

QUICK GUIDE TO ADDRESSING SEXUAL RIGHTS ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON BANGLADESH^[1]

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- The full text of those paragraphs
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.
- In all cases we have included suggested questions and recommendations

References in the two working languages of the Council (English and French) have been kept in their original language.

Issues are highlighted, while **recommendations** are in bold and underlined.

All sexual rights issues that do not relate specifically to women are referred to in this Guide. Sexual rights' issues referring specifically to women -as well as other women's issues- are referred to in the Guide on Women's Issues

Issue	National Report	Compilation	Summary
Child Sexual Abuse, Exploitation and Trafficking	Plan of Action (86)	Sexual abuse and violence by police officers against street/prostitute children (19); lack of legal guarantees for street children (24); concern about seriousness of the problem, need for measures (20)	
Sexual orientation and gender identity		Discrimination (27)	Police abuse and violence; lack of penalties for male-male rape (25); Criminalization of 'sex against nature' (30); health hazards of ritual castration among hijras (40)

Child sexual abuse, exploitation and trafficking

The government has adopted a **National Plan of Action against Sexual Abuse and Exploitation of Children including Trafficking** in 2002. An Implementation and Monitoring Committee was set up to ensure coordination and monitoring of this Plan of Action (Para 86, NR).

Although the Committee on the Rights of the Child (CRC) welcomed this Plan of Action (Para 5, Compilation), it expressed concern at reported **violence against children living or working on the streets**, including sexual abuse and physical brutality, directed at these children by police officers (Para 19, Compilation). In 2003, CRC was concerned at: the absence of juvenile courts and judges in some parts of Bangladesh; the extensive discretionary powers of the police, reportedly resulting in incarceration of street children and child prostitutes; the use of caning and whipping as a sentence for juvenile offenders; the failure to ensure full respect for the right to a fair trial, including legal assistance for alleged offenders and the very long periods of pre-trial detention; and the detention of children with adults and in very poor conditions (Para 24, Compilation).

CRC was also concerned at the **high incidence of abuse, including sexual abuse and at the lack of effective measures to combat this phenomenon**. Despite measures taken to prevent trafficking in children, CRC in 2007 and CEDAW in 2004 raised concerns about the serious problem of commercial sexual exploitation of children. An International Labour Organization (ILO) Committee of Experts in 2008 **encouraged the Government to redouble its efforts to eliminate the trafficking of children under 18 years for labour and sexual exploitation** (Para 20, Compilation).

Sexual orientation /Gender identity

A 2004 UNDP report noted that **men who have sex with men and hijras reported being severely discriminated against** because of their sexual orientation (Para 27, Compilation). Sexual Rights Initiative (SRI) stated that Hijra, Kothi and other 'effeminate' males are often vulnerable to **abduction, arbitrary arrests, detention, beatings and gang rape by the law enforcing agencies and local thugs** (Para 25, Summary)

SRI stated that the Section 377 of the Penal Code **criminalizes sexuality against the 'order of nature.'** The punishments for crimes perpetrated under this section include fines and an imprisonment of up to ten years. SRI noted that there has not been any case tried or filed under this section. Nonetheless, section '377' is said to have been invoked by the law enforcing agencies to bully Hijra, Kothi and LGBT-identified communities (Para 30, Summary).

SRI noted that there is **no law to penalize "male to male" rape** (Para 25, Summary).

SRI noted that the practice of **ritual castration** popular among the Hijra community involves serious health hazards as they are always surreptitiously performed by ritual cutters in extreme unhygienic conditions (Para 40, Summary).

On sexual orientation and gender identity issues:

- To de-criminalize consensual same sex sexuality between adults by abolishing penal code 377, in accordance with international human rights obligations to which Bangladesh is a signatory (such as the International Covenant on Civil and Political Rights^[2]).
- To formulate a separate law if necessary to address the issue of male rape or to broaden the juridical constituency of extant rape laws to include male to male rape
- To carry out systematic documentation of the abuses suffered by the people with non-normative gender and sexual preferences.
- To introduce medical services in public hospitals for the sexual minority community suffering from HIV and STD and to incorporate the issues related to sexual minority community into the national AIDS policy and strategic plans for HIV and AIDS prevention
- To ensure the rights of the NGOs working with the marginal communities like the Hijra, Kothi and males having sex with males.
- To introduce provisions for 'sex reaffirmation/reassignment surgery' for those (grown up transsexuals) willing to transition and to stop non-consensual sex assignment at birth
- To generate employment opportunities for the Hijra, Kothi and other low-income sexually marginal groups
- To conduct sensitivity-training with teachers, to make schools safe for children and youth with non-normative gender preferences and expressions as a way to ensure that they will be able to exercise their right to education.
- To hold dialogues at the regional and national level on issues related to same sex sexualities and transsexual gender identities involving all the stakeholders including medical professionals, rights activists, academics, journalist, religious leader, government personnel and the sexual minority community.
- To introduce non-normative gender and sexuality issues in the national educational curriculum to dispel prejudices against the lesbian, gay, bisexual, transgender, Hijra, Kothi and other such groups
- To provide special training sessions for the media so that reporting of incidents of human rights violations against gender and sexual minority communities occur on a regular basis.

On HIV/AIDS issues:

- To create a legal framework to protect the rights of the people living with HIV and AIDS.
- To train up and sensitize the law enforcing agencies so that the AIDS/STD-preventive activities do not get interrupted

^[1] These Guides were produced by the Sexual Rights Initiative, a coalition of organizations based in Africa, Asia, Eastern Europe, Latin America and North America whose mandate is to advance women's issues broadly and sexual rights issues in the Human Rights Council. For questions, comments, suggestions please contact Alejandra Sardá-Chandiramani at alejandra@mulabi.org

^[2] In 1994 the Committee on Civil and Political Rights understood that penalizing consensual same-sex practices between adults constituted discrimination based on sex and thus violated Article 2 of the Covenant (*Toonen v/Australia*).