



Intersex Justice in Bangladesh

Inspiring Action through Research



Country report on the situation of
Intersex Rights in Bangladesh

2024

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Preface

This report presents the findings of a research project focused on the current state of intersex rights in Bangladesh. Intersex Asia commissioned this study to identify, investigate, and contextualise the current socio-legal issues faced by the intersex community and existing policies, schemes, services and interventions undertaken by the government and civil society organisations in light of the actual needs of intersex people in Bangladesh.

The goals of this country-level overview are to provide a deeper understanding of the issues faced by the intersex community in Bangladesh from an intersex community perspective and the way governmental and civil society's interventions inform and are informed by these issues, as well as to provide strategic recommendations that can be used to advance intersex justice.

Methodology

The methodology of this report is anchored in desk research and complemented by a series of targeted interviews. Desk research constituted the primary approach, involving a systematic sourcing, reading, analysis, and summarizing a broad range of academic, legal, and policy literature. This comprehensive review was conducted through extensive digital searches, ensuring an in-depth understanding of the existing knowledge and perspectives related to intersex rights in Bangladesh.

Furthermore, interviews played a crucial role in gathering firsthand insights. Five key individuals were interviewed. These individuals were selected through purposive sampling based on the researcher's knowledge and contacts in Bangladesh. This strategy ensured that the individuals chosen could provide significant insights into the subject matter. All interviews were conducted digitally, with prior consent from the interviewees. To respect privacy and confidentiality, the identities of some interviewees have been anonymised, while the identities of those who consented to be identified are disclosed in the report. The principal investigator had multiple interactions with some of the key persons, though only the date of the last interaction was documented.

Although no specific field visits were undertaken for this report, the principal investigator's extensive fieldwork in Bangladesh significantly informed the review of the literature and the writing of this report. These field experiences provided valuable context, enhancing the interpretation of the academic and policy material.

Acknowledgements

We would like to express our sincere gratitude to all individuals and organisations who contributed to this report on intersex rights and issues in Bangladesh. We are particularly grateful to intersex individuals who shared their life experiences and critical perspectives that formed the basis for this report. Thanks also go to international donors and organisations that supported this research project.

Executive Summary

A major problem identified in this report is the way intersex people are read and understood to be hijras, a publicly institutionalised subculture of people typically assigned a male gender at birth who later identify as either non-men or women. Recent critical research has demonstrated that hijras form a distinct constituency and that conflating the hijras with intersex people results in marginalizing both the intersex and hijra populations.

This cultural context of confusing the hijras with the intersex population became further complicated after hijras were recognised as a distinct sex (“hijra lingo”) by the government of Bangladesh through a policy decision in 2013. Importantly, the government of Bangladesh understood and recognised the hijras as people born with missing and/or ambiguous genitals. Although the word “intersex” was not used, it is clear that the state understood hijras to be people with intersex traits.

Various interventions and projects to empower the hijras emerged in the aftermath of their legal recognition. Intersex people, however, are not able to participate in and/or take advantage of most of those interventions and policies. Yet the legal recognition of the hijras as a distinct sex has engendered a discursive space in which intersex issues can be articulated.

The extent to which hijra legal recognition could create a pathway for intersex empowerment and justice is subject to further research. The cultural conflation of hijra identities with those of intersex people, however, began being challenged with the rise of intersex groups in the last five years in Bangladesh. Now, there are at least two intersex-led groups active on the ground. The representatives of these groups are participating in various social and activist events and gatherings related to human rights and LGBTQ issues. It is a testament to the nascent intersex constituency in Bangladesh outside the hijra framework.

Widespread medical and social abuse and violence are routine experiences of intersex people. Surgeries on intersex children are common. There is no cultural or socio-medical discourse that challenges the bio-medical authority. Sex and gender dimorphism is culturally sanctioned, and parents are often keen on aligning the bodies of intersex children with a binary sex and gender norm through surgical interventions. Further research that centres intersex voices and well-being is identified as the necessary first step towards identifying a clear set of actions that can contribute to the advancement of intersex justice in Bangladesh.

1. Main Findings

Understanding Hijras: Cultural Implications for Intersex People in Bangladesh

Although intersex issues have long been a part of the Bangladeshi public and socio-cultural imagination (Hossain 2021, Alim, Shihab & Hossain 2022), they were and continue to be seen and conceived through the figure of the hijras. Popularly described as neither men nor women and/or as a third sex/third gender (Nanda 1999, Reddy 2005), hijras are people typically assigned a masculine at birth who often surgically remove their penis and the scrotum and identify themselves as either non-men or as women (Hossain 2021). Hijras are a publicly institutionalised subculture in Bangladesh. Popular imagination and dominant social understanding conceive hijras as people born with missing and/or ambiguous genitals. In other words, hijras are understood to be people with intersex traits, even though the label intersex was not used in the Bangladeshi context until very recently.

Part of this cultural confusion stems from the fact that hijras often present themselves to the public as being born that way, i.e., born with missing and/or ambiguous genitals that are not sexually functional (Nanda 1999, Hossain 2021). However, such a conceptualization corresponds to the lexical meaning of “hijra” in Bangla, which includes genital ambiguity and sexual impotence (Hossain 2021). While this report does not cover the cultural politics of conflating hijras with intersex individuals and vice versa (for the analysis, see Hossain 2021), public perceptions stemming from this conflation do affect the understanding and treatment of intersex people in Bangladesh. Not being able to address the context in which such confusions have emerged prevents us from identifying the issues faced by intersex people and contributing towards advancing justice.

As a subcultural community with its age-old idiosyncratic rules and regulations, the social position and status of hijras have waxed and waned over time (Hinchy 2019). Hijras were often seen as special people with the ability to confer blessings and curse the mainstream society. Such societal evaluation and beliefs about hijra power have progressively evaporated over time (Hossain and Nanda 2020). As specialised ritual performers, hijras rendered music and dance and offered blessings on various heteronormative social milestones, namely childbirth and weddings, in exchange for gifts in both cash and kind. The ritual power and special abilities of the hijra were largely understood to have emanated from their putative asexuality. Here asexuality is culturally conflated with genital ambiguity, i.e. anyone with ambiguous genitals and/or intersex traits is understood to be asexual and above and beyond desire. It is on account of such understanding and conceptualization that hijras are deemed as people worthy of social commiseration and public sympathy (Hossain 2017, 2020).

Common beliefs and understandings in Bangladesh deem intersex traits to be the result of sexual intercourse conducted in contravention of Islamic protocols or as punishment from Allah for deviation from the Islamic way of sexual conduct

and piety.¹ Such understandings have a serious impact on how the news of the birth of a child with intersex is socio-culturally received and treated. There is a strong tendency for parents to hide the news of the birth of a child with intersex traits. It is not uncommon for many families to raise children with intersex as either a male or a female. Discretion is often maintained so an intersex variation is not known to the extended family and society at large. Whether a family is able to manage such a situation and maintain secrecy is often dependent on their social class. For example, upper and upper middle classes are able to guard their children with intersex from public view and scrutiny in ways that working-class families cannot.

Reports of the birth of children with genital ambiguity often appear in Bangladeshi newspapers, especially when surgeries are performed on children in specialised government hospitals.² Such news are often celebrated as exceptional surgical feats by surgeons and paediatricians in correcting the sex/gender of a child. In most cases, it is the children from underprivileged backgrounds whose stories appear in the newspapers.

A popular social theory in Bangladesh, albeit flawed and unsupported by evidence, suggests that hijras actively recruit children with intersex variations to increase their member base (for example, see Banu and Chowdhury 2020). It is with such an intention that hijras often conduct “badhai”, the ritual practice of dancing and singing with the new-born that publicly marks them as hijras. Such assumptions further fuel the fear among families that their children, if left untreated, may be taken away by the hijras. However, in reality this is further from the truth (Hossain 2021).

The dominant cultural framework to confuse and collapse hijras with intersex people began being challenged, albeit on a very small scale, with new critical scholarship (Hossain 2017, 2020, 2021) on gender and sexual diversity that contested the politics of such conflation in the wake of intersex activism in recent years. A significant development is the coinage of the Bangla word “antolingo” and its use in public debate as a way to mark intersex bodies. While “antolingo” is a literal translation of the English intersex and may seem far-fetched, its adoption and circulation allow the intersex rights defenders and activists to call attention to issues specific to the intersex people, issues that were conventionally conflated with those of the hijras.

Hijras in Bangladesh were legally recognised as a separate sex/gender through a policy decision adopted by the government of Bangladesh in 2013 (Hossain 2017). A gazette notification to that effect was later issued in 2014 with only one sentence in Bangla indicating that the hijras were recognised as a “hijra lingo” in

¹ See for example the following links <https://iamsharif15.wordpress.com/2021/01/09/1245-hijra-sontan/>, https://www.youtube.com/watch?v=eOV10kU0_ko accessed 23rd august 2023.

² <https://www.youtube.com/watch?v=OSoD0PdJmnU> accessed 27th February 2023.

Bangladesh.³ Confusions have arisen among gender and sexual rights activists as to whether hijras have been recognised as a “third gender” or as a “hijra sex” since various government strategy papers and policy documents have used the term “third gender” as well as “transgender” in contrast to the label used in the gazette notification.⁴

While the debate about various terminologies and labels continues among activist groups and policymakers, there was no effort on the part of the government to provide any clarification on their use of “hijra lingo”, as specified in the gazette notification. Part of the confusion here stems from the fact that the expression “hijra lingo” used in the gazette notification can be translated as both “hijra sex” and “hijra gender”. The context is further complicated by the fact that the government made no attempt to clarify what their use of “hijra lingo” could denote. The lack of consistency in words and expressions being used in various government policy documents continues to add confusion to this terminological confusion and debate.

The department of Social Services of the Ministry of Social Welfare, the government department dealing with the hijra issues currently leading various life skills and livelihood development projects as part of the state-led drive to mainstream hijras, defines the hijras as sexually, genetically and genitally disabled. A policy paper guiding the implementation of the livelihood development program of the hijras by the Ministry of Social Welfare defines hijras as “congenitally sexually handicapped people who, because of either genetic or physical conditions, cannot be classified as either male or female. Chromosomal anomalies are the main cause for the birth of such sexually defective people” (Hossain 2022).⁵

The language used by the Ministry of Social Welfare, as shown above, to describe people born with atypical sex characteristics is disrespectful. That the government deems the hijras to be born with missing or ambiguous genitals was further evident when, in the aftermath of the legal recognition of the hijras, the Ministry of Social Welfare took the initiative to recruit 14 hijras as government clerks in 2015. A medical examination undertaken to determine the hijra status of the candidates concluded that all were born male, as each had a penis and scrotum, except for one candidate. This individual was declared genetically male, although they had their penis and scrotum surgically removed (Hossain 2017).

The project to hire the hijras as low-ranking clerks was eventually terminated. Although several national and international activists and human rights groups

³ The gazette notification is available in the link below https://msw.portal.gov.bd/sites/default/files/files/msw.portal.gov.bd/notification_circular/d0afe7f4_5d47_4eff_8d11_ef54186e2c/%E0%A6%B2%E0%A6%B-F%E0%A6%99%E0%A7%8D%E0%A6%97.pdf

⁴ See for example the seventh five-year plan of the government of Bangladesh accessed at <https://www.unicef.org/bangladesh/sites/unicef.org/bangladesh/files/2018-10/7th_FYP_18_02_2016.pdf> for simultaneous use of various labels including third gender and transgender to describe the hijras.

⁵ The policy paper is available in the link below : https://msw.gov.bd/sites/default/files/files/msw.portal.gov.bd/policies/25925cec_e191_4bed_ab10_9d2ffc86b06f/Hizra-Manual-090113.pdf

protested against such gender screening and testing by the government, the Ministry of Social Welfare still adheres to such gender screening procedures to determine one's hijra status. Gender screening is specifically recommended for anyone applying to receive certain government allowances as well as to participate in various government-initiated life skills development training programs. Given that there is no uniform policy or guideline as to how the government determines one's hijra status, it is often up to the officers in the local social services office to decide on one's hijra status. There is anecdotal evidence indicating that an applicant is made to walk before a committee, which then decides whether the walker is a hijra or not, depending on whether they sway their hip or not while walking. A person declared a hijra is then issued with a certificate attesting to their hijra status (Hossain 2022).

Recent research on the medical experiences of intersex people in Bangladesh indicates a total lack of respect for privacy, confidentiality and medical protocols in the treatment of patients with intersex variations (Alim, Shihab and Hossain 2022). Patients with intersex variations are reported to have been treated with total disrespect and insensitivity as patients are undressed in front of everyone. While these patients are children who have been taken to these medical establishments by their parents, many of these patients have been traumatised for life due to such violent and abusive experiences. Social stigma and a sense of shame often add to such plight and make such medical encounters an extremely unpleasant and hurtful experience both for the parents and the intersex children.

It is important to highlight that the language used to describe intersex variations in the medical context in Bangladesh is “disorder of sex development” or DSD. A number of publications by medical doctors and researchers on intersex children and variations have been published in recent times that frame the intersex issues through the prism of DSD (for example, see Banu and Chowdhury 2020, Chowdhury, Anwar and Saha 2018). While these publications are a testament to a growing interest in intersex issues among the medical community in Bangladesh, intersex variations are mainly framed as a birth defect, disease and “intersex disorders” that can be cured and fixed by medical doctors and surgeons (Chowdhury, Anwar and Saha 2018).

Social class plays a critical role in the social management of intersex children. While middle and upper-class families often take their children with intersex variations abroad for treatment to avoid shame and social scrutiny, working-class people are left with no option but to approach the medical establishment in Bangladesh (Banu and Chowdhury 2020).

The review of some of the publications on the medical management of intersex people in Bangladesh discloses the dominance of biomedical authority over cultural factors in the management of intersex people (for example, see Banu and Chowdhury 2020, Chowdhury, Anwar and Saha 2018). Medical intervention

and care are reported to be delayed and hampered due to social stigma and a lack of awareness among parents about intersex issues. “Delayed presentation”, in other words, the mean age at which people with intersex variations are brought to medical doctors, has been identified as a factor contributing to negative influences in the diagnosis, medical management, surgical procedures and long-term outcome of patients. Parent’s illiteracy, religious and cultural superstition, gender preference among parents and the existence of the social institution of the hijras are identified as problems influencing decision-making in the lives of intersex people (Chowdhury and Banu 2020).

While there is now a growing consensus among intersex activists and human rights defenders to de-medicalise intersex variations and put an end to medically unnecessary surgeries, the dominant medical wisdom among Bangladeshi medical establishment recommends surrendering to biomedical authority. It is by addressing and reconciling such a divide that both public perception and public policy can be influenced to advance intersex justice in Bangladesh.

2. Current Civil Society & Government Effort

2.1 Efforts of Intersex-led Organization

2.2 Governmental Efforts

2.1 Efforts of Intersex-led Organizations

Intersex activist groups were formed in Bangladesh from 2017 onwards. At present, there are at least two platforms advocating for intersex visibility and rights in Bangladesh.

“Born in this body”, a Facebook group, was set up by a gender and sexual rights activist to raise awareness about intersex issues among the SOGIESC population, members of NGOs working with the hijra population, and men who have sex with men (MSM) groups in Bangladesh. However, this digital platform was dissolved, and a new platform called “Intersex Bangladesh” was formed in 2023 with intersex community members in leadership roles. Intersex Bangladesh has about 100 members, of whom between 50 and 60 are active. Some of the intersex activists associated with Intersex Bangladesh organised a consultation meeting on a national level in 2020 to discuss intersex issues in Bangladesh. They also participated in the Intersex Awareness Day celebration in both 2021 and 2022.⁶

“Bangladesh Intersex Forum” is another group that was founded by intersex activists with support from Intersex Asia, an autonomous network of intersex-led organisations and individuals from Asian countries. With more than twenty members born with atypical sex characteristics, Bangladesh Intersex Forum is an active platform with regular activities aiming to build capacity and awareness within the intersex community.

Both Intersex Bangladesh and Bangladesh Intersex Forum have worked with Intersex Asia. In December 2020, Intersex Asia notably supported the Bangladesh Intersex Forum in hosting a three-day conference. This event was organised to establish an executive council and plan future actions. Bangladesh Intersex Forum now boasts a website with loads of information on intersex organizing and justice. Importantly, it features sections on negotiable and non-negotiable national demands that arose out of a conference in Bangladesh.⁷

One significant outcome of current intersex organizing in Bangladesh is the call from intersex activists for recognition of their unique identity, distinct from that of the hijras. Both “intersex” and “antolingo”, the literal Bangla translation of intersex, are in circulation now.

Some of the activists who have come out in public as intersex and/or “antolingo” persons are Noor Alam and Maymuna Akhtar.⁸ Noor Alam, for example, appeared in a short film called “Against the wind” directed by Ruhul Robin Khan with support from a public health school. The film focuses on surviving as an intersex person in Bangladesh⁹. Maymuna Akhtar has appeared in talk shows

⁶ Interviews with intersex activists conducted for this research disclosed this information.

⁷ <https://www.bangladeshintersexforum.org/national-demand-sheet/> accessed 27th February 2023.

⁸ <https://www.dhakatribune.com/bangladesh/2022/07/13/report-no-special-provision-for-bangladesh-women-to-pass-citizenship-to-foreign-spouses> accessed 27th February 2023.

⁹ <https://www.daily-sun.com/printversion/details/529304/%E2%80%98Against-the-Wind%E2%80%99-depicts-the-story-of-an-intersex-survivor> accessed 27th February 2023.

on media platforms where he openly talked about intersex issues and growing up intersex in Bangladesh. Recently, both Maymuna and Noor have participated in roundtables on raising awareness about intersex issues and putting an end to medically unnecessary surgeries on intersex children.¹⁰ Both of them have also publicly made the case for an intersex identity to be recognised. Although often unintelligible to the masses, including the middle classes and many of the LGBTQ activists, the demand and campaign for a separate identity is significant in a socio-cultural context where, conventionally, such an identity was and continues to be conflated with the hijra identity.

In 2020, Bandhu, one of the largest NGOs in Bangladesh working with gender and sexual diversity, especially the “men who have sex with men” population and hijras, organised a national consultation meeting on intersex issues. This meeting included several people identifying as intersex associated with both Intersex Bangladesh (previously known as “Born in this body”) and Bangladesh Intersex Forum. Representatives of a prominent feminist platform, “Nariphokkho”, the National Human Rights Commission of Bangladesh, UNAIDS, and ICDDR (an international public health institute) were all present at the meeting.

A photo with several intersex participants appeared in a subsequent report on the consultation. Importantly, the banner made for this consultation that appears in the photo showcases the word “antolingo”. The report suggests that the intersex/”antolingo” is a distinct identity and should not be confused with the hijras.¹¹

The convening of this national consultation meeting can be seen as an important milestone in the intersex movement building in Bangladesh. It was one of the first events that addressed intersex issues in a public event. Intersex activists interviewed for this report revealed that this event provided an opportunity for intersex participants to meet each other, eventually leading to the formation of the first intersex groups in Bangladesh. Also, the event provided an opportunity for intersex participants to identify key allies and supporters and interact with them.

Although the intersex movement in Bangladesh is at an early stage of development, with intersex issues still not being clearly understood by society at large, the issues specific to intersex people are slowly becoming visible. Evidently, this is a community in the making.

¹⁰ https://sarabangla.net/post/sb-721678/?fbclid=IwAR3LyfCIBX1B8j_22MRSidsd4j71kSozAndfOr_oLMWCgSxv1d5qz20Ny0M accessed 27th February 2023.

¹¹ <https://www.bandhu-bd.org/wp-content/uploads/2013/12/Annual-Report-2020-of-Bandhu1.pdf> accessed 27th February 2023.

2.2 Governmental Efforts

The government of Bangladesh has not made specific efforts to address intersex issues. Although, after the legal recognition of the hijras, the government implemented Interventions focusing on livelihood, skills development and various training programs, intersex people are still unable to access any of these services despite the state's understanding, as previously explained, that hijras are intersex.

In 2021, the Bangabandhu Sheikh Mujib Medical University (BSMMU), one of the most prominent medical schools and public hospitals, established an outpatient facility to treat patients with "DSD" through surgeries. The establishment of the outpatient was widely covered in the news media. In an interview with the journalists, some of the main spokespersons for this initiative argued that hijras could be turned into either men or women with corrective surgery. One of the spokespersons labelled intersex variations as "sex disability" and "disorder", which can be cured if the child is brought to the hospital before they turn one.¹² As an additional note, one hijra activist, when asked for their reaction to the establishment of the outpatient, protested against medical surgery and emphasised that any child should be allowed to reach an age when they are able to decide on their sex/gender assignment rather than being at the mercy of the medical doctors or society.

In addition to the legal recognition of hijras in 2013, the Transgender Person's Rights and Protection Act has been in the pipeline for some time. At the time of writing this report, there is uncertainty about the current stage of discussion with respect to this draft law. However, it is notable that the proposed draft uses "transgender" as an all-inclusive category that encompasses various groups, including transmen and intersex people.¹³ The Bangla word "antolingo" also appears in the law and is defined as someone with atypical sex characteristics. In one consultation meeting to obtain a community perspective organised by Bandhu, the NGO and National Human Rights Commission of Bangladesh, the suggestion from intersex activists to regard "antolingo"/intersex as a separate category rather than a subgroup of transgender was dismissed.¹⁴

¹² <https://www.facebook.com/JamunaTelevision/videos/874459239884046> accessed 27th February 2023.

¹³ One of the draft versions of this transgender bill of rights was shared with the editor of this report by transgender activists.

¹⁴ One of the interviewees for this report participated in one such consultation meeting on the draft bill of transgender rights and shared their impression with the researcher for this report.

3. Key Findings

3.1 Literature Review Findings

3.2 Field Research Findings

3.1 Literature Review Findings

Protecting Intersex People from Discrimination

A major challenge in protecting intersex people from discrimination and advancing intersex activism and justice in the context of Bangladesh has been and continues to be the way society at large conflates and confuses intersex people with hijras, a conflation that does a disservice to both hijras and intersex people. Despite the fact that the conventional conceptualization of hijras as people born with missing and/or ambiguous genitals began being challenged with the recent emergence of intersex groups in Bangladesh, intersex variations are often understood to be a birth defect and/or anomaly by society at large.

Protecting Intersex People's Bodily Integrity

The medical establishment often recommends biomedical interventions to “correct” intersex bodies. In line with the wider societal conceptualization, the medical community sees intersex variations as “DSD”. The prevailing framework of DSD views intersex variations as a “disorder of sex development” that needs to be corrected. There is no discourse challenging surgeries, especially when they are medically unnecessary. Additionally, the issue of lack of consent is not seen as problematic in both social and medical contexts.

The doctors see the perspective that the surgeries can be postponed until intersex children grow old enough to make their own decisions as a “delayed presentation” and a missed opportunity to correct genital ambiguity. This approach perpetuates the existing biomedical authority in the management, treatment, and assignment of sex.

The social disapproval and intolerance of intersex variations are rooted in the dimorphic model of sex/gender. The existing socio-cultural accommodation of “thirdness” institutionalised via the hijra figure does very little to advance intersex justice (Hossain 2017, Alim, Shihab & Hossain 2022).

Access to Justice and Redress

Although there is no intersex-specific law or policy in Bangladesh, the Constitution of the People's Republic of Bangladesh categorically guarantees a citizen's fundamental rights and civil liberties.¹⁵ Different articles in Part III of the Constitution prohibit discrimination on the grounds of religion, race, sex and caste. There are also clearly delineated principles guaranteeing freedom of expression, personal liberty, freedom of movement and assembly.

Furthermore, Bangladesh has ratified the International Covenants on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms

¹⁵ <https://aceproject.org/ero-en/regions/asia/BD/Bangladesh%20Constitution%201972.pdf>

of Discrimination against Women; the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

The principles enshrined in the constitution of Bangladesh and the state's ratification of various human rights conventions could be seen as offering intersex individuals protection against violence, harassment, bodily harm and injury both within social and medical institutions. However, in practice, no such protection exists to safeguard intersex people from social and medical violence in Bangladesh.

Legal Gender Recognition

The legal recognition of hijras as a distinct sex/gender in 2013 has implications for intersex people precisely because the state reads the hijras as people born with genital ambiguity and understands hijras to be intersex even though the word intersex is not explicitly invoked. The conflation of intersex people with the hijra community, both in popular culture and in state policies, makes separate interventions for intersex people complicated. Importantly, the moral and social legitimacy for the campaign for legal recognition, as well as the state decision to legally recognise the hijras as a separate sex/gender, stemmed from the widespread belief that hijras are intersex and are socially marginalised. Unlike India and Pakistan, where legal recognition is the result of judicial activism, in other words, decisions about legislative changes were made through court verdicts, the legal recognition of hijras as a separate sex/gender in Bangladesh was adopted through a policy decision (Hossain, Pamment Roy 2022).

The legal recognition of the hijras followed the HIV/AIDS activism that began in the mid-1990s. In the initial stage of intervention, hijras were categorised as one of the variations of “men who have sex with men”, commonly abbreviated as MSM. Soon enough, there was the realization that hijras could not be reached through Drop-In Centers (DICs) set up to cater to the sexual health needs of “men who have sex with men” since hijras did not see themselves as men. Efforts to address this gap led to the creation of transgender DICs specifically for the hijras. The setting up of these DICs challenged the long-running societal understanding of hijras being asexual.

However, in this new epidemiological framework, hijras were seen as victims of perverse male desire and passive receptacles of male semen (Hossain 2017). It is worth highlighting here that it has always been difficult for hijras to access general health care in Bangladesh due to strong social stigma and principles of untouchability that inform middle-class people's engagement with the hijras (Hossain 2021, 2022a). It is not uncommon for medical professionals to refuse to treat hijras on the grounds of their hijra status. In the dominant social imagination, hijras are filthy, foul-smelling, shameless and violent people, stereotypes and tropes associated with the working classes. The entrenched social prejudice against hijras directly contributes to the social marginalization of intersex people as they are understood to be hijras by medical professionals and society at large.

The impetus to mainstream the hijras has come about in the wake of their legal recognition in 2013. The Ministry of Social Welfare, the government department tasked with mainstreaming the hijras, undertook various skills development and livelihood-generating training programs. Here, mainstreaming refers to the way hijras may be integrated into productive neoliberal economies by being absorbed into the regular workforce. In this new developmental framework, which is part of the government's aim to be a high-middle-income country by 2030, hijras are positioned as a culturally and economically backward social group with communitarian baggage (hijra rules and rituals that publicly mark them as hijras in Bangladesh) in need of social rescue (Hossain 2022).

However, the intersex community is not able to participate in any of these government-initiated livelihood-uplifting activities despite such goals being part of the intersex agenda in Bangladesh as specified in the website of Bangladesh Intersex Forum under the section national "Negotiable demands"¹⁶. The extent to which these so-called initiatives are useful in generating employment or improving the livelihood of hijras is also doubted by the hijra community.

Even though the legal recognition of hijras has not necessarily resulted in community empowerment for either the hijras or the intersex people, it has had some impact in terms of challenging the binary configuration of sex/gender dualism though recognizing more than two gender/sex categories in official documents in the Bangladeshi context. For example, in the national ID application form, in addition to "male" and "female", there is an option marked as "hijra" that one can tick. Although gender or sex do not appear on the ID card, the information database linked to each national ID will have this information for each citizen. In addition to two binary gender categories, forms for opening a bank account also have the option "tritiyo lingo", translated as "third gender/sex". Although there is no one standardised form that all the banks use, several banks have such options. Another important change is the option to have a gender-neutral "X" marker on the passport issued by the Bangladesh government.

Inclusion of Intersex in the National census

In the national census of 2021 in Bangladesh, "hijra" was included as a separate category alongside "man" and "woman". However, the hijra category had several sub-categories including transgender women, transgender men, and sex/gender-neutral population, sparking controversies among the wider LGBTQ community about how a variety of gender/sexual identities and expressions was reduced to the category of the "hijra". This was also not well taken by the hijra community since they have specific criteria for membership into the community with clear boundaries. While "transgender woman" and "transgender man" are transliterated in Bangla in the census form, the expression that was used to describe intersex people is "lingo nirophekkho jonogosthi", which can be translated as "sex/gender neutral population".

¹⁶ <https://www.bangladeshintersexforum.org/national-demand-sheet/> accessed 15 March 2023.

Erasure of Intersex perspective from policy and legal reforms

As previously described, an ongoing initiative by some civil society groups to enact a Transgender Bill of Rights is now in progress. Intended to establish and protect the safety, security and rights of transgender people, the draft law uses the word “transgender” as the all-encompassing category that includes many groups, including intersex people. It is noteworthy that the word used is not intersex but “antolingo”, the Bangla translation discussed previously in this report, while the English word “transgender” is retained in the Bangla draft. In this context, “hijra” is included as one of the groups under the “transgender” category.

The draft proposal to include the all-encompassing categories “transgender” in the draft of Transgender Bill of Rights and “hijra” in the census data is a testament to the lack of clarity and consistency in terms of how these various categories are used and defined in the government terminology. For example, the gazette notification issued for the legal recognition of hijras uses the expression “hijra sex”, while several other government policy documents mention third gender and/or “tritiyo lingo”. “Transgender”, “third gender”, and “hijra” are often used interchangeably in the Bangladeshi context. Despite the inclusion of the terms “intersex” and “antolingo” in this complex cultural and policy context, the intersex community is still far from being established and recognised as a distinct constituency in the legal and policy domain.

3.2 Field Research Findings

Intersex community members interviewed for this report expressed the view that the legal recognition of hijras as a separate sex/gender has not been able to translate into any concrete social, economic or legal benefits for them or the larger intersex community. However, the legal recognition of the hijras has created some discursive space in which intersex issues can be brought up, even if such invocation may take the form of tokenism. Some of the insights, issues and examples from the interview with intersex activists and other resource persons are itemised below.

Hijras and Intersex are not the same

Intersex activists identified the cultural confusion and conflation of them with hijras as a major barrier to creating a public discourse about intersex people. They thought that they were hijras when growing up, but only after gaining some experience and meeting other fellow intersex people did they realise that hijras are a separate community with whom they are confused in the public imagination.

While advancing intersex justice is the main goal, pursuing this objective should not entail undermining the hijras with whom intersex people are conflated. There

is strong resentment among some intersex activists about the societal proclivity to reduce intersex issues to the hijra subject position or identity. Therefore, many dismiss and denounce the hijras. Undermining the hijras works to disadvantage both hijras and intersex groups. The cultivation of mutual respect between these two populations is key to critical coalition and synergy building.

Tokenism and Intersex voices

Although in more recent activism and rights-themed events, some representatives of the intersex community are at times invited, their voices are not taken seriously. There have been occasions when their voices were deliberately silenced. For example, two intersex activists who were invited to some of the meetings on drafting Transgender Bill of Rights were not allowed to voice their concerns and issues. One of them reported that they were invited so that the organisers could claim that the event was inclusive even though, in reality, intersex voices were suppressed. One intersex participant in the interview expressed their sentiment by stating, “We are like tissue paper. We are used and then disposed of. We are not taken seriously.”

Resistance to being subsumed under either transgender or hijras category

Interviewees categorically rejected the idea of subsuming intersex under the transgender and/or hijra category. Current efforts in Bangladesh that include intersex people under the categories of hijra and transgender are problematic precisely because, in the words of one of the interviewees, “hijra and transgender people have their own issues which they wish to address and promote. They are unlikely to centre on intersex concerns”.

Understanding of Intersex variation as “defect” and “disability” and medical authority

Intersex variations are popularly understood as genital defect and handicap in Bangladesh. This is in line with the way hijras are conceptualised. One interviewee suggested that even when they tried to emphasise how intersex variation is not a form of disability, such perspectives are never really taken seriously. Parents see intersex children in a similar vein. Two intersex activists visited hospitals to speak to parents of children with intersex and were on the brink of being thrown out of the hospitals because of their intervention to stop the surgeries. In one instance, police were summoned, but the activist left in time. While some parents tried to listen to them, others were determined to assign a male or female gender/sex to their children. Societal derision and disapproval are the major reasons why parents wish to opt for surgical procedures.

Parents with intersex children across the social classes are often at a loss about how best to deal with the birth of a child with an intersex variation. There is a

total lack of access to any information on this issue in the Bangladeshi context. Often, parents turn to the doctors and accept their authority as fixing the sex becomes the priority. Not being able to access diverse perspectives on intersex issues leaves these parents with no option but to trust the doctors and surrender to medical authority.

While surgeries on intersex babies are commonplace, there is no educational campaign to raise people's awareness. Nor are there treatment protocols for intersex management. Surgeries are frequently performed to fix sex/gender ambiguity. Activists interviewed expressed the view that such surgeries are performed not only because of the societal pressure to fix gender/sexual ambiguity but also because surgeries mean more money for doctors and surgeons. Doctors who perform surgeries are often celebrated as stars and fixers. Specialised ethics of care, therefore, need to be developed so that intersex patient management can be done in an ethical manner.

Gender marker registration at birth

While birth registration is a must in Bangladesh today, intersex babies are not registered as intersex. Anecdotal evidence (based on the interviews for this report) indicates that few members of the hijra community had their birth certificates made where their sex/gender marker was identified as third gender. While mismanagement of birth registration is common in Bangladesh, a proper birth registration mechanism can help register the correct number of intersex births so that intersex babies can be provided with specialised care and protection. Such a system can work only when protections against medical and social violence and harassment are guaranteed by the state.

Passport, national ID, and medical certification

Despite discomfort with the hijra label, one interviewee stated that they identified as "hijra" while filling out the form for the national ID card. One activist stated that they were marked as "tritiyo lingo" (third sex/gender) on birth certificates, "hijra" on National ID cards and "X" on passport.

Another participant disclosed that they were marked as "female" on both their national ID cards and their birth certificate but opted for the "X" option in the passport. This created a lot of confusion since the passport authority suspected this was a case of fraud. A few rounds of police verification had to be done, and the interviewee had to explain their story and choice of sex in the passport to the police. While the police did not accept the explanation provided, the interviewee had to provide medical evidence of their intersex variation. The problem originated at the passport office when the authorities refused to accept them as a hijra since they did not dress like a female and did not look like one. Even before the passport authorities wanted to check national ID cards and birth certificates, they expressed their doubt about the interviewee's sex and gender status because they did not

correspond to what a hijra person looks like according to the passport authority.

Although the “X” marker, “tritiyo lingo”, and “hijra” are all understood to be the same identity, lack of coordination and consistency across various systems directly contribute to intersex marginalization as intersex people are often subject to various invasive and humiliating medical and bureaucratic procedures to confirm their intersex status.

The Intersex community is not part of the state-sponsored livelihood-improving initiatives

Government-sponsored initiatives undertaken in the wake of the legal recognition of hijras do not include intersex people, even though the assumption is that intersex people are hijras and vice versa. Intersex people are not participating in these programs because they are not hijras.

Disability versus LGBTQ

Intersex activists interviewed for this research broadly agree that the societal reading of them as genitally handicapped is problematic and that they do not wish to pursue disability as a pathway towards their enfranchisement. Instead, they are comfortable aligning and working with the LGBT community and their activism even though their voices are often side-lined amidst LGBT issues.

The Bangladesh government does not see either hijras or intersex people as a part of SOGI groups or movements. The de-linking of intersex issues from SOGI populations may offer one pathway for pro-intersex legislation to be enacted in a conservative context like Bangladesh, even though, in the long run, SOGI issues would have to be addressed in order for intersex rights to be fully realised. However, whichever pathway or strategy is adopted must be developed in close consultation with the community so that intersex voices are brought to the forefront.

Lack of awareness about Intersex issues among SOGI groups

There is an uneasy relationship between the intersex groups and the SOGI movement. Being relatively new in the realm of sexual and gender diversity, the specific concerns of the intersex community are often being overlooked or erased. This raises important questions about whether intersex social movements should be built as part of SOGI activism or as an issue distinct from the SOGI. Intersex issues are not well understood by the SOGI populations. Like mainstream society, SOGI populations confuse intersex people with hijras.

Lack of social movement experience

The intersex activist groups are at a very early stage of maturation as a social movement. Some of the active members are yet to gain experience and knowledge about movement building and rights and justice perspectives.

4. Recommendations

4.1 To the Government

4.2 To non-governmental organization and civil society

4.1 To the Government

- Various government bodies and organisations, namely the National Human Rights Commission of Bangladesh, should be sensitised about intersex issues and violations of intersex human rights. The Ministry of Social Welfare in Bangladesh, which is currently leading and managing various projects for hijra empowerment, should be actively involved in awareness and advocacy campaigns on intersex rights, well-being, and justice. In terms of sensitization of the government, civil society organisations and activist and rights groups can lobby the government to take measures to promote and address intersex issues.
- The Ministry of Health and Family Planning has been responsive to new ideas about sexual health activism in the field of gender and sexual rights over the years. An example is their direct involvement in working on male-to-male sexual health in the context of HIV/AIDS prevention since the late 90s. Efforts, therefore, should be made to sensitise and enhance knowledge about intersex issues among personnel involved in various government-led public health activities in Bangladesh so that they consider working with intersex issues in the near future.
- Government should introduce public campaigns to increase awareness on intersex issues and the challenges that families with intersex children face in society. De-stigmatization of intersex people should be the main focus of such campaigns. Bulletins with information on intersex issues should be distributed and made available at local and national level health facilities. There is a long history of the government using television and print media to promote public health. The government could take a similar strategy to promote awareness about intersex justice.
- The government should enact laws to protect intersex children from medically unnecessary surgeries. A committee should be formed to look into examples of best practices and legislation in other country contexts where intersex surgeries are banned. Such examples can serve as inspiration and motivate the government of Bangladesh to take action so that children with intersex variations are not subjected to unnecessary and invasive medical procedures. Intersex people's concerns and voices should be prioritised in deciding the direction and scope of such legislation.

4.2 To non-governmental organizations & civil society

- Given the lack of understanding and knowledge about intersex issues and rights, non-governmental organisations and civil society can campaign to raise awareness about intersex issues and the violence of surgeries often inflicted on children with intersex variations.

Intersex-focused civil society organisations can also connect with other civil society organisations working with intersex issues both within the region and internationally to learn about the experiences of intersex activism and rights, practical courses of action and strategies adopted in other contexts. Regional networking and co-learning from other activists in Asia and beyond can be an important step in enhancing knowledge and advocacy skills for rights activists, including intersex people. At the minute, most intersex people are unsure about how best to move forward in their struggle to ensure intersex well-being and rights. While each context is different, some practices that worked elsewhere may be adopted for the Bangladesh context. However, it is important to involve the intersex community on the ground in negotiating and adopting such approaches and strategies.

- Experiences of mental health challenges and trauma are widespread among intersex people as they are routinely subject to bullying and marginalization within family and society at large. There should be an initiative to cater to the psychosexual and mental health needs of intersex people. Mental health professionals in Bangladesh are often ill-equipped to support intersex individuals and address their needs. Civil society organisations can launch projects to sensitise and train mental health professionals. The government can also be involved in such initiatives.

4.3 Further Recommendations

- Further research is needed to better understand the specific concerns, including social and medical needs faced by the intersex population in Bangladesh. Without such knowledge, a clear course of action is difficult to envision and materialise to achieve justice for the intersex community.
- Because the intersex community is emergent, resources need to be mobilised to help support intersex movement building. However, this is easier said than done since donors tend not to support loose and informal community-based groups as they lack official registration. Such barriers need to be overcome in order for intersex groups to rise and work for themselves rather than being a mere “project” in other organisations. A practical approach to resolving this is for established civil society organisations with national and international standing to lobby with the funders and donors to support community-based organizing.
- The term commonly used in the medical context is Disorder of Sex Development (DSD), a category that some intersex activists in Bangladesh have rejected. Lack of sensitivity and behavioural protocol appears to be a major barrier to intersex people’s receiving respectful and humane treatment in the medical context in Bangladesh. Respect for bodily differences and

diversity needs to be cultivated among medical practitioners. Civil society organisations here can launch sensitization projects specifically targeting the medical establishment and, if possible, in close collaboration with the government. While such a project can start on a small scale, it can be scaled up across the country.

- While surgeries are often recommended by the doctors in Bangladesh, there is a lack of clarity as to whether the medical practitioners follow any special treatment protocols and procedures for patient management. It is also unclear as to whether the surgeries recommended and performed are at all medically necessary or opted for in a bid to realign the intersex bodies with the societally sanctioned binary notion of sex/gender. Importantly, further research is needed to understand the perception and practice among medical doctors and surgeons with respect to intersex bodies.
- The biomedical discourse in Bangladesh sees intersex variations as a medical issue that can be resolved and/or “fixed” through various surgical interventions. A multidisciplinary approach that combines both medical and critical social-cultural perspectives on gender/sexual rights and justice is needed to advance intersex well-being and justice. Such an approach entails careful consideration of legal advice, psychosexual counselling, and medical treatment, including surgery. Cultural essentialism that reifies dimorphism and biomedical determinism that dictates the realignment of bodies into a binary system go hand in hand and need to be dismantled.
- Parents often play the most important decisions in the sex assignment and socio-medical management of an intersex child. While we have superficial knowledge about how society at large influences such decisions, further research is needed to better understand the various critical factors that are involved in the making of decisions about an intersex body. There are very few cultural resources that parents with intersex children can consult in their decision-making processes. Intervention is necessary to make such resources available across the social classes and urban/rural divide. Further clarity is necessary on how best to make these resources available to society at large so that such information is easily accessible. Research on government and civil society organisations’ facilities through which such information can be transmitted ought to be identified in the first place.
- There is no mechanism in place to protect intersex people from abusive social and medical violence to which they are routinely subject. Further studies are needed to inform legislative reform, particularly to ensure protection from discrimination, harassment, and bullying and to promote non-binary inclusive practices. Lessons can be learnt from other countries within Asia and beyond where such legal activism and action have already taken place.

4.4 Way Forward

In light of the fact that social knowledge and understanding about intersex issues and rights are at an infancy in Bangladesh and that the intersex community is also nascent, with only a few intersex-identified activists publicly speaking about intersex rights and issues, more voices of intersex people ought to be mobilised so that the government and civil society actors can begin to pay closer attention to intersex issues and justice. Considerable groundwork is therefore necessary for an intersex constituency to build and emerge in Bangladesh. While the existing intersex platforms are connected with other SOGI populations, the lack of knowledge among the SOGI population about intersex issues is a barrier to coalition building. In order for intersex rights to be realised, social and political pathways committed to dignity and respect for intersex people need to be charted. Such a course of action ought to be predicated on intersex perspectives and voices so that intersex well-being and justice can be advanced. Doing so entails collaborative research with the community on the ground that centres intersex voices and perspectives. Such research is critical to establishing an evidence-based strategy to persuade both governmental and non-governmental organisations to work with intersex issues. However, such an effort can also emerge from within these organisations rather than from a third party.



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Appendix: Summary of Interviews

| Date | Name | Designation | Institution | Topic of discussion |
|----------------|-------------|-------------------------------|---------------------------|--|
| April 7, 2023 | Tanvir Alim | PhD student & LGBTQI activist | University of Glasgow | Intersex issues in Bangladesh |
| April 2, 2023 | Anonymous | Intersex activist | Intersex Bangladesh | Intersex politics in Bangladesh and lived experience |
| April 2, 2023 | Anonymous | Intersex activist | Intersex Bangladesh | Intersex politics in Bangladesh and lived experience |
| April 2, 2023 | Anonymous | Intersex activist | Intersex Bangladesh | Intersex politics in Bangladesh and lived experience |
| March 15, 2023 | Anonymous | Intersex activist | Bangladesh Intersex Forum | Intersex politics in Bangladesh and lived experience |

Date: April 7 **Time:** 14 hrs CET

Duration of discussion: 90 minutes

Discussion:

- Tanvir Alim is an LGBTQI rights activist from Bangladesh. He is also studying for his doctoral degree at the University of Glasgow. He also wrote about intersex issues in Bangladesh and is actively involved in LGBTQI social movement politics in South Asia.
- Identity politics and Intersex issues in Bangladesh
- Intersex, hijra, trans inclusion and challenges
- Social class and intersex visibility
- Disability versus LGBT as a social movement framework for the intersex movement
- Legal recognition of hijras, national census and policy documents.

Date: April 2 **Time:** 13 hrs CET

Duration of discussion: 40 minutes

Discussion:

- Anonymous individual. He was assigned a female gender at birth but now identifies as an intersex and transgender man. He is a member of the Bangladesh Intersex Forum.
- Provided insights into intersex politics and antagonisms among activists
- Keen on working with the LGBTQ population and is actively involved in gatherings organised to promote intersex visibility and inclusion.
- Future of intersex activism in Bangladesh and hijra legal recognition as a pathway towards enfranchisement of other gender & sexually diverse groups.

Date: April 2 **Time:** 14 hrs CET

Duration of discussion: 40 minutes

Discussion:

- Anonymous individual. The interviewee is intersex identified and an active member of the Bangladesh Intersex Forum. Identified as a non-binary intersex person.
- Was involved in the first few intersex-specific meetings in Bangladesh and is a member of the Bangladesh Intersex Forum.
- Vocal about their experiences, had been subjected to several surgeries and is passionate about putting an end to such invasive and abusive practices.
- Was under the impression that they were a hijra, but now realises how they are different to hijras.
- Involved in activism and platforms with hijra and trans communities.
- Involved in meetings with various human rights groups and government bodies.
- Has participated in several art and cultural platforms for promoting intersex awareness.

Date: April 2 **Time:** 15 hrs CET

Duration of discussion: 40 minutes

Discussion:

- Anonymous individual. The interviewee is intersex identified & involved in activism. Learned about the word intersex through the internet & recent activist platforms.
- Had been subjected to several rounds of intersex surgeries. Comfortable with both she and they as pronouns.
- Active on social media raising awareness about hijra and intersex issues. Recognises the cultural conflation of intersex with hijras as a formidable obstacle in the formation of intersex justice in the region.
- Identified social class as a factor in how activism unfolds.
- Reflected on the tension between LGBT groups and their interaction with the intersex community.
- Abusive medical practices to which intersex people are routinely subjected are a major concern that needs addressing.

Date: March 15 **Time:** 14 hrs CET

Duration of discussion: 40 minutes

Discussion:

- Anonymous individual. Intersex identified and active in the field.
- Internationally connected and interested in intersex activism abroad.
- Not happy with the way intersex issues are seen through the hijra prism in Bangladesh
- Critical of intersex activists not being collaborative enough
- Vocal about tokenism and erasure of intersex voices from human rights and LGBT platforms
- Interested in developing leadership qualities.
- Vocal about medically unnecessary surgeries and biomedical dominance in intersex lives.

Intersex Asia is an autonomous regional network of intersex-led organizations and individuals from Asian countries that work to support, educate, and advocate for the rights and lives of intersex individuals as well as raise awareness on human rights violations and discrimination faced by intersex communities. It envisions a world where the beauty of intersex people is celebrated, intersex persons can love themselves, and intersex people grow together as a community. It seeks to create a space for intersex people where they can come forward and act as a stakeholder of the global intersex rights movement.



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