

MEDIA RELEASE

Legal Fraternity and Government Stakeholders Affirm Support for Transgender Inclusion in Meghalaya

Shillong, May 5, 2017: Legal service providers and other government stakeholders affirmed their commitment to come forward and support transgender community members in Meghalaya to protect their rights in line with Supreme Court's NALSA judgement of April 2014. The discussion was made during a state-level workshop organized in Shillong by SAATHII and AMANA, in partnership with Meghalaya State Legal Services Authority (MSLSA). A total of 23 legal service providers, associated with MSLSA and District Legal Services Authority, six representatives from various departments including Social Welfare, Education, Health, Home and Law, as well transgender community members, associated with Shamakami, a local support group, were part of the workshop.

Context: Transgender people in Meghalaya – and globally – are extremely vulnerable to harassment, discrimination, violence and sexual assault, resulting in violation of their human rights. In response to a petition filed by the National Legal Services Authority (NALSA) concerning transgender rights, the Honourable Supreme Court of India delivered a landmark judgement on April 15, 2014. The apex court recognized the need for granting full citizenship, regardless of gender assigned at birth, protecting rights and making provision of entitlements for transgender individuals. Following the judgement, the centre and state governments were directed by the apex court to implement recommendations within six months, that is, by October 15, 2014. Key recommendations in the judgment are as follows:

1. The term transgender includes pre-operative, post-operative and non-operative transsexual people, who strongly identify with the gender opposite to their biological sex.
2. Grant legal recognition of transgender persons' gender identity such as male, female or as third gender based on self-identification.
3. No one shall be forced to undergo medical procedures, including SRS (sex-reassignment surgery), sterilization or hormonal therapy, as a requirement for legal recognition of their gender identity. No physical check-up or other medical test should be used to ascertain gender identity. At most, if needed, a psychological assessment will suffice.
4. Take steps to treat transgender people as socially and educationally backward classes, and extend all kinds of reservation in cases of admission in educational institutions and for public appointments.
5. Address the problems being faced by transgender people such as fear, shame, gender dysphoria, social pressure, depression, suicidal tendencies, social stigma, etc.
6. Take proper measures to provide medical care to transgender people in the hospitals, framing various social welfare schemes for their betterment, and help transgender people regain their respect and place in the society which once they enjoyed in our cultural and social life.

The Ministry of Social Justice and Empowerment (MSJE), Government of India, constituted an Expert Committee in October 2013 to make an in-depth study of the problems being faced by the transgender community. The Expert Committee Report was published before the NALSA ruling, and is available at:

<http://socialjustice.nic.in/writereaddata/UploadFile/Binder2.pdf>. The Supreme Court ruling has referenced the MSJE report asking for it to be implemented in light of the ruling within a six-month period (until October 2014) after the verdict. Despite this deadline given by the

Hon'ble Supreme Court, many of the states – including Meghalaya – have not been able to make significant progress in this regard.

In this context, SAATHII, an NGO working on universal access to health, justice and social welfare, and AMANA, a community-based organisation working in the north-eastern region of India, partnered with the Meghalaya State Legal Services Authority to organise the workshop. Key objectives were to share key elements of the Hon'ble Supreme Court's NALSA ruling with legal service providers and representatives of key departments from the Government of Meghalaya, to develop a strategy for implementation of Hon'ble Supreme Court's NALSA judgement, including strategy for formation of a transgender welfare board and extending social security measures for transgender individuals in the state, to develop a strategy to help community members reach out to sensitised legal service providers for gender identity change affidavit related support, and to discuss and strategize on leveraging support from legal service providers on addressing human rights violations of transgender individuals.

Keynote: Shri W. Diengdoh, Member Secretary, Meghalaya State Legal Services Authority, welcomed all invitees on behalf of MSLSA, SAATHII and AMANA. In his comprehensive address he referred to the discrimination faced by transgender people at home, educational institutions, employment etc. He referred to crucial sections of the NALSA judgement and emphasized Articles 14, 19, and 21 of the Constitution of India that collectively guarantee to all persons equality before law, ensure freedom of speech and expression to all citizens, and guarantee a life of dignity to all persons. The verdict specifically sought to prohibit discrimination and ensure inclusion of transgender people in all walks of life. He said the workshop would help colleagues in the MSLSA and other departments gain clarity on how they can play a part in the development of the transgender community.

Discussion: Dr. L. Ramakrishnan, Vice President, SAATHII; Santa Khurai, Secretary, AMANA; and Biswa Bhusan Pattanayak, Senior Program Manager, SAATHII, made a joint presentation on the NALSA judgement and way forward for transgender inclusion in Meghalaya. They suggested specific measures such as formation of a transgender welfare board, ending bullying against gender non-confirming children in schools, need to recognise transgender people as 'head of household' for accessing ration cards under the National Food Security Act, 2013, affordable and trans-sensitive healthcare including insurance coverage for gender affirmation surgeries, implementation of centrally sponsored schemes announced by the MSJE, and support from legal services authorities in helping community members obtain gender identity change affidavits required for gazette notification of name and gender change. They noted the expansive nature of the judgement and emphasized the need for government authorities to work towards inclusion of transgender people who identified as third gender, as well as those who identified as transgender men and transgender women.

Transgender community members also shared their personal experiences of facing systemic stigma and discrimination due to their non-mainstream gender identity. In this context, they spoke about police harassment, and stigma and discrimination based on their gender identity or expression.

Dona, a transgender activist from Shillong, spoke from her personal experience of being bullied in school due to her gender expression, though her mother was supportive. She appealed for mapping of transgender community members by the state government to enable comprehensive assessment of needs, and measures to enhance access to social security schemes.

Mili (name changed), a transgender activist from Shillong, narrated stories of harassment towards community members stating that the state police doesn't allow community members

to go out in public after 10 pm at night. She also stated that the restrictions given to the community by the police were not applicable to gender conforming people. She urged the law enforcement and other institutions to treat transgender people on par with other people.

Santa Khurai, a transgender activist from Manipur, emphasised the importance of implementation of the NALSA judgement in Meghalaya towards protecting rights of transgender individuals and extending socio-legal and medical benefits.

Rebina Subba, Member, Meghalaya State Women Commission, spoke about the local community group Shamakami of which she is the chair, and Shamakami's work in creating safe spaces for transgender and other gender/sexual minority communities.

Way Forward: Speaking on behalf of the MSLSA, Shri W. Diengdoh affirmed that (1) MSLSA would take up the issue on a priority basis, and strategize on how to generate awareness among the public about the issues of transgender people, and to generate awareness among transgender individuals about the judgement and their rights, (2) they would interface with other departments to work out modalities of implementation of the judgement, (3) MSLSA was open to including transgender community members as para-legal workers towards extending legal aid support to fellow community members, (4) MSLSA would examine ways to support community members in obtaining gender-identity change affidavits. Representatives from other government departments also ensured that they would take up the issue with their higher authorities and take necessary action at the level of their departments.

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