

Minutes of the Second meeting of the Core Group on LGBTI held on 13 November, 2019 at 11:00 a.m. in Room No. 508, Manav Adhikar Bhawan, C-Block, GPO Complex, INA, New Delhi

1. The Second meeting of the Core Group on LGBTI was held in the Commission on 13 November, 2019 at 11:00 a.m. to discuss the issues pertaining to the human rights violations of LGBTI persons, the challenges faced by them and to have views & suggestions on Identification, Inclusion and mainstreaming of the LGBTI community and assessment of the Transgender Persons (Protection of Rights) Bill, 2019. The Expert Committee and domain experts discussed on the issue related to transgender persons.
2. The deliberations in this meeting were focussed on gaps and recommendations in the clauses, policies, laws concerning the LGBTI community and to suggest the concerned 'authorities' alongwith required interventions at the policy levels for the protection of their basic human rights, the rights to freedom of expression of an identity, their sexual orientation in the public spaces, etc. This meeting was chaired by Hon'ble Member, Smt. Jyotika Kalra, and co-chaired by Shri Jaideep Govind, Secretary General, NHRC. The list of participants who attended the meeting is at **Annexure I**.
3. Shri Jaideep Govind, Secretary General, NHRC welcomed all the participants and expressed gratitude towards all the members attending the meeting and how it could provide a cohesive platform for the LGBTI community people.
4. Noting the long-standing nature of the issue of the LGBTI community, Smt. Jyotika Kalra Hon'ble Member, NHRC discussed the responsive developments that came from NALSA Judgement, 2014 and how the 'Hijra community' faced a complete non-recognition of their identity both by the State also the Centre. She discussed how crucial it is, to spread awareness about the LGBTI community so as to ensure provision of the fundamental rights, the problem of mainstreaming the LGBTI within the society and it should be ensured that the human rights are not violated just because of gender identity. The *Guru-Chela* system prevalent in Hijra community should continue to bring change in behaviour and conduct so as to facilitate acceptance and mainstreaming them in the society.
5. Dr. Seemi Azam, Research Officer, NHRC disclosed about the two prior agendas of the meeting i.e. Identification, Inclusion and Mainstreaming of the LGBTI community and Assessment of the Transgender persons (Protection of Rights) Bill, 2019 and requested all the participants to present atleast one major gap and one corresponding recommendation for each agenda.
6. Smt. Amritananda Chakravorty, Independent Advocate, highlighted the term used as an Umbrella for the LGBTI community is so broad that issues concerning to each categories need to be addressed. She further emphasised the issues with respect to personal privacy and freedom to conduct life should be addressed in the light of recommendations made in both the cases of Navtej Singh Johar, 2018 and NALSA Judgement, 2014 to obliterate the problem of identification.

7. Ms. Laxmi Narayan Tripathi, Transgender Rights Activist, iterated that identity is one's own call and the freedom of Expression should be provided to each individual, to maintain a culture, a normalized idea of identity/ conduct cannot be enforced. An element of privacy and dignity should be included in the directives which should be provided to institutions that deal with employment of the LGBTI community. The advocacy of the Transgender rights across societies through organized meetings from the Transgender itself upon the civil rights and problems faced by the community can only sensitize the political fraternity and bureaucracy for an active inclusiveness. The training through media, institutions, schools, workplace etc. has to be planned meticulously. In deliberations about related policy formulation, inputs from the LGBTI community should be given priority over NGOs.
8. Smt. Rani Patel, President, Aarohan, interjected on strong rejection from the community when it comes to their inclusiveness at the ground level. The lack of awareness about their own basic rights is very high. Only the advocacy/initiatives to lessen gaps like projects for personality development and skill development and reservation for their recruitment is required for their worthy contributions within the society.
9. Aryan Pasha, Trans-Men Right Activist cited the importance of including the issues of Trans men and Trans women separately within the Bill alongwith the 'hijra'. Also, while mentioning about the importance of sensitization in schools he discussed about how uniforms are discriminating in a wider context that are inherently responsible for the changes in behaviours of others for us and in most cases the Trans children are often forced to change the schools. Also the support for the Trans athletes needs to be there, a strong support in sports is required as India is being represented internationally.
10. Smt. Suman Chauhan, Advocate pointed at the problem in Birth and Registration Act, 1957 where the provision for changing the name by birth should be provided in the Bill. The self identification certificate/affidavit rather than medical certification is recommended to make identification process bit shorter without unnecessary medical interventions. She added that it's very important to use the correct words, language in Bill so as to define categories very specifically.
11. Ms. Rituparna, Director, Nazariya deliberated upon the issues of awareness of Navtej Judgement and that the directives are not sent to the Police and institutions. There is no assurance from the Government on the ground which further increases the problems for the LGBTI community. It is only through sensitization of civil rights importance of the LGBT people participation, property adoption and surrogacy rights that a change can be expected. She raised a concern that no shelter homes allow the queer people, even though they are the ones that require it the most as they come from violent families.
12. Shri Surajit Dey, Registrar (Law), NHRC brought the focus on the Bill and discussed about the importance of law over land issues wherein the issues of inheritance by the LGBTI persons can be taken into account.
13. Dr. Ashley Tellis, LGBTI Activist/Academic stated that there is a fundamental problem in definition of the LGBTI in India and the 'Lesbian, Gay and Bisexual' is still not a legal category like the defined categories in developed countries. By bringing the western

definitions of gender categories, the Bill is destroyed. We need a separate law for each of the different gender categories.

14. Positing the importance of proving the identity, Vihaan from Nazariya iterated about the problems in proving one's identity and how Rehabilitation of Trans-men and Trans-women is problematic, the words, language should be used very carefully. In process of identification, the changing of first name should not be mandatory; it should be one's own choice.
15. Dr. Indu Agnihotri, Centre for Women's Development Studies (CWDS) discussed about how society can contribute to the personality development, training of the LGBTI with small sections of community orienting the public about the problems of Transgender. In terms of clauses we need to be careful of the language in law for the LGBTI, we need to create another supra category of 'Trans' who can be provided protection in legal terms. The proposed legislation should be examined and should ensure that no new forms of discrimination are introduced in it.
16. Smt. Upma Srivastava, Additional Secretary, Ministry of Social Justice and Empowerment emphasised that the Bill is of Transgender not of lesbian, gay, bi-sexual separately. She added that the Bill is comprehensive enough to include all the gender categories and the whole process has been consultative with the community. Special attention has been given to the process of identification without medical intervention but this is being decided as one can choose different gender over years and again, for which laws could be different. Lastly, she reiterated that as soon as the Bill becomes an Act, the rules and regulations will be discussed and finalised accordingly. Organisation of Personality Development programmes is being considered under the Skill Development Scheme. Also the Expression of Interest will be called for constructing new Shelter Homes, the organizations work on creating Homes in North, West and East India respectively.
17. Shri Khagesh Garg, Director, Ministry of Social Justice and Empowerment also added that an enabling provision is being provided in the Bill for identification processes that was earlier decided by doctors and parents of the new born. The government's understanding of gender is not binary anymore; the reservations for each category will be decided upon the time the Bill is passed.
18. Shri Asholi Chalai, Joint Secretary, National Commission for Women raised a concern that no provision has been provided on adoption rights of same-sex people and that amendments are required under the Juvenile Justice (Care and Protection of Children) Act, 2015.
19. Smt. M. C Shylaja, project Director, Directorate of Child protection Scheme, Karnataka explained how serious considerations on adoption scheme are required but only after the enactment of the Bill.
20. Dr. Piyush Sxena Founder, Salvation of the Oppressed Eunuchs, discussed how sexuality is not a binary concept, it is in continuum. The identification of a *Kinnar* should be approved by another *Kinnar* in the community. The external certification for proving

identity might not be required once the identity is approved. The *Kinnar* can be certified under T- Category.

21. Dr. Madhumala Chattopadhyay, Joint Director Research, National Commission for Backward Classes cited the importance of recruiting the Trans people to join the forces, a provision of reservation in forces with proper training to join military, army is recommended.
22. Ms. Ayushi Chugh, Advocate, recommended that more steps should be taken for the inclusion of the LGBTI community and that skill development is important as the sustainable goals also demand the non discrimination for all, regardless of gender, race etc.
23. Shri Santanu Brajabasi, Under Secretary, Department of Women and Child Development, informed that the Department has been seriously working on developing welfare programs for economic empowerment and rehabilitation of transgender community.
24. In the concluding remarks, Shri. Sudesh kumar, Senior Research Officer, NHRC, thanked all the participants, appreciated the proceedings of the day and expressed his ardent hope that the discussions could be taken to the public domain by means of involving more number of Transgender people in such meetings. In the end, he concluded by saying that there is a need for greater public awareness about the situation of the LGBTI community. Sensitization through media might help to empower the community.

Major Gaps and Recommendations

G1: Lack of awareness in Education Institutions

R1: The Projects for awareness and sensitization camps to be organized at the school level and educational institutions for non discrimination and equal treatment of the LGBTI community regardless of dresses, uniforms, appearances.

(Action by: MHRD, State Education Boards)

G2: Lack of Training Programmes on conduct towards LGBTI community in Police Stations and Jails

R2: The training of Police and Jail authorities through small groups of trained LGBTI people on sensitization of Police and jail authorities. The directives on section 377(Navtej Singh Johar Judgement) should be provided to all the forces (police, military, army, etc).

(Action by: Ministry of Social Justice and Empowerment, MHRD)

G3: Lack of Skill development and Employment in reservations

R3: For the inclusion of the LGBTI people, the projects for personality and skill development especially for the transgender should be introduced by groups of transgender community itself rather than NGOs. Also, reservations for Transgender community in employment should be provided both in private and government sector.

(Action by: Ministry of Social Justice and Empowerment, MHRD)

G4: There are no provisions of Separate Shelter Homes for LGBTI community

R4: Separate Shelter Homes should be opened up for lesbian women, Gay and other genders respectively. Also lesbian women should be allowed in Women Shelter Homes in metropolitan cities.

(Action by: Ministry of Home Affairs, Ministry of Women and Child Development)

G5: Identification of all existing laws and lack of stricter Punishment for sexual assault of the Transgender

R5: The scrutiny of all existing laws should be done to amend the discriminating provisions against transgender community. Also, stricter and prompt actions against the sexual assault of the Transgender should be taken.

(Action by: Ministry of Law and Justice, Ministry of Women and Child Development, Ministry of Social Justice and Empowerment)

G6: Lack of acceptance of the Transgender in rental accommodations across cities/states

R6: There are problems in acceptance of Transgender people in rental accommodations. Hence, it is strongly recommended that with an inclusive approach some suitable provisions for accommodations may be provided.

(Action by: Ministry of Housing and Urban Affairs, Ministry of Social Justice and Empowerment)

Annexure I.

List of Participants

1. Ms. Laxmi Narayan Tripathi, Transgender Rights Activist, Mumbai
2. Dr. Piyush Saxena , Founder, Salvation of the Oppressed Eunuchs, Mumbai
3. Ms. Rani Patel, President, Aarohan, New Delhi
4. Mr. Aryan Pasha, Trans-Men Rights Activist, New Delhi
5. Smt. Amritananda Chakravorty, Independent Advocate
6. Smt. Suman Chauhan, Advocate, New Delhi
7. Smt. Rituparna Borah, Director, Nazariya Foundation, New Delhi
8. Shri Vihaan, Nazariya Foundation, New Delhi
9. Dr. Ashley Tellis , LGBTI Activist/Academic
10. Dr. Indu Agnihotri, Centre for Women's Development Studies (CWDS), New Delhi
11. Ms. Ayushi Chugh, Advocate

Representatives of the Union Ministries/Government Bodies

12. Ms. Upma Srivastava, Additional Secretary, Ministry of Social Justice and Empowerment
13. Shri Khagesh Garg , Director, Ministry of Social Justice and Empowerment
14. Shri Asholi Chalai, Joint Secretary, National Commission for Women, New Delhi
15. Dr. Madhumala Chattopadhyay, Joint Director (Research), National Commission for Backward Classes
16. Smt. M C Shylaja, Project Director, Directorate of Child Protection Scheme, Karnataka
17. Smt. Santanu Brajabasi, Under Secretary, Ministry of Women and Child Development
18. Shri C.S. Verma, Director, National Commission for Scheduled Castes, New Delhi

NHRC

19. Smt. Jyotika Kalra, Hon'ble Member, NHRC
20. Shri Jaideep Govind, Secretary General, NHRC
21. Shri Prabhat Singh, DG(I), NHRC
22. Shri Surajit Dey, Registrar (Law), NHRC

23. Shri Sudesh Kumar, Senior Research Officer, NHRC
24. Dr. Seemi Azam, Research Officer, NHRC
25. Ms. Ridhima, Junior Research Consultant, NHRC
26. Mr. Pallav Kumar, Junior Research Consultant, NHRC
27. Ms. Rimanshi Goel, Junior Legal & Research Consultant, NHRC