

South Asian Human Rights Association of Marginalised Genders and Sexualities (SAHRA)

KATHMANDU CONCEPT NOTE

August 2012

**SOUTH ASIAN HUMAN RIGHTS ASSOCIATION OF MARGINALISED SEXUALITIES AND GENDERS
(SAHRA)**

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I. BACKGROUND

A South Asian partnership building meeting was called in Kathmandu on 3-4 September 2008. Participants were selected based on the following criteria: 1) Representation from as many countries as possible within the region 2) Representation from organisations primarily dealing with rights based work involving lesbians, gays, bisexuals and transgenders. Individual participants diversity in terms of genders and sexual orientations was also sought.

The meeting was attended by participants from Nepal, India, Bangladesh, Pakistan and Sri Lanka; all working on issues of persons marginalized because of their sexual orientations and/or gender identities (like hijra, zenana, khwajasara, kothi, nachhi, third gender, kinnar, homosexual, lesbian, gay, bisexual, transgender, intersex, and other regional variations that exist, hereinafter collectively referred as LGBTI). The meeting was made possible by initial funding and support from the Norwegian organization for LGBT rights (LLH) under a fiscal arrangement with Blue Diamond Society (BDS) of Nepal.

One of the major outcomes of the meeting was the suggestion to set up a human rights association that would strengthen the human rights of LGBTI persons in the region. The proposed association was provisionally titled South Asia Human Rights Association of Marginalized Sexualities and Genders (SAHRAMSG), hereinafter referred in short as SAHRA.

To facilitate the follow up process a voluntary Task Force consisting of representatives from the five attending countries was set up. The meeting decided that gender balance was important and also that India, because of its size, be given double representation. During the interim period efforts were made to secure gender balance by inviting additional volunteers into the task force.

After the September 2008 meeting, the participants had country level discussions about the need, relevance and objectives of setting up such a association. A follow-up meeting with task force members was organized on 7-8 April 2009, again in Kathmandu. The meeting resulted in a Concept Note that was subsequently shared with LGBTI rights activist at national levels. The feedback from these national level meetings was discussed at a follow up meeting, August 19-20 in Kathmandu. The Concept Note was duly revised to accommodate this feedback. The concept note has since evolved over several deliberations in the Task Force meetings that followed: 18-20 April 2010 in Colombo, Sri Lanka; 7-8 April 2011 in Dhaka, Bangladesh; 4-5 August

2011 in Dhulikhel, Nepal; 13-14 February 2012 in Godavari, Nepal; and 24-26 August 2012 in Kathmandu, Nepal.

SAHRA is passing through a crucial moment. Communities, organisations and individuals in South Asia (and beyond) are looking to SAHRA with much anticipation and expectation; but the registration of SAHRA as a separate legal entity remains pending due to procedural legal formalities. It is crucial that SAHRA starts to work in order not to lose this moment of anticipation and expectation. Task Force members from the participating countries have thus resolved to commence substantive work with Country Specific Work Plans. Alongside efforts shall continue for the formal registration of SAHRA.

II. PREAMBLE

2.1. Vision

SAHRA believes in the inherent right to dignity, security, equal opportunity and freedom of all people regardless of their sexual orientations and gender identities and expressions. It envisages a world where every LGBTI person enjoys the human rights enshrined in the Universal Declaration of Human Rights (UDHR) and as expressed in the Yogyakarta Principles (www.yogyakartaprinciples.org).

2.2. Mission

2.2.1 SAHRA's mission is to protect, promote and fulfil the human rights of LGBTI persons and their defenders in South Asia by strengthening the impact and influence of organisations, advocates and movements working to advance the rights of LGBTI persons in the region; and by holding the States accountable to these rights.

2.2.2 SAHRA will work towards ensuring that LGBTI issues are integral to human rights and social justice in South Asia at regional, national and local levels. SAHRA believes that an enabling environment is fundamental to the realization of human rights.

2.2.3 The mandate of SAHRA will be: to document human rights violations of LGBTIs, to respond to these violations, to strongly advocate for all activities needed that will increase the recognition, protection and promotion of human rights.

2.2.4 In arriving at the scope and a full understanding of its mandate, SAHRA will be guided by the Yogyakarta Principles. An excerpt from the Introduction to the Principles follows:

"Human rights violations targeted toward persons because of their actual or perceived sexual orientation or gender identity constitute a global and

entrenched pattern of serious concern. They include extra-judicial killings, torture and ill treatment, sexual assault and rape, invasions of privacy, arbitrary detention, denial of employment and education opportunities, and serious discrimination in relation to the enjoyment of other human rights. These violations are often compounded by experiences of other forms of violence, hatred, discrimination and exclusion, such as those based on race, age, religion, disability, or economic, social or other status.”

2.3. Guiding Principles

2.3.1 The work of SAHRA will be built on principles of substantive equality and human rights for all people irrespective of sexual orientation, gender identity and expression, sex, religion, age, ability, ethnicity, language, nationality, caste, class, HIV status, profession, or other factors.

2.3.2 SAHRA will be committed to working in conjunction with other social movements in South Asia, toward build a collective voice, power and influence.

2.3.3 The work of SAHRA will be defined by issues and concerns raised by LGBTI individuals and organisations in the region.

2.3.4 SAHRA will respect the right to privacy, confidentiality and anonymity of LGBTI people and their defenders’.

2.3.5 SAHRA will work on the principles of transparency, accountability and integrity.

2.3.6 SAHRA will work independently from any government, political party, corporate interests or religious institutions.

III. PROPOSED WORK

- 3.1 SAHRA’s understanding of the gamut of human rights violations against LGBTI individuals (actual or perceived) or organisations will be based on the Yogyakarta Principles.
- 3.2 SAHRA will work in conjunction with the needs of the local organizations. The Association will not replace local activism.
- 3.3 The work of SAHRA will include:
 - Documentation of human rights violations meted out by the state or non-state actors and individuals. The documentation will also include positive advancement and gains made in the region.
 - Working with national and provincial/state human rights Associations

- Advocacy with States, member organizations and other stakeholders.
 - Mapping of the work being done on LGBTI issues in the South Asia region
 - Capacity building of member organizations and groups on documenting and responding to human rights violations.
- 3.4 Members that are unable to do the documentation could be supported by SAHRA in order to enable these processes and interventions.
- 3.5 SAHRA's responses to human rights violations could include legal aid and counselling, working with the police and other state agencies, release of information, action alerts and other required action. These responses will be coordinated with local organizations based in the respective countries.

IV. PROPOSED STRUCTURE

4.1 Membership

4.1.1 All organizations and individuals based in South Asia, who either identify as LGBTI or work on issues of marginalized genders and sexualities in South Asia, or both; and are in agreement with our vision/mission and goals – can be members with voting rights.

4.1.2 Membership can be terminated or suspended if a member's policies and/or activities are inconsistent with SAHRA's vision, mission and goals.

4.1.3 Coalitions and networks, donor or relief agencies, political parties, government organizations and international organizations cannot be members of SAHRA.

4.2 Registration

SAHRA will be registered as a legal entity, preferably in South Asia, in a country where legalities and practicalities are most conducive (hereinafter referred as Host-Country), with an objective to expand it as a SAARC regional level International Non Government Organisation (INGO) in due course. It shall provide accordingly for foreign membership (individual and organizational).

4.3 The Board of Directors

4.3.1 The initial Board of Directors may be comprised of members from the Host-Country (depending on legal requirements for registration). Three of these will be from the existing Task Force, and the remaining will be appointed by the Task Force. They will be drawn from a set of names proposed by Task Force members, and who are LGBTI themselves, or work on

LGBTI issues, or are supporters with relevant work experience. The initial Board of Directors will work in consultation with the Task Force, details of which shall be duly laid out in a Memorandum of Understanding (MOU).

4.3.2 As soon as possible SAHRA shall form a Board that will consist of members of eight South Asian countries as defined by SAARC (hereinafter referred as the Full Board). At the moment five countries are part of this (Nepal, India, Pakistan, Bangladesh, and Sri Lanka), efforts will be made to get members from the other countries (Afghanistan, Maldives and Bhutan). There shall be three representatives from each country on the Board. Country representatives shall be elected by members from their respective countries.

4.3.3 In the Full Board, there shall be one man, one woman, and a transgender person from each country. If the country election process does not yield the desired three members, it shall be incumbent upon the Full Board to nominate individuals to accordingly fill said vacancies based upon a fair and transparent process. If that is not possible, then those positions shall remain vacant until the next election.

4.3.4 The Initial Board shall be dissolved upon the formation of the Full Board.

4.3.5 For the first term of the Full Board, half the members shall serve a two-year term and half will serve a three-year term (to be determined by a lottery system). Thereafter all members will be elected for two-year terms. Board members may stand for election for a second term and then must sit out a term before standing for election for subsequent terms.

4.3.6 The election process for the first Full Board will be formulated and managed by an Elections Subcommittee of the Task force.

4.3.7 If a Board member resigns before the end of a term or is unable to complete the term for unforeseen reasons, or is impeached, then the Full Board will decide whether to hold an election to fill the vacancy or wait until the next scheduled election. (A subcommittee of the Task Force will develop procedures for impeachment.)

4.3.8 SAHRA's Board shall meet at least once each year. Or more often if required by the law in Host-Country.

4.4 The Executive Committee

4.4.1 Five members of the Full Board (one from each country) will be elected by the Full Board to form the Executive Committee. This number will be increased to up to 8 members if representatives join from the SAARC countries currently not represented.

4.4.2 The Executive Committee will be responsible for guiding the work of SAHRA and its Secretariat.

4.4.3 The Full Board will elect a Chair, a Secretary, and a Treasurer who will serve for the term of the Full Board and who will have authority to perform tasks as laid out in SAHRA's registration documents.

4.4.4 The Executive Committee will meet electronically and in-person as required.

4.4.5 Quorums and Actions

Membership meetings, Board meetings, Executive Committee meetings, and the Task Force meetings shall require attendance by at least 51% of members. Any action required to be taken by SAHRA members, Board or Executive Committee shall require passage by 51% of those in attendance (electronically or in-person) after the quorum is established.

4.5 The Secretariat

The Secretariat will be composed of an Executive Director, an Administrative and Financial Manager, and country officers. The Executive Director shall serve as an ex-officio member of SAHRA's Board.

V. THE TASK FORCE

5.1 The Task force is currently comprised of members from the following countries: Nepal, India, Pakistan, Bangladesh, and Sri Lanka.

5.2 The Task Force has assisted with the strategic planning for SAHRA so far. It consists of individuals as well as representatives from organizations. There will be a maximum of three members from Sri Lanka, Pakistan, Bangladesh and Nepal, and a maximum of six from India. With a view to ensuring effective representation of gender and regional diversities, there shall be at least one transgender person, one woman and one man from each participating country in the Task Force.

5.3 The Task Force has determined that its members must have the following qualifications:

- Is committed to the work of SAHRA
- Has the time to do the work of SAHRA
- Belongs to the LGBTI community
- Represents a diversity within the LGBTI community as well as geographically within South Asia
- Is South Asian and based in South Asia

- Is individually known to be an activist for LGBTI issues or is part of an organization that is known to work for LGBTI issues
- Understands the larger issues of human rights and the South Asian regional framework
- Has experience and credibility within the local LGBTI community

5.4 Duration /tenure

The Task force will remain with the process until such time as the Full Board of SAHRA is elected. Thereinafter members of the Task Force will make themselves available to the first Full Board for a period of one year to provide continuity and support, if required.

5.5 Members of the Task Force standing for the elections of the Full Board are not eligible to supervise the work of the Subcommittee on the election of the Board.

5.6 Substitution or appointment of new Task Force members

Substitution or appointment of new Task Force members shall be decided by Task Force members from respective participating countries in line with 5.2 and 5.3 above.

VI. COUNTRY LEVEL STEERING COMMITTEES

- 6.1 As an interim measure pending registration of SAHRA and in order to facilitate Country Specific Work Plans, there shall be country level Steering Committees in each of the participating countries.
- 6.2 These Steering Committees shall comprise existing Task Force members from the particular country and an equal number drawn from elsewhere within that country.
- 6.3 Appointment or substitution of Steering Committee members shall be decided by Task Force members from respective participating countries. In making these decisions, the said Task Force members shall be guided by 5.3 above and the principle of effective representation of gender and regional diversities.
- 6.4 Duration and tenure of Steering Committee members shall be concomitant with that of Task Force members or with completion of County Specific Work Plans, whichever is earlier.