

Universal Periodic Review of Bangladesh
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Report submitted by:



Boys of Bangladesh (BoB)

On behalf of a coalition of 10 LGBTIQ rights-based organizations in Bangladesh.

BoB is a non-formal organization that works for the rights of LGBTIQ communities in Bangladesh. Its aim is to empower the voices of LGBTIQ individuals through movement-building initiatives and inclusive advocacy at local and international levels.

Website: <http://www.boysofbangladesh.org/>

Email: info.bob.bd@gmail.com

Considering the risks under which LGBTIQ community organizers and community-based organizations operate in Bangladesh, we are unable to share the names of the organizations participating in the joint submission. The report has been drafted after multiple consultation with representatives from 10 organizations who work with LGBTIQ communities in different capacities.

Abbreviations

CSE – Comprehensive Sexuality Education

CBO – Community-Based Organization

CSO – Civil Society Organization

DSA – Digital Security Act 2018

LGBTIQ – Lesbian, Gay, Bisexual, Transgender, Intersex, Queer

NGO – Non-Governmental Organization

SHEA – Sexual Harassment, Exploitation, and Abuse

SOGIESC – Sexual Orientation, Gender Identity and Expression, and Sex Characteristics

SRHR – Sexual and Reproductive Health and Rights

UPR – Universal Periodic Review

1. Introduction – Legal Framework

- Bangladesh still faces significant human rights issues including, but not limited to, serious restrictions on free expression and media, including violence or threats of violence against journalists; serious restrictions on internet freedom; substantial interference with the freedom of peaceful assembly and freedom of association, including overly restrictive laws on the organization, funding, or operation of non-governmental organizations and civil society organizations; government restrictions on or harassment of domestic human rights organizations; lack of investigation of and accountability for gender-based violence, crimes involving violence or threats of violence against lesbian, gay, bisexual, transgender, queer, or intersex persons; existence or use of laws criminalizing consensual same-sex sexual conduct between adults (Bureau of Democracy, Human Rights, and Labor, United States Department of State, 2021).
- Bangladesh, a South Asian Muslim-majority country, is one of the 76 nations which still has Section 377 - a law that criminalizes same-sex relationships.
- Section 377 of the Bangladesh Penal Code, initially enacted by the colonial Government in British India (which included Bangladesh at the time) in the 1860s, provides: *“Unnatural offences: Whoever voluntary has carnal intercourse against the order of nature with man, woman, or animal, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to 10 years, and shall also be liable to fine.”* (Legislative and Parliamentary Affairs Division, n.d.)
- Though there has not been any conviction under this section, ‘377’ has been invoked by law enforcement agencies to harass, extort, violate, and discriminate against Hijra and LGBTIQ communities.
- In 2018, the Government of Bangladesh enacted a law called the Digital Security Act (DSA) 2018 which criminalizes many forms of freedom of expression, particularly those legitimately practiced by human rights defenders, imposing heavy fines and prison sentences for legitimate forms of dissent. The Act has been used to imprison 443 people in 2021, “mostly under the false information provision” (ARTICLE 19, 2022). DSA can push LGBTIQ+ individuals and community organizers further to the margins as it can

potentially be used to arrest them for speaking out against “religious sentiment”.

- The earlier drafts of the Anti-Discrimination Bill developed upon consultation with human rights organizations had protective measures against discrimination based on sexual orientation. However, in the latest draft that is being reviewed at the Parliament and will likely be passed soon, the clause was removed upon subsequent revisions from the Law Ministry.
- The current National Strategy Adolescent Health 2017-2030 was developed with the goal: *“By 2030 all adolescents lead a healthy and productive life in a socially secure and supportive environment where they have access to quality education and comprehensive information, education and services”*. It further mentions, *“This strategy is guided by human rights principles and clearly states that all adolescents, irrespective of their gender, age, class, caste, ethnicity, religion, disability, civil status, sexual orientation, geographic divide or HIV status, have the right to attain the highest standard of health.”* (Ministry of Health and Family Welfare, Government of Bangladesh, 2016)
- However, there is not only a huge gap in the implementation of the strategy in terms of SRHR of young people in general, but SRHR of LGBTIQ+ youth is also rarely considered in discussions around the topic or advocacy initiatives by allies. LGBTIQ+ youth continue to be deprived of quality healthcare and adequate access to sensitized health professionals. The lack of supportive mental health professionals is also significant and highly impacts the well-being of LGBTIQ individuals.

2. Previous UPR Cycles

- In 2009, during the 1st cycle of UPR, Bangladesh received two recommendations to improve the legal status of LGBTI individuals. Chile and the Czech Republic recommended that Bangladesh consider abolishing Section 377 of the Bangladesh Penal Code. Czech Republic further recommended that Bangladesh provide *“human rights training to law enforcement and judicial officers, with a specific focus on the protection of the rights of [...] persons of minority sexual orientation or gender identity and adopt further measures to ensure protection of these persons against violence and abuse.”*
- While the Government of Bangladesh accepted the recommendation concerning the human rights training of law enforcers and judicial officers, it refused to abolish Section 377, arguing that – *“Bangladesh is a society with strong traditional and cultural values. Same-sex activity is not an acceptable norm to any community in the country. Indeed, sexual orientation is not an issue in Bangladesh. There has been no concern expressed by any quarter in the country on this.”*
- In 2013, during the 2nd Cycle of UPR, there was one recommendation from Chile for Bangladesh to repeal Section 377 of the Criminal Code. The Government did not accept it citing similar concerns.
- In 2018, during the 3rd Cycle of UPR, 11 SOGI-specific recommendations were put forward by Germany, Brazil, Norway, Canada, Italy, Slovenia, Chile, Argentina, Honduras, Mexico, and Belgium. The recommendations ranged from abolishing Section

377 to taking measures to fight threats and violence against LGBTIQ+ human rights defenders. All were noted by the Government.

3. Progress Made and the Current State of LGBTIQ Communities in Bangladesh

3.1 Criminalisation

- As mentioned above Section 377 criminalizes same-sex conduct and the DSA of 2018 limits the freedom of speech of human rights defenders.
- Due to the criminalizing laws, advocacy for the rights of the diverse SOGIESC population is not conducted as strongly as for other minority communities. Community-based organizations do not feel safe to directly engage with government bodies as they feel they will be marked by law enforcement agencies.
- The fear of incrimination also restricts LGBTIQ+ organizations from conducting activities in public. Most activities that address LGBTIQ+ communities directly are conducted underground, in secret community-based Facebook groups, and in physical spaces that community organizers know to be community-friendly. However, such spaces are extremely limited in the capital city of Dhaka and are close to zero in cities outside of Dhaka.
- There is limited advocacy support regarding communities with diverse sexual orientations, gender identity and expression, and sex characteristics (SOGIESC). Some advocacy initiatives by human rights groups relate to Hijra and transgender rights; however, the rights of wider LGBTIQ communities are largely missing from advocacy dialogues.
- Since 2019, there has been a significant increase in incidents of violence against gay men. Multiple criminal gangs have formed that lure gay men into private spaces for dates, record videos of them in compromised situations, then physically beat them up and take their valuables. They are further blackmailed into silence with the video recordings. However, the victims do not press legal charges as they fear repercussions from law enforcement agencies. In March 2023, one of these criminal gangs in Kalabagan, Dhaka murdered a 47-year-old man who refused to pay them after they tried to blackmail him for being there on a date with another man. The offenders have been caught by the police. (The Daily Star, 2023) The media shared the name of the gay dating app “Grindr” that the victim used to get connected to one of the victims. There is a fear that due to the widespread publicity, the app will either be shut down in Bangladesh or will now be under the surveillance of extremist groups.
- For transgender and intersex people, the climate of fear is exacerbated by social marginalization as well as legal impediments to accessing employment and education, including the absence of a mechanism for changing one’s gender on legal documents.
- Those who try to be visible are met with threats, intimidation, abuse, and online and even physical attacks including murder, such as the murders of LGBTIQ+ activists Xulhaz Mannan and Mahbub Rabbi Tonoy in 2016 by Ansar Al Islam, the Bangladeshi unit of Al-

Qaeda in the Indian Subcontinent (AQIS) (BD News 24, 2016). The terrorists claimed that the two victims were murdered for being “pioneers of practicing and promoting homosexuality in Bangladesh”.

- LGBTIQ CBOs are unable to register as non-profit or human rights organizations. During the course of the NGO Affairs Bureau in Bangladesh, there is severe scrutiny and review by National Security Intelligence (NSI) which is under the direct authority of the Prime Minister’s Office. Many leaders fear being incriminated in due process and thus refrain from starting the registration process in the first place. They also cannot access funding from other NGOs because a newly introduced regulation by NGO Affairs Bureau only allows registered NGOs to receive funds from other NGOs as grantees or coalition partners.

3.2 Law enforcement agencies and other relevant authorities

- Though Bangladesh accepted the recommendation to provide human rights training to law enforcement and judicial officers with a specific focus on sexual orientation and gender identity put forward by the Czech Republic in 2009 during their first Universal Periodic Review, there has been no progress in the implementation of it.
- In a survey conducted in 2014 among the LGBTIQ community in Bangladesh, more than 60%, out of 527 respondents, said they did not trust the law enforcers and feared further harassment if they sought help from the police (Boys of Bangladesh, 2015).
- Even with the lack of official data, LGBTIQ+ CBOs have documented several cases where gay men have faced violence but did not report to the police as they feared that they too would be incriminated in the process.

3.3 Inclusion of adult male victims, intersex persons, and transgender persons in laws preventing Sexual Harassment, Exploitation, and Abuse (SHEA):

- The existing laws in Bangladesh that prevent sexual harassment, exploitation, and abuse exclusively acknowledge women as victims. Under separate laws, male and female children under the age of 18 are considered victims of SHEA as well.
- However, there is no law for adult male victims of sexual assault. These victims may also be criminalized under Section 377.
- Similarly, there are no laws to protect intersex persons against SHEA.
- There is also no clear guidance for transgender men and women who fall victim to SHEA.

3.4 Inclusion of diversity in sexualities and sexual orientations in the comprehensive sexuality education curriculum:

- Discussions around comprehensive sexuality education still largely focus on topics of reproductive health, while lacking positive knowledge sharing around sexuality and sexual health.

- Bangladesh has seen a rise in religious extremism in the past few years and that has drastically impacted and restricted such conversations.
- Those who speak out on social media in favor of positive conversations around sexuality are targeted, harassed, and attacked online.
- Due to the sense of taboo around the topic, social advocates, as well as policymakers, also do not bring sexuality to the table when discussing comprehensive sexuality education.

3.5 Sex corrective surgeries on intersex children in Bangladesh:

- Intersex people are perhaps the most marginalized among the LGBTIQ community because of mass ignorance and misconception.
- Even within the LGBTI community, there are almost no conversations around intersex issues because of the lack of knowledge and understanding.
- Intersex children go through sex corrective surgery and treatments at a really early age which leads to physical complications as they grow up.
- Intersex activists have claimed that there should be quality health services through sensitized health workers to address the health needs of intersex people.

3.6 LGBTQ Women

- Women in Bangladesh, including LBQT women, continue to face many challenges which include a lack of family support for higher education, a high rate of gender-based violence and domestic abuse, high pressure of marriage at a young age, and a lack of decision-making power. There have been many cases where lesbian and bisexual women were pushed for marriage by their parents against their will and afterward fell victim to marital rape.
- One LGBTIQ+ CBO reports that in 2021, they worked on a case where a 20-year-old lesbian woman was forcefully admitted to a drug rehab center to “treat” and “convert” her. These forms of institutionalized conversion therapies continue to exist without any legal consequences.
- The gazette published by the Ministry of Social Welfare acknowledging Hijra as a sex/gender is perhaps one of the only national-level policy-related changes impacting the diverse SOGIESC population. However, the recognition declared in the gazette is yet to be reflected in laws and policies and is thus essentially non-functional in ensuring the rights of the Hijra community.

3.7 Social protection and welfare

- According to a recent report, 72% of LGBTIQ+ individuals in Bangladesh lack access to jobs and sufficient income (International Republican Institute, 2021). Many young transgender people have reported being harassed by recruiters and employers for their preferred gender expressions, including the choice of outfits at mainstream workplaces. LGB people have reported being harassed and even blackmailed by their colleagues to

whom they have accidentally or willingly come out. Thus, employment opportunities with satisfying work conditions are limited for LGBTIQ+ people in general.

- Diverse SOGIESC communities are also unable to access legal support or health care without any fear of discrimination.

4. Recommendations

Based on the current situation in Bangladesh we are presenting the following recommendations:

- I. Repeal Section 377 of the Bangladesh Penal Code as well as other laws discriminating on the basis of SOGIESC.
- II. Modify relevant laws regarding sexual harassment and abuse to include adult males, intersex persons, and transgender persons as victims of sexual assault.
- III. Include topics around diversity in sexualities and sexual orientations in the CSE curriculum in high schools.
- IV. Prevent non-consensual sex reconstructive surgeries on intersex children in Bangladesh.
- V. Modify the Anti-Discrimination Bill 2022 to enable legal action against discrimination based on sexual orientation.
- VI. Enable self-identification of Hijra and transgender people without pathologizing diverse gender identities.

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