

Human Rights Council – 24th session – September 2013

Item 6: Consideration of UPR report of Bangladesh

Statement for Action Canada for Population and Development

Thank you Mr. President

I make this statement on behalf of Sexual Rights Initiative¹ and the Boys of Bangladesh.

We appreciate and commend the willingness and commitment of the government to improve laws and policies relating to eliminating all forms of discrimination against women and we hope it includes lesbian and transgender women.

We are however very disappointed by rejection of the recommendation to consider repealing section 377 of the Penal Code of Bangladesh and the government's response that the laws of the land should be in conformity with the prevalent socio-cultural norms and values of the country. Section 377 of the Penal Code of Bangladesh is colonial legacy in all South Asian countries and hence does not necessarily reflect Bangladeshi society. Further the Constitution of Bangladesh provides equality before that law and equal protection of the law, and criminalising a whole section of the population denies these persons the protection of the law from violence and discrimination.

We want to bring to the attention of the Government that there has not been any case tried or filed under this section in the history of Bangladesh. However, Section '377' is invoked by law enforcement agencies to harass and incite violence towards Hijra, Kothi and LGBTI-identified communities. Gross human rights violations have been reported in the forms of abduction, arbitrary arrests, detention, beatings and gang rape administered by the law enforcement agencies and local thugs. Retaining a law that criminalises adult consensual same sex relationships further perpetuates such discrimination and stigma whilst the victims of such violence do not have access to judicial and social redress.

The national AIDS policy of Bangladesh acknowledges the existence of male to male sexual (MSM) practices as well as Male Sex Workers (MSW). However the government continues to ignore and not provide a legal framework to protect the rights of people living with HIV/AIDS, increasing stigma and discrimination against persons living with HIV/AIDS [~~hereon, doesn't seem right~~] but making sexual and gender non-conforming people living with HIV/AIDS leaving them more susceptible to double stigma and discrimination. Furthermore, retaining section 377 hinders HIV prevention efforts from reaching all the affected populations and increases the discrimination faced by real or perceived LGBTI, Hijra and Kothi persons.

Keeping this in mind, we urge the Government of Bangladesh to reconsider its response and recommend the following;

- To de-criminalize consensual same sex sexual activity between adults by repealing section 377 in the Bangladesh Penal Code. .
- To incorporate the issues of sexual and gender non-conforming persons community into the national AIDS policy and strategic plans for prevention of HIV/AIDS.

¹ The Sexual Rights Initiative is a coalition of organizations comprising of Action Canada for Population and Development, Akahata – Latin America, Coalition of African Lesbians, Creating Resources for Empowerment in Action – India, Egyptian Initiative for Personal Rights and Federation for Women and Family Planning – Poland.