

**Flygtningenævnets baggrundsmateriale**

<b>Bilagsnr.:</b>	<b>328</b>
Land:	Bangladesh
Kilde:	International Lesbian Gay Bisexual Trans and Intersex Association
Titel:	State-sponsored Homophobia
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# BANGLADESH

## Provisions in force

- ▶ **Penal Code** (Act XLV of 1860).

*Carnal intercourse  
against the order of  
nature*

### Section 377. "Unnatural Offences".

Whoever voluntarily 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.

*Explanation:* Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

## Human rights situation

Intolerance and targeted violence against SOGI activists have sharply increased over the past years in Bangladesh, resulting in subdued efforts around organising and visibility, and the inevitable need for many LGBT folk to flee the country.

Reports suggest that the levels of violence and threat from religious radicals that LGBT people have been exposed to have remained high, and the State has not offered protection.<sup>1</sup> A shadow report by Boys of Bangladesh reported that the extremely hostile climate has led many activists to conceal their identity or leave the country.<sup>2</sup>

There are no registered SOGI-based NGOs in Bangladesh, although there are some long-standing CSOs, such as Boys of Bangladesh and the Bhandu Social Welfare Society, and online communities such as Roopbaan, Shambhab (a lesbian network) and Vivid Rainbow.

In February 2015, Avijit Roy, the author of Bangladesh's first scientific book (2010) on same-

sex sexual identity, was savagely murdered on the streets of Dhaka, seemingly by religious fundamentalists.<sup>3</sup> According to a 2017 shadow report by Front Line Defenders, the murder and the growing threat of violence faced by LGBTI human rights defenders has resulted in the breakdown of activist networks and people have become more fearful of being associated with each other.<sup>4</sup>

Moreover, on 25 April 2016, the editor of *Roopbaan*, Xulhaz Mannan, and fellow activist Mahbub Tonoy, were gruesomely executed in an apartment in Dhaka.<sup>5</sup> The culprits have not been found,<sup>6</sup> although reporting in early- 019 indicates the investigation is ongoing.<sup>7</sup>

In May 2017, the police special forces—the Rapid Action Battalion—was mobilised to raid a gathering in Dhaka: 28 men were arrested, outed and exposed in the media as gay.<sup>8</sup> All were eventually released and granted bail.<sup>9</sup>

<sup>1</sup> [Country of Origin Information Report: Bangladesh Country Overview](#) (European Asylum Support Office, 2017), 68.

<sup>2</sup> Mir Abu Reyad, "Submission to the UN Human Rights Committee" (Boys of Bangladesh 2017), 6.

<sup>3</sup> "US-Bangladesh blogger Avijit Roy hacked to death", BBC News, 27 February 2015.

<sup>4</sup> "Victim Blaming: Bangladesh's Failure to Protect Human Rights Defenders" (Front Line Defenders 2016), 18.

<sup>5</sup> "Two LGBT activists murdered in Bangladesh", *Erasing 76 crimes*, 25 April 2015.

<sup>6</sup> Golam Mujtaba Dhruba, "A year after Xulhaz, Tonoy murders, police say charges not anytime soon", *BD News*, 25 April 2017.

<sup>7</sup> "Militants stalked Xulhaz through LGBTQ platforms", *The Dhaka Times*, 18 January 2019.

<sup>8</sup> Kyle Knight, "Bangladesh 'Gay Party' Raid Flouts Privacy Rights", *Human Rights Watch*, 25 May 2017.

<sup>9</sup> "Bangladesh: 28 men suspected of being gay freed", *Amnesty International*, 11 August 2017.

### Statements by public officials

In response to the murders of the two LGBT activists in 2016, the Prime Minister Sheikh Hasina said that her government would not take responsibility for “untoward incidents” that befell people who expressed “objectionable opinions” and likened the activists’ writing to “porn”.<sup>10</sup>

Bangladesh voted against the LAC amendment to remove Operative Paragraph 2,<sup>16</sup> and in favour of the African oral amendment to block the IE SOGI at the UNGA Plenary Session on 19 December 2016.

Additionally, Bangladesh voted in favour of the amendment which tried to block financial resources allocated to the IE SOGI.

### National Human Rights Institution

In 2018, the National Human Rights Commission of Bangladesh (JAMAKON) proposed an anti-discrimination law along with the Law Commission of Bangladesh that includes sexual orientation and gender identity as a prohibited ground of discrimination.<sup>11</sup> Human Rights Watch reported that JAMAKON has advocated for the protection of sexual and gender minorities from discrimination and arbitrary arrest.<sup>12</sup>

### International advocacy and supervision

#### Universal Periodic Review

While referencing “family values” at its 2<sup>nd</sup> cycle UPR in April 2013, the Bangladeshi Minister for Foreign Affairs stated that LGBT people should be protected from violence and discrimination in law.<sup>17</sup> Bangladesh accepted a recommendation to carry out sensitisation training with public officials regarding SOGI discrimination at its 1<sup>st</sup> UPR, but this issue was not picked up at its 2<sup>nd</sup> cycle review, nor is there evidence that such sensitisation has significantly occurred.<sup>18</sup>

### UN voting records

In 2011, Bangladesh voted against the adoption of Resolution 17/19, the first SOGI resolution adopted by the Human Rights Council, which requested the OHCHR to produce the first report on SOGI.<sup>13</sup>

In 2014, it was not a member of the Human Rights Council and, therefore, did not participate in the vote for the adoption of Resolution 27/32, the second SOGI resolution adopted by the Human Rights Council, which requested the OHCHR to update the report produced in 2011.<sup>14</sup>

During its 3<sup>rd</sup> cycle of the UPR carried out in May 2018, Bangladesh received 11 SOGIESC recommendations. It noted (functionally rejected) all of them. Argentina, Chile, Honduras, Mexico and Slovenia called for the decriminalisation of consensual same-sex sexual relations (in particular, Section 377 of the Criminal Code). Belgium, Brazil, Italy, Mexico and Norway focused on the violence and discrimination suffered by the LGBTIQ community, asking the State to take necessary steps to fight against those scourges. Belgium and Germany also recommended the State to protect human rights defenders and activists from the LGBTIQ community from threats and violence, ending impunity by conducting thorough investigation of potential violations of their rights. The State referred to the SOGIESC situation during the Session, expressing that their reluctant attitude towards the recommendations received on this

In 2016, Bangladesh voted against the adoption of Resolution 32/2 which created the mandate of the independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.<sup>15</sup>

At the session of Third Committee of the UN General Assembly held in November 2016,

<sup>10</sup> “Campaign of terror against Bangladesh’s liberal voices”, *The Economist*, 27 April 2016.

<sup>11</sup> “NHRC consultation builds case for protecting transgender rights”, *Asia Pacific Forum of National Human Rights Institutions*, 22 October 2018.

<sup>12</sup> “Bangladesh: Investigate LGBT murders”, *Human Rights Watch*, 26 April 2016.

<sup>13</sup> Human Rights Council, *Resolution 17/19: Human rights, sexual orientation and gender identity*, A/HRC/RES/17/19, 14 July 2011.

<sup>14</sup> Human Rights Council, *Resolution 27/32: Human rights, sexual orientation and gender identity*, A/HRC/RES/27/32, 2 October 2014.

<sup>15</sup> Human Rights Council, *Resolution 32/2: Protection against violence and discrimination based on sexual orientation and gender identity*, A/HRC/RES/32/2, 15 July 2016.

<sup>16</sup> Operative Paragraph 2 was an attempt by the Africa Group to defer consideration and action on HRC Resolution 32/2 under the pretext that further consultations were needed to determine the legal basis upon which the IE SOGI would operate on. For more information, see: Out Right, ISHR, ILGA and ARC International, *Defending the independent expert on protection against violence and discrimination based on sexual orientation and gender identity at the 71st Session of the United Nations General Assembly* (2017), 4.

<sup>17</sup> “Bangladesh FM Dr. Moni recognizes need to protect LGBT persons, affirms their constitutional rights”, *Rainer Ebert YouTube Channel*, 29 April 2013.

<sup>18</sup> *Draft report of the Working Group on the Universal Periodic Review: Bangladesh*, A/HRC/WG.6/16/L.10, 1 May 2013.

matter was a result of the fact that “as a democratic government, reflecting the will of the people, our efforts need to be aligned with the people’s views and opinions, as well as the social, cultural and religious values of our people”.<sup>19</sup> Hence, it is appears to be claimed that Bangladesh has based their LGBTIQ-hostile attitude on a supposed democratic will of its population.

### *Treaty Bodies*

In April 2017, the **Human Rights Committee** considered the initial report of Bangladesh on the ICCPR. In its concluding observations, Bangladesh was urged to “decriminalize consensual sexual acts between same-sex couples, provide protection to lesbian, gay, bisexual and transgender persons from violence and harassment by ensuring that all cases are promptly investigated and that perpetrators are prosecuted and punished with appropriate sanctions, and eliminate barriers to employment and violations to the dignity of “hijras”.”<sup>20</sup>

In April 2018, the **Committee on Economic, Social and Cultural Rights** considered the initial report of Bangladesh on the ICESCR. The Committee recommended that Bangladesh “expedite the adoption of comprehensive anti-discrimination

legislation that prohibits direct, indirect and multiple forms of discrimination” and to “decriminalize same-sex relations between consenting adults and take the measures necessary to raise public awareness regarding, and combat discrimination based on, sexual orientation and gender identity”.<sup>21</sup>

### *Special Procedures*

The **Special Rapporteur on freedom of religion or belief** visited Bangladesh in late 2015. He reported “encouraging initiatives by representatives of sexual minorities and religious community leaders in South Asia, including some from Bangladesh, who met to discuss and better understand these issues” and “stress[ed] that the right to freedom of religion or belief is guaranteed for every single human being, so no one should be deprived the right on the basis of sexuality [or] gender”.<sup>22</sup>

In May 2016, several mandates<sup>23</sup> received information concerning the alleged assassination of two LGBTI human rights defenders.<sup>24</sup> They also expressed “grave concern” at the smear campaign against organisers of the “Rainbow Rally”, an annual event organised to raise awareness about the rights of the LGBTI community.

<sup>19</sup> “UPR-Bangladesh”, ILGA Website, 17 May 2018, Section C.

<sup>20</sup> *Concluding observations on the initial report of Bangladesh*, CCPR/C/BGD/CO/1, 27 April 2017, para. 12.

<sup>21</sup> *Concluding observations on the initial report of Bangladesh*, E/C.12/BGD/CO/1, 18 April 2018, para. 24.

<sup>22</sup> *Report of the Special Rapporteur on freedom of religion or belief on his mission to Bangladesh*, A/HRC/31/18/Add.2, 22 January 2016, para. 95.

<sup>23</sup> The mandates were the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.

<sup>24</sup> For more information, see [ALBGD 3/2016](#).