

Social justice, human rights and MSM

an investigation into the human rights abuse of MSM in Bangladesh

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In May 2002, with technical support from Naz Foundation International, Bandhu Social Welfare Society, Bangladesh (an NFI partner agency) conducted a major and significant study into social justice and the human rights violations of MSM and the impact upon their vulnerability, social exclusion, with the increased risks for STI/HIV infection that such violations and injustice bring about.

This was the first time that such a study had been conducted in the region specifically looking at MSM. The principal researcher was Aditya Bondyopadhyay a NFI consultant, along with IDHRB in Bangladesh.

Such a study was deemed an urgent necessity because it was clearly recognised that whilst Bandhu had developed a range of sexual health promotional tools and strategies were in place specific to the needs of its constituents, its risk reduction work amongst the already vulnerable and socially excluded MSM was being further compromised and impeded by a range of constant human rights violations and abuse. In other words, sustainable behaviour change strategies were being hindered by social factors outside the direct control of Bandhu Social Welfare Society. Further, this study was seen as equally important to all the other NFI partner agencies, since they share similar target populations and social dynamics.

It was also recognised that it was the process of stigmatisation that arises from concepts of masculinity in Bangladesh culture that led to such marginalisation and social exclusion and abuse of the most vulnerable of MSM – those with feminised identities. Along with this was an understanding that social exclusion had a personal and social history that led to negative impacts on educational and employment opportunities, which, of course, increases poverty and concomitantly increases the potential for sex work activities as a source of income for self and family and a survival strategy.

In other words, social justice and human rights issues for MSM were a complex matrix of issues, concerns, and needs that reflected personal psycho-sexual histories, economics, social-cultural policies and attitudes, as well as legal concerns, that create a context for MSM, but particularly for feminised males, of low-esteem, disempowerment, and marginalisation that leads to further abuse, violence and social exclusion.

With funding support from UNDP Regional programme, along with technical assistance from Naz Foundation International and IDHRB, Bandhu explored these urgent issues of concern towards developing an action plan to address them. Using participatory methodologies of Focus Group Discussions, as well as one-on-one interviews and questionnaires, 124 MSM (kothi-identified) were accessed from four cities: Chittagong, Dhaka, Mymensingh and Sylhet. Along with the study, staff from local Bandhu projects were also trained on the rights of MSM, HIV/AIDS law and collecting data for the study.

The study looked at the power inequality dynamics arising from Bangladesh constructions of masculinity, social attitudes towards feminised males and their

sexual practices, sexual abuse, assault and rape, stigmatisation and poverty, discrimination and disempowerment. All of these issues play a significant role in the emotional, sexual, physical and economic exploitation of feminised males, and give rise to a range of physical, psychological, and emotional problems which increase vulnerability and disempowerment. And this leads to significant increases to STI/HIV infection risks as well as impedes successful implementation of risk reduction strategies. Without addressing these psychosocial concerns appropriately and with urgency, sexual health promotion programmes targeting MSM would not be able to adequately develop sustainability in risk reduction and behaviour change.

The study also exposed the significant levels of male-on-male rape and sexual abuse of feminised males from early childhood to adulthood. It uncovered lost opportunities for educational and economic advancement due to social concepts of masculinity, harassment and discrimination. It made visible the significant levels of violence targeted at such males from early childhood. It also highlighted the significant levels of suicidal impulses and self-damage of these males because of low self-esteem and self-worth. The study told a story of woe, unhappiness, despair, and a lack of hope for the future.

Along with these personal vectors, governmental policies for combating HIV/AIDS are often in conflict with the penal laws and the actions of local law enforcement agents. On the one hand the government recognises the need to address the HIV/AIDS concerns of male-to-male sexual behaviours, but on the other, the continuation of the criminalisation of such behaviours often leads to threats of blackmail, sexual abuse, and violence, if not arrest. It discourages those in need of information and services to seek the same. In addition to this programme staff and target populations are vulnerable to local police excesses and abuse without adequate ways and means of addressing such abuses.

Some findings of the study

Demographic profile

A total of 124 respondents participated in the study from Chittagong, Dhaka, Mymensingh and Syhlet, Bangladesh. 47.5% of the respondents were between 20-25 years. 43% of the respondents came from villages. In detailed interviews it became apparent that many had migrated to the city looking for employment. 51% of the respondents had studied up to 4th standard or less.

25% of the respondents were married. Only 4 out of 31 married respondents said that they had got married because they wanted to. Only one said that he had a love marriage as opposed to an arranged marriage. 19 out of 31 respondents claimed that they got married due to family pressure.

32% of the respondents also had sex with female sexual partners who were not their wives. 10 out of 31 married respondents said that their wife knows the fact that they have sex with other men. Only 3 of this 10 say that their wife has accepted this fact. All the marriages where the wife had not accepted the fact that the respondent had sex with other males were arranged marriages done under family pressure.

56% of the respondents have a monthly income of Taka 1000 to 3000 (US\$ 0.60-

1.70 per day). Only 8% of the respondents earned more than Taka 5000 a month (US\$ 2.80 per day).

In response to the question as to who all were aware that the respondent had male-to- male sex, 98% reported that their friends knew. Yet almost a third [33%] of the respondents also said that friends were the ones who had subjected them to sexual assault or rape.

Assault of a sexual nature*, or rape at the hands of friends' i.e. those who the respondent knew and trust, at 33%, is next only to sexual assault or rape at the hands of *mastaan* [traditional terms for hoodlums or bullies] and the Police.

**The cultural understanding of rape involves the act of penetration. The law on rape in Bangladesh as it stands in the Bangladesh Penal Code also reinforces this belief. However many times a person is sexually assaulted in a way where he may receive grave psychological and/or physical injury, but it may not involve anal penetration. This fact was explained to the outreach staff in the workshops, and they were asked to include all grave assault of a sexual nature {as opposed to minor harassment of a sexual nature} that may not have resulted in actual penetration in the response to the questions on sexual assault*

64% of the total respondents reported facing harassment of one kind or the other at the hands of the police.

One of the most prevalent forms of abuse is the rape or sexual assault of *kothis***. It often results because the accepted notion amongst many *mastaans* as well as some police is that *kothis* are available for sex. Their will/choice is rarely respected when police or *mastaans* want to have sex with them.

****Kothis** – a self-defined label used for feminised males who actively attract masculinised males for sex through exaggerated behaviour. *Kothis* always state that they assume the penetrated role in anal sex. A significant number of *kothis* sell sex due to poverty. Many *kothis* may also be married to female partners. Also see the chapter on the social constructions of male-to-male sexual behavior

Rape and sexual assault also results when *kothis* or male sex workers refuse to pay the extortion demands of hoodlums or policemen.

Mymensingh, Dhaka, and Sylhet reported gang rape by policemen, where *kothis* were rounded up and taken either to police barracks or the police post and raped by groups of policemen. Such forced sex is always unsafe and often results in serious physical injury like ruptured rectum, internal hemorrhage etc. It is also generates risks for the police officials.

48% of the respondents reported that they have been sexually assaulted or raped by policemen, and 65% have reported that they have been sexually assaulted or raped by *mastaans*.

Another factor that contributes to the reduction of the basic safety of MSM and *kothis* in public areas is that *mastaans* are often in cohorts with the local policemen. *Kothis* therefore do not receive any protection from the police when any harassment or assaults by the *mastaans* are actually reported. This was

clearly evidenced in the FGDs as well as in the in-depth interviews. When a participant in Mymensingh was asked as to why he did not tell the beat policeman about the fact that a well known *mastaan* had forcibly had anal sex with him and had thereafter snatched his money, he replied ‘I was injured and bleeding in the anus. When I reached the place where the police persons usually stand, I found that the *mastaan* was taking money out of my wallet and giving it to the police. I was afraid that if I went to the policeman, he would force me to have sex with him too. I was in no condition to endure that.’ This pattern is repeated in all the cities. In all the cities participants of FGDs were clearly reluctant to approach the police for any protection. They cited the basic sense of insecurity they felt from the police and the fact that in the past the police had victimized them instead of preventing or acting against the assaulter, as a reason for this reluctance.

Other than sexual assault, rape, and gang rape, the other harassment that respondents reported facing at the hands of police range from, extortion on the threat of imprisonment, prolonged blackmail, beatings, restriction of movement in public places, and disclosure of sexual practices to *mastaans* and family, amongst others.

71% of the total respondents stated that they had faced some or the other form of harassment from *mastaans*. Other than rape, these are, extortion [38%], beatings [45%], threats and blackmail [31%].

87% of the respondents stated that they had been subjected to sexual assault or rape simply because they were effeminate. This is of course an indication of the whole issue of feminised males and gender, but it is also indicative of the high percentage of MSM who suffer sexual assault and rape.

One of the main findings of the study is that often it is effeminacy and not the factual knowledge of homosexual behaviour that leads to harassment. Many of the interviewees as well as the FGDs show that harassment results from the fact that many *kothis* do not live up to the expected normative standards of masculine behaviour.

In response to the question “how did people who know that you like to have sex with other males, find out this fact?” 62% of the total respondents replied that they guessed as much from their feminised behaviour.

41% of those who had faced some form of harassment at the hands of the police say that the police guessed that they were MSM from their feminised behaviours. 55% of those who had faced harassment from *mastaans* also reported that the *mastaans* guessed they were MSM from their feminised behaviour.

It is clear that there is a predominate pattern of male-to-male sex focused on gendered behaviours of both sex partners. This is accepted both by the respondents themselves as well as the public they interact with. It is also understood that male feminised behaviour is considered to be less worthy than the accepted standards of how a man should behave. This leads to a notion that those who are feminised can be exploited and abused, that being feminised somehow weakens the person, a notion often harbored by the *kothis* themselves. One of the interviewees in Chittagong said “I don’t mind if my *Panthi*** beats me

up. It only shows how manly and powerful he is.” When probed further, he replied that, “actually when my *Panathi* beats me, I feel as helpless as a woman. Since I want to be a woman, it actually makes me feel good”.

****Panathi:** *The term that kothis give to their male partners. A panthi can be any man who is not effeminate. He is therefore largely invisible and enmeshed with the mainstream, and almost impossible to target with any kind of intervention for HIV. The only way to reach them is via the kothis along with those programmes that target males in general.*

Accepted notions around effeminacy are therefore one of the major factors that lead to disempowerment and opens *kothis* to abuse and assault. The fact that *kothis* themselves have internalized these notions so strongly, means that specific tools need to be developed for *kothis* in order to empower them to start valuing their lives and enhancing their self respect.

92% of the respondents stated that they considered themselves to be *kothis*. 83% of those who consider themselves *kothis* stated that they had faced unprovoked sexual harassment at some point in their life. 41% of them have responded that they have faced such harassment a few times [i.e. more than just once or twice].

62% of the respondents stated that the fact that they have sex with other males has had an economic impact on their lives. 43 out of the 78, i.e. a majority of the respondents who claimed that they had been economically affected due to the fact that they had sex with other males say that they are better off economically due to this reason. This may seem like a contradiction, for in a discriminatory setting it is more likely that a person would suffer economically than would benefit. On further analysis it was clear that most of the respondents who stated that they have benefited economically were involved in sex work.

Sex work is often not a matter of choice, but of economic necessity. Interviews with sex workers revealed that if they had other source of income, they would not take up sex work. One interviewee in Sylhet said “I have been trying for a very long time to save and start a small shop, so that I do not have to do sex work. Then I shall stay as if married with only one *panthi*. But everything I earn is used up by my family or for my own needs. I just cannot save enough.” When asked why he was not looking for a job, he replied “I have worked as a domestic servant for 6 months. All the three sons of the employer repeatedly had sex with me and never gave me anything extra. They beat me up often. With my own shop at least I would not be harassed by employers.” He also mentioned “if the employer, like the three sons of my earlier employer, are to forcibly have sex with me anyway because I am a *koti*, I might as well do sex work and get money for having sex”. The fact that most sex workers in the FGDs had education levels up to 4th standard or less, and that they had faced harassment in any small jobs that they could find, also meant that they were forced to take up sex work. Another factor that contributed to this economic necessity is that they often migrated to the cities to earn a livelihood and their families depend on them for income. This acts as a pressure for taking on sex work. These factors are also borne out by the fact that 57% of the respondents stated that the fact that they

were effeminate had affected their workplace. 77% say that if they were not *kothi* they would have found it easier to find work, or would be doing better in their present employment. 76% of the respondents felt that because of being a *kothi*, they do not get similar income opportunities as others.

Often sex work itself is disempowering and reduces negotiating capacity and increases vulnerability. In Chittagong 2 interviewees revealed that they would have unsafe sex if the client paid enough. They also stated that many clients are powerful and they are helpless in front of them and cannot insist on safer sex. This pattern is reflected in various degrees in all the cities.

29% of the respondents stated that some members of their direct family knew that they had sex with other males. Of the 25 respondents whose near relatives were aware, only 6 said that they had accepted it. The rest stated that their family had reacted negatively with beatings, forced marriage, disinheritance, throwing the person out of the house, taking them to doctors for curing them of homosexuality and so on.

48% of the respondents stated that fellow students or teachers had harassed them in school or college because they were effeminate. 55 out of the 60 respondents who said that they have faced harassment by teachers or fellow students also said that their studies have suffered due to this, and that they could have progressed more if such harassment had not taken place.

Of the 59 respondents who have said that they did not face harassment in the educational institutions, 40 had studied up to 4th standard or less, 13 up to secondary level, and 5 up to higher secondary level. All those who had gone to university reported sexual harassment in either school or college. This is a clear indication that the rate of harassment of *kothis* is more significant in higher education establishments. This could also be a factor for the low levels of education and literacy, and high early drop out rates, amongst *kothis*.

It is clear from the in-depth interviews as well as from the FGDs that economic deprivation was a result arising from harassment during education. In Mymensingh, in one FGD, six out of seven participants stated that one of the main reasons why they left school was the harassment that they faced. "how can you study when all the time the classmates are making fun of you" is a common refrain. One interviewee in Sylhet said "My teacher called me to his house on the pretext of teaching me maths. But there he forced me to have sex with him. Then he told another teacher who also made me have sex with him. He also threatened to tell the principal that I am a bad person and I have sex. I was so scared, I refused to go to school any more. I was then in my 6th standard. I never studied any more." They also stated that they cannot get a good job because of this and that many are forced to take sex work as a source of livelihood. The same interviewee from Sylhet states later "I think my teacher is responsible for my being a sex worker. I am sure I would get a job if I could have studied further. But I know that now and it is too late. If I had then known what I know now, I would have exposed my teacher, and continued my studies." One person who is a graduate from a university participated in an FGD in Chittagong. He said "My results in the finals were not good, and therefore I have to work in an NGO.

Otherwise I would have gotten a good government job. I just could not study due to all the mental torture that my classmates subjected me to. Even the professors used to make fun of me in class.”

In effect there is a direct correlation between harassment at educational institutions and vulnerability, since such harassment result in eroding earning potential, disempowerment, and may even be responsible for forcing *kothis* into sex work.

36% of the respondents reported that they had faced harassment from religious leaders due to their sexuality.

In FGDs and in the in-depth interviews there was clear evidence of the lack of self-esteem and self worth amongst the respondents. In FGDs in Dhaka and Mymensingh, the participants reported instances where they had subjected themselves to self-inflicted injuries. These injuries ranged from shaving of their heads to make them look ugly, slashing their wrists with blades, cigarette burns etc. On enquiry they revealed that they did it to punish themselves, to draw the attention of someone, or at times, to draw sympathy. One participant in the FGD at Mymensingh stated that he drank kerosene to commit suicide. He said, “I really did not want to die. That is why I did not take pesticide, although it was available. I just wanted my *panthi* to feel sorry.” Another person in Chittagong stated that he would have unsafe sex if someone paid the right price. When asked what if he got infected with HIV, he stated, “So what if I die. Is this any life? It is like death.” Similar instances had been reported by eight of the 12 interviewees.

From the results of the FGDs, the interviews and questionnaires the reasons for this lack of self-esteem and self worth can be identified as the following:

- * *Kothis* often have a deep sense of guilt, as many seriously believe that either there is something wrong with them and that is why they are not ‘normal’, or that they are committing and/or living a life of sin. “I think Allah is punishing me by making me *kothi*” said a university graduate. He also mentioned that he tried hard to give up his desire for men, and attempted suicide when his desires did not go away. A sex worker said that he never prayed after he had sex. He just did not feel clean.
- * Often *kothis* internalise the pain and trauma of the various repeated and harsh abuses that they face due to their feminised behaviours and their sexual preferences from a very young age. This is co-joined with the fact that they are rendered helpless in finding any remedy or recourse to justice. This leads to an intense frustration with their own self. A sex worker who had slit his wrist once said, “If I had my way I shall castrate all the *panthis*. They are all bastards [*haraami*]. Especially my uncle who raped me when I was 14. I feel so helpless.”
- * There is no psychological or psychiatric help available to deal with the trauma of rape, which most had suffered at some point. This, when related with the double stigma of sexual violation and of the notions of shame in a society that proscribes any public discourse on male-to-male sexual behaviour, also leads to intense frustration and self-hatred.

- * There is a deep sense of failure arising from the sense of incapability of dealing with the regular harassment and abuses that *kothis* face. This is exacerbated as one grows older, because the *kothi* begins to correlate their own sexuality with the obstructions and lack of progress of their various ambitions. This results in a pattern of self-blame, which manifests itself as self-hate. “I wish I was never born” said a FGD participant in Dhaka “then my family would not have to be ashamed of me. I cannot even earn enough for them”.
- * Frustration with the harassment and abuse also manifests itself for some as a desire to change and become ‘normal’. This ‘desire to change’ is understood as changing their sexual preferences and becoming ‘non-MSM’, ‘non-*kothi*’, or ‘non-homosexual’. However, when in spite of attempts they are not able to change their desires or behaviours, they perceive this as a weakness of their self. This also erodes the value that they accord themselves.
- * *Kothis* feel that they are not respected by society in general. A common refrain is “society does not accept us” or “society does not respect us”. They see the various harassment and abuses as a manifestation of this lack of respect. Often this lack of respect is also internalised and reflected in self-destructive behaviour. One person in Chittagong admitted that he attempted suicide because he felt unloved and worthless.
- * For some *kothis* economic disempowerment also leads to an eroded sense of self-worth.
- * For some *kothis*, the fact that they had to sell sex in order to survive is a reason for great shame and trauma, and being sex workers who are often not in control of either their economic or their physical circumstances; they regard themselves as dirty and unworthy.
- * 33% of the respondents reported that they have either thought of or tried to commit suicide at some point in their lives.

With a view to demonstrate the rate of harassment and obtain an indication on how many of those who have not been interviewed through the questionnaires also face the kind of harassment that the respondents may be reporting, or in the alternative how many of the respondents who report that they have not faced any harassment of any kind are aware of others who face such harassments, a question was posed ‘Even if you have not been harassed, do you know of others who have been so harassed?’ 77% [96 out of 124] of the respondents stated that they know of others who have also faced such harassment. Of this 96 who admitted to knowing such other persons, 46 stated that they know of less than 5 such persons, 33 stated that they knew between 5 to 10 such other persons, and 17 stated that they knew of more than 10 such persons.

It is also clear from the study that local constabulary often target outreach workers of MSM sexual health projects too with extortion demands, and if such demands are not met the work of outreach is obstructed. This has a direct impact on vulnerability and risk of HIV.

Many times local constabulary make arbitrary arrests under the laws related to powers of detention on suspicion. This is a law that is abused with impunity to target outreach staff and MSM in the field. This law is also used as an excuse to justify any detention of MSM.

RECOMMENDATIONS:

In light of the above-mentioned findings, the following recommendations are made to address the issues that have come out in the findings of the study:

- 1) Since local police harassment and rape is a major obstruction to sexual health promotion, intensive sensitisation and training needs to be done with the police at all levels. This sensitisation should be two tiered and should be conducted separately.
 - a) The first tier should target police officials who are often not aware of the types of harassment that are committed by local police, nor are they sensitised to the issues of the human rights of MSM and the national policy framework on HIV/AIDS under which the intervention work is conducted. It is therefore necessary to target them with training and sensitization programmes so as to generate an appropriate human rights environment with law enforcement agencies.
 - b) The second tier should target the local police. It is more often these local police that are responsible for the various harassment and abuses of MSM. It is also they who often obstruct outreach work. Training with local police should involve, not only sensitization, but also developing with their participation, appropriate and actionable mechanisms that addresses such abuse and violations as and when they occur.
 - c) There may well be resistance to any such training process. But one way of overcoming this would be to involve the state agencies responsible for implementing HIV/AIDS prevention programmes to organise the training process with the involvement of police officials. In this way HIV prevention agencies can be utilised to train police at both levels.
- 2) It would not be viable to attempt to directly intervene with *mastaans* with sensitisation. But the effect of their abuses can be minimised by intervening with the police. If the police can be sensitised to the kinds of abuse and harassment that MSM in general and intervention agencies in particular face in the field from *mastaans*, and if they can be urged to take appropriate and prompt action against them, then it is likely that such harassment will reduce to a large extent. Such sensitisation can be a part of the training package that is developed for the police.
- 3) As a first step it may be suggested that the police sensitisation be taken up in all the cities in which MSM HIV intervention projects are operational.
- 4) To minimise the incidence of rape and sexual assault, legislative changes need to be introduced that provide for effective remedy against male-on-male rape. This can be done by either introducing male rape provisions in the penal code, or by amending the sodomy law (Section 377 of the Bangladesh Penal Code) so that it covers all male-to-male non-consensual sexual acts while not criminalising consensual acts. This would make it possible for MSM who are victims of rape to seek legal remedy without criminalising themselves in the process. This can be done either by involving the National AIDS Programme

in advocacy efforts targeted at legislative change, or it can be done by bringing about a constitutional challenge to the present definition and usage of the sodomy law in the court of law.

Section 377 Bangladesh Penal Code: *Whoever voluntary has carnal intercourse against the order of nature with man, woman, or animal, shall be punished with imprisonment of either description which may extend to life, or up to 10 years, and shall also be liable to fine.*

Explanation: *Penetration is sufficient to constitute the offence as described in this section.*

- 5) If the option of a legal challenge is chosen for bringing about the necessary changes in the sodomy laws, then adequate funding need to be provided for the same.
- 6) Sensitisation of the police should make issues around gender a main focus of activity. This is necessary to arrest the incidences of harassment and abuse caused by insensitivity to gender issues.
- 7) There should be provision of resources to conduct advocacy programmes with the education department to make gender sensitisation in the higher educational institutions, especially institutions that are all male, a regular part of the education curricula. This would help in reducing the harassment of 'effeminate' and 'not-masculine' males.
- 8) One of the immediate needs of *kotis* is economic empowerment. This can be brought about by the following:
 - a) By the formulation of appropriate micro-credit and income-generation schemes.
 - b) By the institution of vocational and other non-formal education for MSM as they are often forced to leave formal education early, leading to erosion of economic capabilities.
- 9) The existing projects conducting HIV intervention programmes with MSM should be given the resources and training to develop their skills to start providing psychological and psychiatric help to those who have repressed trauma due to violence and sexual assault that they have faced. Appropriate mental health strategies need to be developed to address this.
- 10) Each city that has operational projects on MSM HIV intervention should be given the resources to train and sensitise a group of local lawyers on the jurisprudence of human rights development on MSM, so that they can form a core team whose services can be accessed whenever there is a violation of any right of MSM.

NOTE OF THANKS AND ACKNOWLEDGEMENT

This study was a joint team effort where many people played a role. In this, special mention needs to be made to the outreach staff and site bandhus of **Bandhu Social Welfare Society** who facilitated the site visits and arranged for the participants of the interviews and FGDs. They were also responsible for collection of the data through the questionnaire. Without their cooperation this study would never have become possible.

For managing the diverse logistics of the study and keeping the stopwatch in place so that all activities of the study gets done in right time, thanks also needs to be given to AHM Azizul Haque, Paritosh Kumar Deb, Mahbubul Islam, and AHM Jamal Uddin, the project managers of Dhaka, Sylhet, Mymensingh, and Chittagong projects of Bandhu. Special Thanks to everyone at IDHRB, whose valuable inputs, total dedicated participation, and productive critiques as the institutional consultant and co-researcher to the study has made this study so much more valuable and credible. Also a special thanks to the UNDP Regional Office for their courage and vision in funding the study. And finally for all the hard work and dedication that has moved this study from its inception, a very special thanks to Aditya Bondyopadhyay, NFI Consultant and co-researcher to the study.

While this Briefing Paper arises from a specific study in Bangladesh, anecdotal evidence from other south Asian countries indicate similar dynamics and concerns.