



## **Inputs on Upcoming Country Visit to Bangladesh**

*Submission to the Special Rapporteur on trafficking in persons, especially women and children*

22 September 2022

### **Joint report submitted by:**

International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA World)

Bandhu Social Welfare Society

and human rights defenders from Bangladesh<sup>1</sup>

### **Table of Contents:**

|                         |   |
|-------------------------|---|
| Introduction.....       | 2 |
| Push factors:.....      | 3 |
| Victim Protection:..... | 6 |
| Recommendations:.....   | 7 |

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<sup>1</sup> ILGA World acknowledges the valuable contribution from activist Maruf Rahman and other activists in the field.

## Introduction

This document has been prepared by ILGA World as a response to the [call for submissions](#) published by the Special Rapporteur on trafficking in persons. It explores the general challenges faced by lesbian, gay, bisexual, trans, intersex (LGBTI), and other SOGIESC<sup>2</sup> diverse identities concerning the issue of trafficking in Bangladesh, with a particular focus on the Hijra community. ILGA World carried out desk research of human rights reports, legal documents, and media reports in September 2022. In addition, Bandhu Social Welfare Society and individual human rights defenders from Bangladesh supported ILGA World in providing information on the current issues and challenges faced by the Hijra community.

## Background:

In Bangladesh, people of all genders are mainly trafficked for the purposes of forced labour and sexual exploitation, often to neighboring India. There is a lack of comprehensive data on the numbers of LGBTI persons who are victims of human trafficking in Bangladesh and an absence of targeted measures to address the trafficking issue of this specific group. Despite this, the discrimination and stigmatization faced by SOGIESC diverse persons likely heighten their vulnerability to human trafficking. LGBTI persons in Bangladesh face barriers to gaining education and employment, discrimination and malpractice from law enforcement, unequal access to healthcare, high levels of hate crimes, and gender-based violence.<sup>3</sup> Same-sex relations are criminalized under the Penal Code, further deepening the stigmatization of the community.

The marginalization suffered by LGBTI persons in the country increases their risk to be victims of human trafficking and creates barriers to accessing protection. This document addresses these two components; first outlining the factors pushing SOGIESC persons into trafficking and secondly examining how this community may be overlooked in detection, investigation, and victim protection strategies.

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<sup>2</sup> Sexual orientation, gender identity and expression and sex characteristics

<sup>3</sup> Chaney et al, "Civil Society Organisations and LGBT+ Rights in Bangladesh: A Critical Analysis," Journal of South Asian Development, 2020 <https://journals.sagepub.com/doi/10.1177/0973174120950512>

## Push factors

In this section, we address the systemic issues which act as push factors into trafficking for LGBTI persons in Bangladesh. We focus on poverty, the experiences of LGBTI youth, and the situation of the Hijra<sup>4</sup> community. The risk factors outlined stem from the widespread marginalization of LGBTI persons in Bangladeshi society. It is, therefore, beneficial to adopt a preventative approach which seeks to avert the risk of human trafficking by addressing the human rights situation of the LGBTI community broadly.

### Poverty:

Poverty, unemployment, and underemployment have been recognized as major risk factors for human trafficking. Individuals facing poverty, including those in the informal sector, are more likely to turn to exploitative employment arrangements as a way to meet their needs.<sup>5</sup> The World Bank has found that LGBTI persons are likely overrepresented in the bottom 40% of income due to barriers to education and employment<sup>6</sup>. Furthermore, the ILO has highlighted that due to discrimination, LGBTI persons are disadvantaged in the labour market and, especially in the case of trans women, are sometimes entirely excluded from formal employment. This can push trans women into survival sex work, including in dangerous conditions.<sup>7</sup> In sex work and other informal sectors, individuals are excluded from social protections, further increasing vulnerability to exploitation.

These risk factors are very much present for LGBTI persons in Bangladesh, who face discrimination at all levels of society; students are harassed in educational institutions, and LGBTI people are regularly denied jobs<sup>8</sup>. These underlying issues were exacerbated by the COVID-19 pandemic, as even informal sources of income such as sex work were interrupted. For instance, a 2020 study found that 82% of Hijras had earned no income in the two weeks prior to being surveyed, and 59% received no support from aid programmes or their families during the COVID-19 crisis. 86% of respondents had no savings, and almost half owed payments on loans. Fear of eviction was a major concern of those surveyed. The economic disadvantage of LGBTI persons in Bangladesh produces negative social outcomes which correlate to the risk factors of trafficking and this disadvantage must therefore be addressed in anti-trafficking measures.<sup>9</sup>

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<sup>4</sup> Traditionally, hijras are male-bodied feminine-identified people who sacrifice, although not always, their male genitals in return for spiritual power to bless and curse the newlywed and the newborn. However, other gender-diverse identities can belong to the hijras communities, such as trans men and intersex persons. A wide range of terminology, ranging from transsexual to transvestite and intersex, is used in South Asian and international popular media to describe the hijra. For more information, see Hossain, A., 2016, The paradox of recognition: hijra, third gender and sexual rights in Bangladesh, *Culture, Health & Sexuality*, 2017 Vol. 19, No. 12, 1418–1431 <https://doi.org/10.1080/13691058.2017.1317831>

<sup>5</sup> Special Rapporteur on Trafficking, *The impact and consequences of the COVID-19 pandemic on trafficked and exploited persons*, 2020. <https://www.ohchr.org/sites/default/files/Documents/Issues/Trafficking/COVID-19-Impact-trafficking.pdf>

<sup>6</sup> The World Bank, *Understanding Poverty, Sexual Orientation and Gender Identity*, 2022. <https://www.worldbank.org/en/topic/sexual-orientation-and-gender-identity>

<sup>7</sup> International Labour Organisation, *Discrimination at work on the basis of sexual orientation and gender identity*, 2015. [https://www.ilo.org/gender/Informationresources/Publications/WCMS\\_368962/lang--en/index.htm](https://www.ilo.org/gender/Informationresources/Publications/WCMS_368962/lang--en/index.htm)

<sup>8</sup> Chaney et al, “Civil Society Organisations and LGBT+ Rights in Bangladesh: A Critical Analysis,” *Journal of South Asian Development*, 2020 <https://journals.sagepub.com/doi/10.1177/0973174120950512>

<sup>9</sup> Innovision “COVID 19 Impact on Low Income Population: A Rapid Survey on Vulnerable Population” 2020 [http://innovision-bd.com/covid-19/COVID-19\\_Digest-2\\_Third-Gender.pdf](http://innovision-bd.com/covid-19/COVID-19_Digest-2_Third-Gender.pdf)

## **Experiences of youth:**

Poor parental relationships, childhood abuse, bullying, and child homelessness can all form risk factors for human trafficking.<sup>10</sup> Due to systemic discrimination, LGBTI youth are more likely to have these negative experiences.<sup>11</sup> They face violence, stigmatization, and at times abandonment from their families and communities<sup>12</sup>. LGBTI young persons are generally more likely to become homeless and may face discrimination from homeless services, particularly if they are faith based.<sup>13</sup> Because of this societal disadvantage, these individuals tend to be overrepresented among sexually exploited victims of trafficking<sup>14</sup>.

While there is no comprehensive data on the numbers of LGBTI youth subject to trafficking in Bangladesh, there is evidence of their increased vulnerability to this issue. LGBTI youth in the country are often not accepted by their broader communities due to deeply ingrained homophobia and transphobia. Young people who speak about their sexual orientation or gender identity online are often subject to abuse and hate speech. This marginalization in the community is often mirrored in family dynamics. Parents usually force LGBTI children into a heteronormative life or disown them for failing to conform to gendered expectations.<sup>15</sup> Many transgender men tend to leave home at an early age; however, often fail to secure jobs.<sup>16</sup> Furthermore, many young lesbian women are forced into heterosexual marriage by their parents and are subject to marital rape.<sup>17</sup> Investigation is needed into how these experiences interact with the trafficking of youth and children in the country. Preventative intervention in child trafficking must consider the unique push factors facing LGBTI youth and seek to combat their marginalization.

## **The Hijra community:**

Hijra is a cultural community in Bangladesh and other regions in South Asia, composed mostly of transwomen and Kothis (gay men with feminine gender expression), but which can also include transgender men, gender non-conforming people, and intersex persons<sup>18</sup>. The Hijra culture has distinct traditions, regulations, and livelihood systems<sup>19</sup>. Trans women, and other SOGIESC diverse persons, often become part of the Hijra community after experiencing isolation from family due to high social stigma. The community, therefore, offers social protection and connection to individuals who do not have access to other community and family networks.<sup>20</sup>

Hijras have been legally recognised as a third gender in Bangladesh since 2014, and according to the report on Population and Housing Census 2022 by the Bangladesh Bureau of Statistics (BBS), the total number of Hijra in Bangladesh is 12,629. However, it is important to note that

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<sup>10</sup> Wills. "Sexual Minorities and Human Trafficking: vulnerabilities and Challenges Faced by an Overlooked Population." *Human Trafficking*. 2022. Routledge.

<sup>11</sup> Ibid.

<sup>12</sup> UNICEF, *Eliminating Discrimination against Children and Parents on the basis of Sexual Orientation and/or Gender Identity*, 2014.

<sup>13</sup> Wills. "Sexual Minorities and Human Trafficking: vulnerabilities and Challenges Faced by an Overlooked Population." *Human Trafficking*. 2022. Routledge

<sup>14</sup> Ibid.

<sup>15</sup> . ILGA Asia. *An Unsafe Haven: Challenges of Bangladeshi LGBTIQ people inside and outside the community*. 2021.

<sup>16</sup> Ibid

<sup>17</sup> Ibid

<sup>18</sup> Information provided by Bandhu Social Welfare Society.

<sup>19</sup> Singh H, Kumar P. "Hijra An understanding". *Journal of Psychosocial Research*". 2020

<sup>20</sup> Ibid.

the legal recognition of Hijra is based on the interpretation of Hijra as a sex, rather than a gender or cultural identity. There is no definition of the Hijra sex provided by the state, however, there is a widespread misconception that all Hijras are intersex or have undergone some form of genital procedure. In December 2014, the Ministry of Social Welfare invited Hijras to apply for an employment scheme, however, participants had to undergo an invasive medical examination to determine whether they were “authentic” Hijras.<sup>21</sup> The legal recognition of Hijras is thus exclusionary to many in the community and is generally insufficient to tackle stigmatisation. Even when living in community, Hijras continue to face severe marginalization and a lack of adequate support from the state<sup>22</sup>.

Besides these risks stemming from marginalization in broader society, exploitation and trafficking also occur within the Hijra communities. Hijras follow a hierarchical kinship structure, with Hijra disciples, known as chelas, following a maternal leader, known as a guru. Hijra chelas often join the community as children, and most do not have an ongoing relationship with their families. In contrast, Hijra gurus are older and well-connected members of the community with high social standing. The guru supervises a small group of chelas, usually receiving a portion of their income. In return, the guru trains chelas to the lifestyle of the hijra community.<sup>23</sup> This large power differential within the guru-chela relationship can lead to certain forms of abuse.

In many cases, gurus yield significant control over their chelas to the extent that the relationship can be described as contemporary slavery. A lack of education, prior experiences of stigmatization, and economic dependency can make chelas particularly vulnerable to abuse by Hijra gurus. There are many cases of gurus forcing chelas into sex work or begging against their will. Chelas who do not earn sufficient income or refuse to engage in begging can face torture and severe punishments from their guru.<sup>24</sup>

Furthermore, the Hijra tradition is well established in India, and trafficking of Hijra chelas from Bangladesh to India is a major concern. Hijra chelas are often pressured or forced by their gurus to migrate to India for several reasons, including better income opportunities, castration, sex work, and begging. Most Hijras face barriers to registering for identity documents in Bangladesh; therefore, they do not have official ID cards or passports, making cross-border movements illegal. This fact places Hijra chelas in an even more vulnerable situation when they cross the border to India. Once in India, many become cut off from their communities and forced into sex work<sup>25</sup>. According to a study conducted in India, 52% of respondents identifying as Hijras had experienced sexual or psychological violence, and 36% had experienced physical violence perpetrated by partners, police, or clients<sup>26</sup>. Without any support or proper documentation, it can be extremely difficult for Hijras to leave their situation or return to Bangladesh.

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<sup>21</sup> ILGA Asia. *An Unsafe Haven: Challenges of Bangladeshi LGBTIQ people inside and outside the community*. 2021.

<sup>22</sup> Information provided by Bandhu Social Welfare Society.

<sup>23</sup> Sameena Azhar, “Social Exclusion and Official Recognition for Hijra in Bangladesh” *Journal of Research on Women and Gender*, 2020.

<sup>24</sup> Information provided by Bandhu Social Welfare Society.

<sup>25</sup> Information provided by Bandhu Social Welfare Society

<sup>26</sup> Deepak Sartaj et al, ‘Mental Illness and Related Vulnerabilities in the Hijra Community: A Cross-Sectional Study from India’ (2021) 67 *Intl J Soc Psychiatry* 290.

## **Victim Protection**

As outlined above, LGBTI persons, especially Hijras, are at a heightened risk of being subjected to human trafficking in Bangladesh. This must be tackled systemically by addressing push factors grounded in the disenfranchisement and oppression of SOGIESC diverse persons. However, in addition to preventative measures, it is important that LGBTI trafficking victims are also assisted through direct interventions, including detection, investigation, and victim protection strategies.

### **Gender stereotypes:**

LGBTI persons are often invisible in anti-trafficking interventions by states, especially in strategies based on gender stereotypes of women as victims. People who are perceived as men, including gay and bisexual men, trans persons, and intersex persons, may not be screened for trafficking or identified as victims. These groups sometimes are not considered suitable to avail of support services, and their traffickers may face less severe sentences.<sup>27</sup> There is reason to believe that LGBTI youth, particularly those falling outside of the gender binary are less likely to report their situation to the authorities and may be victims of disbelief when they do report.<sup>28</sup>

This is a concern in the context of Bangladesh. For instance, the South Asian Association for Regional Cooperation 2002's Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, of which Bangladesh is a signature, operates within a binary understanding of gender and does not recognise diversity of SOGI<sup>29</sup>. Furthermore, the understanding of sexual exploitation in Bangladeshi law and society is grounded in gender stereotypes. There is no law in Bangladesh under which male rape victims can file a case against their perpetrators. Furthermore, different words are used to describe the rape of a boy and the rape of a girl, with the former being less frequently used and less associated with social stigma<sup>30</sup>. These cultural norms may negatively impact the extent to which SOGIESC diverse persons benefit from anti-trafficking interventions, particularly for those who are subject to sexual exploitation.

### **Law enforcement:**

The prevalence of homophobia and transphobia by law enforcement also disadvantages LGBTI persons who are at risk of or are victims of trafficking. Section 377 of the Bangladesh Penal Code criminalizes consensual same-sex relations between men. Though the law is not systematically applied, it is often used to justify harassment, stigmatization, and sometimes unjust arrest of LGBTI persons by police<sup>31</sup>. This means that SOGIESC-diverse persons may be less likely to rely on law enforcement for protection from trafficking and may not receive the necessary support when they do. For example, a report by ILGA Asia found multiple cases in 2021 in which men had been subject to extortion and blackmail and held against their will after visiting the home of a man they had met through online dating. However, the victims

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<sup>27</sup> Special Rapporteur on the sale and sexual exploitation of children, "Gender dimension of the sexual exploitation of children and the importance of integrating a child-centred and gender-inclusive approach to combating and eradicating it" 2021.

<sup>28</sup> Ibid

<sup>29</sup> Ibid

<sup>30</sup> Fattah et al, "No place is safe: sexual abuse of children in rural Bangladesh" National Library of Medicine. 2021.

<sup>31</sup> ILGA Asia. *An Unsafe Haven: Challenges of Bangladeshi LGBTIQ people inside and outside the community*. 2021.

refused to go to the police as they feared they themselves would be arrested.<sup>32</sup> Discrimination by law enforcement against LGBTI persons and the subsequent lack of trust in law enforcement in these communities is a major barrier to detecting and protecting victims of trafficking.

This is true for Hijras specifically. Hijras who engage in sex work often experience violence from their clients and reported beatings from local gangs. However, these individuals usually did not report these incidents to the police for fear of further victimisation.<sup>33</sup> Hijras also do not speak openly about exploitation and trafficking that occurs within their own community for fear that this will destroy their age-old tradition and culture<sup>34</sup>.

## Recommendations

### Push Factors

- We invite the Special Rapporteur to consider the distinct life experiences of LGBTI persons and their risk factors for being victims of trafficking, and to address the structural violence and discrimination they face in Bangladesh.
- Comprehensive research into the effect of human trafficking on SOGIESC diverse persons in Bangladesh is needed, including as it relates to child trafficking and trafficking with the Hijra community.

### *Poverty:*

- Ongoing programmes and initiatives designed to reduce extreme poverty should prioritise the inclusion of LGBTI persons and particularly the Hijra community, which will reduce their risk of falling into human trafficking.
- Discrimination and other barriers facing the LGBTI community in accessing education and formal employment should be addressed so that LGBTI persons are not pushed into unsafe work where they are at risk of trafficking and exploitation.

### *Youth experiences:*

- Anti-child trafficking measures should consider the unique push factors faced by LGBTI youth.
- Measures should be taken to ensure that LGBTI youth, including those who fall outside of the gender binary, are able to avail of services addressing child homelessness and child abuse.
- Measures should be taken to address bullying and stigmatisation of LGBTI youth in their schools and communities, including online, in order to reduce their vulnerability to exploitation.

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<sup>32</sup> Ibid.

<sup>33</sup> Sameena Azhar, "Social Exclusion and Official Recognition for Hijra in Bangladesh" *Journal of Research on Women and Gender*, 2020.

<sup>34</sup> Information provided by Bandhu Social Welfare Society.

### *The Hijra Community*<sup>35</sup>:

- The international community should urge Bangladesh to treat the Hijra, along with other LGBTI communities, as full and equal citizens.
- Appropriate data about the Hijra community should be collected to ensure their inclusion in government support programs.
- Comprehensive research should be conducted on the overall situation of the Hijra community including issues of torture, extortion, abuse, labor exploitation, and other human rights violations by the gurus, societies and state.
- Systems should be developed to provide proper education and employment opportunities to the Hijra community so they are not forced into begging, sex work or other forms of work that increase their risk of trafficking.
- Legal gender recognition and targeted supports for Hijras should not be contingent on having specific sex characteristics and should never require invasive medical examinations.
- Awareness raising strategies among Hijra gurus on the issues of exploitation and trafficking should be undertaken.
- Measures should be taken to ensure that all Hijra have access to national identity cards and passports. Targeted immigration policy should be introduced to facilitate legal and safe migration for Hijras.
- Measures should be taken to support undocumented Bangladeshi persons currently in India, including Hijra and other members of the LGBTI community.

### Victim Protection

#### *Gender stereotyping:*

- Measures should be taken to ensure that gay and bisexual men, trans persons, intersex persons and Hijra are not overlooking in anti-trafficking interventions including screening, detection, investigation, prosecution and victim protection.
- Appropriate support services for victims of trafficking should be available to all LGBTI persons, including men, trans persons, intersex persons and Hijra.

#### *Law enforcement:*

- Section 377 of the Bangladesh Penal Code should be repealed and consensual same sex relations between adults should be fully decriminalised.
- Measures should be taken to address the prevalence of homophobia and transphobia among law enforcement and ensure that LGBTI persons benefit fully from the protection of anti-trafficking laws and strategies.
- Interventions into trafficking and exploitation within the Hijra community must be culturally sensitive and avoid the further stigmatization of the community.

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<sup>35</sup> Recommendations contributed by Bandhu Social Welfare Society and Maruf Rahman, human rights defender.