

**DISSERTATION**

**ON**

**Legal Analysis of The Right to Education and Employment  
of the Transgender People in Bangladesh**

**SUBMITTED BY**

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# **Legal Analysis of The Right to Education and Employment of the Transgender People in Bangladesh**

## **Abstract**

One of the requirements for a just society is the protection of transgender as third gender human rights. Because of negative public perceptions toward this part, the transgender is generally regarded to be at high risk for abuse of social harassment. As a result, they remain far behind in terms of basic requirements and fundamental rights, which impedes the fulfilment of transgender human rights. The main objective of this study is to explore how far our education and employment systems are still incompatible with our country's transgender population. This study looks at why the transgender community has been left out, and it shows how to protect human rights in Bangladesh's current legal system by getting around the problems. As a result, this research seeks to identify the efficiency of existing laws and regulations in addressing the problem of transgenders as well as the gaps. For that purpose, this research has made several recommendations for resolving the issues and obstacles.

Keywords: Transgender, Educational right, Employment right, Third gender, human rights,

Negligence.

## Abbreviations

National Human Rights Commission	NHRC
Asia Pacific Coalition on Male Sexual health	APCOM
Universal Declaration of Human Rights	UDHR
United Nations General Assembly	UNGA
International Covenant on Civil and Political Rights	ICCPR
International Covenant on Economic, Social and Cultural Rights	ICESCR
Government of People's Republic of Bangladesh	GOB

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# Chapter-1

## **1.1. Introduction**

In Bangladesh, transgender persons are usually referred to as "Hijra."<sup>1</sup> They comprise the most disadvantaged group in society. They experience violence, injustice, and hostility in every aspect of their lives. The policy gap is one of the most significant factors impeding transgender education and work rights.<sup>2</sup>

There is no established law for their work, and the state provides no guidance on how they could serve to society. Because of people's negligence, organizational indifference, and policies, the educational status of transgender people is quite poor.<sup>3</sup> In an interview which is conducted by Human Rights Watch with transgenders, its majority tried to tell the interviewer that they face abusive behaviour, harassment, and often physical assault for their showings or behaviour, and many of those were ejected from school while their gender identification was revealed.<sup>4</sup>

Deficiency of education is just another major reason for being excluded from the employment market.<sup>5</sup> Article 17 of our Constitution assures us a free and mandatory education; hence it is imperative that strict rules should be adopted and followed on this basis.<sup>6</sup> State and society also fail miserably whenever it comes to ensuring the education of transgender persons, they should have equal access to school just like every other normal person. So, it is important to assess their situations for accessing education and work, as well as the Constitutional requirements and support of the Bangladeshi government.

To fulfil its purpose, this has been divided into five chapters. In the very first chapter of this thesis paper, the purpose of the research, along with its methods, scopes, and limitations, are introduced. Secondly, the second chapter presents an overview of the transgender community, basic discussion, and its history. In part three, it discussed about Education and Employment Rights of Transgender Individuals: An International Obligation. Next the fourth part reviewed

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<sup>1</sup> Md. Islam A, 'Right to Education of The Third Gender of Bangladesh: An overview' (2016) [Vol. 21, p 29-34]

<sup>2</sup> Hussain Farzana, 'Ensure rights of the third gender' Dhaka Tribune (7th January 2015) <<https://archive.dhakatribune.com/uncategorized/2015/01/07/ensure-rights-of-the-third-gender?fbclid=IwAR2tT1VV1M5jYoMUwsrrvKyDVNIo5nGh8ClrFNPArDPUKgrDdNDhs0K6KDM>>

<sup>3</sup> Md. Islam A, 'Right to Education of The Third Gender of Bangladesh: An overview' (2016) [Vol. 21, p 29-34]

<sup>4</sup> Human Rights Watch, "Bangladesh: Transgender Men Fear for Their Safety" (2018, 9 January)

<sup>5</sup> Md. Islam A, 'Right to Education of The Third Gender of Bangladesh: An overview' (2016) [Vol. 21, p 29-34]

<sup>6</sup> The Constitution of the People's Republic of Bangladesh, 1972

their current legal support and access to school and employment in accordance with constitutional standards. In the last part of this research paper, concluded with some recommendations.

## **1.2 Research Question:**

My research questions are as follows:

- a) What are the impacts of existing laws and policies on access to educational institution and employment of transgender community in the formal job sector in Bangladesh?
- b) Why these laws failed to ensure/promote the right to education and right to work of transgender community?

## **1.3. Objective of the Study**

My research objectives are as follows:

- To find out the effectiveness of the existing laws and policies to address the problems faced by the transgender community
- To find out the gaps of the existing laws and policies
- To analysis National and International legal instrument for the protection of education rights and employment rights of transgender community
- To find out the limitation of laws and actual causes for barriers to implementation of this laws

## **1.4. Methodology**

The research uses qualitative research methodology. This is generally implemented in legal research. The purpose of qualitative research is to determine the law in a specific context. Additionally, qualitative technique research shows how the law should improve. This study gathered data from a variety of sources, including books, journals, websites, newspapers, reports, and articles, as well as national and international law instruments.

## **1.5. Scope and Limitations**

This research addresses the difficulties of transgenders basic right to education and employment in perspective of statutory provisions and international legal instruments. The specific focus of this research is the barriers of right to education and right to work, the main reasons for not getting in access to educational institution and employment sector.

The main restriction of the thesis is its extensive reliance on online journals, books, papers, all legal provisions, and human rights conventions. This research is limited by the lack of available materials and a specified book. In addition, the unavailability of Bangladeshi case law on the Internet.



## **Chapter-2**

### **Definition, Classification and Background of Transgender People in Bangladesh**

People who are transgender throughout Bangladesh are often called "Hijra."<sup>7</sup> From the commencement of history, they have had a different way of life than the common citizen.<sup>8</sup> They may have left their own family and gone with other transgender persons, leaving behind everything they owned, their rights, as well as their hopes for a normal life.<sup>9</sup> Just because of that, they are still behind when it comes to basic requirements and basic constitutional protections, which makes it hard for transgender people to simply enjoy their human rights.

Almost all persons are used to placing people into two categories basis of gender: men and women.<sup>10</sup> However, people don't really know whether they are male, or female are called transgender people in Bangladesh and are usually ignored.<sup>11</sup> Throughout our society, those who are completely alone and on the outside.

Third gender issues and arguments have already been explored in many other regions throughout the world wherein identity, discrimination, equality, education rights, employment rights, including social assistance are commonly articulated in academic and socially welfare communities. Despite this, the topic of transgender people is not frequently known or acknowledged in Bangladesh.<sup>12</sup> Just the name hijra community has been well recognized throughout this context because it has a long history in Indian subcontinent regions and parts of South Asian regions.<sup>13</sup>

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<sup>7</sup> Md. Ahsan F and AIZ. Amin, 'Celebration of the third gender' The Daily Star (1st September2015) <https://www.thedailystar.net/op-ed/politics/celebration-the-third-gender-135667>

<sup>8</sup> Shaw M, International law (6th edn, 2012).

<sup>9</sup> Md. Ahsan F and AIZ. Amin, 'Celebration of the third gender' The Daily Star (1st September2015) <https://www.thedailystar.net/op-ed/politics/celebration-the-third-gender-135667>

<sup>10</sup> Ridwan Islam Sifat & F. H. Yasin Shafi, "Exploring the Nature of Social Exclusion of the Hijra People in Dhaka City" (2020).

<sup>11</sup> Hossain, A. The paradox of recognition: hijra, third gender and sexual rights in Bangladesh. Culture, Health & Sexuality, (2017). [Vol.19(12), p1418-1431.]

<sup>12</sup> Bhattacharya Sayan, 'The Transgender Nation and its Margins: The Many Lives of the Law' (2019).

<sup>13</sup> Habib, T. "A long journey towards social inclusion: initiatives of social workers for hijra population in Bangladesh." (2013). < <https://gupea.ub.gu.se/handle/2077/32545>>

In contrast towards other social issues, the oppressed situation of such transgender community has indeed been consistently neglected with in development segment, even though the government has always struggled to overcome poverty as well as other difficulties; the mitigation of gender discrimination against women has been viewed as a major effort by state.<sup>14</sup>

## 2.1. Definition and Classification of Transgender

It is tough to give a clear definition of what transgender means. Transgender is indeed the English word for people who don't fit the mould of either man or woman but have a different body structure.<sup>15</sup> They were not born transgender. Instead, as they've grown up, their consciences, thoughts, choices, and priorities have changed. Being a different gender isn't a curse; that's a sexual identification.<sup>16</sup>

It's difficult to tell exactly what "transgender" means in English, but according to Nanda, "the most used English interpretations of Urdu term "transgender" might be explained as "eunuch" or "hermaphrodite" (intersex), both of which assume "impotence," or perhaps the incapability to perform in the men's sexual involvement.<sup>17</sup> <sup>18</sup> Using this definition, the word "eunuch" refers to a man who has lost his adulthood.<sup>19</sup> A man whose sexual organs are unclearly men at birth as well as who has been given the male sex in the past would be reclassified as intersexed as well as transgender.<sup>20</sup>

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<sup>14</sup> Hossen, M. L. "Challenges of Right to Employment Faced by Transgender Hijra in Bangladesh." (Diss. Master's Thesis, Mahidol University, Thailand) (2019).

<sup>15</sup> Amanullah, A.S.M., Abir, T., Husain, T., Lim, D., Osuagwu, U.L., Ahmed, G., Ahmed, S., Yazdani, D.M.N.A. and Agho, K.E. "Human Rights Violations and Associated Factors of the Hijras in Bangladesh-A Cross sectional study" (2021)

<sup>16</sup> Human Rights Watch, "Bangladesh: Transgender Men Fear for Their Safety" (2018, 9 January)

<sup>17</sup> Hossain, Adnan. "Hijras in South Asia: Rethinking the dominant representations."(2020) <[https://books.google.com/books?hl=en&lr=&id=AfHgDwAAQBAJ&oi=fnd&pg=PA404&dq=transgender+rights+in+Bangladesh+nanda+definition&ots=MEtBD5qSK6&sig=FlynFL6\\_zSS991XT58qHSo1v2FY](https://books.google.com/books?hl=en&lr=&id=AfHgDwAAQBAJ&oi=fnd&pg=PA404&dq=transgender+rights+in+Bangladesh+nanda+definition&ots=MEtBD5qSK6&sig=FlynFL6_zSS991XT58qHSo1v2FY)>

<sup>18</sup> 8. Anjum H, Tamanna R, Reza S, Kamol S, Khan TA. "Ensuring Human Rights for the Gender Diverse Population in Bangladesh: The Protection Perspectives".(2021)<[https://heinonline.org/hol-cgi-bin/get\\_pdf.cgi?handle=hein.journals/beijlar12&section=25](https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/beijlar12&section=25)>

<sup>19</sup> Anjum H, Tamanna R, Reza S, Kamol S, Khan TA. "Ensuring Human Rights for the Gender Diverse Population in Bangladesh: The Protection Perspectives". (2021) < [https://heinonline.org/hol-cgi-bin/get\\_pdf.cgi?handle=hein.journals/beijlar12&section=25](https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/beijlar12&section=25)>

<sup>20</sup> Khan SI, Hussain MI, Parveen S, Bhuiyan MI, Gourab G, Sarker GF, Arafat SM, Sikder J. "Living on the extreme margin: social exclusion of the transgender population (hijra) in Bangladesh" (2009 Aug), [Vol.27(4), p441].

Transgender people were observed in a number of separate ways that fit with some of the definitions given. These are shown in the illustrated below:

Chakrapani says that transgender people are designated male at birth, but they give up their sense of masculinity over time and call themselves "women" or "not yet men."<sup>21</sup> Since most transgender people say they seem to be "not men" as well as prefer to just have intercourse with men, social system thinks of them as homosexuals.<sup>22</sup>

Hahm says that transgender people are born with more than one homme and can survive as either a man or a woman.<sup>23</sup> From the other side, a transgender may be a man who has been turned into a woman or intends to be converted into a woman.<sup>24</sup>

In this analysis, transgender was defined as a person whose are born as guy or has vague genital sex, frequently puts themselves in women's roles and approaches as women but identifies themselves whether as heterosexual or even as besides traditional male-female gender roles, such as hijra, kothi, or transgendered.<sup>25</sup> Though it is concerning that this would be a widespread concept wherein transgender people are categorized as neither man nor woman by themselves or their communities. They can have either male and female sexual organs and personalities. In general, transgender people can be divided into three groups: genuine hermaphrodites, female duplicity, and male duplicity.<sup>26</sup>

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<sup>21</sup> Chakrapani, "Hijras/transgender women in India: HIV, human rights and social exclusion" (2010), <<http://archive.nyu.edu/handle/2451/33612>>

<sup>22</sup> ibid

<sup>23</sup> Islam S., "A theoretical analysis of the legal status of transgender: Bangladesh perspective" (2019), [Vol.3(3), p117-119].

<sup>24</sup> Noorie Safa, "Inclusion of Excluded: Integrating Need Based Concerns of Hijra Population in Mainstream Development", (2016), [Vol. 4(6), p.450-458]

<sup>25</sup> Orthy, S.K., "Transgender Community in Bangladesh: A study on resistance to structural violence for a better livelihood". (2018)

<sup>26</sup> Mizan AS, Sarwar SH, Rahman MR. "Challenges of Taking Human Rights Fact-Finding Lessons Out of Classrooms: Lessons from Bangladesh." (2019)

<[https://heinonline.org/hol/cgi-bin/get\\_pdf.cgi?handle=hein.journals/jindlas10&section=4](https://heinonline.org/hol/cgi-bin/get_pdf.cgi?handle=hein.journals/jindlas10&section=4)

## 2.2. Background History of Transgender Community in Bangladesh:

In this universe, transgender people have been around since the very commencement of civilization.<sup>27</sup> In the mid-1990s, the grassroots society of gender-different people developed the word transgender.<sup>28</sup> Anybody whose identity or behaviour deviates from gender stereotypes is considered transgender. They are not new, though. However, at the period, they were only a social and family stigma.<sup>29</sup> Many have been murdered, abused, cruelly treated, and recognized as just a criminal by criminologists because of their physical appearance.<sup>30</sup> In every aspect of their lives, they are subjected to violence, discrimination, and unpleasant behaviour. Transgenders have a long history, with records dating back to Pharaonic Egypt thousands of decades ago, however transgendered people were linked with the royal guard just at time.<sup>31</sup> Eunuchs served as royal guards in a number of Asian Islamic countries, most recently with Moguls.<sup>32</sup> Only within Mogul court, some came to popularity as soldiers and key political figures.<sup>33</sup> For ages, eunuchs, and other gender-altering roles worked as entertainment and sex workers in a variety of communities throughout Southern Asia.<sup>34</sup>

However, exploitation of the transgender minority in Bangladesh have historically been like that of other South Asian states. The tale of plights gained legal status during the colonial days with the enactment of the Criminal Tribes Act 1871, that labelled transgender persons as genetically criminals.<sup>35</sup> The British enacted anti-Hijra legislation, such as the Criminal Tribes Acts of 1871, which classified third gender as offenders and subjected them to compulsory registration,

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<sup>27</sup> Hyder MN, Rasel GF. "Legal Protection of Third Gender (Hijra) in Bangladesh: Challenges and Possible Solution." (2019) [Vol.4(2), p134-56].

<sup>28</sup> Davy, Zowie, Ryan Thoreson, and Saskia E. Wieringa. "Global Sexualities." (1988). [https://www.academia.edu/download/61891497/Hossain\\_Sage\\_Handbook\\_202020200125-16882-1b82i38.pdf](https://www.academia.edu/download/61891497/Hossain_Sage_Handbook_202020200125-16882-1b82i38.pdf)

<sup>29</sup> Saria V. "Begging for change: Hijras, law and nationalism" (2019 Feb) [Vol.53(1), p133-57].

<sup>30</sup> Hossain Adnan, 'The paradox of recognition: hijra, third gender and sexual rights in Bangladesh, (2017), [Vol.19, No. 12, p1418-1431]

<sup>31</sup> Hossen, M. L. "Challenges of Right to Employment Faced by Transgender Hijra in Bangladesh." (Diss. Master's Thesis, Mahidol University, Thailand) (2019).

<sup>32</sup> Amanullah, A.S.M., Abir, T., Husain, T., Lim, D., Osuagwu, U.L., Ahmed, G., Ahmed, S., Yazdani, D.M.N.A. and Agho, K.E. "Human Rights Violations and Associated Factors of the Hijras in Bangladesh-A Cross sectional study" (2021) <https://www.researchsquare.com/article/rs-403420/latest.pdf>

<sup>33</sup> Amanullah, A.S.M., Abir, T., Husain, T., Lim, D., Osuagwu, U.L., Ahmed, G., Ahmed, S., Yazdani, D.M.N.A. and Agho, K.E. "Human Rights Violations and Associated Factors of the Hijras in Bangladesh-A Cross sectional study" (2021) <<https://www.researchsquare.com/article/rs-403420/latest.pdf>>

<sup>34</sup> Snigdha, R. K. "Beyond Binaries: An Ethnographic Study of Hijra in Dhaka, Bangladesh." (PhD diss., Auckland University of Technology), (2021).

<sup>35</sup> Powell T, Shapiro S, Stein E. Transgender rights as human rights. *AMA Journal of Ethics.* (2016 Nov) [Vol.1;18(11): p1126-31.]

rigorous surveillance, as well as other types of social demonisation.<sup>36</sup> Earlier in 1871, the Criminal Tribes Act classified transgender as serious offenders.<sup>37</sup> This also included transgender engaged in abduct and castrating minors, as well as those who disguised as women and danced in public areas. Such activities carried a maximum sentence of two years in jail and a fined, or both.<sup>38</sup>

The Universal Declaration of Human Rights was approved for the first time in 1948 by the U.N. General Assembly to establish and safeguard basic human rights worldwide.<sup>39</sup> Article 1 establishes that all human beings are born free and have equal rights and integrity.<sup>40</sup> Bangladesh gained independence in 1971 following 9 months of war that resulted in one of the world's greatest genocides.<sup>41</sup> Even though Bangladesh was founded on secular ideologies and Bengalis have such a rich cultural value of humanism integrated into each other, extremism still exists in the nation in several aspects, as does the age-old social stigma surrounding transgender (or indeed any gender or gender non-conforming affiliations other than male or female).<sup>42</sup>

One of the major reasons that transgender employment and education rights are being hampered because of legislation gap. Because of their distinctive gender attitudes, that transgender community has been denied access to school since childhood.<sup>43</sup> They eventually struggle with their gender identification and live a split gender life.

In the next chapter I will discuss about the transgender's education and employment rights in Bangladesh as per international perspective.

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<sup>36</sup> Rai S, Kipgen J. Gender Nonconformance in Non-Western Contexts: Hijras in India. Politics (2020 Nov 19.)

<sup>37</sup> Sengupta L. India's third gender at crossroads: A human rights perspective. (2014) [Vol.3(2and3): P75-86.]

<sup>38</sup> Hossain Adnan, 'The paradox of recognition: hijra, third gender and sexual rights in Bangladesh, (2017), [Vol.19, No. 12, p1418-1431]

<sup>39</sup> Universal Declaration of Human Rights (UDHR), 1948

<sup>40</sup> Universal Declaration of Human Rights (UDHR), 1948

<sup>41</sup> Sourav Raisul, 'Law for Bangladeshi transgenders' The Daily Observer' (21st June 2018) <<https://www.observerbd.com/details.php?id=143725>>

<sup>42</sup> Saria V. "Begging for change: Hijras, law and nationalism" (2019 Feb) [Vol.53(1), p133-57].

<sup>43</sup> Chaney P, Sabur S, Sahoo S. "Civil society organisations and LGBT+ rights in Bangladesh: a critical analysis". (2020 Aug); [Vol.15(2): p184-208].

## Chapter-3

### **Education and Employment Rights of Transgender: International Obligations of Bangladesh**

#### **3.1 Introduction**

In the prior chapters, it talked about definition and classifications as well as basic issues and background of transgender community. As a result, this chapter addresses the international requirements regarding the right of transgender people to education and work in the context of international human rights statements, treaties, and other similar documents.

Human rights established in the United Nations, the Universal Declaration (UDHR), and human rights instruments include the right to equity as well as non-discrimination.<sup>44</sup> The Universal Declaration of Human Rights (UDHR) is the sole legal instrument that guarantees and protects people's rights based on sexual orientation, as well as imposing state responsibilities to protect the person rights for all participants. Major human rights international treaties, including the United Nations Human Rights Committee, the Committee on Economic, Socioeconomic, and Cultural Privileges, the Advisory group on the Rights of children, the Committee against Cruel and unusual punishment, and include the idea of sexual attitude or gender identification in their protection of equality.<sup>45</sup> It is also assumed that such several international legal frameworks exist to safeguard transgender, or individuals of such third gender. So here are some of the instruments:

#### **a) Universal Declaration of Human Rights (UDHR)**

The Universal Declaration of Human Rights (UDHR) as the most fundamental legal document concerning human rights enforcement. As they are human beings, transgender people as third gender are likewise entitled to all the rights guaranteed by the UDHR.

Article 23 ensured that:

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<sup>44</sup> Snigdha, R. K. "Beyond Binaries: An Ethnographic Study of Hijra in Dhaka, Bangladesh." (PhD diss., Auckland University of Technology), (2021).

<sup>45</sup> Das, P.C., "Legal Analysis of Ensuring the Inheritance Right of the Transgender in Bangladesh" (Doctoral dissertation, Daffodil International University) (2020).

Everybody has the right to work, including the ability to choose their own job, the right to equitable and favourable working circumstances, and the right to be protected from being unemployed. Everyone, without regard to any form of discrimination, does have the right to receive equal remuneration for equal work.<sup>46</sup>

Article 26 ensured that:

1. Every person has the right to an education. Education must be free at the primary and fundamental levels. Elementary education will be mandatory. Vocational and professional education will be made widely available, especially higher education would be open to all on the based-on merit.<sup>47</sup>
2. Education shall be focus on the entire developing of the human personality as well as the strengthening of appreciation for human rights and fundamental liberties. It will encourage understanding, tolerance, and cooperation among all nations, races, and religious groups, as well as support the United Nations' peacekeeping efforts.<sup>48</sup>
3. Parents have the prior right to decide what kind of education their children will get.<sup>49</sup>

A third gender person seeks all the rights protected by the UDHR as a general human being. The Manifesto of the Rights of the Child, issued by the United Nations General Assembly in 1959, stipulates that the child is guaranteed to a free and obligatory primary education.<sup>50</sup> Most international declarations including treaties on the child rights, as from Geneva Declaration also on Child's rights of 1924 through United Convention on the Rights of Child of 1989, recognize children's access to education.

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<sup>46</sup> Universal Declaration of Human Rights (UDHR), 1948

<sup>47</sup> Ibid.

<sup>48</sup> ibid

<sup>49</sup> ibid

<sup>50</sup> ibid

## **b) International Covenant on Civil and Political Rights**

The International Covenant on Civil and Political Rights (ICCPR) is indeed a significant document in the field of human rights issues.

Article 2 of ICCPR imposes several obligations on the states party. Additionally, it forbids discriminate on the grounds of race, colour, sex, language, faith, political or even other beliefs, national or economic origin, ownership, birth, and other position.<sup>51</sup> Article 6 safeguards Every human being is born with the right to life and such right is legally also protected no person 's life shall be taken arbitrarily.<sup>52</sup>

## **c) Convention against Torture**

The Conventions Against Torture is a crucial legal framework for ensuring the preservation of human liberties. Torture is a common occurrence against people of third gender. Thus, this convention adds additional element of protections for third gender individuals. The Convention's article 2 states that "to prohibit any crime against humanity against a person being in any location under its authority, the state party should take legislative, executive, judicial, and other measures.<sup>53</sup>

## **d) International Covenant on Economic, Social and Cultural Rights**

It is stated in Article 6(1) of the ICESCR that the States Parties to this Convention acknowledge and protect everyone's right to work, which includes everyone's opportunity to earn a living via employment that they freely select or accept, and that they will take reasonable efforts to ensure this right.<sup>54</sup>

Article 7 (1) of the International Covenant on Economic, Social, and Cultural Rights states that "everyone has the right to enjoy reasonable and favourable working circumstances."<sup>55</sup>

Article 13 of the International Covenant on Economic, Social, and Cultural Rights stipulates that everyone has the right to a free and mandatory elementary education.<sup>56</sup>

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<sup>51</sup> International Covenant on Civil and Political Rights (ICCPR), 1966

<sup>52</sup> *ibid*

<sup>53</sup> Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

<sup>54</sup> International Covenant on Economic, Social and Cultural Rights, 1966

<sup>55</sup> *ibid*

<sup>56</sup> *ibid*



The States Parties to this Covenant recognize that everyone has the right to education. They concur that education should promote the complete development of the human personality and a feeling of its dignity, as well as improve respect for human rights and basic liberties.<sup>57</sup> In addition, they concur that education should enable all people to engage successfully in a free society, promote understanding, tolerance, and goodwill across all nations as well as all racial, ethnic, and religious communities, and contribute to the United Nations' efforts to maintain world peace<sup>58</sup>. The States Parties to the present Convention understand that, in order to fully realize this right:

1. Primary education must be mandatory and free for everybody.<sup>59</sup>
2. Secondary education with all its forms, especially technical and vocational secondary education, will be made widely available and accessible to everyone through all suitable means, including the continuous implementation of free education.<sup>60</sup>
3. Higher education will be made equally available to all, regardless of ability, using any suitable means, including the progressive implementation of free education.<sup>61</sup>
4. Fundamental education shall be confirmed or intensified to the greatest extent possible for individuals who have not attended or finished the entire period of elementary education.<sup>62</sup>

According to Article 14 of the International Covenant on Economic, Social, and Cultural Rights, the right to education comprises the need to remove barriers throughout all educational levels, to establish basic requirements, and to improve the overall quality of education.<sup>63</sup>

As a member of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Developmental and Cultural Activities of different sexualities, Bangladesh is committed to upholding the rights of all citizens. According to article-25 of the Constitution of Bangladesh specifies that State will uphold international norms and the

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<sup>57</sup> *ibid*

<sup>58</sup> *ibid*

<sup>59</sup> *ibid*

<sup>60</sup> International Covenant on Economic, Social and Cultural Rights, 1966

<sup>61</sup> International Covenant on Economic, Social and Cultural Rights, 1966

<sup>62</sup> *ibid*

<sup>63</sup> *ibid*

objectives established in the UN Charter.<sup>64</sup> Bangladesh, as a signatory of the UDHR as well as a constitutional state, is obligated to uphold the constitution's requirements.<sup>65</sup>

## **Chapter-4**

### **Present Legal Status and Legal Support for Right to Education and Employment of the Transgender Community in Bangladesh**

This chapter concentrated on the practical consequences of such rights as well as the existing legal support, legal status for transgender community in Bangladesh. It also looked at the actual situation, analysed the present context, and discrimination faced by them on the employment and education field. The word "Transgender" is used to describe people who are neither male nor female, and it is sometimes used in a very prejudiced manner.<sup>66</sup> They always have a low position in society and the regulation.

Many human rights organisations and transgender organisations have long advocated for the acknowledgment of the transgender as the 'third gender'. For the first time, 'transgender' was recognized by the Bangladesh government in November 2013. Legal papers like Passports and National ID Cards now allow them to identify themselves as 'transgender' instead of male or female. The government formally acknowledged the transgender community of Bangladesh as 'Third Gender' which was authorized by Cabinet in 2013 was released in a gazette on 26th January 2014 by the Ministry of Social Welfare, Bangladesh.<sup>67</sup> Enabling legislation for transgender rights as third gender has not been present in parliament, according to Global Human Rights Defence's. Transgender voters have still not been listed as a third gender by the Election

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<sup>64</sup> The Constitution of the People's Republic of Bangladesh, 1972

<sup>65</sup> Sema A. Sakina, 'The Subversive Use of Parading Effeminacy by Transgender People in increasing Crime Rate in Bangladesh: A Study on Several Investigating Crime Reports' (2019), [Vol.1, No (6), p45-55.]

<sup>66</sup> Sifat RI, Shafi FY. Exploring the Nature of Social Exclusion of the Hijra People in Dhaka City. (2021 Jul) [Vol. 4;47(4): p579-89.]

<sup>67</sup> Sood N. "Transgender people's access to sexual health and rights" (2010) <http://arc-international.net/wp-content/uploads/2013/01/2009.-Sood-N.-TransgenderSexualHealthANDRights.pdf>

Commission (EC) and a third gender option has still not been add on the National Identity card, according to the Independent United News Agencies.<sup>68</sup>

As a result, even though the government acknowledged the transgender people to become a third gender, that has not been establish. Consequently, they are depriving of their right to education and work in the formal economic activity. Nearly 10,000 transgender people were received legal recognition of their sexual orientation as a third gender by the Bangladeshi government around 2013.<sup>69</sup> Unfortunately, they are unable to go to school since their classmates and even teachers treat them unfairly; they are often unable to find decent employment because they are illiterate and hence excluded from some job sectors even if literacy is not required.<sup>70</sup>

#### **4.1. Bangladesh's Legal Framework for Transgender**

The first Bangladesh Constitution, adopted in 1972, guaranteed fundamental human rights and liberty.<sup>71</sup> The Constitution is the supreme law of the country. Several articles in Bangladesh's constitution may be applicable to third-gender people. Fundamental human rights are addressed in Articles 27–43 of Bangladesh's constitution. If somebody violates a third gender's fundamental rights, the aggrieved party may file a writ petition to protect such rights, as per Article 102 of Bangladesh's constitution.<sup>72</sup> However, it is a tremendous regret that the majority of third-gender people in Bangladesh are uninformed with their constitutional protections.

As per the Constitution of Bangladesh, article-17 states about the Education are both free and mandatory. The State shall take effective measures to achieve –

- a) Providing a uniform, surplus, and universal educational system, and expanding free and obligatory education for every child up to the level specified by law.<sup>73</sup>
- b) Trying to tie education to what society will need and trying to make sure people are trained and inspired to fulfil the needs.<sup>74</sup>

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<sup>68</sup> Khanam A. “Human Rights of Hijras in Bangladesh” (2021) [vol.38(1). p249-76].

<sup>69</sup> Chaney P, Sabur S, Sahoo S. Civil society organisations and LGBT+ rights in Bangladesh: a critical analysis. *Journal of South Asian Development*. (2020 Aug:;) [Vol.15(2): No184-208.]

<sup>70</sup> Sifat RI, Shafi FY. “Exploring the Nature of Social Exclusion of the Hijra People in Dhaka City”. (2021 Jul) [Vol.4;47(4), p579-89].

<sup>71</sup> Mitra P. “Human Rights Violation of Transgender People: A Critical Analysis on Bangladesh Perspective” (2018); p165.

<sup>72</sup> The Constitution of Bangladesh, 1972

<sup>73</sup> *ibid*

c) Reducing illiteracy within the timeline prescribed by law.<sup>75</sup>

Article 19 (1) of the Bangladeshi Constitution provides that everyone should be given the equal opportunities.<sup>76</sup> It means that the government will make every effort to ensure that all citizens have equal opportunities.

Work as a right and duty is stated in Article 20 (1) of the Bangladeshi Constitution, which means that work is a right, a duty, and a matter of honour for every resident who is willing to work, and that everyone shall be rewarded for his or her work on the grounds of the concept from each refer to his or her abilities, to each pertaining to his or her work.<sup>77</sup>

Article 27 of the Constitution provides that all individuals are equal before the law and therefore are guaranteed to equal protection under the law.<sup>78</sup>

Article 28 states that,

1. 28 (1)- Discrimination against any resident based solely on faith, race, caste, sexual orientation, or place of born is prohibited by the state.<sup>79</sup>
2. 28(3)- No citizen should, solely based on faith, race, caste, gender, or place of origin, be subjected toward any restriction, liability, limitation, or condition pertaining to access to about any public place of enjoyment or resort, or enrolment to an academic institution.<sup>80</sup>

Article 29 states that, Equal employment opportunities in the public sector which includes that-

1. 29(1)- All residents shall have equal opportunities for work or position within service of the Government.<sup>81</sup>
2. 29 (2)- No resident shall be refused or prejudiced against in any profession or office inside the services of the Government solely based on belief, race, caste, gender, nor place of birth.<sup>82</sup>

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<sup>74</sup> *ibid*

<sup>75</sup> *ibid*

<sup>76</sup> *ibid*

<sup>77</sup> The Constitution of Bangladesh, 1972

<sup>78</sup> *ibid*

<sup>79</sup> *ibid*

<sup>80</sup> *ibid*

<sup>81</sup> *ibid*

Furthermore, as per Article 32, every citizen deserves the right to life and fair opportunities. Maneka Gandhi vs Union of India significantly expanded the notion of the right to life, which includes the inherent right to life.<sup>83</sup> People have a right to be treated with compassion and dignity in all aspects of their lives, including education and work.

Despite these provisions, transgender have historically been denied access to the state's fundamental rights. Even though they currently have no opportunity to work in either public or commercial sectors. Throughout Bangladesh, there seems to be no legal acknowledgment of non-normative sexual orientation, even though there is no special safeguard against discriminating for this population.<sup>84</sup> As a result, it is really the state's responsibility to provide transgender employment and education rights.

#### **4.2. Non-government Organization Initiatives for the Development and Protection of Transgender Community:**

Apart from government initiatives, several National and International NGOs have undertaken various programmes for the third gender development and protection from abuse and exploitation. Several human rights organizations have provided legal support to protect third gender community in conflict with the law. Some NGOs provided legal education and training related human rights to other NGOs and Government agencies, including the police.

Over the past two decades, the Bandhu Social Welfare Society (BSWS) and many other organizations have worked to improve the health and privileges of the transgender community.<sup>85</sup> In addition to several measures, the Ministry of Social Welfare has significant steps as part of its improved livelihood project.<sup>86</sup> For last couple of years, as part of the Policies and Advocacy project, BSWS has indeed been extensively cooperating with the government of Bangladesh.<sup>87</sup>

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<sup>82</sup> ibid

<sup>83</sup> Maneka Gandhi v. Union of India, 1978 AIR 597, 1978 SCR (2) 621

<sup>84</sup> Snigdha RK. "An obscure perception of transgender in Islam: A case of hijra in Bangladesh" (2019); [Vol.19(5): p29-36.]

<sup>85</sup> Aziz, Abdul, and Sameena Azhar. "Social exclusion and official recognition of Hijra in Bangladesh." (2019). <<https://digital.library.txstate.edu/handle/10877/12901>>

<sup>86</sup> ibid

<sup>87</sup> ibid

As a result, the Bandhu Social Welfare Society (BSWS), in cooperation with the Ministry of Social Welfare and United Nations, organized Hijra Pride 2014 to memorialize the day of third gender acknowledgment for the transgender community, also with gracious support of its development agencies at divisional as well as central stages.<sup>88</sup> To make the program a huge success, BSWS worked with lots of community-based organizations such as Sustha Jibon, Shomporker Noya Shetu, and Rupbaan to bring it to fulfillment.<sup>89</sup>

### **4.3. Transgenders Rights on Education in Bangladesh**

The right to education is one of the fundamental human rights. Nonetheless, we have found that the right to education is virtually always denied to certain groups of individuals. Additionally, many individuals belong to this group. In Bangladesh, the literacy level of transgender people is relatively low. Accessibility to education for transgender people in Bangladesh is mostly hampered by social stigma and economic hardship.<sup>90</sup> The biggest obstacles to the education of transgender inhabitants include sociocultural views, poverty, non-acceptance of peers, and unpleasant school environments.<sup>91</sup> Bangladesh signed the international declaration on literacy for everyone in March 1990 in Jomtien, Thailand.<sup>92</sup> Bangladesh is a member of the Delhi summit of nine countries with large populations.<sup>93</sup> Therefore, as human beings, everyone has the right to an education.<sup>94</sup> However, in practice they are really the class of people who are ignored. As a result, they do not fully enjoy the rights accorded to them by international laws.

According to the article-14 under the Constitution of the People's Republic of Bangladesh, it is also the state's foremost duty to free the backward segment from all sorts of oppression.<sup>95</sup> In addition, the state is obligated to take effective means to develop a consistent, mass-oriented, and standardized educational system, as well as to provide free and mandatory education to all

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<sup>88</sup> Kabir, Natasha Israt. "Sexual and Reproductive Health Rights in South Asia: Challenges and Policies." (2016). < <https://www.academia.edu/download/52315814/sexual-and-reproductive-health-rights-in-south-asia.pdf>>

<sup>89</sup> Stenqvist, Tove. "The social struggle of being HIJRA in Bangladesh-cultural aspiration between inclusion and illegitimacy." (2015). < <http://archive.nyu.edu/handle/2451/42375>>

<sup>90</sup> Islam A. "Right to education of the third gender of Bangladesh" (2016) [vol.21(9): p29-34].

<sup>91</sup> ibid

<sup>92</sup> ibid

<sup>93</sup> ibid

<sup>94</sup> Chaney P, Sabur S, Sahoo S. "Civil society organisations and LGBT+ rights in Bangladesh" (2020 Aug) [Vol.15(2): p184-208.]

<sup>95</sup> The Constitution of Bangladesh, 1972

children up to a minimum age limit.<sup>96</sup> In accordance with the constitution of the Peoples' Republic of Bangladesh, that it's the obligation of the government to educate every individual, however the government has failed to do so.

Government and non-governmental organizations must collaborate to expand a sustainable program in order to make a beneficial resource accessible to these populations and their families. While properly trained, these people can contribute significantly to the welfare of others, as opposed to being a burden. Education is a vital necessity for many individuals, and it is the responsibility of the state to create a suitable educational environment for those who are a financial burden on their families.<sup>97</sup> Education is required in every aspect of society, particularly at the administrative level of government, to obtain employment. The view of transgender education among government officials is quite negative and inside this long term, transgender people seem unable to continue their education.<sup>98</sup> The majority of transgender participants are unable to complete their education, even at the primary level. And that's why they are unable to integrate through into formal sector. Whenever their identity is revealed, the entire ambiance of the educational facility changes, making it difficult for them to study. They are unable to participate fully in the educational system. Therefore, they are inevitably dismissed from their early educational careers.

States must ensure that their right to education is exercised effectively in mainstream schools and special institution only if participation in normal schools is not practicable so if this decision is consented upon with the guardians. Adult education may involve not only special learning or participation in standard adult academic activities, but also development in basic capabilities, self-management, and useful capabilities at all ages.

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<sup>96</sup> *ibid*

<sup>97</sup> Abedin F, Sarker MA. "Employability of Transgender in Bangladesh: Problems and Prospect" <<https://journals.tdl.org/jrwg/index.php/jrwg/article/view/169>>

<sup>98</sup> Sourav RA. Plight of Bangladeshi transgenders. Retrieved. (2018); [Vol.8(28)]. <[https://www.academia.edu/download/56842473/TRansgender-The\\_Independent-21-06-2018.pdf](https://www.academia.edu/download/56842473/TRansgender-The_Independent-21-06-2018.pdf)>

#### 4.4. Transgenders Rights on Employment in Bangladesh

In Bangladesh, the transgender population is acknowledged as a third gender, but they lack access to education. Those who are deteriorating educational institutions. Due to their lack of degree, they do not even have a stable source of earnings and must rely on beggary or waitressing. Human Rights Watch found that owing to widespread discrimination, transgender people face serious obstacles to work when their gender identification does not fit the male-female category standard and several transgender work in garment industries; the transgender person who take a job in restaurants as well as garment factories seem to be generally incapable to continue these job positions for long periods of time due to issues of sexual abuse, teasing, or harassment resulting from their feminine behaviour.<sup>99</sup>

The People's Republic of Bangladesh Constitution specifies that the government shall strive to ensure equal opportunity to all citizens.<sup>100</sup> As a result, the state shall support effective ways of removing communal and economic disparity and ensuring equal distribution of wealth among citizens, as well as facilities to achieve a wide level of economic growth throughout the Country.<sup>101</sup> Moreover, as per the constitution, all citizens are equal before the law and therefore are entitled to equitable protection under the law, and the state shall not discrimination on the grounds of gender.<sup>102</sup> In addition, the Constitution of Bangladesh stipulates that all residents shall enjoy equality of opportunities in aspects of employment of workplace in the Republic, but nothing in this article shall preclude the state from constructing any exceptional provision in favour of any underprivileged segment of the citizen to ensure their ample representation in the provider of the republic.<sup>103</sup>

Due to their lack of education, they were unable to apply for such jobs. In order to give transgender persons an equal chance at public employment despite their lower educational

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<sup>99</sup> Mitra P. "Human Rights Violation of Transgender People: A Critical Analysis on Bangladesh Perspective" (2018); [vol.6:165]

<sup>100</sup> The Constitution of Bangladesh, 1972

<sup>101</sup> *ibid*

<sup>102</sup> *ibid*

<sup>103</sup> Authority PS. "Transgender persons welfare Policy. Government of The Punjab, Pakistan". (2018) <[https://www.thelancet.com/journals/langlo/article/PIIS2214-109X\(22\)00146-2/fulltext](https://www.thelancet.com/journals/langlo/article/PIIS2214-109X(22)00146-2/fulltext)>



attainment than their peers, all of them have emphasized the necessity of reserving government positions for them (positive discrimination).<sup>104</sup>

#### **4.5. Current Situation and Legal Standing of Transgender Individuals in Bangladesh**

Bangladesh's National Human Rights Commission is in a strong position to resolve human rights matters surrounding transgender individuals.<sup>105</sup> According to a survey done by the Department of Social Welfare, there really are approximately 9,285 transgenders in Bangladesh.<sup>106</sup> Because there are no provisions in Bangladesh that recognize transgender status, these people are frequently denied basic citizenship rights like as the quality education, nutrition, health, work, land rights, inheritance, and accommodation.<sup>107</sup> Recent legislation has attempted to address this issue by acknowledging the legal status of transgender. From 2011, the Bangladeshi government has added a third gender choice to passport applicants, and in 2013, that government's around 10,000 transgenders were conferred 'third gender' recognition.<sup>108</sup> Bangladesh does not have any laws that protect sexual minorities or recognize the separate ways people see themselves as men or women.

Despite being exploited by customers, mugged, and assaulted by hooligans, most sex workers in transgender were never given any assistance by the police department.<sup>109</sup> Because they were afraid with further harassment, they did not report many occurrences to the authorities.<sup>110</sup> They are compelled to engage in unprotected sexual relations with clients, local powerful individuals, and police officers without compensation. Even though Bangladesh government acknowledges

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<sup>104</sup> Islam A. "Right to education of the third gender of Bangladesh". (2016);[Vol.21(9): p29-34.]

<sup>105</sup> Mizan AS, Sarwar SH, Rahman MR. "Challenges of Taking Human Rights Fact-Finding Lessons Out of Classrooms: Lessons from Bangladesh." (2019) <[https://heinonline.org/hol-cgi-bin/get\\_pdf.cgi?handle=hein.journals/jindlas10&section=4](https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/jindlas10&section=4)

<sup>106</sup> Sourav RA. "Plight of Bangladeshi transgenders" (2018); [Vol.8(28)]

<sup>107</sup> Mitra P. Human Rights Violation of Transgender People: A Critical Analysis on Bangladesh Perspective. Rev. (2018) [ Vol.;6: p165.]

<sup>108</sup> Jebin L. Status of transgender people in Bangladesh: A socio-economic-analysis. South Asian Journal of Policy and Governance. (2018); [Vol.42(1):49-63.]

<sup>109</sup> Das, P.C., "Legal Analysis of Ensuring the Inheritance Right of the Transgender in Bangladesh" (Doctoral dissertation, Daffodil International University) (2020).

<sup>110</sup> *ibid*

transgender as a third gender, the country is not actually implementing the necessary measures to ensure the rights of transgender individuals.<sup>111</sup>

**a) Unfair Practices of Established Laws**

The state has formed constitution legislation to defend the rights of all citizens. In addition, the state signed the ICESCR in 1998 and indeed the ICCPR in 2000.<sup>112</sup> As just a citizen of Bangladesh, transgender, the established law, and ratified treaty are not used to protect transgender person's job sector and education sector in Bangladesh.<sup>113</sup> The Ministry of Social Affair personnel are unaware of the established rules and standards for ensuring transgender people's employment security within official sector.

The state has measures in place to defend all citizens' human rights. Article 29(1) of Bangladesh's constitution declares unequivocally that equality of opportunities for all people in terms of work would be guaranteed.<sup>114</sup> Article 20(1) of the constitution further states that work is a privilege, a duty, and a subject of honour for every person who is able to work.<sup>115</sup>

In Bangladesh, for instance, it is formally declared that every transgender individual does have the freedom to work or even the right to equal employment opportunities in every part of the state, but in practice this fundamental right has just been deprived all transgender for such a long time. Consequently, they are long term unemployed in the economic sphere.

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<sup>111</sup> Rabbani Gulam, 'Jobs for Third Gender in Bangladesh' The New Nation (1st October 2018) <<https://thedailynewnation.com/news/190586/jobs-for-third-gender-in-bangladesh.html>

<sup>112</sup> Rahman M. "Role of NGOs in Protecting and Ensuring Human Rights in Bangladesh" (2019 Aug) [vol.28; p6(9).]

<sup>113</sup> Pelleschi A "Transgender rights and issues" (2015 Dec)

<sup>114</sup> The Constitution of Bangladesh, 1972

<sup>115</sup> *ibid*

## **b) Transgender Identity Isn't Recognized in The Legal Documents**

Bangladesh's Ministry of Social Welfare confirmed transgender identity for the first time in the parliament on November 11, 2013.<sup>116</sup> On January 26, 2014, this was officially published as a gazette.<sup>117</sup> Following the proclamation of affirmation, transgender status as a third gender is designed to participate or be included in legal papers such as passports and national identification cards. However, because of sexual normative thinking as well as religious orthodoxy, it was not included in public legal papers.<sup>118</sup>

Due to the conservative ideologies of mainstream population, the government is constantly unwilling to include their citizens' identities in passports and national identity documents. There is no inclusion of transgender identification in passports or national identity cards. Therefore, this distinctive identity group does not appear in any state-issued job advertisements and whenever formal sector publications are distributed, only male and female identification categories exist, therefore, they are generally excluded from all employment opportunities of the government.<sup>119</sup>

## **c) Government Gazette doesn't Clarify About Formal Employment of Transgender People**

In Bangladesh's long and glorious history, this event took the very first time that the state has formally acknowledged transgender people as a third gender. Following the recognition, the government of Bangladesh implemented a few new policies in order to better the lives of transgender individuals. In 2014, as part of one of the projects, transgender people were offered employment in government entities.<sup>120</sup> But in the end, neither the formalization nor the implementation of it had occurred. In fact, this recognition proclamation did not provide any explanation regarding the rights of this group's members regarding employment, education, health care, the right to food, or any

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<sup>116</sup> Khan SI, Hussain MI, Parveen S, Bhuiyan MI, Gourab G, Sarker GF, Arafat SM, Sikder J. "Living on the extreme margin: social exclusion of the transgender population (hijra) in Bangladesh" (2009 Aug), [Vol.27(4), p441].

<sup>117</sup> *ibid*

<sup>118</sup> Jebin L, Farhana U. "The rights of Hijra in Bangladesh" (2015 Jun 1)

< [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3028057](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3028057) >

<sup>119</sup> Nazneen S, Masud R. "The politics of negotiating gender equity in Bangladesh."

< [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2956423](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2956423) >

<sup>120</sup> *ibid*

other human rights. It seemed to be the only statement in that gazette altogether. The state did not take the initiative to address the realities of the situation from the very commencement of this recognized gazette.<sup>121</sup>

**d) There is No Recruitment Law in Place for Transgender People**

Employment strategy is critical for mainstreaming transgender jobs in Bangladesh's official economy.<sup>122</sup> Yet, this group does not have such an employment policy. This group has been only designated as Third Gender by the state. However, the state has made no norms or laws for integrating this group's employment in the formal economy.<sup>123</sup> There is no indication as to how the state will promote and grow this group into government positions. Some public officials stated that if we really want to hire members of this excluded community, we must follow their special laws and employment policies.<sup>124</sup> Currently, there is no special laws in place to integrate transgender people into the government sphere.

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<sup>121</sup> 6Evan B. Towle and Lynn M. Morgan, "ROMANCING THE TRANSGENDER NATIVE Rethinking the Use of the "Third Gender" Concept", (2020), p469-49.

<sup>122</sup> Abedin F, Sarker MA. "Employability of Transgender in Bangladesh: Problems and Prospect" (2022) [Vol.11, p 3-16]

<sup>123</sup> Snigdha, R. K. "Beyond Binaries: An Ethnographic Study of Hijra in Dhaka, Bangladesh." (PhD diss., Auckland University of Technology), (2021).

<sup>124</sup> *ibid*

## Chapter-5

### Findings of the Study, Recommendations and Conclusion

This chapter presented the study's conclusions based mostly on reviewed materials, which included books, journals, websites, newspapers, reports, and articles, as well as national and international legal instruments. The study concludes with a recommendation for a prospective remedy to the study's findings.

#### 5.1. Findings:

The main purpose of this study is to determine the outcome of what are the impacts of current policies on access to educational institution and employment of transgender in the formal sector job besides why those policies failed to ensure/promote the right to education and right to work of transgender community. From the reviewed articles and journals firstly, it is found that transgender as transgender third gender people are helpless because they are excluded from the family, society and hassled by the general people. But in 2013, the government of Bangladesh acknowledged as just a third gender.<sup>125</sup> Depending on this recognition, this is presumed that their rights are upheld, which will permit them to practise their gender entitlement as transgender "throughout all government documents, such as passports, in addition to letting them identify their own gender as transgender "while personal data needs to be given."<sup>126</sup> Even people who enforce the law aren't doing anything to protect their interests. They have already been recognized by the government for about eight years now, yet there is no legislation or special law that protects their rights to education and employment, also there is no school or training centre for them. They didn't have enough education or money to have a good job and perhaps start their own business. As a result, they tried to make money in illegal means and got involved in criminal activities. But this also found that only some transgender people have established themselves in society and are well.<sup>127</sup> However, these few cases can't be used to assess how

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<sup>125</sup> Daize S. Ayesha & Masnun E. 'Exploring the Socio-economic and Cultural Status of Third Gender Community in Bangladesh' (2019) [Vol.9]

<sup>126</sup> Anjum H, Tamanna R, Reza S, Kamol S, Khan TA. "Ensuring Human Rights for the Gender Diverse Population in Bangladesh: The Protection Perspectives". (2021) < [https://heinonline.org/hol-cgi-bin/get\\_pdf.cgi?handle=hein.journals/beijlar12&section=25](https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/beijlar12&section=25)

<sup>127</sup> Mishra A. "Third gender rights: The battle for equality." (2016 Jul), [Vol.1;5(2): p9-21].

many rights transgender people have overall unless such government makes clear rules and sets a maximum number of them.

## **5.2. Recommendations:**

According to the findings of the research, the study describes a few suggestions for how transgender people in Bangladesh might better protect their rights to education and work. These are the recommendations that have been made:

- a) People of the third gender should also have access to free education from elementary school through university. Another different system for the transgender person may be established in educational institutions.
- b) All governmental and non-government organization should hire qualified employees of the third gender. A rigid third gender quota system could be implemented for their career opportunities.
- c) The government can create a unified succession policy for third-gender individuals based on their religion.
- d) Every healthcare organization shall give free medical services to members of the third gender.
- e) The government should establish anti-discrimination legislation to safeguard sexual minorities, such as third gender individuals.
- f) Existing laws should be modified, and distinct sections involving violations of third-gender people's human rights should be added to existing laws.
- g) The govt should enact a separate legislation or set of guidelines for third-gender violators so that they might be subject to judicial proceedings.
- h) To protect and preserve the privileges of transgendered individuals, the legislative, executive, and judicial departments of government must work together.
- i) The transgender society may be able to take advantage of the quota system when it comes to getting into all schools and getting jobs in various fields.
- j) As particular institutions for other disadvantaged groups, such as autistic or physically confronted children, were already established. Therefore, it is possible to establish a separate institution for such transgender group in order to make them valuable members

of the society besides providing them with the educational opportunities specified in the current laws and policies.

### **5.3. Conclusion:**

The government of Bangladesh acknowledged transgender as just a third gender.<sup>128</sup> They are still considered marginalized and are denied social rights. While NGOs and the government have undertaken steps to address a few of the transgender population's issues, they continue to face other challenges.<sup>129</sup> transgender people are still denied social and cultural engagement, are disregarded by family and community, have severely limited access to education, medical services, and public spaces, and are primarily refused citizenship rights, such as the right to marry, vote, work, obtain a passport, and employment.<sup>130</sup> As a result, the transgender population in Dhaka city is severely disadvantaged in terms of health, education, and employment.

Therefore, it really is high time to recognize them as active participants in society, taking into consideration the laws and regulations of both the international and national levels, and to fill that gap in the laws and regulations that are already in force. It is essential to keep in mind that the implementation of laws and regulations doesn't really alleviate the pain suffered by the transgender population or guarantee respect for human rights. To this end, transgender need to be educated on human rights, and all people in society should work together to assist the government in enforcing the laws that are already on the books, in addition to the possibility that these laws will be accepted by mainstream society. To reach this goal, it may be necessary to change social norms, educational practices, and the way people act in relationships with each other.

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<sup>128</sup> Mizan AS, Sarwar SH, Rahman MR. "Challenges of Taking Human Rights Fact-Finding Lessons Out of Classrooms: Lessons from Bangladesh."(2019)<[https://heinonline.org/hol-cgi-bin/get\\_pdf.cgi?handle=hein.journals/jindlas10&section=4](https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/jindlas10&section=4)

<sup>129</sup> ibid

<sup>130</sup> Hossen, M. L. "Challenges of Right to Employment Faced by Transgender Hijra in Bangladesh." (Diss. Master's Thesis, Mahidol University, Thailand) (2019).

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2. International Covenant on Civil and Political Rights (ICCPR), 1966
3. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
4. International Covenant on Economic, Social and Cultural Rights, 1966

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