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# “I Want to Live With My Head Held High”

Abuses in Bangladesh’s Legal Recognition of Hijras





# **“I Want to Live With My Head Held High”**

Abuses in Bangladesh’s Legal Recognition of Hijras



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# Glossary

<b>Gender</b>	Social and cultural codes (as opposed to sex assigned at birth) used to distinguish between what a society considers “masculine” and “feminine” conduct.
<b>Gender identity</b>	Person’s internal, deeply felt sense of being female or male, both, or something other than female or male. It does not necessarily correspond to the sex assigned at birth.
<b>Hijra</b>	In South Asia, “hijra” refers to an identity category for people assigned male at birth who develop a feminine gender identity.
<b>Intersex</b>	A person born with reproductive or sexual anatomy that does not fit the typical definitions of “female” or “male.”
<b>Sex Reassignment Surgery (SRS)</b>	Surgical procedures that change a person’s body to better reflect that person’s gender identity. These surgeries are medically necessary for some people; however, not all people want, need, or can have surgery as part of their transition.
<b>Transgender</b>	Identity of people whose gender assigned at birth does not conform to their lived gender (the gender that they are most comfortable with expressing or would express given a choice). A transgender person usually adopts, or would prefer to adopt, a gender expression in consonance with their preferred gender, but may or may not desire to permanently alter their bodily characteristics to conform to their preferred gender.
<b>Transphobia</b>	Fear of, contempt of, or discrimination against transgender persons, usually based on negative stereotypes.





## Summary

In recent years the government of Bangladesh has taken important steps toward acknowledging and protecting *hijras*, but the implementation of promising decrees and programs has exposed hijras to serious abuses.

On January 26, 2014, the Bangladesh cabinet announced the recognition of a third gender category in its gazette with a single-sentence: “The Government of Bangladesh has recognized the Hijra community of Bangladesh as a Hijra sex.” This circular represented a significant step toward securing a range of human rights for Bangladesh’s hijras—people who, assigned “male” at birth, identify as feminine later in life and prefer to be recognized as hijra or a third gender.

This promising move, however, was undermined by what came next. Bangladesh does not have a policy outlining the measures individuals must take to legally change the gender marker on their official documents from “male” to “hijra,” and there is no clarity about who qualifies as a hijra. Absent such guidelines, officials involved in implementing the hijra circular have acted on their personal understandings of what hijra means.

This report documents the harms that can ensue, focusing on the unintended but nonetheless destructive and rights-abusing consequences of the government’s first attempt to implement the “hijra” category through an employment program.

In December 2014, the Ministry of Social Welfare invited hijras to apply for government employment—a major boon for a population usually consigned to begging, ritual performances at ceremonies, and sex work, and who invariably rely on hijra leaders (or “gurus”) for protection.

At first welcoming this potentially empowering development, hijras seeking government jobs lined up for the initial interview. Things did not go well from the start. Candidates told Human Rights Watch that they felt humiliated by ill-informed Social Welfare Department officials during the initial interviews, which were conducted in December 2014. Many said that they were harassed and asked inappropriate questions about their gender identity and sexuality.

This experience led some to alter their appearance toward more masculine self-presentation for subsequent steps in the process, hoping to increase their chances of being hired. Turvi A., a hijra who spends her daily life dressed as a woman, said: “[The government officials] had said that others would be scared of me, so I changed myself. All in the hopes of getting the job.” After her interview she decided she would dress as a man—including for the medical exam.

Then in January 2015 the health ministry issued a memorandum requesting that “necessary steps are taken to identify authentic hijras by conducting a thorough medical check-up.” And in June 2015, the dozen hijras who were selected from the initial interviews followed orders to report to a government hospital for the required medical exams.

During these so-called “examinations,” physicians ordered non-medical hospital staff such as custodians to touch the hijras’ genitals while groups of staff and other patients observed and jeered—sometimes in private rooms, sometimes in public spaces. Hospital staff instructed some of the hijras to return multiple times, stretching over a number of weeks, to undergo additional examinations.

Following these abuses at the hospital, photographs of the 12 hijras were released to online and print media, which claimed the hijras were “really men” who were committing fraud to attain government jobs. Some hijras reported that publication of the photos sparked increased harassment from the general public and economic hardship for those involved—even informal economic activities were compromised as former begging and sex work clients refused to engage with the hijras following the exposure.

The government of Bangladesh took an important step in declaring its recognition of hijras, but, for the reasons detailed below, it urgently needs to implement a rights-based procedure for their recognition. Anything less will leave hijras exposed to further abuses.

## Methodology

This report is based on in-depth interviews conducted by Human Rights Watch between October 2015 and April 2016 in Dhaka.

Human Rights Watch interviewed eight hijras who participated in the 2014-2015 Social Welfare ministry's employment program in Bangladesh in October 2015, as well as activists and experts who work with hijras.

Human Rights Watch conducted additional interviews with researchers and activists in April 2016, as well as in-depth interviews with another six hijras who were not part of the program. Officials from the Department of Social Welfare, and public health experts who work with hijras were interviewed on background and not for specific attribution in the report.

All interviews contained a discussion and agreement on informed consent, and interviewees were informed of how the information they shared would be used in Human Rights Watch publications and advocacy. Because interviewees expressed fears that they could face repercussions for sharing information about their experiences, we have used pseudonyms to protect their identities. Interviewees did not receive any compensation for participating in interviews, but were reimbursed for any transportation costs to and from the interview.

Some of the interviews were conducted in Bangla with an English interpreter, and later transcribed and translated in full. Other interviews were conducted by a Bangla-speaking researcher.

Human Rights Watch sent a letter with the evidence contained in this report to the Ministry of Social Welfare and the Ministry of Health in Dhaka on August 1, 2016, requesting a reply. At the time of publication, we have not received a reply.

A version of this report was submitted as an official allegation letter to the United Nations Special Rapporteur on Torture, and the United Nations Special Rapporteur on the Highest Attainable Standard of Physical and Mental Health on August 18, 2016.

## Background

In South Asia, “hijra” refers to an identity category for people assigned male at birth who develop a feminine gender identity. Hijras are part of South Asian cultural traditions and during the last decade have been granted legal status in Nepal, India, Pakistan, as well as Bangladesh.

Hijras occupy a paradoxical position—on the one hand they are recognized culturally, which allows for a degree of social inclusion, respect, and now legal recognition. On the other, they live in hierarchical communities on the margins of society with limited economic opportunities, and depend on “gurus” for protection.<sup>1</sup>

Hijras’ traditionally make a living by bestowing blessings at weddings and birth ceremonies in exchange for donations, and by begging, collecting money from shop owners, or sex work. Their involvement in the latter occupations both reflects their social marginalization and helps fuel it.

A researcher who has worked with hijras explained to Human Rights Watch that hijras have created their own means of survival and norms of behavior due to a lack of any meaningful opportunities within mainstream society: “Hijras are oppressed and excluded from society and think that, ‘society doesn’t see me as human. So why should I care about what that society thinks of me or its norms of behavior? I’ll live how I want to live.’”<sup>2</sup> Such a decision, however, creates tension between hijras and mainstream society who view such behavior as, according to anthropologist Aniruddha Dutta, “indecent, disreputable, or uncivil.”<sup>3</sup>

The popular press plays a role in perpetrating stereotypes about hijras. For example, the act of begging or collecting money is often described in the media in terms of “extortion/aggression.”<sup>4</sup> Hijras are often pejoratively referred to as “eunuchs”<sup>5</sup> or

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<sup>1</sup> Gayatri Reddy, *With Respect to Sex* (Chicago: University of Chicago Press, 2005), p. 95.

<sup>2</sup> Human Rights Watch Interview with expert, [location withheld], April [date withheld], 2016. We have withheld identifying information for this interviewee due to security concerns.

<sup>3</sup> Aniruddha Dutta, “Claiming Citizenship, Contesting Civility” p. 114.

<sup>4</sup> Ibid. p.125

<sup>5</sup> “Eunuch” is a derogatory term sometimes applied to hijras. India’s Criminal Tribes Act of 1871, inspired by vagrancy laws, defined certain tribal communities collectively as dacoits, thieves, and undesirables. Colonial authorities amended the Act

represented as growing rich from begging. As one Bangla-language newspaper headline put it in 2015: “They became hijras and turned into millionaires overnight!”<sup>6</sup>

Many people have limited interactions with hijras and when they do, it is often within the context of hijras soliciting money or bestowing blessings. A researcher explained to Human Rights Watch that such interactions can escalate if individuals refuse to give hijras any money:

Collecting money is not always a pleasant interaction as it can become abusive. Hijras may use inappropriate language, body language, so the person from whom they are begging money is offended. As a result, that individual will never speak positively of hijras again because they think that this hijra took money from me in an illegal manner.<sup>7</sup>

Ditiya, a hijra in Dhaka, told Human Rights Watch: “The public thinks that hijras are awful. ‘The way hijras speak is disgusting. They don’t know how to be polite. They’ll take off their clothes for no reason.’ How is this [perception] entirely my fault?”<sup>8</sup>

Since hijras face systematic discrimination and exclusion from society, their traditional means of survival transgress societal norms. As a result, their behavior is seen as “uncivil, illegitimate and/or politically unintelligible,” which only reinforces their marginalization.<sup>9</sup>

Hijras Human Rights Watch interviewed in Bangladesh spoke of stigma, discrimination, and violence—often beginning early in life and in the privacy of family homes. Many

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in 1897 expressly to include “eunuchs” as a notified group. A eunuch was “deemed to include all members of the male sex who admit themselves, or upon medical inspection clearly appear, to be impotent.” See *Human Rights Violations against the Transgender Community: A Study of Kothi and Hijra Sex Workers in Bangalore, India*, a report by People’s Union for Civil Liberties, Karnataka (PUCL-K), September 2003, pp. 44-45; Gayatri Reddy, *With Respect to Sex: Negotiating Hijra Identity in South India* (Chicago: University of Chicago, 2005). “Eunuch” in European culture and law meant a castrated male; some though hardly all hijras had removed their male genitals in whole or in part. The general category of “impotence” in these laws, however, seemed meant to embrace any biological men who abjured “active” male sexual functioning. Human Rights Watch, *This Alien Legacy*, December 2008, <https://www.hrw.org/report/2008/12/17/alien-legacy/origins-sodomy-laws-british-colonialism>.

<sup>6</sup> Salahuddin Choudhury, “They became hijras and turned into millionaires overnight!” (‘হিজড়া’ বানিয়ে রাতারাতি কোটিপতি!) *Banglamail24*, November 10, 2015.

<sup>7</sup> Human Rights Watch Interview with expert, [location withheld], April [date withheld], 2016.

<sup>8</sup> Human Rights Watch interview with Ditiya, Dhaka, April 2, 2015.

<sup>9</sup> Aniruddha Dutta, “Claiming Citizenship, Contesting Civility,” p. 113.

described severe physical violence inflicted on them by their families, and harassment and discrimination at school, work, or even simply walking down the street. They also described difficulties in carrying out basic administrative tasks from registering to vote to opening a bank account as a result of having to carry government documents that erroneously mark their gender as “male.”

For example, Libni T., a hijra in Dhaka, told Human Rights Watch: “We face the most intense harassment, physical and verbal, from our families.” And even with some social legitimacy, rather than being viewed as equal to others before the law, hijras have often been regarded as exotic and marginal—an existence dictated by boundaries and limitations, not rights. Libni T. described “countless restrictions.” She said: “I could never do anything freely or independently, out of my own will. Couldn’t wear anything freely.”<sup>10</sup>

Hijra communities often have distinct social norms in which a *guru* (leader) is responsible for her *chela* (disciples), or the other hijras who live and work under her.<sup>11</sup> Tightly-knit hijra communities can provide a degree of social shielding, but these protections do not adequately buffer against marginalization. What is more, the hierarchical nature of the guru-chela relationship can be exploitative and abusive. Hijra communities offer a degree of protection but also reflect their economic vulnerability and social marginalization.

The structure of guru-chela relationships is both familial and economic.<sup>12</sup> Hijras often endearingly refer to their gurus as “guru-mother” and gurus to their chelas as “children.” A hijra activist explained: “A chela is both oppressed and loved by their guru.”<sup>13</sup>

According to a study commissioned by the Department for International Development (DFID), when chelas collect money from begging or blessing a newborn child the guru typically retains 50 percent of the total income in addition to a fee for food expenses.<sup>14</sup> There are also strict rules that must be followed in order to adequately show respect to a guru, which Borsha, a hijra in Dhaka, compared to how children must pay respect to their

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<sup>10</sup> Human Rights Watch interview with Libni T., Dhaka, October 18, 2015.

<sup>11</sup> DFID et al., *We Are Human and We Want Our Human Rights* (আমরা মানুষ চাই মানুষের অধিকার) (Dhaka: 2007), p. 44.

<sup>12</sup> Gayatri Reddy, *With Respect to Sex* (Chicago: University of Chicago, 2005), p. 143-153.

<sup>13</sup> Human Rights Watch interview with activist, [location withheld], April [day withheld] 2016.

<sup>14</sup> DFID et al., *We Are Human and We Want Our Human Rights* (আমরা মানুষ চাই মানুষের অধিকার) (Dhaka: 2007), p. 44.

parents.<sup>15</sup> For example, if a guru were to praise a possession of one of their “children” the chela would be required to offer that possession to them, regardless of its value. If a chela failed to do so, Nabila, a hijra in Dhaka, explained “[the guru] will be extremely rude and say whatever comes to mind. If they feel it is necessary, they might hit you as well.”<sup>16</sup>

However, gurus also provide housing and food for their chelas, and connect them to economic opportunities such as sex work.<sup>17</sup> Joti P., a hijra in Dhaka, said that in order to do sex work, “you have to have a guru... Even if I want to [do sex work and] live alone without mingling with other hijras, they won’t allow me to.”<sup>18</sup> In some cases, gurus physically and verbally abuse their chela and so a job in the formal sector presents an opportunity to escape an abusive environment. For example, one hijra in Dhaka who asked that her name be fully redacted, explained the significance of securing government employment:

If I leave my guru, she will beat me a lot. If I leave her to do some other job then she will cut off my hair, burn me with a hot iron spatula.... She threatens me a lot. That’s why I can’t leave. [But] if I get a job from the government then she can do nothing. Because it would be a government job that I am doing because I earned it.<sup>19</sup>

## Hijras, Class, and Caste

Most hijras are not accepted by their families and separate from them at a young age.<sup>20</sup> Due to social stigma, their employment opportunities are often limited to begging or sex work.<sup>21</sup> Some hijras work in garment factories or restaurants, but they are generally unable to maintain these jobs for long periods of time due to teasing, sexual assault, or harassment stemming from their “feminine behavior.”<sup>22</sup> Such employment discrimination experiences parallel those of Dalits who, as members of lower castes, also work some of

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<sup>15</sup> Human Rights Watch interview with Borsha, Dhaka, April 2, 2016.

<sup>16</sup> Human Rights Watch Interview with Nabila, Dhaka April 2, 2016.

<sup>17</sup> Human Rights Watch interview with activist, [location withheld], April [date withheld] 2016.

<sup>18</sup> Human Rights Watch interview with Joti P., Dhaka, October 18, 2015

<sup>19</sup> Human Rights Watch interview with [name withheld], [location withheld], October [day withheld], 2015

<sup>20</sup> DFID et al., *We Are Human and We Want Our Human Rights*, p. 10.

<sup>21</sup> Ibid. p. 26.

<sup>22</sup> Ibid.



the most low-paying, menial and dangerous jobs in Bangladesh such as fishers, cobblers, and cleaners.<sup>23</sup>

Living Smile Vidya, a Dalit hijra theatre artist from India who works to raise awareness about the similarities between struggles faced by Dalits and hijras, explained:

“This occupational fixity in both Dalit and transgender communities, is done by closing off alternative options. Thus, manual scavenging [the cleaning of human excreta] becomes an occupation enforced on Dalits through the exclusion of access to other jobs<sup>24</sup>; in a similar way begging and sex work are forced occupations for transgenders through exclusion from other jobs.”<sup>25</sup>

Caste-based discrimination is an important parallel for the stigmatization of hijras.<sup>26</sup> In Bangladesh, the way in which the caste system functions is distinct from other parts of South Asia. Caste is not widely recognized but nevertheless influences relationships among groups of people—in particular people perceived as lower castes.<sup>27</sup> Some

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<sup>23</sup> International Dalit Solidarity Network, “Discrimination Against Dalits in Bangladesh—ISDN Briefing Note 2015,” 2015, <http://idsn.org/wp-content/uploads/2015/08/ISDN-briefing-note-Bangladesh-2015.pdf> p. 2, (accessed July 25, 2016). According to a government survey, there are 6.4 million Dalits in Bangladesh. A 2009 study revealed that the average monthly income of Dalits varied from 42 to 69 percent of the national average monthly income. Many Dalits traditionally work as cleaners for city governments—positions that they have to compete with non-Dalits to attain—and even within these traditional jobs they are subject to heightened exploitation. Thousands of Dalit cleaners for city governments were compensated as temporary workers although they qualified for a permanent contract. As temporary workers they were ineligible for retirement pension, paid leave, significantly higher wages, life insurance and other benefits. For government statistics, see [http://www.dss.gov.bd/site/page/909e2813-4cbf-49a8-81bf-12366bb20ee4/Bede,-Dalit-and-Horijon](http://www.dss.gov.bd/site/page/909e2813-4cbf-49a8-81bf-12366bb20ee4/Bede,-Dalit-and-Horijon;); Iftekhar Uddin Chowdhury, “Caste-based discrimination in South Asia: a study of Bangladesh,” Indian Institute of Dalit Studies working paper series, vol. III, No. 07, 2009, p. 18; The Daily Star, “Government workers not given proper employment benefits,” March 5, 2010, <http://www.thedailystar.net/news-detail-128719>

<sup>24</sup> Manual scavenging has been outlawed in India but persists due to weak implementation of laws and ongoing caste discrimination. See Human Rights Watch, “Cleaning Human Waste—‘Manual Scavenging,’ Caste, and Discrimination in India,” 2014, <https://www.hrw.org/news/2014/08/25/india-caste-forced-clean-human-waste>

<sup>25</sup> Vidya Living Smile, “(Trans)gender and caste lived experience – Transphobia as a form of Brahminism,” *Sanhati*, January 26, 2013, <http://sanhati.com/excerpted/6051/>, (accessed May 7, 2016).

<sup>26</sup> As Gayatri Reddy explains in her ethnography of hijras in South India, “viewing hijras solely within the framework of sex/gender difference . . . ultimately might be a disservice to the complexity of their lives.” Reddy, *With Respect to Sex*, p. 4. Broadly speaking, caste refers to a “strict hierarchical social system that is often based on the notions of purity and pollution, in which individuals placed at the bottom of the system may face exclusion and discrimination in a wide range of areas.” United Nations Human Rights Council, Report of the Special Rapporteur on minority issues, January 28, 2016, A/HRC/31/56

<sup>27</sup> Mohammed Nasir Uddin, Benchmarking the Draft UN Principles and Guidelines on the Elimination of (Caste) Discrimination based on Work and Descent, 2014, (Dhaka: Nagorik Uddyog Bangladesh Dalit and Excluded Rights

researchers in Bangladesh have included hijras within the greater Dalit (or lowest) category,<sup>28</sup> while others describe hijras as a separate low-caste group.<sup>29</sup>

The caste system has serious repercussions on everyday life. Business owners insist that the presence of lower-caste people in their establishments drives away other customers, and often deny them entry.<sup>30</sup> Hijras face similar discrimination. One hijra activist told Human Rights Watch: “If we want to rent an apartment, landlords won’t lease it to us. They’ll say, ‘A hijra? Oh no, I won’t rent to you.’ If I’m on the bus and there’s an empty seat next to me, no one will take it...They act as if the slightest physical contact with me is a sin.”<sup>31</sup>

Some of Human Rights Watch’s interviewees explained their social position in terms of caste. Rima C. explained the role of class, an important component of the caste system, in the stigmatization hijras face: “Most of the people of my gender come from very poor households. Very poor families. If we were from high to middle class families, then people couldn’t have abused us like this. Just because we are poor, we are abused every day.” One study in Bangladesh showed that most hijras come from lower class or lower-middle class families.<sup>32</sup>

Hijras’ basic human rights to autonomy and security would not be realized through legal recognition alone—but need to be paired with social inclusion and measures to help them

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Movement) pp. 5-6, [http://www.nuhr.org/DocFile/134-Benchmarking%20Study\\_EIDHR\\_NU\\_BD.final.pdf](http://www.nuhr.org/DocFile/134-Benchmarking%20Study_EIDHR_NU_BD.final.pdf) (accessed July 21, 2016).

<sup>28</sup> Iftexhar Uddin Chowdhury, “Caste-based discrimination in South Asia: a study of Bangladesh,” Indian Institute of Dalit Studies working paper series, vol. III, No. 07, 2009, p. 10. “Dalits” consist of a myriad of sub-caste groups that occupy the bottom strata of the hierarchy. They are often seen as “inferior,” “non-human” and “filthy” and face immense challenges to the full enjoyment of their fundamental human rights. Dalits face significant barriers to education, healthcare, adequate housing, land rights and employment. See “Discrimination Against Dalits in Bangladesh,” International Dalit Solidarity Centre Briefing Notes, 2015, <http://idsn.org/wp-content/uploads/2015/08/IDSN-briefing-note-Bangladesh-2015.pdf> (accessed May 7, 2016).

<sup>29</sup> Mohammed Nasir Uddin, Benchmarking the Draft UN Principles and Guidelines on the Elimination of (Caste) Discrimination based on Work and Descent, 2014, (Dhaka: Nagorik Uddyog Bangladesh Dalit and Excluded Rights Movement) p. 9, [http://www.nuhr.org/DocFile/134-Benchmarking%20Study\\_EIDHR\\_NU\\_BD.final.pdf](http://www.nuhr.org/DocFile/134-Benchmarking%20Study_EIDHR_NU_BD.final.pdf) (accessed July 21, 2016).

<sup>30</sup> Mohammed Nasir Uddin, Benchmarking the Draft UN Principles and Guidelines on the Elimination of (Caste) Discrimination based on Work and Descent, 2014, (Dhaka: Nagorik Uddyog Bangladesh Dalit and Excluded Rights Movement) p. 15, [http://www.nuhr.org/DocFile/134-Benchmarking%20Study\\_EIDHR\\_NU\\_BD.final.pdf](http://www.nuhr.org/DocFile/134-Benchmarking%20Study_EIDHR_NU_BD.final.pdf) (accessed July 21, 2016).

<sup>31</sup> Human Rights Watch interview with activist, [location withheld], April [day withheld] 2016.

<sup>32</sup> University of Chicago, 2005), p. 95 (accessed May 7, 2016). community” 27, 21a. ultimately might be a disservice to the complexity of it DFID et al., Hijra Sexuality is a Social Construction: Implementing an STI/HIV Program (হিজড়াদের পৌনতর সামাজিক নিৰ্মাণঃ এসটিআই/এইচআইভি কমসূচীতে এর প্রায়োগিকতা) (Dhaka: 2007).

escape severe poverty. This is why the employment program proposed by the government in late 2014 was a significant method for implementing the “hijra” legal category.

## Recognition of Hijras

When we walk down the street people whistle at us and say all sorts of things to us. They harass us. We want recognition so we can walk down the street in peace, the same way others can. So no one harasses us, no one speaks to us from a place of disdain. I want recognition so that I can live within society, so nobody discriminates against me. But we have yet to receive that type of recognition.

—Saima R., Dhaka, October 2015

A 2009 study on hijras in Bangladesh argued that, “most deprivations in the lives of hijra are grounded in non-recognition of a hijra as a separate gendered human being beyond the male-female dichotomy. This has prevented them from positioning themselves in the greater society with human potential and dignity.”<sup>33</sup> So when the prime minister’s cabinet in 2014 declared it was going to recognize hijras as a third gender, the community found hope in the announcement.<sup>34</sup> And a year later, when the Ministry of Social Welfare announced it would expand the coverage of its educational and job readiness programs in addition to providing government jobs for a dozen hijras, it appeared material relief was on the horizon.

The cabinet’s announcement fell in line with other advances in the region, including 2007 and 2009 Supreme Court judgments in Nepal and Pakistan, respectively, that legally recognized third gender categories. Policy changes in some parts of India have allowed people to self-identify their gender identity on government identification documents, and the national government has included a third gender category on passports and the federal census in 2011.

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<sup>33</sup> Sharful Islam Khan, et. al., “Living on the Extreme Margin: Social Exclusion of the Transgender Population (Hijra) in Bangladesh,” *Journal of Health, Population and Nutrition*, 2009, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2928103/> (accessed July 15, 2016).

<sup>34</sup> On January 26, 2014, the Bangladesh cabinet announced in its gazette: “The Government of Bangladesh has recognized the Hijra community of Bangladesh as a Hijra sex.” Government of the People’s Republic of Bangladesh, Ministry of Social Welfare, Bangladesh Gazette, No. sokom/work-1sha/Hijra-15/2013-40.

## NEPAL

In 2007, Nepal's Supreme Court recognized a third gender category, making it clear that the ability to obtain documents bearing a third gender marker should be based on "self-feeling," and not the opinions of medical professionals or courts.<sup>35</sup> Through self-identification, several identity categories have fallen under the third gender category including an array of sexual orientation and gender identity labels.<sup>36</sup> In 2011, Nepal added the third gender category to its national census, and since October 2015, Nepali citizens have been successfully traveling abroad carrying passports marked "O" for "other" instead of "F" for "female" or M for "male."<sup>37</sup>

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## INDIA

In 2014, India's Supreme Court ruled that transgender people can be legally recognized as a third gender, declaring that this "is not a social or medical issue" but a human rights issue.<sup>38</sup> The court stated that undertaking medical procedures should not be a requirement for legal recognition of gender identity.<sup>39</sup> In 2015, the Delhi High Court reinforced the ruling, emphasizing: "Everyone has a fundamental right to be recognized in their gender" and that "gender identity and sexual orientation are fundamental to the right of self-determination, dignity and freedom."<sup>40</sup>

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<sup>35</sup> Ibid. In 2015, Nepal adopted a new constitution that reads at article 18 that "[n]othing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or advancement of the interests of . . . gender and sexual minorities." Furthermore, article 42, titled Right to Social Justice, specifically includes "gender and sexual minorities," and article 12 entitles each Nepali to a citizenship certificate "based on lineage and gender identity,"

<https://www.ilo.org/dyn/natlex/docs/MONOGRAPH/100061/119815/F-1676948026/NPL100061%20Eng.pdf>.

<sup>36</sup> Michael Bochenek and Kyle Knight, "Establishing a Third Gender Category in Nepal: Process and Prognosis," *Emory International Law Review*, vol. 26 (2012), p. 11.

<sup>37</sup> Kyle Knight (Human Rights Watch), "Nepal's Third Gender Passport Blazes Trails," commentary, *Advocate*, October 26, 2015, <https://www.hrw.org/hu/node/282644>; Kyle Knight, "What We Can Learn From Nepal's Inclusion of 'Third Gender' on Its 2011 Census," commentary, *New Republic*, July 8, 2011, <https://newrepublic.com/article/92076/nepal-census-third-gender-lgbt-sunil-pant>.

<sup>38</sup> "India: Enforce Ruling Protecting Transgender People," Human Rights Watch news release, February 5, 2015, <https://www.hrw.org/news/2015/02/05/india-enforce-ruling-protecting-transgender-people>.

<sup>39</sup> Ibid.

<sup>40</sup> *Shivani Bhat v. State of NCT of Delhi and Ors.*, Delhi High Court, October 5, 2015, <http://lobis.nic.in/ddir/dhc/SID/judgement/05-10-2015/SID05102015CRLW21332015.pdf>. See Yuvraj Joshi, "Delhi Court Protects Transgender Teen," October 8, 2015, <https://www.hrw.org/news/2015/10/08/dispatches-delhi-court-protectstransgender-teen> (accessed April 5, 2016).

In an effort to support implementation of the Supreme Court ruling, the government introduced a bill in parliament on August 2, 2016. While the bill is an important progressive measure several provisions raise concerns. The definition of a transgender person as “neither wholly female nor wholly male” and the need to seek approval from two distinct sets of authorities in order to facilitate legal gender recognition does not comply with the right to dignity and self-definition, as upheld by the Supreme Court verdict.<sup>41</sup> The bill criminalizes “compelling or enticing a transgender person to indulge in the act of begging,” which local groups fear could lead the police to further target poorer transgender people or to arrest hijra gurus or leaders. The bill also fails to include a clear definition of discrimination, or to provide education and job benefits for trans persons as directed by the Supreme Court, among other concerns.<sup>42</sup>

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## PAKISTAN

In 2009, Pakistan’s Supreme Court called on all provincial governments to recognize the rights of transgender people. The judgment specifically called for more communication with transgender communities and better coordination on cases reported to the police.

The Supreme Court also directed provincial social welfare departments to improve the civil registration process for transgender people and allow them to register as a third gender. The court directed provincial governments to submit reports on conditions facing transgender people in the provinces, instructing authorities to include transgender people in voter lists and to protect their inheritance rights. The court also ordered the relevant authorities to ensure the right of transgender people to basic education, employment, and protection.

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<sup>41</sup> International Commission of Jurists, “Briefing paper: India: The Transgender Persons (Protection of Rights) Bill, 2016,” August 2016, <http://www.icj.org/wp-content/uploads/2016/08/INDIA-TG-BILL-CRITIQUE-Advocacy-Analysis-brief-2016-ENG.pdf>

<sup>42</sup> Dhruvo Jyoti, “Activists in India are Up in Arms Over the New Transgender Bill. Here’s Why,” *Hindustan Times*, August 5, 2016, <http://www.hindustantimes.com/india-news/activists-in-india-are-up-in-arms-over-the-new-transgender-bill-here-s-why/story-RMqjgixZv1ElzJKuoDxEPN.html>

## SRI LANKA

Sri Lanka is in the midst of developing a gender recognition procedure. The Health Ministry, working with the National Human Rights Commission, has proposed a “gender recognition certificate” which would allow individuals to change the gender indicated on official documents. This development is an important step forward. However, the certification’s requirements include evidence of medical treatment and certification from a psychiatrist, which falls short of international best practice that recommend that a medical, surgical, or mental health treatment or diagnosis should not be necessary for legal gender change.<sup>43</sup>

Even before the 2014 cabinet directive, the government and private sector in Bangladesh had, at times, acknowledged the existence of hijras and even taken steps to improve their standard of living. In 2012, the Department of Social Welfare began a small pilot program offering stipends for hijra students and job readiness trainings. The program has steadily expanded in scope and budget. As of the 2015-16 fiscal year it encompassed all 64 districts and included educational scholarships, job readiness trainings, and old age allowances.<sup>44</sup>

Hijras gained public recognition after the high-profile 2015 case of a hijra chasing and catching the radical Islamist murderers of a secular blogger. Shortly thereafter, the government announced they wanted to hire her and others as traffic police.<sup>45</sup> The mayor of North Dhaka, Annisul Huq, has called for families to support their hijra children and pledged to arrange a conference to educate employers about the hijra community in order to increase their employment prospects.<sup>46</sup>

Bangladesh’s National Human Rights Commission has in recent years taken up a handful of complaints filed by hijras ranging from employment discrimination to police abuse to legal gender recognition

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<sup>43</sup> Human Rights Watch, “All Five Fingers Are Not the Same:” Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka, August 2016, <https://www.hrw.org/report/2016/08/14/all-five-fingers-are-not-same/discrimination-grounds-gender-identity-and-sexual>

<sup>44</sup> The job readiness trainings are officially referred to as “socioeconomic training” for hijra adults to develop skills to enable them to start small businesses or attain jobs at the completion of which participants are awarded a 10,000 taka (US\$128) grant in order to start their own business and an old age allowance of 500 taka (\$6) for elderly hijra above the age of 50 who are “weak or reluctant to work.” The pilot program began with a budget of 7.2 million taka (\$92,525) in 2012-13 and has since expanded to a budget of 80 million taka (\$1 million). Abdur Rajjak Hawlader, “The Living Standard Development Program for the Hijra Community,” Department for Social Welfare, February 17, 2016. An English translation of the document is provided in Appendix 2.

<sup>45</sup> Tahmima Anam, “Transgender Rights, Bangladesh Style,” The New York Times, July 2, 2015, <http://www.nytimes.com/2015/07/03/opinion/tahmima-anam-transgender-rights-bangladesh-labannya-hijra.html> (accessed July 25, 2016).

<sup>46</sup> BDNews24, “Dhaka North mayor pitches for changing negative perception towards transgender,” February 18, 2016, <http://bdnews24.com/bangladesh/2016/02/18/dhaka-north-mayor-pitches-for-changing-negative-perception-towards-transgender> (accessed July 25, 2016).

issues.<sup>47</sup> The 2014 National Commitment and Policies Instrument, a joint government-United Nations evaluation of HIV and the law, notes that while government recognition of hijras as a third gender is a positive step, violence, stigma, and discrimination continue to plague hijras' lives.<sup>48</sup> In its 2015 Bangladesh progress report, UNAIDS recommended that the government "Translate recognition of Hijra into... government policy documents, programs and services."<sup>49</sup>

The long overdue push for inclusion of hijras in Bangladesh's laws and policies is to be applauded but, as detailed below, if the government is serious about hijra well being, that push must be accompanied by a clear, accessible, and rights-based procedure for enabling hijras to obtain documents carrying their newly recognized legal status.

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<sup>47</sup> The National Human Rights Commission, Bangladesh (JAMAKON), "A Manual for Gender and Sexual Minorities," 2014, [http://www.nhrc.org.bd/PDF/NHRC%20Manual%20\(English\)%20\(1\).pdf](http://www.nhrc.org.bd/PDF/NHRC%20Manual%20(English)%20(1).pdf) (accessed July 25, 2016).

<sup>48</sup> UNAIDS, "National Commitments and Policies Instrument: Bangladesh," 2015, <http://www.unaids.org/sites/default/files/country/documents/Bangladesh%20NCPI%202013.pdf> (accessed July 25, 2016).

<sup>49</sup> Global AIDS Response Progress Report (GARPR), "Target 7: Eliminate Gender Inequalities and Gender-based Abuse and Violence and Increase the Capacity of Women and Girls to protect themselves from HIV," 2015, [http://www.unaids.org/sites/default/files/country/documents/BGD\\_narrative\\_report\\_2015.pdf](http://www.unaids.org/sites/default/files/country/documents/BGD_narrative_report_2015.pdf) (accessed July 25, 2016).



# Procedure and Prejudice

## A Welcome Announcement

In December 2014, around 40 hijras responded to the Ministry of Social Welfare’s call for hijra applicants to fill low-level government jobs. Padma L., a 24-year-old hijra, told Human Rights Watch she saw the government announcement as an end to her life’s stresses—including being thrown out of her family’s home as a teenager—and the only hope she had at ever becoming employed.<sup>50</sup> Rima C., a 26-year-old hijra explained: “It was obviously a happy event.... Everywhere we go, there are only two genders...there’s no place for us. We didn’t feel like citizens of this country.... When the government recognized us as the third gender, of course we became really happy.”<sup>51</sup>

The pilot program created 14 jobs within various government institutions such as schools, shelters, orphanages, and daycare centers. The positions included attendant, guard, and night guard, with monthly salaries ranging from 6900 *taka* (US\$88) to 7800 *taka* (US\$100) depending on the location. While the majority of the positions were based in Dhaka, there were two in Chittagong and two in Munshigonj.<sup>52</sup>

According to Human Rights Watch interviews, even during their first interaction with government officials, it became clear to the 12 shortlisted applicants that officials were ignorant of and prejudiced towards hijras. This lack of awareness meant that hijras’ basic dignity was not respected and the opportunity to secure the sought-after jobs was lost.

## The Interview

The interviews in December 2014 at the Department of Social Welfare quickly turned abusive. Rima C. described how members of the interview panel questioned the group’s attire: “When you have an interview, you want to look presentable to make the best

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<sup>50</sup> Human Rights Watch interview with Padma L., Dhaka, October 17, 2015.

<sup>51</sup> Human Rights Watch interview with Rima C., Dhaka, October 17, 2015.

<sup>52</sup> The two positions in Chittagong were slated to be filled by hijras who were able to attain certification of their identities from private hospitals because they could afford to do so, while the Dhaka-based applicants, who were in need of financial assistance, went to government hospitals and faced various violations of their rights, as described below. Since the program is currently on hold, however, none of the positions have been filled.

impression. We went like that. So, they asked us, ‘why did you come like that? Why did you put on makeup? This won’t work.’” According to Rima, individuals replied to these questions by explaining that they would be happy to adhere to whatever requirements the ministry wished to mandate. The panel singled out a hijra named Turvi A. She recalled:

So, they said: “you can’t have a job [looking] like this.” Then what do I have to do? Then they said, “you have to work wearing men’s attire. You can’t do it like this. People will be scared by seeing you.” So, I said, if I get a job then I can change myself. I can wear pants and [a] shirt. [They told me] there will be a number of high ranking officials where I’ll do the job. If they are scared of me, then they won’t be warm to me. They will humiliate me. So, yes I can. I can do everything including cutting my hair. Then they said, ok, then do it all. Keep the hair short and wear pant-shirt to work.<sup>53</sup>

Despite the humiliating experience at the Department of Social Welfare, the dozen hijras who were selected for the employment program decided to continue.

In fact, some of them took the interview panel’s harassment as advice and cut their hair so they could appear more like men. Others, confident that their lives were about to improve, quit working as sex workers and severed ties with their hijra communities. This decision was based on confidence that their lives were about to change but was steeped in risk. These hijras abandoned their traditional means of income, exposing themselves to short- and longer-term social and economic alienation. “I found a ray of hope, so I stopped everything ... after going home I stopped collecting money [begging],” said Turvi A.<sup>54</sup>

After approximately six months of waiting without news, the hijras received phone calls telling them to report to a government hospital for a medical examination.

Mira T., one of the hijras who interviewed for a job, said: “We were doing what we needed to do and hoped that we’d get the jobs. We were told that we needed to take different kinds of tests in order to get a government job.”<sup>55</sup> Rima C., another hijra who was selected,

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<sup>53</sup> Human Rights Watch interview with Turvi A., Dhaka, October 18, 2015.

<sup>54</sup> Ibid.

<sup>55</sup> Human Rights Watch interview with Mira T., Dhaka, October 17, 2015.

said: “We summoned the courage to go there because we want a job. I don’t want to live with humiliation. I want to live with my head held high.”<sup>56</sup>

## A So-Called Medical Examination

On January 27, 2015, the Ministry of Health issued a memorandum requesting “that necessary steps [be] taken to identify authentic hijras by conducting a thorough medical check-up.” (The full text of the letter is set forth in Appendix 1.) The memo did not define “hijra” or contain any specific instructions about the procedures by which medical examiners were to identify “authentic hijras,” leaving the order open for interpretation, and abuse.

Over the course of a few weeks from May to July 2015, doctors at a government hospital in Dhaka abused and instructed other staff to abuse the hijras who visited the facility for the “medical examinations.” For some, the experience lasted one day only; others returned multiple times over subsequent weeks on doctors’ orders.<sup>57</sup>

On the first day, on May 26 or 27, when the group arrived, a male and a female doctor directed them into a small room and told them to take off their clothes. “When we [do sex work], we don’t even take off that many clothes. Everyone thinks that for the slightest reason, hijras will get naked, but we rarely do that. But [at the hospital] they asked us to do that [get naked],” said Mira T.<sup>58</sup>

Throughout the process, hospital staff gave the hijras arbitrary and contradictory instructions. Said Rima C.:

First when we went there, they made us lie down on a table. Then they told us, no you don’t have to lie down, stand up. After standing up, [they said] take everything off. We hesitated and said, in front of all of these people...

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<sup>56</sup> Human Rights Watch interview with Rima C., Dhaka, October 17, 2015.

<sup>57</sup> For example, Libni T. said: “We had to go 5 to 7 days for the same test. We all live very far away. We came to Dhaka Medical College five or six times at our own expense. We went in the morning, made lunch arrangements, and stayed there until 4 or 5 in the evening.” Human Rights Watch interview with Libni T., Dhaka, October 18, 2015.

<sup>58</sup> Human Rights Watch interview with Mira T., Dhaka, October 17, 2015.

They said, you have to do this because you came here to take the test. We said, all right. We took off all of our clothes.<sup>59</sup>

Interviewees reported that they were subjected to three<sup>60</sup> medical tests: a physical exam, an ultrasound, and another exam that some described as “forensic” based on the hospital department in which it took place. Libni T. said: “The government doesn’t know the definition of hijra. They don’t understand who is a hijra or how one becomes hijra. They sent us to [the hospital] without any knowledge on the subject and without consulting with those who work with hijras.”<sup>61</sup>

### *The Physical Exam*

Interviewees told Human Rights Watch that during the group’s first test, doctors, guards, and custodial staff were present in the room. According to Libni T.:

We were sent to one room where nobody talked to us, where they made us stand at a distance [from everyone else]. Then they told us to take off our pants, someone else said to take off our shirt. [The doctors] were touching our body, chest and back. Then they brought in a man and told him to remove our clothes. It’s distressing and embarrassing as there were a lot of women.<sup>62</sup>

Rima C. said: “It was embarrassing. They examined us naked.... It’s a medical test. There should be doctors. Guards or cleaners should not be there. They are not doctors.... The doctor is supposed to examine me, not them.”<sup>63</sup> Once she was naked, the doctors instructed non-medical hospital staff to touch Rima C.’s penis and asked her questions:

Then, they touched our private parts in different ways. They were too disgusted to touch us so they told the [custodian] to do it.... They told the [custodian] to touch our different body parts wearing gloves. They held

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<sup>59</sup> Human Rights Watch interview with Rima C., Dhaka, October 17, 2015.

<sup>60</sup> Human Rights Watch interview with Mira T., Dhaka, October 17, 2015.

<sup>61</sup> Human Rights Watch interview with Libni T., Dhaka, October 18, 2015.

<sup>62</sup> Ibid.

<sup>63</sup> Human Rights Watch interview with Rima C., Dhaka, October 17, 2015.

my penis...and said no, no, what kind of hijra are you? They thought that a hijra would be like a woman and a hijra would have the same features as a woman.<sup>64</sup>

Rima C. said that doctors asked her questions about her body hair: “They asked, do you shave your facial hair? I replied, yes, I have to since I have it. A guy has to shave. What can I do? I have to do what I have to. I am not a girl. I am hijra.” The doctor present during Rima C.’s examination refused to touch her, she said.

They were instructing another person to touch us in different places, like, rub gel on this area, see if everything is alright over there. They thought if we were men, among so many people and women we would have an erection. But nothing happened. They did this in front of female doctors. The women were laughing loudly. They didn’t see me as a human being. It was like I was a beast and they were laughing at me. The way they were laughing at me, it was like I was an animal. They were whispering to each other. They were laughing and said, “Shame! What else will I have to see?” Then I understood what it means to be a hijra.<sup>65</sup>

Turvi A.’s experience was similar: “There was a ward boy there, and there were ladies. Then they said, ‘your private parts will be examined.’ So, I was a bit confused.” She asked for confirmation that they were referring to her genitals, and the doctors said they had received orders to do so. “So, after talking for some time, I thought that, they are the doctors. They’re not the ones to blame for this. They are doing what they were assigned to do,” Turvi A. said. “I don’t have any reason to be rude to them or curse at them. Putting aside my shyness, embarrassment, everything, I took off my clothes.” A man who was present (Turvi A. could not identify him as a doctor or not) touched her genitals wearing gloves. “[He] examined me while I was completely naked from head to toe.... One man was examining me in front of three ladies. Didn’t they understand how embarrassing it was for me? Still I thought, they would give me a job despite this embarrassment. I will be able to feed myself once they give me a job.”<sup>66</sup>

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<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> Human Rights Watch interview with Turvi A., Dhaka, October 18, 2015.

Joti P. recounted a similar experience. She was taken into a room by a doctor and told to take off her clothes in front of the male doctor and three or four women. Joti P. requested for the staff to be gentle: “I told them: Someone sent us here. We didn’t come here on our own. So please examine us as well. After saying this, the doctors made us get naked in front of both men and women....”<sup>67</sup>

The doctors also accused the hijras of falsifying their identities. Libni T. described how the discovery of her stuffed bra provoked insults: “They touched my chest and said: you don’t have breasts, what kind of hijras are you? You don’t have periods or anything. They used very vulgar languages and it was humiliating.”<sup>68</sup> Said Joti P.:

I went there wearing my foamed bra. When I open up they asked angrily: ‘Why did you stuff it? You are a man.... Are you trying to attract us by stuffing your bra? You are man. This is psychological problem.... Do you fake it? If we beat your ass then you’d act in line.’<sup>69</sup>

Hospital security staff physically restrained some of the hijras on doctors’ orders. During the physical examination, the hospital staff assigned to Libni T. ordered her to get naked, but then hesitated to touch her:

It seemed like they were very confused too. They didn’t want to touch us, but then it seemed like they did want to touch us. They would call someone else to examine us. They told us to take off our shirt, open the chest. After I took off my clothes on my upper body, four to five women began touching my chest, back and face. One asked, ‘do you go to [a hair stylist]?’ Another asked, ‘do you wax?’ Another asked, ‘do you shave?’<sup>70</sup>

Then the doctors asked Libni T. to take off her trousers. Pointing to the group of staff in the room, she requested not to. “Because I expressed my embarrassment and discomfort, they

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<sup>67</sup> Human Rights Watch interview with Joti P., Dhaka, October 18, 2015.

<sup>68</sup> Human Rights Watch interview with Libni T., Dhaka, October 18, 2015.

<sup>69</sup> Human Rights Watch interview with Joti P., Dhaka, October 18, 2015.

<sup>70</sup> Human Rights Watch interview with Libni T., Dhaka, October 18, 2015.

called the security guard,” Libni T. said. “He held us down by force and opened our pants. Then they made us stand there while they examined us.”<sup>71</sup>

### *The Ultrasound*

After the physical examination, hospital staff ordered the hijras to undergo an ultrasound—with no explanation of what this test was looking for. For some, this happened on the same day as the physical exam; for others, they were called to come back to the hospital on a later date.

During the ultrasound, hospital staff repeated similar verbal and physical abuses as in other exams, including physical restraint. Non-medical staff applied gel to Rima C.’s abdomen and began to ask her questions. “They asked us inappropriate questions like, do you take medicine to grow breasts? Do you take any injection? Do you take any hormones?,” she said. “They had the [non-medical staff] administer the test through instead of doing it themselves. It felt like the janitor is the doctor and the doctors are the audience.”<sup>72</sup>

Libni T. recounted:

“When administering the ultrasound, a couple of men laid me down on a bed, two men held down my hands and another held down my legs. Then the doctor called the guy who manages the queue inside and told him to hold me down by my legs and then take off my clothes. Then I asked, “can I take it off myself?” They replied, “no, let him do that.”<sup>73</sup>

After Libni was naked and while the two men held her on the table, the doctors began shouting instructions at her:

They said, ‘no, not like this. Turn around, do this and that.’ The man was turning me around, moving me, lifting me up, and opening up my legs. It

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<sup>71</sup> Ibid.

<sup>72</sup> Human Rights Watch interview with Rima C., Dhaka, October 17, 2015.

<sup>73</sup> Human Rights Watch interview with Libni T., Dhaka, October 18, 2015.



was embarrassing. There was a woman on the next bed. Then, there was another man there who wasn't even a doctor.<sup>74</sup>

### *A Third Test*

Some interviewees told Human Rights Watch that they were taken to a room labelled “Forensics” for a third test.<sup>75</sup> Others said the examination equipment was similar to that of the ultrasound. While accounts of both the second test and the third test included specific reference to doctors putting gel on the hijras’ bodies and references to a computer, accounts of the third examination focused more on the use of gel to provoke penile erections. Some interviewees described both an ultrasound and a separate third procedure.

After they ordered the hijras to take off their clothes, the hospital staff began immediately insulting them again. Said Rima C.: “Then they told us to take off the clothes. We were wearing foamed bras. They asked, why do you have such big bras for such small boobs? You were supposed to have big boobs. What kind of hijras are you? You are pretending.”<sup>76</sup> She recounted: “There was a computer and an attached machine and gel. They pressed and rubbed the machine onto our genitals. They were trying to excite us by rubbing it to see if we were men. To see if our penis would become erect or not. They saw that nothing happened.”<sup>77</sup>

Turvi A. said:

Before lying down on the bed, they told me to open my pants and wear a lungi [single piece of cloth around the waist]. So, I lied down on that bed. After lying down, they told me: Now, take off the cloth. They again asked me to show my genitalia. I told them that I'd already done that. Then he said: “Will you open it or shall I call the police? We have the order that if you talk too much or make a chaos, then we'll call the police. Police are waiting downstairs. You can't misbehave. If you want to take the test, then take it or

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<sup>74</sup> Ibid.

<sup>75</sup> Turvi A. described it thus: “Then they told me that I had to take a test at the forensic department, hormone or something like that.” Human Rights Watch interview with Turvi A., Dhaka, October 18, 2015.

<sup>76</sup> Human Rights Watch interview with Rima C., Dhaka, October 17, 2015.

<sup>77</sup> Ibid.

leave, that's your personal matter, not my concern. But if you want to do the job, then you have to take the test."<sup>78</sup>

Turvi A. relented and took off her clothes. The staff applied gel to her abdomen and began rubbing it around her body, including on her genitals. She said:

There in a big computer of the forensic department they examine different hormones, the size of penis, testicles, semen etc. They examine what is there or not. So, they took an ultrasound test by applying gel on my genitalia. They checked whether my penis is hard or not. As I am a hijra, by no means my penis would be hard. My genitalia is not like that...maybe they thought that as we are hijra, we won't have it [a penis].<sup>79</sup>

Libni T. recounted a similar experience:

They took us into a room and checked for something by pressing a machine on my chest. There was a woman. The woman was doing something on the computer... There were two women and a man—one doctor and one woman who was like a nurse. We would lift our clothes up slightly and then the woman would take our clothes off completely. Then, the man put something like gel and pressed it on our chest, belly, our whole body.... While doing this he was saying, 'you're men.... If you got an injection you would be cured. Why do you do this [be a hijra]?'<sup>80</sup>

For some of the hijras, the experience at the hospital cemented their fears that this employment program process was more humiliating than genuinely empowering. "During the final test while we were leaving the room, we heard the doctors making fun of us. Some of them were laughing hysterically. Others were covering their faces. Some of them were shaming us by saying, 'ugh, who are these people?'" said Rima C.<sup>81</sup> "What was I supposed to do then? I turned my head to the side out of shame and stayed quiet," she said. For

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<sup>78</sup> Human Rights Watch interview with Turvi A., Dhaka, October 18, 2015.

<sup>79</sup> Ibid.

<sup>80</sup> Human Rights Watch interview with Libni T., Dhaka, October 18, 2015.

<sup>81</sup> Human Rights Watch interview with Rima C., Dhaka, October 17, 2015.

Libni T., the persistent abuse made her consider whether there might be an alternative. After a doctor, during the third test, told her to get an injection to be a real man, she recalled: “I asked, what will happen if I take the injection?”<sup>82</sup>

## Fallout After the Abuses at the Hospital

Because of me, the whole hijra community had to endure criticism. Which is why their anger is understandable.

—Libni T., [Dhaka, October, 2015]

After the humiliating treatment at the hospital, the hijras attempted to return to their communities and neighborhoods and resume their lives.

The insults from hospital staff stayed ringing in Rima C.’s ears for weeks after the incident: “They said to us: ‘You’re not hijras, you’re men. You’re men falsely claiming to be hijras. You should be sent to the police. If you get an injection then you’ll be cured.’”<sup>83</sup>

However, she said: “Still we didn’t lose hope. No, since we’ve already endured so much, we need to keep going. I want to stand with my head held high. Yes, we want to work. We won’t lag behind. They hate us, but we’ll show them that we can...do something for our country.” According to Turvi A., while the experience was deeply humiliating, “I thought, at least I’ll get the job and no one else will know.... I came back [home] happily thinking that I’d [get] a job.”<sup>84</sup>

Then, weeks after the final round of tests, various local newspapers in Dhaka published the photographs and addresses of the hijras who had been examined at DMC with headlines claiming that “12 Men Pretend to be Hijras to Attain Government Jobs.”<sup>85</sup> Rima C. first saw one of these articles when a friend posted it on Facebook. “It said that we’re fake and...other insulting comments. We’re criminals. We’re men. We dressed up as hijras just to get jobs,” Rima C. said.<sup>86</sup>

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<sup>82</sup> Human Rights Watch interview with Libni T., Dhaka, October 18, 2015.

<sup>83</sup> Ibid.

<sup>84</sup> Human Rights Watch interview with Turvi A., Dhaka, October 18, 2015.

<sup>85</sup> “12 Men Pretend to be Hijras to Attain Government Jobs”, (“হিজড়া সেজে ১২ পুরুষ চাকরি করতে গেলেন”), Prothom Alo, July 2, 2015

<sup>86</sup> Human Rights Watch interview with Rima C., Dhaka, October 17, 2015.

Joti P. was devastated by the news. Distraught, she walked aimlessly around the neighborhood near [the hospital]—and into a busy intersection. “I was walking and had no idea where I was going. I was just thinking, what did they do? They are educated people and they did this. . . they are going to kill people.” She thought: “Being a hijra, with all its struggles, people would insult us, we’re abused, I’ve gone hungry, none of that was very painful. But why did give us hope and then insult us? And they published this on internet. It was so difficult that I thought: what’s the point of living?” A hijra activist saw Joti, grabbed her, and hauled her to the side of the road and safety.<sup>87</sup> In the subsequent weeks, however, Joti’s situation did not improve:

I couldn’t even leave my house. Everybody recognizes me as I have lived there for so long. And now internet is available in every house and through mobile phone. Whoever sees me says: ‘You are a man. Why are you pretending?’ When my parents died, I didn’t feel as much pain as I feel now. Everybody has to go. But they killed us alive.<sup>88</sup>

Due to the harassment from the doctors, Libni T. became extremely confused about her own identity. She recounted:

The doctor said, you’ll become a man if you take the injection. I said, I don’t want to become man by taking injection. I want to become a woman. I want to be a hijra. I don’t want to be a man. I am not a man. How will you make me a man by giving me an injection? He said, no, it will be ok. The injection will fix everything. Don’t do all of this.... He was harassing me and scaring me by saying these things. Then I felt even more nervous. What was he talking about? Until then, I knew that I am hijra and I live with hijras. I feel comfortable identifying myself as hijra. But now he was adamantly telling me that, ‘no you’re not hijra.’ There were many moments that I felt really nervous and was really scared. At times I felt very disheartened. What is going on? Till now, I didn’t understand who or what I really am. They confused me so much by negating everything I said. I feel comfortable with my hijra identity. I consider myself to be hijra. But after seeing how these

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<sup>87</sup> Human Rights Watch interview with Joti P., Dhaka, October 18, 2015.

<sup>88</sup> Ibid.

doctors behaved and what they said, I no longer know recognize myself. Who am I? Am I a woman or man or hijra. Or is my identity the one they're forcing on me? I was in a state of confusion.<sup>89</sup>

Interviewees told Human Rights Watch how the publicity about this group of “fake hijras” created significant tension within hijra communities. Those who had not participated in the employment scheme and medical tests felt that the group who had betrayed the entire community because the incident triggered negative media coverage that made appearing in public and begging for money even more difficult. According to Libni T.: “Because of me, the whole hijra community had to endure criticism. Which is why their anger is understandable. It’s not abnormal. So they said things and forbade us [from working or living in hijra communities] out of anger.”<sup>90</sup>

According to Turvi A., while the doctor was examining her at DMC: “[the doctor] asked me in an insulting tone: ‘Why did you come here?’ I asked: ‘Why? Can’t you see why I came here?’ He said: ‘You have everything. Your everything [physical features] is fine. So, why did you come here? It’s a sign of madness.’”<sup>91</sup> For Rima C., the abuses suffered during this process reflected the harsh realities hijras face in daily life—though this time in a medical setting: “People abuse us, and at the hospital we face the same treatment. So then what rights do we have? What recognition? What kind of recognition is this if it doesn’t entitle us to any rights?”<sup>92</sup> In pursuit of employment, Libni T. was willing to endure extreme abuses. But the degree of betrayal, in the end, even shocked her:

I thought all of this would be worth it for a government job. That’s why, even after all the humiliation and hardship, I went through with it. After everything, they didn’t even recognize us as hijras. Instead, they told us that we are men.... They have the misconception that the hijras have both a vagina and a penis. That’s not true. Before examining us, they should have been made aware of how one becomes a hijra and where hijras come from.... Instead, they harassed us.<sup>93</sup>

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<sup>89</sup> Human Rights Watch interview with Libni T., Dhaka, October 18, 2015.

<sup>90</sup> Ibid.

<sup>91</sup> Human Rights Watch interview with Turvi A., Dhaka, October 17, 2015.

<sup>92</sup> Human Rights Watch interview with Rima C., Dhaka, October 17, 2015.

<sup>93</sup> Human Rights Watch interview with Libni T., Dhaka, October 18, 2015.

## Best Practices for Legal Gender Recognition

Why humiliate us like this? You should have known beforehand what a hijra is. Hijra is neither man nor woman. Hijra is hijra.

—Rima C., [Dhaka, October, 2015]

While medical science has developed significantly and procedures and treatments related to gender transition and affirmation are available in some parts of the world, international standards and best practices call for separation of legal and medical processes for transgender people. Domestic laws around the world are increasingly reflecting these standards.

Surgeries as a required part of the legal recognition process for transgender people—specifically sterilization surgeries, or the removal of genitals—have been widely condemned.<sup>94</sup> In broader terms, principle 3 of the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity notes that:

Everyone has the right to recognition everywhere as a person before the law. Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person’s self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity, and freedom. *No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilization or hormonal therapy, as a requirement for legal*

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<sup>94</sup> Report of the Special Rapporteur on Torture, UN Doc. A/HRC/22/53, para. 78., para 88.; Human Rights Council, Discriminatory Laws and Practices and Acts of Violence against Individuals Based on Their Sexual Orientation and Gender Identity: Report of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/19/41 (November 17, 2011), para. 72.; OHCHR et al., *Eliminating Forced, Coercive and Otherwise Involuntary Sterilization*, p. 10, p. 13; Human Rights Council, Discrimination and Violence against Individuals Based on Their Sexual Orientation and Gender Identity: Report of the Office of the United Nations High Commissioner for Human Rights, UN Doc. A/HRC/29/23 (May 4, 2015), para. 79(i); Health Policy Project, Asia Pacific Transgender Network, United Nations Development Programme, *Blueprint for the Provision of Comprehensive Care for Trans People and Trans Communities in Asia and the Pacific* (Washington, DC: Futures Group, Health Policy Project, 2015), p. 112, [http://www.healthpolicyproject.com/pubs/484\\_APTBFINAL.pdf](http://www.healthpolicyproject.com/pubs/484_APTBFINAL.pdf) (accessed January 12, 2016); Parliamentary Assembly of the Council of Europe, Resolution 1945 (2013), June 2013. <http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=19984&Language=EN>.

*recognition of their gender identity.* No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person's gender identity. No one shall be subjected to pressure to conceal, suppress, or deny their sexual orientation or gender identity.<sup>95</sup>

A 2015 joint statement issued by 12 United Nations agencies, including the World Health Organization (WHO), called on states to uphold their international human rights obligations by “Ensuring legal recognition of the gender identity of transgender people without abusive requirements.”<sup>96</sup>

International expert bodies have in recent years strengthened their positions against medical intervention models for legal gender recognition.

The World Professional Association for Transgender Health (WPATH), an international multidisciplinary professional association aimed at promoting evidence-based care, education, research, advocacy, public policy, and respect in transgender health and comprised of over 700 members worldwide, called for removal of any sterilization requirements as part of legal gender recognition in a 2010 statement.<sup>97</sup> WPATH stated:

No person should have to undergo surgery or accept sterilization as a condition of identity recognition. If a sex marker is required on an identity document, that marker could recognize the person's lived gender, regardless of reproductive capacity. The WPATH Board of Directors urges governments and other authoritative bodies to move to eliminate requirements for identity recognition that require surgical procedures.<sup>98</sup>

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<sup>95</sup> Principle 3 of The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, [http://www.yogyakartaprinciples.org/principles\\_en\\_principles.htm](http://www.yogyakartaprinciples.org/principles_en_principles.htm).

<sup>96</sup> United Nations Joint Statement, “United Nations entities call on States to act urgently to end violence and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI)1 adults, adolescents and children,” September 2015, [http://www.ohchr.org/Documents/Issues/Discrimination/Joint\\_LGBTI\\_Statement\\_ENG.PDF](http://www.ohchr.org/Documents/Issues/Discrimination/Joint_LGBTI_Statement_ENG.PDF)

<sup>97</sup> WPATH statement (June 10, 2010), [http://www.wpath.org/uploaded\\_files/140/files/Identity%20Recognition%20Statement%206-6-10%200n%20letterhead.pdf](http://www.wpath.org/uploaded_files/140/files/Identity%20Recognition%20Statement%206-6-10%200n%20letterhead.pdf) (accessed July 25, 2016).

<sup>98</sup> Ibid.

In 2015 WPATH updated the statement, reiterating its condemnation of forced sterilization, and expanding its critique of arduous and medicalized procedures for legal gender recognition, saying: “No particular medical, surgical, or mental health treatment or diagnosis is an adequate marker for anyone’s gender identity, so these should not be requirements for legal gender change.”<sup>99</sup>

Courts in Asia have demonstrated a commitment to medical non-interference in legal gender recognition processes, including in the following cases:

- In a 2007 judgment, the Nepal Supreme Court’s definition of a third gender category situated it as a minority encompassing a broad range of identities for transgender and gender non-conforming people.<sup>100</sup> A 2014 study found that respondents gave 16 different terms for their gender identities.<sup>101</sup> The court made clear that the sole criterion for being legally recognized as *third gender* on documents and in government registers was an individual’s “self-feeling.”<sup>102</sup> The judgment cited the right to recognition before the law, guaranteed by article 16 of the International Covenant on Civil and Political Rights, as well as the Yogyakarta Principles.
- In 2014, India’s Supreme Court stated clearly that undertaking medical procedures should not be a requirement for legal recognition of gender identity. The court said: “Few persons undertake surgical and other procedures to alter their bodies and physical appearance to acquire gender characteristics of the sex which conform to their perception of gender, leading to legal and social complications since official record of their gender at birth is found to be at variance with the assumed gender identity.” And continued: “Gender identity, therefore, refers to an individual’s self-identification as a man, woman, transgender or other identified category.” The

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<sup>99</sup> World Professional Association for Transgender Health, “2015 WPATH Statement on Identity Recognition,” [http://www.wpath.org/site\\_page.cfm?pk\\_association\\_webpage\\_menu=1635&pk\\_association\\_webpage=6639](http://www.wpath.org/site_page.cfm?pk_association_webpage_menu=1635&pk_association_webpage=6639) (accessed December 1, 2016).

<sup>100</sup> Michael Bochenek and Kyle Knight, “Establishing a Third Gender Category in Nepal: Process and Prognosis,” *Emory International Law Review*, Vol. 26, Issue 1, 2012: [http://law.emory.edu/eilr/\\_documents/volumes/26/1/recent-developments/bochenek-knight.pdf](http://law.emory.edu/eilr/_documents/volumes/26/1/recent-developments/bochenek-knight.pdf) (accessed January 12, 2016).

<sup>101</sup> Kyle Knight, Andrew Flores, and Sheila Nezhad, “Surveying Nepal’s Third Gender,” *Transgender Studies Quarterly*, Vol 2, No. 2, 2015; The Williams Institute, “Surveying Nepal’s Sexual and Gender Minorities: An Inclusive Approach,” October 2014, <http://williamsinstitute.law.ucla.edu/research/international/surveying-nepals-sexual-and-gender-minorities/> (accessed January 12, 2016).

<sup>102</sup> *Pant v. Nepal*, Writ No. 917 of the Year 2064 BS (2007 AD), translated in NAT’L JUD. ACAD. L.J., 2008, at 262. <http://www.gaylawnet.com/laws/cases/PantvNepal.pdf> (accessed January 12, 2016).



court made it clear that mandatory sterilization and other medical procedures should not be required to change one's legal gender identity: "no one shall be forced to undergo medical procedures, including SRS, sterilization or hormonal therapy, as a requirement for legal recognition of their gender identity."<sup>103</sup>

- In 2015, the Delhi High Court reinforced that, "Everyone has a fundamental right to be recognized in their gender" and that "gender identity and sexual orientation are fundamental to the right of self-determination, dignity and freedom."<sup>104</sup>

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<sup>103</sup> *National Legal Services Center v. Union of India and Others*, WRIT PETITION (CIVIL) NO.400 OF 2012, <http://www.lawyerscollective.org/wp-content/uploads/2014/04/Transgender-judgment.pdf> (accessed January 12, 2016).

<sup>104</sup> *Bhat v. State of NCT of Delhi and Others*, W.P.(CRL) 2133/2015, <http://lobis.nic.in/dhc/SID/judgement/05-10-2015/SID05102015CRLW21332015.pdf> (accessed January 12, 2016).

## Recommendations

### To the Ministry of Law, Justice, and Parliamentary Affairs

- Work with the National Human Rights Commission, the Ministry of Social Welfare, and the Ministry of Health and Family Welfare to draft a rights-based legal recognition procedure so that hijras can be recognized according to their identity through a simple, transparent, and respectful process. The procedure should be consistent with the Yogyakarta Principles, including the precept that “each person’s self-defined...gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom”;
- Include in its legal gender recognition procedure specific mention of the international human rights and medical best practice standards that call for the legal recognition process to be separate from any medical interventions;
- Implement third gender recognition by allowing individuals to identify themselves as third gender on all legal documents such as passports, National ID cards, educational certificates, and so on.

### To the Ministry of Health and Family Welfare

- Liaise with national and international health experts, including the World Professional Association of Transgender Health, to bring Bangladesh’s medical curriculum and transgender healthcare standards in line with global best practices.

### To the Ministry of Social Welfare

- Provide sensitivity training for all staff in the Department of Social Welfare who will be working with hijras through the Hijra Living Standard Development Program;
- While the process of developing a legal gender recognition procedure is underway, create employment opportunities for the 12 hijras selected in 2014 for the government employment program who have since lost their livelihoods, and to call on employers to provide sensitivity training for the hijras’ colleagues.

## **Acknowledgments**

Kyle Knight, researcher in the lesbian, gay, bisexual, and transgender rights program and another Human Rights Watch researcher researched and wrote this report.

The report was reviewed by Graeme Reid, LGBT rights director, Diederik Lohman, health and human rights director, Tejshree Thapa, Saroop Ijaz, and Jayshree Bajoria, South Asia researchers, as well as Meenakshi Ganguly, South Asia director. Clive Baldwin, senior legal adviser, and Joseph Saunders, deputy program director, provided legal and program review. An earlier version of the material presented in the report was reviewed by Neela Ghoshal, senior researcher in the LGBT rights program.

Additional production assistance was provided by Olivia Hunter, publications associate; Fitzroy Hepkins, administrative manager; and Jose Martinez, senior coordinator.

# **Appendix 1: The People's Republic of Bangladesh**

## **Department of Health**

**Mohakhali, Dhaka**

No: department of health/administration-3/part-3/2008/475

Date: 27/01/2015

Subject: Regarding the identification of actual hijras in order to implement the living standard development program for the hijra community.

In regards to this subject, based on the memorandum of the Family and Health Administration's economic units gender, NGO and sector holder participation unit dated as 09/08/2014 shapkom/department of health and economy/GNSP/gender/sokmobi/64/2010/269 sector and from the social service administration 06/24/2014 sokom/work-1/hijra-15/2013-376 sector, we request that necessary steps are taken to identify authentic hijras by conducting a thorough medical check-up with the help of the officials of the Upazilla Health Complex and the doctors of District Hospitals in order to provide field training under the living standard development program for the hijra community, to grant financial assistance to hijras 50 years old or above who are weak and unable to work and to provide educational scholarships to different levels of school going hijras.

Dr. Mohammed Ihteshamul Haque Chowdhury  
Director (Administration)  
Department of Health  
Mohakhali, Dhaka

They are sent to take important steps:

1. Director (health),.....sector,.....(all).
2. Assistant Director (MIS), Department of Health, Mohakali, Dhaka. I am requesting to send the letter to everyone via email and publish it on website.
3. Civil Sergeant,.....(all).
4. The officials of State Health and Family Administration,.....(all)

For your kind information:

1. Secretary, Department of Health and Family Development. Director of economic unit,
2. Secretary, Social Service Administration. Assistant senator (workprogram-1)
3. Director, Department of Health, Mohakali, Dhaka. Assistant Director

Dr.Masum Ali

Assistant Director (sector-1)

Department of Health, Mohakhali Dhaka

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার  
স্বাস্থ্য অধিদপ্তর  
মহাখালী ঢাকা।

নং-স্বাঃ অধিঃ/প্রশা-৩/বিবিধ-৩/২০০৮/ ৪৭৫

তারিখঃ ২৭/০১/২০১৫ ইং।

বিষয় : হিজড়া জনগোষ্ঠীর জীবনমান উন্নয়ন কর্মসূচি বাস্তবায়নের নিমিত্ত প্রকৃত হিজড়া চিহ্নিতকরণের বিষয়ে ব্যবস্থা গ্রহণ প্রসংগে।

উপর্যুক্ত বিষয়ে স্বাস্থ্য ও পরিবার কল্যাণ মন্ত্রণালয়ের স্বাস্থ্য অর্থনীতি ইউনিটের জেডার, এনজিও এড স্টেকহোল্ডার পার্টিসিপেশন ইউনিটের ০৮/০৯/২০১৪ খ্রিঃ তারিখের স্বাপকম/স্বাঃঅর্থঃ/জিএনএসপি/জেডার/সকমবিঃ/৬৪/২০১০/২৬৯ নম্বর স্মারক এবং সমাজ কল্যাণ মন্ত্রণালয়ের ২৪/৬/২০১৪ ইং তারিখের সকম/কর্ম-১শা/হিজড়া-১৫/২০১৩-৩৭৬ নম্বর স্মারক পত্রের প্রেক্ষিতে মাঠ পর্যায়ে হিজড়া জনগোষ্ঠীর জীবনমান উন্নয়ন কর্মসূচির আওতায় প্রশিক্ষণ কার্যক্রম, ৫০ বছর বা তদুর্ধ্ব অক্ষম/দৃঃস্থ হিজড়াদের ভাতা কার্যক্রম এবং বিভিন্ন স্তরের হিজড়া শিক্ষার্থীদের মাঝে শিক্ষা উপবৃত্তি কার্যক্রম বাস্তবায়নের নিমিত্ত উপজেলা স্বাস্থ্য ও পরিবার পরিকল্পনা কর্মকর্তা এবং জেলা পর্যায়ের সিভিল সার্জনের মাধ্যমে ডাক্তারী সনাক্তকরণের বিষয়ে প্রকৃত হিজড়া চিহ্নিত করার প্রয়োজনীয় ব্যবস্থা গ্রহণের জন্য নির্দেশক্রমে অনুরোধ করা হলো।

ডাঃ মোঃ ইহতেশামুল হক চৌধুরী  
পরিচালক (প্রশাসন)  
স্বাস্থ্য অধিদপ্তর, মহাখালী, ঢাকা।

নং-স্বাঃ অধিঃ/প্রশা-৩/বিবিধ-৩/২০০৮/ ৪৭৫ (৩) তারিখঃ ২৭/০১/২০১৫ ইং।  
প্রয়োজনীয় ব্যবস্থা গ্রহণের জন্য প্রেরণ করা হলোঃ

১. পরিচালক (স্বাস্থ্য), -----বিভাগ, -----(সকল)।
২. সহকারি পরিচালক (এমআইএস), স্বাস্থ্য অধিদপ্তর, মহাখালী, ঢাকা। পত্রখানা ই-মেইলের মাধ্যমে সংশ্লিষ্ট সকলের নিকট প্রেরণ এবং ওয়েব সাইটে প্রকাশের জন্য অনুরোধ করা হলো।
৩. সিভিল সার্জন, -----(সকল)।
৪. উপজেলা স্বাস্থ্য ও পরিবার পরিকল্পনা কর্মকর্তা, -----(সকল)।

সদয় অবগতির জন্য :

১. সচিব, স্বাস্থ্য ও পরিবার কল্যাণ মন্ত্রণালয়। দৃঃ আঃ উপ-প্রধান, স্বাস্থ্য অর্থনীতি ইউনিট।
২. সচিব, সমাজ কল্যাণ মন্ত্রণালয়। দৃঃ আঃ সহকারি সচিব (কর্মসূচি-১ শাখা)।
৩. মহাপরিচালক, স্বাস্থ্য অধিদপ্তর, মহাখালী, ঢাকা। দৃঃ আঃ সহকারি পরিচালক (সমন্বয়)।

ডাঃ মোঃ মাসুম আলী  
সহকারি পরিচালক (প্রশাসন-১)  
স্বাস্থ্য অধিদপ্তর, মহাখালী, ঢাকা।

## **Appendix 2: The Living Standard Development Programme for the Hijra Community**

### Introduction:

The hijra community is a very small part of the total population in Bangladesh. However, from the very beginning, they have been known as a neglected and underdeveloped community. Now, it is essential to ensure the safety of this socially discriminated community by not only improving their living standards, socio-economic conditions, education and health but more importantly by involving them, as part of mainstream society, in the process of development of the country. According to the survey of social service statistics, there are almost 10 thousand Hijras live in Bangladesh.

### Brief description of the program:

This pilot program took place in 7 districts from 2012-13 budget years. Those 7 districts are Dhaka, Chittagong, Dinajpur, Potuakhali, Khulna, Bogura and Sylhet.

In 2012-13 the total budget of the program was 72, 17,000 (seven million two hundred and seventeen thousand) taka.

The program was extended to another 14 new districts in 2013-14 budget years, which establishes a total of 21 districts under this program. These districts are: Dhaka, Gajipur, Netrokona, Foridpur, Rajbari, Chittagong, Chadpur, Lokhipur, Brammonbaria, Kumilla, Bogura, Joipurhat, Nowga, Sirajgong, Khulna, Jhinaidoho, Khustia, Dinajpur, Pirojpur, Potuakhali, Sylhet.

At that year the total budget for 21 districts was 4, 07, 31,600 (forty million seven hundred and thirty-one thousand six hundred) taka.

The program took place in 21 districts in the 2014-15 budget year. During this time period, the total budget was 4, 58, 72,000.00 (forty five million eight hundred and seventy two thousand) taka.

In the 2015-16 budget year, a part from those 21 districts, 43 new districts were included under this program which establishes a total of 64 districts.

In 2015-16, the total budget was 8, 00, 00,000 (eighty million) taka.

Implemented activities:

1. In order to encourage school going hijras, 4 levels of scholarships are offered.

These are:

- |                                    |      |
|------------------------------------|------|
| A. Primary level monthly:          | 300  |
| B. Secondary level monthly:        | 450  |
| C. Higher Secondary level monthly: | 600  |
| D. Highest level monthly:          | 1000 |

2. Hijras of age 50 or above who are weak and unable to work, will receive a senior fund/ special fund in the amount of 500 taka per month.
3. We can consider the hijra community as part of mainstream society by improving their skills and expertise with proper training and by employing them.
4. Upon completion of training they will be given 10,000 taka.

The number of beneficiaries of the current program:

The number of beneficiaries in 2012-13:

- Educational scholarships for 4 levels: 135 people
- Training: 350 people
- Total beneficiaries: 485 people

The number of total beneficiaries in 2013-14

- Senior/special grant: 1071 people
- 4 levels of educational scholarships: 762 people
- Socio-economic training: 950 people
- Post-training grant: 120 people
- Total beneficiaries: 2903 people



The number of total beneficiaries in 2014-15 budget years:

- Senior/special grant: 1300 people
- 4 levels of educational scholarships: 789 people
- Socio-economic training: 850 people
- Post-training grant: 340 people
- Total beneficiaries: 3279 people

The number of total beneficiaries in 2015 -16 budget years:

- Senior/ special grant: 2340 people
- 4 levels of educational scholarships: 1476 people
- Socio-economic training: 1500 people
- Post-training grant: 1500 people
- Total beneficiaries: 6816 people

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## হিজড়া জনগোষ্ঠীর জীবনমান উন্নয়ন কর্মসূচি

### ভূমিকা:

হিজড়া সম্প্রদায় বাংলাদেশের মোট জনসংখ্যার একটি ক্ষুদ্র অংশ হলেও আবহমান কাল থেকে এ জনগোষ্ঠী অবহেলিত ও অনগ্রসর গোষ্ঠী হিসেবে পরিচিত। সমাজে বৈষম্যমূলক আচরণের শিকার এ জনগোষ্ঠীর পারিবারিক, আর্থ সামাজিক, শিক্ষা ব্যবস্থা, বাসস্থান, স্বাস্থ্যগত উন্নয়ন এবং সামাজিক নিরাপত্তা নিশ্চিতকরণ সর্বোপরি তাদেরকে সমাজের মূল শ্রোতধারায় এনে দেশের সার্বিক উন্নয়নে তাদেরকে সম্পৃক্তকরণ অতি জরুরি হয়ে পড়েছে। সমাজসেবা অধিদফতরের জরিপ মতে বাংলাদেশে হিজড়ার সংখ্যা প্রায় ১০ হাজার।

### কর্মসূচির সংক্ষিপ্ত পটভূমি:

২০১২-১৩ অর্থ বছর হতে পাইলট কর্মসূচি হিসেবে দেশের ৭টি জেলায় এ কর্মসূচি শুরু হয়। ৭টি জেলা হচ্ছে যথাক্রমে- ঢাকা, চট্টগ্রাম, দিনাজপুর, পটুয়াখালী, খুলনা, বগুড়া এবং সিলেট।

২০১২-১৩ অর্থ বছরে মোট বরাদ্দ ছিল ৭২,১৭,০০০/- (বাহাত্তর লক্ষ সতের হাজার) টাকা।

২০১৩-১৪ অর্থ বছরে নতুন ১৪ টি জেলায় কর্মসূচি সম্প্রসারণ করে মোট ২১টি জেলায় এ কর্মসূচি বাস্তবায়িত হয়েছে। জেলাসমূহ যথাক্রমে - ঢাকা, গাজীপুর, নেত্রকোণা, ফরিদপুর, রাজবাড়ী, চট্টগ্রাম, চাঁদপুর, লক্ষ্মীপুর, ব্রাহ্মণবাড়ীয়া, কুমিল্লা, বগুড়া, জয়পুরহাট, নওগাঁ, সিরাজগঞ্জ, খুলনা, ঝিনাইদহ, কুষ্টিয়া, দিনাজপুর, পিরোজপুর, পটুয়াখালী, সিলেট।

উক্ত অর্থ বছরে ২১ টি জেলার জন্য মোট বরাদ্দ ছিল ৪,০৭,৩১,৬০০/- (চার কোটি সাত লক্ষ একত্রিশ হাজার ছয়শত টাকা)।

২০১৪-১৫ অর্থ বছরে পূর্বের ২১ জেলায় বাস্তবায়িত হয়। উক্ত অর্থ বছরে কর্মসূচির মোট বরাদ্দ ছিল ৪,৫৮,৭২,০০০.০০/- (চার কোটি আটান্ন লক্ষ বাহাত্তর হাজার) টাকা।

২০১৫-১৬ অর্থ বছরে পূর্বের ২১ জেলাসহ নতুন ৪৩ টি জেলায় কর্মসূচি সম্প্রসারণ করে মোট ৬৪ জেলায় এ কার্যক্রম বাস্তবায়িত হচ্ছে।

২০১৫-১৬ অর্থ বছরে মোট বরাদ্দকৃত অর্থের পরিমাণ ৮,০০,০০,০০০/- (আট কোটি) টাকা।  
বাস্তবায়িত কার্যক্রম সমূহ :

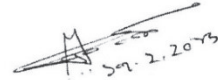
১. স্কুলগামী হিজড়া শিক্ষার্থীদের শিক্ষিত করে গড়ে তোলার লক্ষ্যে ৪ স্তরে উপবৃত্তি প্রদান করা হচ্ছে। উপবৃত্তির হার যথাক্রমেঃ

(ক) প্রাথমিক স্তর মাসিক -	ঃ ৩০০/-
(খ) মাধ্যমিক স্তর মাসিক -	ঃ ৪৫০/-
(গ) উচ্চ মাধ্যমিক স্তর মাসিক -	ঃ ৬০০/-
(ঘ) উচ্চতর স্তর মাসিক -	ঃ ১০০০/-

২. ৫০ বছর বা তদুর্ধ্ব বয়সের অক্ষম ও অসচ্ছল হিজড়াদের বয়স্ক ভাতা/ বিশেষ ভাতা মাসিক ৫০০/- করে প্রদান ;

৩. বৃত্তিমূলক প্রশিক্ষণের মাধ্যমে কর্মক্ষম হিজড়া জনগোষ্ঠীর দক্ষতা বৃদ্ধি ও আয়বর্ধনমূলক কর্মকাণ্ডে সম্পৃক্ত করে তাদের সমাজের মূল শ্রোতধারায় আনয়ন ;

৪. ১০,০০০ টাকা করে প্রশিক্ষণোত্তর আর্থিক সহায়তা প্রদান।

  
১৭. ২. ২০১৬

চলমান কার্যক্রমে বছরওয়ারী উপকারভোগীর সংখ্যা:

২০১২-১৩ সালে উপকারভোগীদের সংখ্যাঃ

- শিক্ষা উপবৃত্তি ৪টি স্তরে : ১৩৫ জন।
- প্রশিক্ষণ : : ৩৫০ জন।
- মোট উপকৃতের সংখ্যা- : ৪৮৫ জন।

২০১৩-১৪ অর্থবছরে মোট উপকারভোগীদের সংখ্যা :


- বয়স্ক/বিশেষ ভাতাভোগী : ১০৭১ জন।
- ৪টি স্তরে শিক্ষা উপবৃত্তি গ্রহণকারী : ৭৬২ জন।
- আর্থসামাজিক প্রশিক্ষণ গ্রহণকারী : ৯৫০ জন।
- প্রশিক্ষণোত্তর সহায়তা গ্রহণকারী : ১২০ জন
- মোট উপকারভোগী : ২৯০৩ জন।

২০১৪-১৫ অর্থবছরে মোট উপকারভোগীদের সংখ্যা :

- বয়স্ক/বিশেষ ভাতাভোগী : ১৩০০ জন।
- ৪টি স্তরে শিক্ষা উপবৃত্তি গ্রহণকারী : ৭৮৯ জন
- আর্থসামাজিক প্রশিক্ষণ গ্রহণকারী : ৮৫০ জন।
- প্রশিক্ষণ সহায়তা গ্রহণকারী হবে : ৩৪০ জন।
- মোট উপকারভোগী : ৩২৭৯ জন।

২০১৫-১৬ অর্থবছরে মোট উপকারভোগীদের সংখ্যা :

- বয়স্ক/বিশেষ ভাতাভোগী : ২৩৪০ জন।
- ৪টি স্তরে শিক্ষা উপবৃত্তি গ্রহণকারী : ১৪৭৬ জন।
- আর্থসামাজিক প্রশিক্ষণ গ্রহণকারী : ১৫০০ জন।
- প্রশিক্ষণ সহায়তা গ্রহণকারী হবে : ১৫০০ জন।
- মোট উপকারভোগী : ৬৮১৬ জন।

  
(আব্দুর রাজ্জাক হাওলাদার)

কর্মসূচি পরিচালক  
হিজড়া জনগোষ্ঠীর জীবনমান উন্নয়ন কর্মসূচি  
সমাজসেবা অধিদফতর  
আগারগাঁও, ঢাকা।

# “I Want to Live With My Head Held High”

## Abuses in Bangladesh’s Legal Recognition of Hijras

Bangladesh has taken important steps in recent years toward respecting the rights of hijras—people who are assigned male at birth and then develop a feminine gender identity—through legal recognition and socio-economic inclusion programs. However, the lack of a clear rights-based procedure for recognizing hijras continues to leave them marginalized, and exposes them to further abuses by allowing officials and medical practitioners to act on invidious stereotypes and apply invasive procedures in adjudicating their identities.

*“I Want to Live With My Head Held High”* documents the fall-out from the lack of a rights based procedure when, in 2014 and 2015, a group of hijras was recruited by the government for an employment program. As part of the vetting process for the program, hijras were sent to a hospital for medical exams—and faced harassment and physical abuse at the hands of doctors and non-medical staff. During these unnecessary and abusive so-called examinations, hospital staff threatened the hijras with arrest, insulted their appearance and identity, and forced hijras to expose their genitals and undergo invasive medical procedures.

The government of Bangladesh took an important step in declaring its recognition of hijras, but, for the reasons detailed in this report, it urgently needs to implement a rights-based procedure that privileges identity over medical intervention for their recognition. Anything less will leave hijras exposed to further abuses.



*A Hijra in Dhaka, Bangladesh.*

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