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राष्ट्रीय मानव अधिकार आयोग

NATIONAL HUMAN RIGHTS COMMISSION

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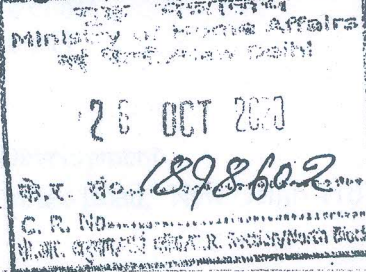
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October 16, 2020

Subject: Human Rights Advisory for Protection of the Rights of LGBTQI+ community in context of the Covid-19 pandemic

The National Human Rights Commission (NHRC) is mandated by the Protection of Human Rights Act, 1993 to promote and protect the human rights of all in the country. Towards fulfillment of its mandate, the Commission has been deeply concerned about the rights of the vulnerable and marginalised sections of the society which have been disproportionately impacted by the COVID-19 pandemic and the resultant lockdown.

2. In order to assess the impact of the pandemic on realization of the rights of the people, especially the marginalised/vulnerable sections of the population, the NHRC constituted a 'Committee of Experts on Impact of Covid-19 Pandemic on Human Rights and Future Response' including the representatives from the concerned ministries/departments, civil society organizations and independent domain experts.

3. On the basis of impact assessment done by the Committee of Experts and recommendations made by it, the Commission hereby issues **Human Rights Advisory for Protection of the Rights of LGBTQI+ community in context of the Covid-19 pandemic**, as enclosed.

4. All the concerned authorities are requested to implement the recommendations made in the advisory and to submit the action taken report for information of the Commission.

21/10/20
(Bimbadhar Pradhan)
Secretary General

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Department of Social Justice & Empowerment
Ministry of Social Justice and Empowerment
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7. **Administrators (All UTs)**



National Human Rights Commission

Human Rights Advisory for Protection of the Rights of LGBTQI+ Community in context of the Covid-19 pandemic

Background

The Covid-19 pandemic and the resultant lockdown have disproportionately impacted the LGBTQI+ community. The lockdown has gravely affected the livelihood of the community especially for those who earn from sex work and begging. Further, people who live with their family, they might face violence from family members and might lack access to shelter homes and care.

The passage of the Transgender Persons (Protection of Rights) Act, 2019, has been a remarkable achievement for the long-persecuted community. However, a large number of LGBTQI+ persons do not have access to government ID/official documents and therefore facing extreme difficulties in accessing relief care packages like Pradhan Mantri Garib Kalyan Yojana, Pradhan Mantri Ujjwala Yojana etc. and welfare services which are being provided by the Governments.

Further, among the more vulnerable sections of the LGBTQI+ communities are the transgender and intersex persons, a majority of who are forced to live in abject poverty and social exclusion. A large section of the community is engaged in activities like begging and sex work, both of which have been severely affected by the pandemic. Often driven away from homes early in life, they have to survive in poor nutritional and hygienic conditions with little or no access to housing or healthcare services, exposing them to greater health risks, especially during the pandemic.

During the Pandemic the LGBTQI+ community has suffered from unemployment, lack of livelihoods, hostile home situations and restricted mobility, which have contributed to severe mental health concerns among transgender and queer people. Because of the lockdown, they have been forced to stay with their families who are not always supportive or affirmative of their sexual and gender identities and/or expressions. Confinement in homes has given rise to marriage threats, physical, emotional and sexual abuse with no escape. They are also robbed of the opportunity to access safe spaces, support groups and public life. Individuals have been forced to conceal their preferred gender sexual expressions and live a life of pretence, which has stimulated self-hate, depression, homelessness and suicidal thoughts.

The National Institute of Social Defense (NISD) of the Ministry of Social Justice and Empowerment made an interim arrangement of provision of Rs. 1,500/- only. Also some State Governments, like Kerala, Karnataka and Tamil Nadu provided free ration kits to transgender persons. However, the reach of these schemes is very minimal.

Further, the Telangana High Court [2020 SCC Online TS 440] directed the state government to ensure adequate supply of food, essential medicines to transgender persons in



the State. The Court further gave a specific direction to the government not to insist on production of identity documents for availing essential items. Similarly, the Karnataka High Court [Writ petition no.12113/2019] also passed an order in a PIL directing the government to make advance payments to all transgender persons who are registered under the scheme.

Lastly, the Covid-19 pandemic has also amplified the crisis of the prison system and poses specific challenges to gender and sexual minorities in prisons which amplifies the vulnerability of transgender and intersex persons inside prisons.

The National Human Rights Commission constituted a Committee of Experts on "Impact of Covid-19 pandemic on human rights and future response" with the objective to assess the impact of Covid-19 pandemic on human rights of marginalised community and vulnerable sections of the society and to suggest a response in the form of an advisory. Accordingly, the Commission issues the following advisory to help the Central Ministries and State Government(s) in ensuring the promotion and protection of the rights of LGBTQI+ community.

1. Access to Health Services

- 1.1. In accordance with the Guidance Note on 'Enabling Delivery of Essential Health Services during Covid-19' issued by Ministry of Health and Family Welfare (MoHFW) dated 13.04.2020, ensure no discrimination in the availability of essential health services at the Primary Health Centres, Community Health Centres, Mohalla clinics, and quarantine centres.
- 1.2. Ensure uninterrupted availability of antiretroviral treatment (ART), HIV testing, hormonal treatment (HRT) and gender affirming treatments including mental health treatments/therapies and counselling for LGBTQI+ community through all districts and local hospitals and medical health centres even during the pandemic.
- 1.3. Healthcare professionals and staff should be sensitised about the specific needs of the LGBTQI+ community in order to combat discrimination based on sexual orientation and gender identity/expression.

(Ministry of Social Justice and Empowerment, Ministry of Health and Family Welfare and all the States/UTs)

2. Access to social security, relief measures and welfare schemes

- 2.1. All relief measures/welfare schemes such as Pradhan Mantri Garib Kalyan Yojna, Pradhan Mantri, Ujjwala Yojana, etc, should take into account gender diversity and vulnerabilities of LGBTQI+ community especially, in terms of eligibility requirements like ID proofs, and ensure that transgender and intersex persons are fully covered under these schemes.



- 2.2. Universalization of public distribution system must be facilitated to ensure availability of food and ration for the LGBTQI+ community irrespective of identity document.

(Ministry of Social Justice and Empowerment and all the States/UTs)

3. **Protection from Domestic Violence and Abuse:** Ensure implementation of the existing guidelines and protocols, medico-legal care for survivors of domestic and sexual violence along with timely treatment, psycho-social support and medico-legal documentation in cases of domestic/sexual violence victims.

(Ministry of Social Justice and Empowerment, Ministry of Health and Family Welfare, Ministry of Women and Child Development, Ministry of Home Affairs and all the States/UTs)

4. **A Separate 24*7 toll free helpline number for LGBTQI+ community:** A separate helpline number may be set up to provide support in different regional languages for coping with violence, abuse, health and mental health issues etc.

(Ministry of Social Justice and Empowerment and all the States/UTs)

5. **Financial Support to LGBTQI+ Community:** The government may provide appropriate financial support to the economically vulnerable section of the LGBTQI+ community who have lost their livelihood due to the pandemic and subsequent lockdown.

(Ministry of Social Justice and Empowerment and all the States/UTs)

6. **Protection from Eviction:** Ensure that no person from the LGBTQI+ community is forcefully evicted from their place of stay on the grounds of gender based discrimination.

(Ministry of Social Justice and Empowerment and all the States/UTs)

7. Protection of Transgender and Intersex persons in Prison

- 8.1 Ensure that there is no discrimination and abuse in the process of incarceration of transgender and intersex persons in prison during the pandemic

- 8.2. Ensure equal access to healthcare services along with other gender sensitive health services including the availability of a gynaecologist/other specialists and regular check-ups inside prisons.

(Ministry of Social Justice and Empowerment, Ministry of Home Affairs and all the States/UTs)



8. **Skill Development of LGBTQI+ community:** Keeping in view the rising unemployment during Covid-19 pandemic the government should ensure skill development opportunities for the LGBTQI+ community.

(Ministry of Social Justice and Empowerment and all the States/UTs)

9. **Access to Education for the LGBTQI+ community:** Ensure provision of education through online classes is inclusive for and accessible to all members of the LGBTQI+ community and no discrimination shall be made on the basis of their identity/gender.

(Ministry of Education, Ministry of Social Justice and Empowerment and all the States/UTs)

