**The Response of the Government of Nepal**

**On**

**queries by the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity through**

**letter dated on 26th January 2021**

1. Nepal is the first country in south Asia which recognizes transgender identities. Homosexuality has been legalized since 2007 with introduction of several new laws. These laws explicitly include protections on the basis of sexual orientation. The Constitution of Nepal includes several provisions pertaining to the rights of LGBTI people, including the rights to have the preferred gender to be mentioned in the identity cards, prohibition of discrimination based on any ground of sex or sexual, right of eligibility for special protections that may be provided by law, and the right of access to public services for gender and sexual minorities. Similarly, the Passport Rules, 2020 has provisioned to provide passport to the third gender mentioning "other" category.
2. Since 2010, the Election Commission of Nepal has allowed registration for voting as the third gender solely on the basis of self-identification. Additionally, the 2011 national census allowed citizens to identify as “third gender.” The rights of LGBTI people including the right to non-discrimination are ensured in numerous international human rights instruments. Nepal is a signatory to numerous treaties supporting the human rights of LGBTI people. In addition to ratifying these international treaties, Nepal has made various domestic laws and policies on human rights. The domestic legislations of Nepal prohibit discrimination of any kind including on the ground of sexual orientation. The Government of Nepal has been respecting the rights and freedom of LGBTI community guaranteed by the Constitution and laws, and is fully committed to end discriminations against LGBTI community.
3. Nepal’s school system is divided into primary, lower secondary, secondary and higher secondary education. Comprehensive sexuality education has been provided in school level. It is adopted from grade four. It has been included at the school level curriculums and textbooks. The curriculums covering this subject are as follows:
4. Social studies curriculum class 4-5
5. Social studies curriculum class 6-8
6. Health and physical education curriculum class 6-8
7. Com. social studies curriculum class 9-10
8. Com. science curriculum 9-10
9. Social studies and population curriculum class 6-10
10. Com. health , population and environment curriculum 9-10
11. Elective: health and physical curriculum class 9-10
12. Elective: population curriculum class 9-10
13. Social studies curriculum 11-12

The main contents covering these curriculums and textbooks include reproductive system, reproductive health, safe sexual behavior, safe abortion, contraceptive, sexually transmitted diseases, nutrition, marriage age, healthy habits, structure and function of the reproductive system, menstrual cycle and puberty, sexual orientation, gender identity, romantic relationships and dating, pregnancy, methods of family planning, prevention of sexually transmitted infections, safe pregnancy, breast feeding and immunizations etc.[[1]](#footnote-2)

1. Nepal has signed and ratified over two dozen human rights instruments, including the following international treaties for the protection of human rights:-
2. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of others 1949: 10 Dec 2002
3. International Covenant on the Elimination of Racial Discrimination (ICERD): 30 January 1971,
4. International Covenant on Civil and Political Rights (ICCPR): 14 May 1991,
5. International Covenant on Economic, Social and Cultural Rights (ICESCR): 14 May 1991,
6. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 14 May 1991,
7. International Convention on the Elimination of Discrimination against Women (CEDAW): 22 April 1991 and the Optional Protocol on CEDAW: 18 December 2001.
8. The policies, directives, procedures and programs to address the issues relating to gender, sexual orientation and gender equality by the Government of Nepal are :-
9. The Constitution of Nepal recognizes LGBTI rights as fundamental rights. 'Gender and Sexual minority' are mentioned in Article 18 (right to equality) and in Article 42 (social justice) of the Constitution of Nepal. The phrase 'gender identity' is mentioned in Article 12 (citizenship ID).
10. The policies of the Government of Nepal on social equality state that no one will be left behind by 2030. Hence the State has to take steps to ensure reservation for the LGBTI community and full-fledged implementation of the inclusive policy.
11. Part 1 and 2 of the National Civil Code 2017 recognizes that every person shall, immediately after birth, be recognized as a person and be entitled to exercise rights under law until he or she survives.
12. Similarly, the Passport Rules, 2020 has been provisioned to provide passport to the third gender.
13. Nepal’s Election Commission has allowed people to register to vote as third gender solely on the basis of self-identification.
14. The Government of Nepal has already been working on several sectoral policies and local policies to create awareness regarding the issues of LGBTI.
15. Nepal has adopted comprehensive education on sexual orientation, gender identity, gender expression, and intersex status into school curricula.
16. Nepal's Education Board has implemented information about sexual and gender diversity in the curriculum of grades 7-9 (age 13–15).
17. The Nepal Tourism Board has made plans to promote Nepal as an LGBTI-friendly tourist destination. An LGBTI tourism conference occurred in February 2010. Sensitivity training was conducted in selected catering and hospitality venues.
18. National Implementation Plan on Human Rights also provisioned about the protection of LGBTI.
19. Gender sensitivity has been ensured in the curriculum and the textbook. Complaint mechanism against discrimination, exploitation and violence has been established at schools. For examples- gender focal point, complaint box have been arranged at schools.
1. www.moecdc.gov.np [↑](#footnote-ref-2)