

## **"The work of National Institutions on human rights in relation to Sexual Orientation and Gender Identity."**

### **Background:**

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On December 21, 2007 the Supreme Court of Nepal issued a directive to the state to identify the lesbian, gay, bisexual, transsexual and inter-sex or LGBTIs and recognize them as a marginalized group. Similarly, state has been ordered thereby to respect their dignified life as per their gender recognition with the issuance of third gender citizenship identity. However, in the case of the marriage between the same sex, court has formed a committee to conduct research to figure out what kind of practices and jurisprudence has been developed in SAARC Countries and at global level and recommend the government of Nepal accordingly.

This decision has been now given after several years of tireless efforts made on the part of Sexual Minority Peoples' Representatives in Nepal ie. Blue Diamond Society, Mitini Nepal, Cruise Aids Nepal, the NHRC, different HR related NGO's and the political allies.

The Court Directive Order covers a wide range of topics relevant to the challenges Nepal is facing in its efforts to create a more inclusive society and government than ever. Among the most important are LGBTI people's rights in relation to identification, recognition, dignified life without discrimination, citizenship according to their physical status i.e. third gender (neither male nor female) and health and education and vocational training, as well as the establishment of adequate mechanisms for consultation with and participation of sexual minority peoples in processes that affect them and arrangement for their self-management.

The Supreme Court decision is a landmark decision and has great importance and legally-binding. Yet, more and more consultations encompassing the broad spectrum of the issue are needed for the nationwide implementation of the decision.

The Ministry of Law, Justice and Parliamentary Affairs is responsible to promulgate necessary law or to amend the existing law following the monitoring of law whether or not it has been implemented and complied with in accordance with the norms, value and the principles of the court directive order. Similarly, Ministry of Home Affairs, Ministry of Local Development, Ministry of Women, Children and Social Welfare are the crucial state bodies to implement the law. So, necessarily, if we incept a task force coordinating the stipulated tasks, the task force will shoulder up the responsibility thereof to recommend the Government of Nepal to develop the necessary mechanism for its implementation.

The challenge is now to make sure that an adequate long-term implementation process is put in place without any delay. This will require systematic and coordinated efforts from

both the Nepali government and donor partners and the constructive consultation with and participation of sexual minority (LGBTI) peoples' representatives.

The National Human Rights Commission has a unique role to play in providing the support for the implementation, given its constitutional mandate to domesticate the international treaties. This workshop will provide much needed reinforcement of the state responsibility to promulgate new law and implement Supreme Court decision. It may be noted that it has been over three months since the directive order has been issued but there has been little progress so far, even at a strategy level. The workshop will also contribute to establish the roles of the various actors to implement the Court Order thereafter.

**NHRC Doing:**

- Focal person of Sexual Minority Peoples' rights.
- Working cooperatively with Blue Diamond Society. (Leading NGO working in this field.)
- Complain receiving.
- Monitoring and Investigation.
- Detention centre visit.
- Present paper as a panelist on behalf of NHRC.
- Reinstate the state responsibility to provide them security from discriminated.
- Frequently meeting with sexual minority peoples' representatives.
- Recommend Government of Nepal regarding their concerns.

Thank you !