friendly environment, allocate necessary budget to conduct programmes for them and make arrangement of seed money for them to carry out business activities.

The report has also made a 13-point recommendation to local governments. They include conduct campaign in the ghettos, villages and wards to ensure non discrimination and non stigmatization awaring the local people that gender and sexual minority people are simple biological factor and they are all the gift of nature, and conduct public awareness programmes to remove inferiority complex in the parents and to develop friendship to this community going against discrimination to the people.

The Commission has also made a 7-point request to the organizations active for the welfare and rights of this community include publishing the success story of the famous and established persons of this community, wide dissemination of the positive articles, composition, dialogue, news, etc and active facilitation for guarantee of counting everyone in the national census 202.

The Comission stressed that sexual and gender minorities were most affected in Madhes and urged all three tiers of the government to come up with special programmes to make them self-reliant. Though there are not similar problems resided at urban area and rural area, formulate the programs with the special aim.

The two major problems that were found during the study are also recommended to the government. The Nepal Government should study on the possibility of the decent and well

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managed sex work as the fact is accepted that sex work existed in Nepal. Nepal can be a heaven for the foreign on the child sex abuses so that the Commission draws attention of the government and recommend formulating hard laws and implementing and monitoring it effectively.

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Bed Bhattarai

Secretary/Spokesperson

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