

Employability of Transgender in Bangladesh: Problems and Prospect

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Abstract

In this era of human rights movement, the transgender people still remain as one of the critically disadvantaged community in many developing countries. Bangladesh legally recognized them as ‘third gender’ just in the year 2013 and since then a contradiction between being legally recognized and protection of their rights existed. This study examines the consequences of the transformation of this socio-cultural status of Hijra (transgender) into a legal one and analyses their basic rights, focusing on their employment rights. The right to employment is a universal right for all, including the transgender, where the Constitution of Bangladesh also ensures equal rights and provides equality before law with the prohibition of gender discrimination in availing employment facilities. This research evaluates the problems and hindrances as well as the support and enforcement of existing social and legal system of the country in development of the transgender’s lives. To come into conclusion, five In-depth Interviews (IDIs) from transgender and two Focus Group Discussions (FGDs) were conducted along with extensive field observations. The findings revealed, albeit the legal recognition and social adjustment of the Hijra’s, present public mindset and the policy gap are major concerns till date.

Keywords

Transgender; Hijra; Third Gender; Employment Rights.

Introduction

Gender is not sane to call just black and white (Bornstein, 2013). The term ‘Transgender’ exists culturally around the globe and reveals the rainbow (Brooks & Edwards, 2009). As widely spoken, sex might often get wrong body where gender identity gets changed

(Bornstein, 2013). Social status, acceptance and perception about transgender still need a special clarification. They are even fighting for their basic rights to live a normal life in many societies (Semenova et al., 2015). HIJRA, or the transgender in Bangladesh are facing the challenges of having equality and social inclusion even

though the government has recently recognized them officially as third gender (Aziz & Azhar, 2019). They were only culturally recognized until the apex court of Nepal legally recognized them as a third gender in 2007, the first South Asian country (Mani & Joseph, 2013). Eventually, the transgender people in Bangladesh got the legal recognition in the year 2013 (Aziz & Azhar, 2019). The individuals who are categorized as neither man nor woman and exists with a separate physical structure are called transgenders (Brooks & Edwards, 2009). Transgender people are a part of our society, but the society treats them in an inhuman way. Even though the Constitution of the People's Republic of Bangladesh (1972) provides that all the citizens are equal before law, the paradoxical social structure refused them from availing their rights (Bangladesh Constitution, A.27). As a consequence, they persist to be regressive given the circumstances in Bangladesh. Moreover, they are also precluded by their own family and also been excluded from all the prospective opportunities (Khan et al., 2009). As a result, they have been unsuccessful to own their parental property, to develop and complete their educational skills, so they are also deprived of their employment rights (Islam, 2016). Suffering from severe financial crisis, they earn money through begging and dancing for their livelihood. They are also getting involved in different crimes and illegal activities for the same purpose.

As the present world is more concerned about the human rights issues, their basic rights are also secured under the international conventions, treaties and communities (Gedro, 2009). Being the sexual minority group, they are neglected by many societies, whereas they should be

treated equally as a human irrespective of their gender through the enforcement of constitutional and international human rights obligations. This paper focuses on the employment rights of the transgender people, and it analyses the opportunities and challenges faced by transgender of Bangladesh in this regard. The initial research question is, what the employability condition of transgender people in Bangladesh is. The main objectives and purposes of this research are to identify the job availability for transgender in Bangladesh, to address the current scenario of formal employment status of transgender both in public and private sectors in Bangladesh, and to assess employment prospect and problems of transgender in Bangladesh.

Literature Review

Emerging concept of transgender's right and Bangladeshi social perspective

Transgender communities historically exist in many cultural contexts, known as bakla in Phillipines, xaniths in Oman, serrers among the Pokot people of Kenya, and hijra, jogappas, jogtas, or shiv-shaktis in South Asia (Khan et al., 2009). Virginia Prince, an American transgender activist, used the term 'transgender' in the 1970s to denote individuals whose individual characteristics falls around in the range of 'transvestite', who sporadically turns into the attires of the so called other sex and 'transsexuals', who has completely changed genitals for the sake of the membership of another gender which was not assigned at birth (Jebin, 2018). The cultural definition recognizes hijra as neither man, nor woman in Bangladesh (Gedro, 2009). A hijra mostly identifies himself as woman in their

behavior and attitude in Bangladeshi culture. From the ancient period of time, transgender people have existed in this world when they were just a stigma for the society and their family. They were considered as a curse and abnormality so that the society were not willing to consider the transgenders as a human being (Human Rights Watch, 2018). They have been killed, abused, treated brutally and identified as criminals in criminological views (King, 2019). During the Mughal period, they played a vital role in the Royal Court as a political advisor, administrators, generals because they were trustworthy person (Michelraj, 2015). In 1871, British administrators passed Criminal Tribes Act in which Hijras were pictured as addicted to serious crime and indulging in gay sex. In 1949, the Act was repealed but negative attitudes about transgender remained among the people. After the Second World War, people from around the world became concerned about human rights issues irrespective of race, sex or religion (Michelraj, 2015). Thus, from human rights perspective, the equal treatment of all genders has been developed gradually and people from different countries advanced their mindset to accept transgender people as human being. It was in 1948, when for the first time, United Nation's General Assembly adopted the Universal Declaration of Human Rights (UDHR, General Assembly Resolution 217A) to ensure and protect the fundamental human rights universally. It declares a born free and equal rights and dignity of all human being.

Hijras of Bangladesh are living a hostile and disadvantageous life due to social stigma and unacceptance. As their families get to know about their physical changes, they are refused to stay with them. No one is willing

to accept them as a tenant, as an employee, as a student or a representative, not even as a victim or survivor. Consequently, most of them leave their family and live with the transgender community in designated different areas around the country (Dhaka Tribune, 2018). A study by Bondyopadhyay and Ahmed (2010) in association with the organization Bandhu Social Welfare Society, brings to attention the differences and similarities of the different sexual minority groups in Bangladesh (Stenqvist, 2015). Many of the recent research on Lesbian, Gay, Bisexual and Transgender (LGBT) groups in Bangladesh, show the stigmatization and social exclusion of the trans people. LGBT rights seem way too tabooed and paradoxical in Bangladesh. Even the criminal law of Bangladesh penalized same sex relation recognizing it as unnatural (Penal Code, 1860, S. 377).

Rights of trans people in Bangladesh with special concern to their employment right

After the emergence of independent Bangladesh, government bodies aimed and declared that all citizens of Bangladesh should be treated with equal rights, opportunities and treatment. In 1972, fundamental human rights and freedom has been ensured by the first Constitution of Bangladesh (Bangladesh Constitution, 1972). This equal treatment of all citizens became more effective through the supremacy of constitution (Bangladesh Constitution, AA. 7, 27). The Constitution also proclaims that the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth (A. 27). As a citizen, the transgender has right to enforce the laws for inheriting their parental property, taking minimum standard education and working in an

office. But in the case of *S.A Sabur vs. Returning Officer* (41 DLR 1989 AD p. 30) the court held that, the equality clause under A. 27 does not guarantee absolute equality to everyone. Such doctrine of classification paves the way to misinterpret the provision of equal rights. The government of Bangladesh recognized transgender people as '3rd gender' in the year 2013. Now, the trans community has gained legal recognition by dint of which they can list themselves as 'hijra' in any official document (Stenqvist, 2015). Nevertheless, they are still being discriminated and being kept outside of most activities within the society. In Bangladesh, inheritance of property is governed by the personal laws. There is fallacy that rights of the trans people are not specifically defined. The Succession Act of Bangladesh (Act No. XXXI X of 1925) is applicable for the people who are not followers of Islam, Hinduism or Buddhism. The rules of inheritance are based on gender in these laws. As a consequence, the transgender people are deprived of inheriting their property. Education is a process through which peoples' knowledge, propensity, efficiency, moral strength and character are cropped up (Islam, 2016). Every citizen has a right to get admission in educational institutions irrespective of gender, caste, religion as A. 28(3) of the Constitution has ensured. Therefore, as a citizen of the country, transgender people are definitely entitled to get educational right like others. But due to the traditional public mindset, they are not being allowed to avail the opportunity of pursuing education with that of cisgender people. Being deprived of property and education, they are not being able to secure their lives financially which drives them to a marginalized position. On the other hand,

due to this lack of education and other skills, they cannot participate in any employment. Even the employers do not want to appoint a transgender as an employee due to social taboo. Being employed in a respectable job is far beyond a dream for them till now.

As the constitution of Bangladesh reiterates, Hijras are entitled to avail job facilities equally like other citizens without any discrimination in any employment or office in the service of the Republic on the ground of their gender identity (Bangladesh Constitution, A. 29, 1972). It must be noted that, the equality clause does not preclude the government for laying down of selective test and qualifications for the job (Khan et al., 2009). It means these provisions are applicable only when a transgender fulfills all the requirement of a certain job but denied being appointed thereto on the ground of gender identity. Likewise, the constitution also provides some provisions for positive discrimination to enact special rule in favor of any backward section of citizens for the purpose of securing their adequate representation in the service of the Republic (Bangladesh Constitution, A. 28(4), 1972). As members of a gender minority population, transgender people encounter challenges as regard to sexual identity. In consequence, they fail to pursue a dignified life with education and employment. However, there are some transgender people who have achieved their goal by breaking all the obstacles and difficulties and became an inspirational example for the transgender. Tanisha Yeasmin Chaity has become the first transgender official in the National Human Rights Commission (NHRC) who faced discrimination earlier and successfully removed all the obstacles later (Dhaka

Tribune, 2018). Ms. Chaity's case is undoubtedly an exceptional one. Most of the members of this socially secluded community face discernment and even violence when they opt to go out to do something unconventional. Unsupportive workplace environment and dealing with reactions from discriminating management and coworkers may turn into an enormous source of emotional or physical pain for them (Pepper & Lorah, 2008). Thus, they also get discouraged to participate in civil activities. Being isolated in this way, they find to earn their livelihood by begging, dancing even by threatening people for money. Sometimes, they get involved in immoral and illegal activities as well. In this context, many hijra started to be involved in selling sex (Khan et al., 2009). Thus, the economic hardships that trans people face due to their inability to participate in the workforce further complicate access to HIV, mental health, and gender affirming health services (Divan et al., 2016). Transgender people are often deprived of participating in formal jobs and are denied their right to work. That is why they are involved in the professions like sex work, robbery, begging, drug dealing and smuggling which are illegal and accountable activities in our social setting.

India, the neighboring country of Bangladesh has The Transgender Protection of Rights Bill (2016) which was introduced to the Lok Sabha (Assembly of State Government) and was subsequently sent to the standing committee on social justice and empowerment for consultation. The original version of the bill that was passed by the Rajyasabha (Assembly of Federal Government) in 2014 in India, is to be re-introduced without any change in the draft provisions. On the other hand, Pakistan took a landmark decision by

enacting the Transgender Persons (Protection of Rights) Act in 2018. It spells out their fundamental rights, including inheritance, education, employment, vote, holding of public office, health, assembly, access to public spaces and property. Moreover, it guarantees the right to be officially registered according to the identity they chose. The socio-cultural structure of these two countries are similar to that of Bangladesh. It might prove effective to undertake such initiatives in this context to protect the rights of hijras so that it also positively influences the outlook of the people. Providing equal access to housing, education, public facilities and employment opportunities, and developing and implementing anti-discrimination laws and policies that protect trans people in these contexts, including guaranteeing their safety and security, are essential to ensure that trans individuals are treated as equal human beings (Divan et al., 2016). Thus, it shows that the transgenders have the equal right to any employment officially though the reality is different. This study actually identifies the current scenario of employment rights of transgender in Bangladesh. Trans people mostly do not have skill fit to join the labour force and their access to education and skill development are limited as discussed earlier. The legal rights and social acceptance are contradictory as transgenders do not get adequate facilities (such as education, employment, social inclusion etc.) for a standard livelihood.

Methodology

This study has adopted qualitative approach where data have been collected through five In-depth Interviews (IDIs)

from transgender people and two Focus Group Discussions (FGDs) conducted in November and December 2019. First FGD consisted of 14 participants who are transgender, policy makers, journalist, public and private officials and employers. These 14 members are involved with transgender rights movement, and they have better knowledge about this community. Second FGD consisted of 8 members who are transgender of different ages, HIJRA who are basically the survivors and have been exploited before. The second FGD consists of participants from 8 different regions of Bangladesh. four of them are graduates and employed in private sector. The remaining four participants are illiterate and involved in begging, crime and sex work. Therefore, the second FGD considers opinion from both socially privileged and underprivileged sections of transgender. Five IDIs are conducted from transgender for more detailed information about them and the researchers followed conversation style of discussion with prior decided topics. The sample selection has covered the whole population which is conveniently chosen due to the unavailability of a sample frame, time and security constraints. FGDs and interviews were conducted with the help of a local social welfare organization who work for the rights of HIJRA community in Bangladesh. All the names, age and other details of participants and associated bodies are kept anonymous due to privacy and research ethics. Researchers are directly involved in collecting data for this study and followed the techniques of Yin (2003) for data collection and analysis. There was a list of discussion topics for FGDs. Researchers acted as facilitators in the FGDs and respondents joined the discussion to comments based on their

experiences and opinions. Data collected through FGDs are coded on each single issue and are analyzed systematically (Morgan and Spanish, 1984; Rabiee, 2004). IDI and FGD methods are used in this study as it requires an interpretive and descriptive method to get the information from the respondents based on feelings, experiences and realities with full of confidentiality (Rabiee, 2004). Data from IDIs are thematically analyzed and connected with the findings from FGDs.

Findings & Discussions

While taking in-depth interviews from transgender working people in Bangladesh, all the respondents have mentioned that they are fortunate enough as they are successful to be employed and empowered. The participants of this study have career success and social acceptance at this moment though they struggled a lot to establish their position in the society. However, all the transgender's interviewed were exploited and abused before. They somehow managed to survive. Many of them are still under privileged and deprived of their basic human rights. Most of the transgendered people are fighting to live healthy life since they are poor, discriminated, often hated and unsupported by the society in Bangladesh. Most unfortunately, they are exploited and abused by their family members and deprived of their basic rights like shelter and food at home. They are even excluded by their parents for family property and inheritance. The findings of this study are presented below more in details based on current status, problems and prospects of their employment opportunities.

Current Employment Status of Transgender In Bangladesh

Income sources for most of the transgender in Bangladesh are begging, entertaining people with chaotic dancing and singing. According to the head of transgender welfare association in Bangladesh, “Hijras in Bangladesh are considered as degraded and uncivilized section of the society. They are hated by almost everyone and no one wants them to be part of their family. People have the stigma for transgender as it is believed that they are the curse for the society”. Since the society has disgraceful attitude towards transgender, they are not treated as normal human being. It is considered as common for the transgender to live the life with the help of others. They are not offered job, and even not asked to work. They are either overlooked or discriminated mostly by the family as well as by the community. Respondents described family members treated them negatively, for example one respondent said,

“I was taking my dinner alone in a separate room, and my father entered the house and saw me eating. He threw away my food and dragged me down to the street and close the door. I was completely shocked that night and couldn’t believe myself what happened to me. I was abandoned by my family when I was 22 years old. I then started looking for job of home assistant and asking people of the neighborhood to shelter me at their house. No one sheltered and employed me since they believed that I would be harmful and disturb others because of my sexual orientation. So, I started dancing,

asking for money in train and bus with other transgender friends.”

As government recognized the transgender officially in 2013, there are some organizations, both public and private, started recruiting transgender (Jebin, 2018; Stenqvist, 2015). However, the number of transgenders in formal employment status is very low. Transgenders in Bangladesh have very limited access to education and their skills for employment are also low. The social inclusion of transgender in Bangladesh are essential and government and mass media can take the role for accepting trans as part of the society. Most of the transgender in Bangladesh are unemployed, unskilled and uneducated. Getting a job is always a matter of luck for them and continuing the job with respect and dignity is still unsure. They are offered blue collar job mostly and their capacity in productive sector is undermined. Though, some of transgender are economically and politically powerful, many of them are unable to work for the right and movement of their community due to social barriers and stigmas.

Economic and employment challenges of transgender in Bangladesh

Economic conditions of transgender community in Bangladesh are disgraceful. They are mostly the poor section of the society, and they lead impoverished lifestyle. They are deprived of inherited property since they are often abandoned by the family. Their presence in business and formal employment are low. But they want to be empowered and join the national workforce. According to respondent P4 who is nearly 50 years old, “I was sex worker before my 30s and I had many

clients. I then started suffering from sexually transmitted diseases. I was worried of my health and means of survival. I learned this tailoring job and started my tailoring business with the help of my other transgender friend named Shila. However, I sought assistance from bank and many development agencies. No one helped except my friends". Financial support for doing start up business and offering jobs to transgender are not entertained as like many other south Asian countries (Mani & Joseph, 2013). Their access to public and private jobs are low due to lack of required education and skill. Those who work are often discriminated by employers and co-workers. One of the transgender respondents of the FGD (F.2.8) mentioned that her office colleagues often treat her differently and some of them try for sexual intimation. Managers of different companies also raise the same issues of humiliation to their transgender workers at their places. Transgender workers mostly work in non-managerial jobs and their employment opportunities for high ranked jobs are very few in Bangladesh. Based on the discussions of both FGDs and IDIs, transgender in Bangladesh face the hardship in getting education, skill development opportunity, job and social dignity. Transgender do not get equal employment opportunity as mentioned in the constitution.

Employment opportunities of transgender in Bangladesh

Even though transgender in Bangladesh are having bundles of challenges and social disparities, there are some hopes of prosperity and welfare for them in future. Transgender are participating in national election in Bangladesh. SME foundation,

Bangladesh Small & Cottage Industries Corporation, National Skill Development Council and Ministry of Industry are offering skill development program for the transgender, and they are also encouraging trans to be entrepreneur through financial and technical assistance. Bandhu Social Welfare Society is giving technical support, skill development and capacity building training to the Hijras. There are many Hijras working in restaurant as chef and crew members in Bangladesh. Their performance as beautician in beauty parlor are also getting popular in recent days. The dedication of transgender for creative works are often remarkable. It is believed that they can perform better in tourism and hospitality industry. Transgender can be involved with different income generating sources like food preparation, spa & meditation, tour guide, entertainment for tourist, tailoring etc. There are some trans studying in different universities in Bangladesh and it is expected that they will work for the welfare of their community in future. Respondents P3 says, "please, give us the platform, give us hopes and respects. Allow us to be enlightened. We are as normal like you, and we can definitely work and live a normal life". Government has recognized them as third gender since 2013 and some of them has joined public service. Some skilled transgenders are working in Ready Made Garments (RMG) and other manufacturing based companies and some of them are holding supervisory positions as well. Thus, there is a light of hope for the transgender to be empowered future in Bangladesh. All the findings of the study are summarized in the following table and Appendix A.

Table 1: Overview on employability of transgender in Bangladesh

Current Employment Status	Economic And Employment Challenges	Employment Opportunities
<ul style="list-style-type: none"> • In Bangladesh, transgender people are officially recognized in 2013. • But they are considered as degraded and uncivilized section of the society • There is social stigma that they are curse of the nature. • They are either overlooked or discriminated mostly by their own families • Transgender in Bangladesh have very limited access to education and their skills for employment are also low. • They are offered blue collar job mostly and their capacity in productive sector is undermined. • They mostly live by sex work, begging and entertaining people. 	<ul style="list-style-type: none"> • They do not get equal opportunity of education and employment as provided in the Constitution; hence, they lead an underprivileged life. • They are deprived from inherited property and the financial support to do business is also low • Trans people do not get a dignified job offer and are being discriminated in blue collar job as well • Sexual harassment and humiliation are common in the workplace 	<ul style="list-style-type: none"> • Some transgender people are receiving higher education, and some has joined public services • Some foundations and organizations are now helping them through skill development programs and financial and technical support • Some trans people developed their career by becoming chef and crew member • They are also working in beauty parlours and doing creative tasks like tour guide, tailoring, entertaining tourists etc. • They are also contributing in RMG sector, in manufacturing part and in supervisory position as well

Conclusion

It can evidently be perceived that even after seven years of transgender's recognition in Bangladesh as third gender, no effective application of law or any policy has been undertaken for this purpose (Jebin, 2018). As a consequence, they yet failed to provide themselves a dignified life with education and employment. A few of them could avail

the opportunity of suitable jobs, whereas the maximum is living an uneducated and unemployed life as an underprivileged section of the society. Moreover, the society does not cooperate with them to participate in any civil arena. Transgender identity is not recognized widely, and their dignity as human being is not protected. The employers are not willing to employ transgender in their institutions on the ground that it will damage their institutional

environment and the harmony of coexistence. The social and psychological perceptions about transgender are mostly negative (Divan et al., 2016). Thus, they are largely deprived of their rights and suffer severe financial crisis and having no other way out, they earn livelihood through begging, dancing and various illegal activities.

Even though it is not possible to ensure every right to the transgenders at a time, solutions have to be made in a structured and periodic way from every sphere of the society. Combined initiatives by the government, NGOs, employers and the people from different sectors of the society are essential. More importantly, awareness among transgender themselves must be created through the stakeholders regarding their employment rights and benefit of being formally employed. In this regard, employers should be aware as well and create job opportunity for them. To make them competent, several development programs and trainings can be arranged. This will also help channel a networking between the transgender community and the employers. Instead of treating them as disables or untouchables awareness must be created among people to respect their identity and to treat them equally. Appreciation for their achievements can also enhance their confidence and self-esteem. Government and media should play an active role to create such acceptance for transgender among the people. Furthermore, government may take special measure by adopting a policy for transgender people. It can upturn opportunities in public services and reform quota system for them to ensure their representations. It also can provide and facilitate them with loan facilities so that they can start their own

business or invest money in a beneficial way. At the end, it can be said that social inclusion for transgenders must be done by everyone together to improve their condition.

Only recognition cannot change the traditional view of the society unless there are some special policies and social awareness. Some of NGOs are trying to increase their participation and development in education and employment grounds where some of the transgenders are employed with their qualifications as exceptions which cannot be illustrated as an example. The transgenders are deprived of their educational right and as a consequence they cannot get a good job. Here, there is ample scope for further studies to explore their education rights and the process that would lead them to a decent employment. This research has focused on the employment right of the trans people in the light of legal provisions and social perspective of Bangladesh. Thus, it will draw the attention of legal and social activists as well as concerned bodies in the government and policy makers for further reformation and actions toward the improvement of trans people. However, this study has not discussed other rights of hijras in details and also has not associated to international perspective. Over and above, unavailability of Bangladeshi case laws has also created an impediment in legal evaluation. Therefore, there is a scope for future studies in this area more specifically with the focus on human rights.

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Appendix A

Table 2: Participants' details of FGDs

FGD-1 19/11/2019		FGD-2 02/12/2019	
SL/ Code	Designation	SL/ Code	Designation
F.1.1	Production Manager of Ceramic Factory where 50 Transgender work	F.2.1	Hijra-1, Social Activist
F.1.2	Journalist from Denmark works in Bangladesh	F.2.2	Hijra-2, Sex Worker
F.1.3	Owner of a renowned restaurant in Dhaka where chefs are transgender	F.2.3	Hijra-3, NGO Worker
F.1.4	General Manager (GM) of a RMG factory where transgender work	F.2.4	Hijra-4, Boutique Shop Owner
F.1.5	GM of an Agro Food Manufacturing Company who is a transgender	F.2.5	Hijra-5, Tailor
F.1.6	Deputy Director, Ministry of Industry, Bangladesh	F.2.6	Hijra-6, Beautician
F.1.7	Deputy General Manager, SME Foundation Bangladesh	F.2.7	Hijra-7, Sex Worker
F.1.8	Manager, Bangladesh Employer's Federation		
F.1.9	Media Journalist		
F.1.10	HR Manager, Dhaka EPZ		
F.1.11	Executive Director of a transgender co-operative society	F.2.8	Hijra-8, Office Clerk
F.1.12	Hijra-1, Beautician		
F.1.13	Hijra-2, Sex Worker & Social Activist		
F.1.14	NGO official from Netherland works in Bangladesh		

Participants of In-depth Interviews

*(Names are anonymous * All the interviews took place in November & December, 2019)*

- | | | |
|-----------|-----------------------------|-----------|
| 1. | Hijra-A (Beautician) | P1 |
| 2. | Hijra-B (Sex Worker) | P2 |
| 3. | Hijra-C (NGO Worker) | P3 |
| 4. | Hijra-D (Tailor) | P4 |
| 5. | Hijra-E (Chef) | P5 |