

Joint Statement

Sub: Recent Police raids at the Bharosa and Naz Foundation International offices at Lucknow

Issued by: Naz Foundation(India)Trust, The Milan Project, The Sangini Project, TARSHI, Lawyer's Collective, Nirantar, IFSHA, Jagori, CREA, CFLR and Ankur.

Background:

On the 7th of July, 2001, the Uttar Pradesh Police raided the offices of Bharosa Trust and Naz Foundation International in Lucknow, arrested the staff members and closed the offices. The staff are still in jail, having been denied bail as the police have failed to produce the case diary in court. They have been charged under Sections 120 B and 377 of the Indian Penal Code (criminal conspiracy to cause the commission of carnal intercourse against the order of nature).

The Uttar Pradesh police claims it has acted in the interests of society, as these organisations are promoting homosexuality which is inimical to Indian cultural values. They insist that they have uncovered the existence of two 'gay sex clubs' and also claim to have seized pornographic material, memberships lists and sex toys.

Bharosa Trust and Naz Foundation International (NFI) are non-governmental organisation working for several years in the field of HIV-AIDS.

NFI is an organisation specialising in sexual and reproductive health of men who have sex with men (MSM) in South Asia, providing technical assistance, capacity building, training and support to emergent and existing locally-based sexual health organisations for more than eight years. NFI has found encouragement and support from among others, the Government of India, the Joint United Nations Programme on HIV-AIDS(UNAIDS), Family Health International and the Global Health Council. The Bharosa Trust is also an NGO engaged in HIV-AIDS intervention with the MSM community. It's programmes include support group meetings, outreach, counselling, a resource centre, an STD clinic and an HIV-AIDS helpline.

The Statement:

The use of Section 377 against NGOs working on HIV/AIDS and sexual health

including those working with MSM, as has been done by the police against Bharosa and NFI in Lucknow is a set back to HIV/AIDS prevention and control efforts throughout the country. The Government expects NGOs to implement programmes for HIV prevention which they do. NGOs definitely do not deserve to be treated in this manner. This is a matter which actually concerns the NGO community as a whole.

The Indian government recently took a stand at the UNGASS meeting in New York supporting the inclusion of the International Gay and lesbian Human Rights Commission (IGLHRC) at the meet, and the need to work with MSM. Recently, the Health Minister also explicitly acknowledged the need to target MSM in HIV/AIDS interventions.

>From the experience of organisations working on HIV/AIDS and related issues, it has been observed that the impact of the HIV/AIDS epidemic is magnified by the inequities that form a part of our society. A large number of groups in the country do not have access to basic human rights including the right to health, education and correct and reliable information. In addition, human rights violations of certain marginalised groups causes them to be more vulnerable to HIV. This affects not just these communities, but directly affects the rest of society. For this reason, respect for the human rights of all, forms the basis of the national response to the HIV/AIDS epidemic as stated in the second phase of The government's National AIDS Control Programme (NACP 2) of the National AIDS Control Organisation (NACO). This is also the philosophy that guides the strategies developed and supported by UNAIDS.

One of the groups that NACO recognises as being especially vulnerable to HIV/AIDS, and thus requiring focussed interventions is men who have sex with men (MSM). To counter the risk that this group of people face, NACO supports strategies that are based on 'outreach, peer education and partnerships'. It further provides for counselling, condom distribution and treatment for STIs amongst MSM. A large number of groups around the country are following this strategy.

Men who have sex with men are looked down upon by society as being deviant, perverted, and are often accused of not being 'real' men. Section 377 of the Indian Penal Code criminalises 'unnatural sex', which has been interpreted to include sex between men.

This societal stigmatisation and the very real dangers of being prosecuted drive MSM underground. Clearly, it is difficult for MSM to access the precious few health services that are sensitive or specific to their needs, let alone official health agencies for fear of being prosecuted and stigmatised. In order then to make services and information more accessible, many NGOs work with the MSM population, providing counselling

services, support groups and outreach, while maintaining confidentiality. Some NGOs, like Bharosa, work exclusively with the MSM community.

It is necessary to point out that many MSM also have sex with women and that a majority of them are married. This possibly exposes their wives and children to the risk of infection. This means that interventions with MSM must form an essential part of the response to the epidemic. What affects MSM affects everybody.

Since the majority of reported cases of HIV transmission happen through the sexual route it is impossible to deal with the epidemic without talking about sex. Pamphlets, videos and magazines have been found to effectively communicate information about routes of transmission and methods of prevention. Promoting the use of condoms is an integral part of any sexual health intervention programme. This requires communicating the correct method and technique of usage. Communication material which is explicit and sometimes graphic is often necessary. The commonly used Nirodh condom packet, for example, has a detailed drawing inside on how to wear a condom with graphic illustrations of the male and female organs. This may be considered by some sections of society to be obscene, but nevertheless serves the significant purpose of demonstrating safer sex practices. In other words, it may at times be easy to construe BCC material as obscene. This restricts the development of effective BCC material and hinders necessary communication.

Nirodh may have been designed with a view to prevent the transmission of STDs between men and women and to prevent pregnancies. That is why the packet depicts a man and woman about to have sex. At the same time, can it be said that the design of the Nirodh packet is aimed at promoting heterosexuality? An NGO working with the MSM population will thus have to use material that explicitly shows safe practises for men who have sex with men. These NGOs are not promoting homosexuality but safer sex practices.

Just like every other person, MSM have the basic fundamental right to life and health, to accurate information and access to services without discrimination and fear. We appeal to all sections of society to endorse this statement and to support interventions that attempt to make these rights a reality.

The actions of the Lucknow police have set a bad precedent and will hamper the work of other organisations engaged in generating awareness about sexual health and safer practices, especially among marginalized communities. We strongly condemn these actions and urge the state to ensure that the rights of those arrested are protected and that similar acts of harassment and repression do not occur in any part of the country in future.

Annexure:

Certain terms in common use in the field of HIV-AIDS intervention work:

MSM - A term used to denote the community of men who have sex with men. This includes, not just men who identify as homosexual, but also those who practice male to male sex without identifying as homosexual.

Support groups are meeting spaces for people with common problems and issues to join together, share experiences and seek support. For example, support groups for women in distress, people with alcohol or drug addiction problems, people affected by HIV-AIDS and vulnerable groups such as homosexual men and women.

BCC materials - BCC materials ('Behaviour Change Communication'), are educational tools that attempt to promote behaviour change amongst certain targeted groups. For instance, NGOs working on HIV-AIDS Intervention, provide vital information in the form of pamphlets, magazines, books, videos, etc. on how to make their behaviour safer. BCC material also includes tools for demonstrating safer sex practices such as proper usage of condoms and lubricants.

Drop-in centre - a place where people can access resources and meet their peers in safe and supportive environments. For instance, drug users access drop-in centres where they can receive counselling, therapy, and also support from professionals as well as people who have experienced similar problems.

Outreach work - involves reaching out to target groups in public and private spaces. For instance, truck drivers in India have been identified as particularly vulnerable to Sexually Transmitted Diseases (STDs), and can be best reached by meeting them at the truck depots and interstate terminals, etc, where crucial inputs on avoiding STDs are shared with them. Another good example is the government's Mala-D programme where nurses went out into public spaces distributing the Mala-D contraceptive pills.

Helplines - telephone helplines operated by experienced counsellors provide information and links to resources, again to particular groups. Suicide helplines reach out to suicidal or acutely depressed people. There are other helplines on sexuality-related queries, on safer sex, mental trauma, examination stress etc. Their basic aim is to provide support and information and to link isolated people to resources which are specially set up for their needs. The most well known helplines are 100 - to report a crime and 102 - to call an ambulance.

HIV/AIDS helplines are crucial to effective HIV-AIDS intervention, given the

conservative attitude towards sex in India and the resultant sensitive nature of any queries related to sex, even if about safer sex practises. In such an environment, an HIV-AIDS helpline is an anonymous way to access information related to safer sex.

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