

# KATHMANDU DECLARATION

August, 2019



# KOSHISH

National Mental Health Self-Help Organization

# Kathmandu Declaration<sup>1</sup>

We, all the participants with psychosocial disability, in the 'National Capacity Enhancement of Persons with psychosocial disability and cross disability in Nepal'<sup>2</sup> organized by KOSHISH, A National Disabled People's Organization, in the presence of representatives from the National Human Rights Commission and United Nations Development Programme and other participants,

## Acknowledge,

- The Government of Nepal included psychosocial disability in the disability welfare act, 1982 as mental disability.
- Persons with psychosocial disability was able to come structurally since 2008 and that the psychosocial disability momentum gained prominence
- Parliament of Nepal ratified CRPD and its optional protocol without any reservation on 27 December 2009 and got UN approval on May 7, 2010.
- Endorsement of Disability Rights Act in 2017 and categorization of psychosocial disability among 10 types of disabilities for the first time in the Disability Rights Act 2017.
- In line with the Disability Rights Act, Disability Rights Regulation adaption process is going on.
- The "Concluding Observations" issued by UNCRPD committee to Nepal and "Bali Declaration" has given the declaration an international flavor.
- The commitment from Nepal to implementation of Sendai Framework for Disaster Risk Reduction
- Ratification of International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination Against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Convention on Rights of the Child

## Concerned that,

The Disability Rights Act 2017 is:

- Still not clear about paradigm shift of medical model to social model i.e. the definition of psychosocial disability in the act is focusing on the impairment of

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<sup>1</sup> The declaration has been prepared in reference to Disability Rights Act 2017, UNCRPD, UNCRPD Concluding Observation to Nepal 2018 and Bali Declaration 2018

<sup>2</sup> The program was organized on 22nd and 23rd July, 2019 and was facilitated by representatives from TCI-Asia

person (stating about memory problem, dysfunction in the brain, etc.) and not as multiple barriers faced by persons with psychosocial disabilities.

- Silent on state obligation (To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and practices that constitute discrimination against persons with disabilities) on harmonization of the legal system in which provisions are discriminatory and inhumane which is against UNCRPD.
- Promoting guardianship and substitute decision-making rather than supported decision-making, which fails to ensure full legal capacity for the person with psychosocial disability in line with UNCRPD article 12 (equal recognitions before the law).
- Has provision for the establishment of a rehabilitation center in each province which is not in line with UNCRPD article 19. It is silent about a person with disability living independently and included in the community. In addition, such provision can promote seclusion and isolation.

We are also concerned that the persons with psychosocial disabilities are facing violation, discrimination and exclusion and that the mental health services provided under Ministry of Health and Population are inhumane and degrading which is not in line with Article 15 of UNCRPD.

**We submit, the following measures to be realized, with due consideration that persons with psychosocial disabilities be meaningfully engaged in every step**

- Amendment of definition of psychosocial disability from a human rights perspective focusing on barriers and not on impairment.
- Abolishment or revision of all the discriminatory laws and policies which restricts participation of persons with psychosocial disability on an equal basis with others and legal harmonization in full compliance with UNCRPD
- Create support systems and provide community based services for social inclusion of persons with psychosocial disabilities in every aspect of life and prevent from seclusion and isolation to ensure disability inclusive development.
- Abolish guardianship and substitute decision-making and promote supported decision-making by developing mechanisms which respect the full legal capacity of persons with psychosocial disability.
- Reform the current mental health system to provide holistic mental health services in all the levels (Primary, Secondary, Tertiary) of health care facilities with trained human resources.
- Protect the rights of the person with psychosocial disability in employment, education, housing, shelter, food, comprehensive health, nutrition and hygiene in fulfilling the basic requirement of fundamental rights without discrimination.

- Guarantee the electoral and political rights (right to vote and right to be a candidate) of persons with psychosocial disability and ensure participation in public life without legal barriers.
- Use appropriate measures to protect persons with psychosocial disability from exploitation, violation and abuse both within and outside the home.
- Availability of disability inclusive services for persons with psychosocial disabilities in remote, hilly, mountainous, forest areas of Nepal, including at all provinces, through the service network of provincial authorities.
- Use appropriate measures to obtain quality information regarding condition of persons with psychosocial disability in upcoming census 2021 which will contribute towards disability inclusive development and enjoyment of their fundamental rights and special provision as per the constitution of Nepal.
- Pay particular attention towards marginalized groups of children with disabilities in rural and mountainous areas, in particular children with intellectual and/or psychosocial disabilities and those from indigenous groups.
- Persons with psychosocial disabilities and their DPOs to be involved at every step of planning and implementation of all policies and laws impacting their lives, within the true spirit of disability inclusive development.
- Include provisions for persons with psychosocial disabilities in the National Disaster Risk Reduction Policy 2075 and its subsequent Strategic Action Plan (2018-2030).
- Designate or establish independent mechanisms in compliance with Article 33 of UNCRPD to promote, protect and monitor the implementation of the Convention taking into account the human rights of persons with psychosocial disabilities.
- Develop monitoring mechanisms for existing private and public mental health services and make it compliant to Article 28 of UNCRPD (Adequate standard of living and social protection).
- Inclusion of psychosocial disability in all of the Provincial offices of the National Federation of Disabled Nepal through identification of persons with psychosocial disabilities and by providing peer support measures.

***'Respect Our Choice, Our Voice and Autonomy'***



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