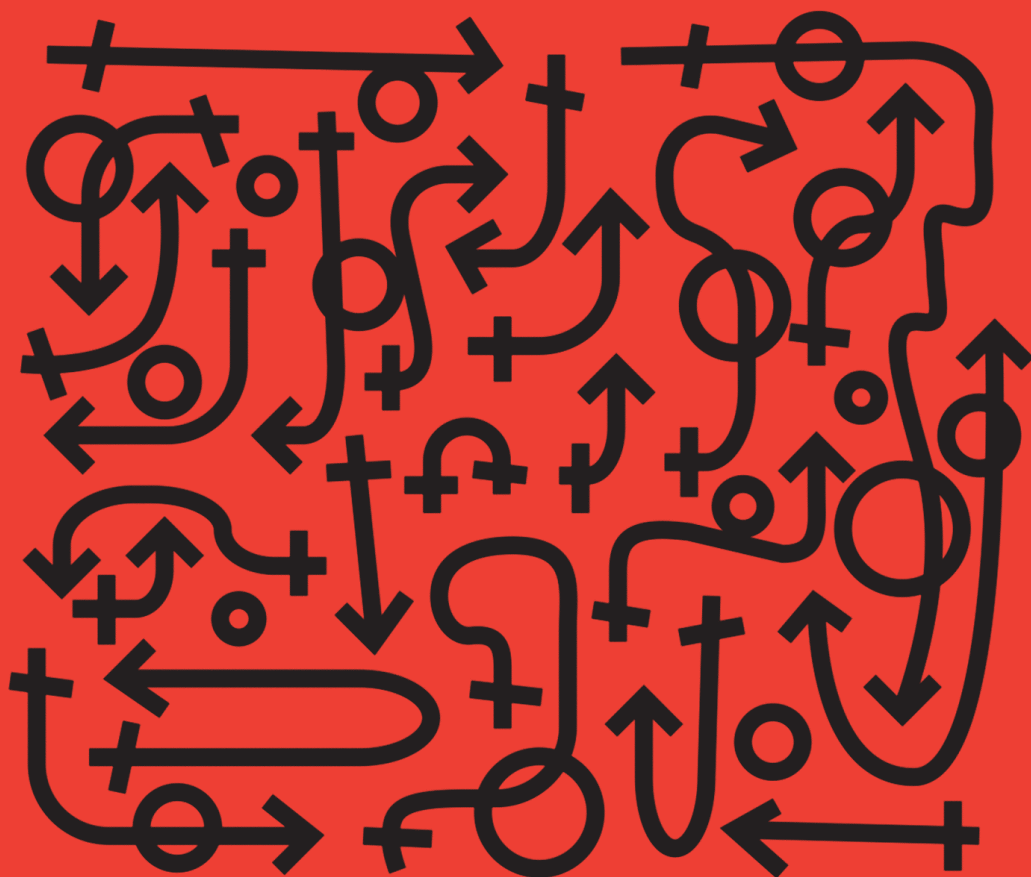


GLOBAL INFORMATION SOCIETY WATCH 2015

Sexual rights and the internet



ASSOCIATION FOR PROGRESSIVE COMMUNICATIONS (APC)
AND HUMANIST INSTITUTE FOR COOPERATION WITH DEVELOPING COUNTRIES (Hivos)

Global Information Society Watch 2015

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BANGLADESH

THE “THIRD GENDER” IN BANGLADESH



Bytes for All

Partha Sarker¹

www.bytesforall.org

Introduction

The Global Gender Gap Report 2014² placed Bangladesh in 68th position out of 142 countries. It has the eighth lowest gender gap in the area of political empowerment, while women’s life expectancy, for example, has increased from 54.3 years in 1980 to 69.3 years in 2010 – one of the highest increases in the South Asian region. Bangladesh is also reducing its gender disparities at a faster rate than the global average in areas such as youth literacy and secondary school enrolment. Although the manufacturing sector employs almost the same number of men and women, 80-85% of the employees in the ready-made garment sector are women.

But “gender” is typically portrayed as male and female in Bangladesh. “Hijra”³ or “third gender” people do exist in Bangladesh, but they are socially excluded. One estimate from the Ministry of Social Welfare suggests that there are about 10,000 third gender people in Bangladesh, while some rights groups think that the actual number is about half a million.⁴

The concept of a “third gender” goes back at least as far as the third century A.D., with Hindu, Buddhist and Jain texts all including debates on sexuality and gender definitions. References to a third gender crop up sporadically throughout the historical record, until the 18th century, when colonial laws criminalised all sexual acts between men and cast relationships into a rigidly binary-gendered form.⁵ Often hijras do not have any

permanent job or profession other than singing, dancing or entertaining other people. Violence against the third gender community, especially hijra sex workers, is often brutal, and occurs in public spaces, police stations, prisons or even at homes. They continue to face extreme discrimination when it comes to government services such as health, housing and education as well as in areas such as employment and immigration.

Policy and political background

Third gender people are considered to be a “forgotten class” in Bangladesh. During the late 1970s and early 1980s, they were assured of voting rights but only as male voters. Later in 2000, when the voter list was being prepared, the third gender community negotiated with the Election Commission to allow them to vote as third gender and not as male or female. But the Election Commission consoled them only by giving them an opportunity to vote either as male or as female, as per their choice – which is not how they identify.

Bangladeshi law recognises only two sexes, male and female. Discrimination on the basis of sexual orientation or gender identity has not been prohibited by any civil rights law in Bangladesh. Likewise, no law exists in Bangladesh to address harassment of the lesbian, gay, bisexual and transgender (LGBT) community. On 14 May 2009 the high court laid down a set of guidelines to prevent sexual harassment of women and children at work places, educational institutions and on the street, but that did not include issues related to harassment against third gender people. The Penal Code 1860 Section 377 clearly prohibits “carnal intercourse against the order of nature”, where the penalty ranges up to 10 years imprisonment.⁶ The ambiguity of the phrasing can also be used to penalise anal intercourse amongst heterosexuals. Importantly there has been no case tried under this section of the penal code.

However, it has been used in everyday harassment, where it is considered acceptable for law enforcement agencies and others to bully persons

1 Data collection for this report was supported by Mossaber Hossain Ribon. Also thanks to Shale Ahmed, executive director, and Bandhu Social Welfare Society, Bangladesh for their support.

2 World Economic Forum. (2014). *The Global Gender Gap Report 2014*. www.weforum.org/reports/global-gender-gap-report-2014

3 https://en.wikipedia.org/wiki/Hijra_%28South_Asia%29

4 Gayle, D. (2014, 11 November). Transgender Bangladeshis hold Dhaka’s first-ever pride parade to mark a year since their official recognition as a third gender. *Daily Mail*. www.dailymail.co.uk/news/article-2829481/Transgender-Bangladeshis-hold-Dhaka-s-pride-parade-mark-year-official-recognition-gender.html

5 Anam, T. (2015, 2 July). Transgender Rights, Bangladesh Style. *The New York Times*. www.nytimes.com/2015/07/03/opinion/tahmima-anam-transgender-rights-bangladesh-labannya-hijra.html

6 Sexual Rights Initiative. (2009). Report on Bangladesh: 4th Round of the Universal Periodic Review. www.upr-info.org/IMG/pdf/SRI_BGD_UPR_S4_2009_SexualRightsInitiative_JOINT_upr.pdf

that do not comply with the hetero-normative structures of the Bangladeshi society.⁷

The first big development happened when the government, in a landmark decision, approved a proposal from the Ministry of Social Welfare to allow hijras to officially register as persons with a third gender identity. This opened up an opportunity for members of the community to identify themselves as “third gender” in government documents, including passports, national and voter identity documents, and bank applications, among others. This issue was important because the Bangladeshi constitution provides a guarantee of equality before the law on the basis of citizenship, not on the basis of sex.

The Ministry of Social Welfare is running a number of social safety net programmes through which different disadvantaged groups including third gender people receive support for livelihood development. In the current 2014-2015 budget, the ministry has expanded third gender development programmes to 35 districts and took the initiative to employ 18 third gender people in various institutions. One private television channel in Bangladesh has already employed five people from the third gender community to work for security and other office jobs. For its part, Bangladesh Bank – the central regulatory bank of Bangladesh – has decided to provide bank loans to eligible third gender people. In a notice in June 2015 to all scheduled banks, Bangladesh Bank requested that they take steps to include this underprivileged group within their activities supporting small and medium enterprises. In another development, in a cabinet meeting the government decided to recruit third gender people as traffic police on the streets. One big media house in Bangladesh has already employed a number of third gender people at its office, mainly for office management.

Despite all these developments, Bangladesh still lacks an integrated legal framework that could address all the rights of the third gender population.

No easy life...

The third gender population in Bangladesh lives a difficult life. In the traditional society of Bangladesh there is a stigma associated with the word “hijra”. It has been shown that the reason many hijras seek a life outside of the normative

constellations is to protect their families from further societal stigmatisation. Their status tends to become more visible as siblings enter into the institution of marriage, where one sibling who does not get married is then perceived as conspicuous.⁸ The predominant norms present in Bangladeshi society have more or less always forced hijras to leave their families, as discrimination and abuse are common factors in an adolescent hijra’s life.⁹

Without any appropriate employment opportunities they do not have stable jobs or professions in most cases. They live in a community and usually work under a “guru” who gets a percentage of their earnings. These gurus in turn provide them all with protection including health, legal and other administrative support as is necessary.

In Bangladesh, the courageous act of a third gender person can be symbolically connected to the issue of online freedom of expression. This was after Labannya Hijra captured two killers of a 27-year-old secular blogger, Oyasiqur Rhaman. Rhaman was attacked by three young men for what he wrote on the internet. When they were fleeing the scene, two of them were captured and held by Labannya on the spot. Her intervention led to the arrest of the men, who later confessed to the killing.

However, Labannya’s story also showed a darker side of her existence, revealing a lack of real freedom of expression enjoyed by the marginalised community. When journalists wanted to interview her, she had to wait for permission from her guru Sapna Hijra. As the columnist Tahmima Anam wrote in *The New York Times*: “If this all sounds very progressive, thirdness must also be seen in the light of what it restricts, as well as what it permits. The hijra community is tightknit and hierarchical, with its own rules of kinship and power. When Labannya made her first public statement, she could only do so with the blessing of her mentor, Sapna Hijra – a figure who is somewhere between a symbolic parent and a spiritual leader in the hijra commune to which Labannya belongs.”¹⁰

Sharful Islam Khan, in an ethnographic study¹¹ on the third gender community, shows that the socio-political space is non-existent for hijras, and stems from their non-recognition in the society

7 Godwin, J. (2010). *Legal environments, human rights and HIV responses among men who have sex with men and transgender people in Asia and the Pacific: An agenda for action*. Bangkok: United Nations Development Programme.

8 Nanda, S. (1999). *Neither Man Nor Woman: The Hijras of India*, 2nd ed. Belmont: Wadsworth Publishing Company.

9 Khan, S. I., et al. (2009). Living on the Extreme Margin: Social Exclusion of the Transgender Population (Hijra) in Bangladesh. *Journal of Health, Population and Nutrition*, 27(4), 441-451. www.ncbi.nlm.nih.gov/pmc/articles/PMC2928103

10 Anam, T. (2015, 2 July). Op. cit.

11 Khan, S. I., et al. (2009). Op. cit.

where male-female gender construction is prevalent. He also observes that the social movement of the hijra community lacks power in Bangladesh, due to deficient support from the legal, religious and political spheres. Furthermore, a study by the United Nations Development Programme (UNDP)¹² points out that sexual minorities are vulnerable to health risks such as HIV.

There is no central location or physical space where third gender communities can be easily identified. Their presence on the internet as third gender people is also not evident. Rather they are represented by organisations that work for their rights. Bandhu Social Welfare Society (BSWS)¹³ is one such organisation. Soon after the recognition of hijra gender status by the Ministry of Social Welfare, BSWS in collaboration with the ministry and UNAIDS organised a series of events called “Hijra Pride 2014”¹⁴ at all divisional and central levels. All these events helped them prepare a set of recommendations (known as the Dhaka Declaration)¹⁵ that include issues such as creating awareness amongst the third gender community, sensitising media about the challenges that they face, incorporating the plights and challenges of the third gender population in the education curriculum, creating quotas to provide preferential access to education, and creating employment opportunities. BSWS provides media fellowships to journalists to help portray the lives and struggles of the third gender community in the mainstream media. Its legal aid counsellor Ain Alap has meaningfully contributed to addressing the legal needs of the community members and successfully settled a number of rights violation cases with the support of the National Human Rights Commission (NHRC).¹⁶

Online news media, including three major English-language daily newspapers – the *Daily Star*, the *New Age* and the *Dhaka Tribune* – have lately been paying attention to the third gender community. The frequency and the depth of these reports certainly create a favourable environment to recognise hijras and to establish their rights. The *Daily Star*, for example, has increased the frequency of

its reports on the third gender community since 2009, and has published almost 25 reports and opinion pieces. 2014 was a particularly significant year (right after third gender people were able to officially register as such). The *New Age* online archive goes back until the beginning of 2014 only, and it published six articles this year alone. The *Dhaka Tribune* on the other hand published 24 articles on the issue, with articles appearing more frequently soon after the hijra gender status was officially recognised.

Conclusion

In Bangladesh, hijras are highly marginalised. Poverty and exclusion from minimum daily requirements such as health services, housing and work are the reality many hijras live in.¹⁷ Since the situation here is urgent, it is important for society to understand the lives they live, and the socio-economic conditions they find themselves in. Media and online representation of the third-gender community will play a vital role in confronting negative public stereotypes of the community. Declaring their gender to be “third gender” is not enough -- it would be useless unless supportive measures are not taken to protect the rights and livelihoods of this minority population.

Action steps

A seminar called “Third gender recognition for hijra community – aftermath and way forward”,¹⁸ organised by BSWS and the NHRC in April this year, identified some action points or recommendations. Those recommendations include:

- BSWS and other civil society organisations will lobby the government and other lawmakers in the parliament to approve a bill to protect the rights of the third gender community and to establish their preferential access to health, education, employment and other government services.
- The NHRC will send a proposal to the Ministry of Education to allow free admission of third gender children in school.
- Concerned bodies will be pursued to take immediate legal and administrative measures to allow inheritance of properties for third gender people.

12 Chakrapani, V. (2010). *Hijras/Transgender Women in India: HIV, Human Rights and Social Inclusion*. United Nations Development Programme (UNDP), India.

13 www.bandhu-bd.org

14 Ahsan, F., & Al Amin, Z. (2015, 1 September). Celebration of the third gender. *Daily Star*. www.thedailystar.net/op-ed/politics/celebration-the-third-gender-135667

15 Bandhu Social Welfare Society. (2014, 29 December). Hijra Pride 2014. www.bandhu-bd.org/hijra-pride-2014

16 www.nhrc.org.bd

17 Stenqvist, T. (2015). *The social struggle of being HIJRA in Bangladesh - cultural aspiration between inclusion and illegitimacy*. <https://dspace.mah.se/bitstream/handle/2043/18568/Stenqvist-T-DP15%20final.pdf?sequence=2>

18 www.bandhu-bd.org/third-gender-is-not-a-word-it-is-a-gender

- Steps will be taken to create safe accommodation for the third gender community, particularly for its elderly population.
- Recommendations will be made to incorporate chapters in the national education curriculum mentioning the existence of hijras and their traditional cultures.
- BSWS and other civil society lawyers will be trained to handle the human rights issues of the third gender community at the district level.
- An initiative will be taken to map the community through a proper census.
- The NHRC will share a draft for anti-discrimination laws so that the law minister can represent the topic in the parliament soon.
- The Ministry of Social Welfare will be requested to continue and expand the livelihood programme for third gender people in 64 districts.
- There will be awareness and capacity-development campaigns so that members of the third gender community can represent themselves with dignity and self-esteem.

Sexual rights and the internet

The theme for this edition of Global Information Society Watch (GISWatch) is sexual rights and the online world. The eight thematic reports introduce the theme from different perspectives, including the global policy landscape for sexual rights and the internet, the privatisation of spaces for free expression and engagement, the need to create a feminist internet, how to think about children and their vulnerabilities online, and consent and pornography online.

These thematic reports frame the 57 country reports that follow. The topics of the country reports are diverse, ranging from the challenges and possibilities that the internet offers lesbian, gay, bisexual, transgender and queer (LGBTQ) communities, to the active role of religious, cultural and patriarchal establishments in suppressing sexual rights, such as same-sex marriage and the right to legal abortion, to the rights of sex workers, violence against women online, and sex education in schools. Each country report includes a list of action steps for future advocacy.

The timing of this publication is critical: many across the globe are denied their sexual rights, some facing direct persecution for their sexuality (in several countries, homosexuality is a crime). While these reports seem to indicate that the internet does help in the expression and defence of sexual rights, they also show that in some contexts this potential is under threat – whether through the active use of the internet by conservative and reactionary groups, or through threats of harassment and violence.

The reports suggest that a radical revisiting of policy, legislation and practice is needed in many contexts to protect and promote the possibilities of the internet for ensuring that sexual rights are realised all over the world.

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