

# From Commitment to Action

## A Factsheet on Implementing the 2013 Asia and Pacific Ministerial Declaration on Population and Development on **SEXUAL ORIENTATION AND GENDER IDENTITY**

### Introduction

The 1994 International Conference on Population and Development (ICPD) is heralded for putting people at the centre of population and sustainable development efforts, and in particular the fundamental rights and freedoms of women and girls to have control over their sexual and reproductive lives. As part of the ICPD Beyond 2014 review process, governments joined by civil society representatives met for the Sixth Asian and Pacific Population Conference (6APPC) in Bangkok. The 2013 Asian and Pacific Ministerial Declaration on Population and Development - a progressive and visionary agenda for the region - was adopted at the 6APPC. It reaffirms gender equality and sexual and reproductive health and rights (SRHR) as indispensable to sustainable development, which was also underscored in the subsequent global Framework of Actions for the follow up to the ICPD Beyond 2014.

### Policy Directions and Priority Actions

The Declaration contains recommendations to ensure the effective implementation of ICPD Beyond 2014. It is critical that the policy directions and priority actions set forward are realized through awareness raising, accountability and civil society participation, and leaders are held accountable for the rights of aging persons in the Asia and the Pacific. Below, recommendations from the Declaration are set out based on the civil society statements for the 6APPC. The Declaration paragraph numbers are referenced in parentheses. Population and development policies and programmes should be inclusive of the needs and rights of communities with different sexual orientation and gender identities (SOGI) to ensure they are not left behind.

### Anti-Discrimination and Human Rights

A rights-based framework is at the core of the Declaration, including reaffirmation of the Vienna Declaration and Programme for Action (7), and strengthened by a consistent commitment to anti-discrimination, with mention of SOGI. It calls for elimination of **discrimination** based on sex, gender, age, HIV status, and SOGI or other status (84); linking it to ensuring that national laws and policies

respect and protect reproductive rights and enable all individuals **without distinction of any kind** to exercise them **without discrimination on any grounds** (111). Multiple and overlapping forms of inequality, disempowerment, and discrimination need to be addressed through a commitment to equality before the law and non-discrimination for all persons (24).

### Violence

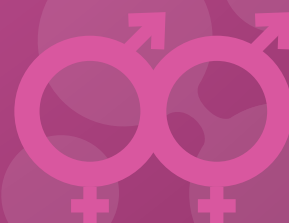
The Declaration highlights grave concern at acts of violence and discrimination committed against individuals on the grounds of SOGI (8). It reasserts the basic right of all couples and individuals to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination, and violence (76).

### Addressing Legal and Policy Barriers

The Declaration calls for the review and, where appropriate, revision, amendment or abolishing of all laws, regulations, policies, practices and customs that have a **discriminatory impact on individuals**. Multiple legal systems, where they exist, should **comply with international human rights obligations**, commitments and principles, including the principle of non-discrimination (131). Any legal and policy barriers that impede access to HIV prevention, treatment, care, and support, particularly among key affected populations (120) must be addressed. The impact of laws and practices on consensual adult sexual behaviours and relationships (25) in terms of potential marginalisation of the status of individuals in society and on their public health (25) is recognized. The impact of criminalizing same sex behaviour detrimentally impacts the health and well-being of person with different SOGI.

### Access to Health Services

The right to access health services by SOGI communities is often violated due to the above mentioned discrimination and legal and policy barriers. The Declaration provides opportunities to improve access, calling for well-functioning and responsive public health services for all people, in particular the poorest and marginalised



segments of the population (105). This should include providing a comprehensive package of sexual and reproductive health information and services to all couples and individuals so they are able to voluntarily exercise free, responsible and informed choice (110). In particular,

it calls for ensuring that all victims and survivors of violence have immediate access to critical services, and that responses to gender-based violence are integrated as part of a broader, multi-sectoral, coordinated effort (124).

## Best Practice

## Critical Note

### Fundamental Human Rights for LGBTI citizens in Nepal

The Supreme Court of Nepal, in December 2007, issued a groundbreaking verdict for the country and the region, by declaring full, fundamental human rights for all 'sexual and gender minorities'—lesbian, gay, bisexual, transgender, and intersex (LGBTI) citizens. The government was ordered to scrap all discriminatory laws, and draft a same-sex marriage law for approval by parliament, and a 'third gender' category was legally established. Government was directed to issue citizenship identification documents to persons identifying with a third gender according to their preferred identity.

This ruling was tested during the Nepal census in 2011 when people identifying with a third gender could state this for official record. When officials were unwilling to include the third gender particulars into the record, activists threatened to take them to court. LGBTI communities were mobilized to take part in the census, which was closely monitored. This has created an in-road to fully integrating and acknowledging the place of LGBTI in Nepali society.

*Adapted from 'Nepal looks set to officially recognise third gender', AWID Friday File. Available at: <http://awid.org/Library/Nepal-Looks-Set-to-Officially-Recognize-Third-Gender>*



The Ministerial Declaration is commendable for its consistent emphasis on anti-discrimination on the grounds of SOGI, and extending this to healthcare needs. Governments have responsibility to ensure the healthy lives of citizens, including access to life saving prevention, treatment, care and support services to men who have sex with men and transgender people, in order to avert the HIV epidemic. It is a positive step to witness strong reaffirmations of the universality, indivisibility, interdependence, and interrelatedness of human rights; though references to national sovereignty remain, there is a reminder that it is the duty of all States regardless of their cultural, political, or economic systems to promote and protect all human rights and fundamental freedoms. The Declaration's commitment to working with key stakeholders is welcomed, as it is essential that governments work closely with community organisations to tackle criminalisation laws and policies, which deny people their basic human rights to be active and productive citizens.

### Further advocacy resources

1. In or Out? Asia-Pacific Review of Young Key Populations in National AIDS Strategic Plans (2010) UNESCO. Available at: [http://www.apcom.org/sites/default/files/article-docs/in\\_or\\_out\\_asiapacific\\_review\\_of\\_young\\_key\\_populations\\_in\\_national\\_aids\\_strategic\\_plans.pdf](http://www.apcom.org/sites/default/files/article-docs/in_or_out_asiapacific_review_of_young_key_populations_in_national_aids_strategic_plans.pdf)
2. Where to from here?': Identifying gaps in social research for future development of strategic information (2014) APCOM. Available at: [http://apcom.org/sites/default/files/scopingpaper\\_wherefromhere\\_0.pdf](http://apcom.org/sites/default/files/scopingpaper_wherefromhere_0.pdf)
3. Men who have Sex with Men & the 2011 Political Declaration on HIV/AIDS, InFocus Issue Vol.5 (2012) APCASO and APCOM. Available at: <http://www.apcom.org/sites/default/files/pdf/InFocus-Vol5-MSM-May12.pdf>