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Civil Society Organisations and LGBT+ Rights in Bangladesh: A Critical Analysis

Paul Chaney, Sarbeswar Sahoo & Seuty Sabur

Abstract

This paper explores Civil Society Organisations' (CSOs) views on the contemporary situation of LGBT+ people in Bangladesh. It is a lacuna requiring attention because of the country's poor and deteriorating equality and human rights record. Here we analyse the level of attention to prevailing human rights violations and apply critical frame analysis to the corpus of CSOs' submissions to the United Nations third cycle Universal Periodic Review (UPR), 2013-18. The analysis reveals how a series of key pathologies, including violence, intimidation and discrimination, affect the lives and rights of LGBT+ people. More broadly, the study highlights that, whilst not a replacement for justiciable rights, the discursive processes offered by the UPR are of key significance in seeking to advance LGBT+ rights in countries like Bangladesh. This is because it is a setting wherein oppression combines with extremism and political elites' refusal to embrace equality in relation to gender identity and sexual orientation.

Keywords: LGBT+, Human Rights, Bangladesh, Civil Society, Pathologies

Introduction

This paper explores Civil Society Organisations' (CSOs) views on the contemporary situation of LGBT+ people in Bangladesh. It is a lacuna requiring attention because of the country's poor and deteriorating equality and human rights record (Freedom House, 2017). This is reflected in various international indices. For example, the International Human Rights Rank Indicator

(IHRRI) assigns the country a lowly rating of less than a half (47.20 per cent) (IHRRI, 2014). As Mohajan (2013, p. 60) observes, the situation is ‘alarming... in Bangladesh human rights are violated in every sector of the country... discrimination against minorities is common’. The recent deterioration in human rights has been compounded by three factors: growing radicalisation (see for example, Islam, 2016; Khan, 2017), institutionalised discrimination, and growing state constraints on civil society (Arif & Greenwood, 2017; Chaney & Sahoo, 2020; Feldman, 2015; Haque & Ahsan, 2014; Mohajan, 2014). In contrast, the position of the ruling elite is one of denial. In its latest submission to the United Nations, the Government of Bangladesh makes no reference to LGBT⁺ people and claims: ‘Bangladesh has made remarkable progress in the field of human rights since the current democratic government under the leadership of Prime Minister Sheikh Hasina assumed office in 2009... Bangladesh considers all human rights as universal, indivisible, interrelated, interdependent and mutually reinforcing’ (GoB, 2018, p. 2, para 1).

Contrary to such assertions, institutionalised discrimination is evidenced by the continuing existence of Section 377 of the Penal Code (dating from the British Indian Government legislation of 1860) that makes same sex relations unlawful.¹ Some transgender individuals known as ‘Hijras’² are legally recognised, and whilst in Bangladesh they ‘usually live and roam around in well-connected groups segregated from mainstream society with a distinct culture of their own’ (Mozumder, 2017, p. 11), they nevertheless still face societal discrimination and rejection (Taparia, 2011; Bhanbhro & Wassan, 2013).³ As will be discussed, recent legislation has had a limiting effect on freedom of expression more generally, as well as on CSO advocacy and mobilisation (Chowdhury et al, 2017). As Tasnim’s (2017, p. 98) account notes, ‘in Bangladesh, often CSOs have compromised their autonomy and politicized themselves to certain political parties or political blocks. In such a vulnerable position, civil society can hardly play its expected role to ensure good governance and strengthen democracy’.

The deteriorating situation is graphically illustrated by the high profile murder in 2016 of the editor of the country's only LGBT+ magazine.⁴

The declining human rights situation is at odds with Bangladesh's international obligations (see Haradhan, 2013; Hossain, 2017). The country has ratified most of the principal UN international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR, circa 2000) and the International Covenant on Economic, Social and Cultural Rights (ICESCR, circa 1998). Nevertheless, recent years have seen marked patterns and processes of discrimination against minorities, leading the United Nations Economic and Social Council (2018) to express its concern 'at repeated reports of shrinking space for human rights defenders' (2018, p. 2, para 11) and to 'recommend that the State party decriminalize same-sex relations between consenting adults and take the measures necessary to raise public awareness regarding, and combat discrimination based on, sexual orientation and gender identity' (2018, p. 4, para 24).

Accordingly, this study provides a timely assessment of the issues and challenges in seeking to uphold LGBT+ rights and fulfil the Bangladesh's international treaty obligations, and honour constitutional guarantees of 'equality of opportunity' (Article 19, 'the State shall endeavour to ensure equality of opportunity to all citizens'); and 'equality before law' (Article 27, 'All citizens are equal before law and are entitled to equal protection of the law'). It uses discourse analysis of the corpus of civil society organisations' submissions to the third cycle (2013-18) Universal Periodic Review (UPR), the United Nations' (UN) five yearly monitoring mechanism. Specifically, it explores the 'issue-salience' - or, level of attention afforded to - different human rights 'pathologies' (Hogwood & Peters, 1985)⁵ (in other words, rights violations and implementation failings), related to LGBT+ people. Furthermore, in order to provide an in-depth understanding of inherent meanings, lived experiences and sentiments

around contemporary LGBT⁺ rights, it uses textual analysis to examine CSOs' use of language – or, 'framing' – in the discourse.

The centrality of civil society to the observance of LGBT⁺ people's rights in Bangladesh is underlined by the UN Human Rights Council which warned:

'The Government should protect the vibrant civil society and pluralistic society in Bangladesh by addressing the existing anxiety expressed by... minorities and who feel vulnerable in the face of rising religious extremism and acts of violence perpetrated against them... civil society should continue to claim its space, with the support of international stakeholders, to express dissenting views and voice concerns as appropriate' (UNHRC, 2016, p.20, para 104).

Accordingly, this study's principal research aims are: 1. to review the legal situation of LGBT⁺ people in Bangladesh; 2. identify and explore which human rights issues CSOs highlight in relation to LGBT⁺ people in the corpus of third cycle submissions to the United Nations' Universal Periodic Review, 3. to understand the priority (or 'issue-salience') they attach to different rights violations; and, 4. use discourse analysis to examine the way that CSOs' frame their critical views on the situation of LGBT⁺ people. Accordingly, the remainder of the paper is structured in this way: Following an outline of the legal situation of LGBT⁺ people, attention turns to the study methodology. This is followed by discussion of the study findings – first, in relation to the nature and salience of different pathologies, and second, CSOs' use of critical framings. The implications of the analysis are outlined in the conclusion.

Rights? The Legal Situation of LGBT⁺ People

This section addresses the first research aim, namely to review the legal situation of LGBT⁺ people in Bangladesh. In order to provide a fully contextualised account, we first summarise

the broader human rights culture in the country and consider the rise of restrictive laws limiting individual and group freedoms. Bangladesh is party to eight out of nine core human rights instruments⁶ and has ratified over a dozen international human rights treaties and agreements, including the United Nations Conventions on: the Elimination of All Forms of Racial Discrimination; the Elimination of All Forms of Discrimination against Women and, the Rights of Persons with Disabilities.⁷ However, there are notable omissions and reservations to the ratified treaties,⁸ including the Optional Protocols to the Convention against Torture and the Convention for the Protection of All Persons from Enforced Disappearance. Despite the country's human rights obligations, as noted above, the International Human Rights Rank Indicator (IHRRI) assigns the country a lowly rating of less than a half (47.20 per cent) (IHRRI, 2014).

This assessment reflects a raft of ongoing rights violations and issues. These include politically-motivated detentions, including the jailing of members of the main opposition parties, as well as the suppression of media and civil society organisations critical of government abuses. Analysis of children's rights also paints a bleak picture of continuing widespread malnutrition, denial of access to healthcare and education, as well as child labour, trafficking and sexual abuse (Chaney, 2018). In terms of gender equality and women's rights, profound challenges remain. As new research reveals, the state is becoming more intrusive, if not authoritarian, with a shrinking the space for civic engagement. Whilst there are multiple women's/feminist movements active today, they face formidable barriers to reassert their independence, reclaim lost ground and hold the state accountable for prevailing gender discrimination and the oppression of women and girls (Sabur, 2021). Contemporary analysis of the Rohingya crisis in Bangladesh (Chaney 2021) also paints a dismal picture of rights violations; including denial of citizenship, access to healthcare, violence, intimidation and sex trafficking. Some groups within the refugee population fare particularly badly, notably women,

girls and disabled people. Finally, to further illustrate this malaise, analysis shows how the politicisation of religion and the resultant conflict between ‘secularism’ and ‘extremism’ have been fuelling inter-communal tensions and religious intolerance. In consequence, religious-based violence is one of the principal human rights pathologies affecting the country today. This is accompanied by a narrative of police malpractice, judicial failings, discrimination, oppression and incitement (Chaney & Sahoo, 2020).

Allied to these issues, in recent years Bangladesh has seen the rise of restrictive laws limiting individual and group freedoms (Islam, 2011; Mohajan, 2013; Suykens, 2016). This is part of a wider international trend as governments have used legal measures to suppress criticism and undermine the independence of civil society (e.g., Thornton, 2013; Chaney 2018, 2019). This clamp-down has been criticised by the United Nations in the following terms:

The Human Rights Committee... were concerned about limitations on the rights to freedom of opinion, expression and association [in Bangladesh], particularly the lack of police protection, as well as death threats, physical attacks, intimidation and harassment of journalists, bloggers and human rights defenders under the Information and Communication Technology Act of 2006 (UN Human Rights Council Working Group on the Universal Periodic Review, 2018, p.5, para 30).

Section 57 of the Information and Communication Technology Act (2006) has been frequently used to detain and silence dissidents. It states:

If any person deliberately publishes or transmits or causes to be published or transmitted in the website or in electronic form any material which is fake and obscene or its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, or causes to deteriorate or creates possibility to deteriorate law and order, prejudice the

image of the State or person or causes to hurt or may hurt religious belief or instigate against any person or organization, then this activity of his will be regarded as an offence.⁹

Moreover, repressive amendments to the Act in 2013 made alleged breaches of Section 57 ‘non-bailable and non-referable’ offences, raised the sentence for offences from 10 to 14 years, and granted law enforcement officials the power to arrest without a warrant. In a similar vein, the Digital Security Act 2018 gives the Digital Security Agency sweeping powers to initiate investigations into anyone whose activities are deemed contrary to the ‘national interest’.¹⁰

A further example of the restrictive enactments is the Foreign Donations (Voluntary Activities) Regulation Act 2016. Again, the UN Human Rights Committee expressed its concerns about its effect on civil society:

The country team remained aware of possible restrictions that the Foreign Donations (Voluntary Activities) Regulation Act 2016 might impose on civil society organizations. It recommended that Bangladesh amend the Act and noted that organizations working on issues relating to lesbian, gay, bisexual, transgender and intersex persons found it difficult to expose them publicly due to threats from religious extremists and recent killings of activists on those issues (UN Human Rights Council Working Group on the Universal Periodic Review, 2018, p.5, para 32).

Against this backdrop we now review the legal situation of LGBT⁺ people in Bangladesh. It must be first noted that there are no accurate figures for the number of LGBT⁺ people amongst Bangladesh’s population of 152.5 million.¹¹ As noted, under domestic law homosexuality is technically illegal and remains a highly sensitive issue. Section 377 of the Penal Code dates from the colonial era and carries a maximum sentence of 10 years imprisonment. Police often

use it as a pretext to harass, intimidate and detain people on the grounds of their real or perceived sexual orientation.

Transgender ‘Hijras’ are legally recognised but are subject to societal discrimination. Here it should be noted that Hijras are not restricted to Bangladesh but are a subcontinental cultural phenomenon.¹² In terms of the present study, ‘most of the Hijra in Bangladesh are biologically males who find their inner psyche more similar to that of women, and their gender roles resemble those of females. They often claim that their female mind has been trapped in male biology’ (Khan et al, 2008, p.127). Thus, ‘they do not conform to conventional notions of male or female gender but combine or move between the two’ (Khan et al, 2009, p. 442). Whilst the legal recognition of the Hijra as a third gender has been viewed by some as a progressive step, as Hossain (2017, p. 1427) explains, the reality is somewhat different:

‘Crucially, the Hijra first and foremost do not conjure up the image of an alternative sexuality. Furthermore, neither the government nor the popular masses in Bangladesh view the Hijra through the lens of lesbian, gay, bisexual and transgender organising or as a part of a transnational movement organised on the basis of either sexual orientation or gender identity’

Instead, the process of legal recognition involves,

‘A new discursive interpellation of the Hijra as ‘disabled’... [whereby] innate genital difference [is viewed] as disability [such that] Hijra are understood to be a special group of people with genital defects delinked from sexual desire’ (Hossain, 2017, p. 1419).

On face value, Articles 19 and 27 (‘Equalities’) of the Constitution appear to offer LGBT+ people some protection against discrimination. In practice, this is not the case. A recent legislative initiative sought to address this shortcoming. The draft Anti-Discrimination Law

(2015) set out protection for LGBT⁺ and transgender people, but it has thus far failed to make it into law.¹³

Given the lack of protection afforded to LGBT⁺ people under domestic law, key significance attaches to Bangladesh's international obligations. Whilst the Universal Declaration of Human Rights (UDHR) does not explicitly mention sexual orientation or gender identity, following an earlier UNHRC ruling in 1994, laws discriminating on the basis of sexual orientation are held to be in violation of the UDHR.¹⁴ Specifically, references to 'universal', 'other statuses' or alternatively, 'sex', are taken to include LGBT⁺ rights (Wintemute, 2002). The same is true of the UN International Covenant on Civil and Political Rights (ICCPR) to which Bangladesh is a signatory. Problematically, however, Bangladesh reserves the right to interpret the non-discrimination clauses of ICCPR Articles 2 and 3 within the context of its constitution and domestic law.

It should also be noted that historically the United Nations' record on LGBT⁺ rights has been poor. Indeed, it was only in 2011 that it passed its first resolution recognising LGBT⁺ rights (and published a report detailing violations of the rights of LGBT⁺ people, including hate crimes, the criminalisation of homosexuality, and discrimination; OCHR, 2011). Subsequently, further progress has been made with UN Resolution A/HRC/RES/27/32 'Human rights, sexual orientation and gender identity' (adopted on 26 September 2014).¹⁵ Yet, as Ihawoh (2014, p. 621) observes, 'the strong opposition to the inclusion of LGBT⁺ rights protection in the UN human rights corpus is a reminder of the historic tensions between inclusionary and exclusionary impulses in international human rights practice'.

As part of its growing interest in LGBT⁺ rights, the United Nations Human Rights Council adopted a further resolution (June 30, 2016) on 'Protection against violence and discrimination based on sexual orientation, and gender identity'. Notably, Bangladesh was one

of the few countries that voted against the UN resolution. This rejection of LGBT⁺ rights by the Government of Bangladesh (GoB) is nothing new. Earlier, in 2013, it opposed the UN Population Fund motion to support LGBT⁺ rights at the Sixth Asian and Pacific Population Conference. According to Bangladesh's permanent representative to the UN, AK Abdul Momen, adopting such policies would go against the country's 'social norms'.¹⁶

As the foregoing shows, specific references to LGBT⁺ justiciable rights are absent from the domestic legal code and the country's obligations under UN treaties. Yet, it is argued, the country's international obligations are of key significance because, in the wake of the 2014 and 2016 resolutions, the UN is now taking a more proactive stance and, as noted, references to 'universal', 'other statuses' or alternatively, 'sex', are taken to include LGBT⁺ rights. Moreover, these are covered in the UPR and other UN monitoring procedures that Bangladesh participates in. Thus, for example, in its Compilation on Bangladesh (HRC 2018) the Office of the United Nations High Commissioner for Human Rights was explicit condemning the rights abuses of LGBT+ people:

The Human Rights Committee was concerned... at the criminalization under section 377 of the Criminal Code of consensual sexual acts between same-sex couples and stigmatization of and harassment and violence against lesbian, gay, bisexual, transgender and intersex persons; and at barriers preventing transgender persons from gaining assistance in seeking employment. [Moreover...] transgender persons, faced high levels of sexual and gender-based violence [and...] alternative mechanisms should be introduced to protect lesbian, gay, bisexual, transgender and intersex persons and [the HRC] recommended that Bangladesh acknowledge the existence of sexual and gender minorities and abolish Section 377 (HRC 2018, p.3, para 14).

As the following discussion reveals, in the face of the domestic clampdown on civil society and restrictions on freedom of expression, international mechanisms such as the UPR are now providing civil society organisations (CSOs) with a rare opportunity to put LGBT⁺ rights on the political agenda. Notwithstanding state suppression, CSOs learn about the UPR processes in a number of ways. The first is through networking. As Appendix One details, several of the UPR reports are joint submissions, in some cases submitted on behalf of hundreds of local organisations (see Methodology section – below). Second, knowledge of the UPR is gained by local CSOs’ co-working with international human rights CSOs (such as Amnesty International and, Human Rights Watch). In spite of government restrictions, the latter are able to use electronic communication via the internet to avoid aspects of censorship and share knowledge of the UN monitoring processes. Lastly, the internet presence of the UN is a further key source of information. Its website explains to CSOs how to engage with the UPR and submit stakeholder reports. Closed groups and networks via WhatsApp and similar platforms allow CSOs to circumvent state monitoring and censorship; although not without risk to activists.

Methodology

In methodological terms, the present analysis offers a transferable discourse-based approach to studying human rights. As noted, the UPR allows for civil society organizations to submit formal written submissions to the Human Rights Council. These constitute a rich dataset. Founded in the critical, situated knowledge of civil society, the analysis reveals the multiple and inter-connected issues in seeking to advance LGBT⁺ rights.

At this point it is worth considering why the current focus is on the situation of ‘LGBT⁺’ people- as opposed to LGB people. As this study is concerned with the UPR, it follows the UN approach which centres on ‘LGBT⁺’ issues – here defined as Lesbian, Gay, Bisexual,

Transgender/Transsexual plus (the ‘plus’ is inclusive of other groups, such as asexual, intersex, queer, and questioning). This aligns with a burgeoning academic literature that uses LGBT⁺ as its frame of enquiry (see for example, Mikulak, 2018; Rivers et al, 2018). However, in taking this position we also acknowledge the commonalities and differences between LGB and ‘Trans’ issues (see for example, Cochran and Mays, 2017).

The present discourse analysis was operationalised by examining 27 reports submitted by civil society organisations to the third cycle UPR covering the years 2013-18. The aforementioned number of CSO submissions under-reports the breadth of civil society input, for many are joint submissions authored by broad coalitions of standalone organisations. In this regard it is useful to reflect on how power imbalances between different NGOs, may inform the UPR writing process. The first thing to note is the diversity of civil society submissions to the Third Cycle Review (see Appendix 1). In addition to UPR reports from local standalone CSOs, there are fifteen joint submissions from civil society networks and alliances. One, for example, has input from 20 CSOs, and another is co-authored by a network which is made up of over 1000⁺ groups and 4,000⁺ individuals from 150 countries.¹⁷ As extant work reveals, resource dependencies between civil society network members acts to counter patterns and processes of organisational dominance and subordination (O’Brien & Evans, 2016). Thus, the common authorship and collective position adopted in joint submissions prevents power imbalances by combining the views of a diversity of CSOs. Typically, joint submissions involve international and local organisations (as, for example, in the case of the Dhaka-based Council for Minorities and the international network Namati that works across seven cities in Bangladesh).

The heterogeneity of CSOs taking part in the UPR is based on contrasting organisational aims, size and resources. This also tends to prevent undue distortions that may be introduced into the UPR process by, for example, larger and better resourced CSOs having

a disproportionate say. There are two further key safeguards against power distortions in the UPR process: the fact that civil society submissions are open to all that register with the HRC; and the thematic way that the Office of the United Nations High Commissioner for Human Rights summarises CSO submissions in order to inform the UPR Working Group deliberations (HRC, 2018). The latter is a crucial task that applies to all 180+ UN member states subject to the UPR (Schokman & Lynch, 2015). A standard reporting template for country summaries applies to all UN-recognised states, which systematically details CSOs' position and views on a series of set topics (e.g. 'Cross-cutting issues - Equality and non-discrimination', 'Civil and political rights', and so on).

The discourse analysis was undertaken using a grounded theory approach (Urquhart, 2012) that combined inductive and deductive coding techniques (Fereday & Muir Cochrane, 2006). First, in order to generate initial codes of human rights pathologies related to LGBT⁺ rights, a formative exploratory reading was undertaken of the submissions. Subsequently, the texts were re-read and all references to violations and implementation issues around human rights ('pathologies') were copied into a database. This was then carefully and systematically coded. Not only did this procedure reveal the nature and breadth of the (non-discrete) rights pathologies in the CSO discourse, it also showed the 'issue-salience' or level of CSO attention to (and prioritization of) the different issues raised by CSOs in the third cycle UPR corpus. During the coding process, appropriate software¹⁸ was used to divide the UPR reports into 'quasi-sentences' (or, 'an argument which is the verbal expression of one term, idea or issue', Volkens, 2001, p. 32). Sub-dividing sentences in this manner controlled for long sentences that contained multiple references to LGBT⁺ issues. All textual extracts were logged into a database that enabled descriptive statistical analysis of issue-salience and subsequent examination of framing.

The concept of framing derives from the classic work of Erving Goffman (1974). It refers to the language used by policy actors. Effectively it is a ‘schemata of interpretation’ (Goffman, 1974, p. 27) that is concerned with the inherent meanings, sentiments, messages and criticality in relation to social and political communication (Heine & Narrog, 2015). As the following discussion reveals, framing deepens the analysis for it moves beyond the level of attention to different types of rights violation – or pathology - to consider the way that language is expressed (Druckman, 2001). The frames were inductively generated through systematic reading of the corpus of LGBT⁺ extracts in the database. For example, they include rights, threat, justice, fear, and persecution. The level of attention to the different frames in the corpus was determined by content analysis of electronic versions of the CSOs’ UPR submissions.

At this juncture it is also germane to ask, ‘why is civil society central to the present analysis’? The answer has three components. First, as classical accounts underline (cf. De Tocqueville, 1835), civil society plays a key role in upholding minority rights and freedoms by acting as a democratic check on ruling elites. Second, allied to this, in methodological terms the strength of a civil society perspective lies in standpoint theory (Stoetzler & Yuval-Davis, 2002) and CSOs’ ‘situated knowledge’ of rights implementation, as played out in the lifeworld. Here, attention to the language of civil society organisations provides a necessary complement to arguably narrower assessments of human rights based on quantitative indicators. The third part of the answer is one already alluded to, namely that today there are worrying signs that the Bangladesh Government is constraining the democratic role of civil society (Feldman, 2015; Haque & Ahsan, 2014; Islam, 2011; Islam & Morgan, 2011; Mohajan, 2013).

[Temporary Note – Table 1. – about here]

Contemporary Pathologies in Upholding LGBT+ Rights

In this section we address research aims 2 and 3, i.e., to identify and explore which human rights issues (or ‘pathologies’) CSOs highlight in relation to LGBT+ people in the corpus of third cycle submissions to the United Nations’ Universal Periodic Review, and to understand the priority (or ‘issue-salience’) they attach to different rights violations. These are summarised in Table 1. Each pathology is discussed under the seven sub-headings below.

i. Violence/ hate crimes

Reflecting a wider international trend (Duncan & Hatzenbuehler, 2014; Mayers, 2018), violent LGBT+ hate crimes are the lead pathology, accounting for almost a third of the total (32.4 per cent of quasi-sentences in the corpus). Whilst existing work underlines how cyberspace has emerged as an important site of identity negotiation for non-heterosexuals in Bangladesh (Karim, 2014), over recent years it has also been the source of threats and violence. As one CSO account explains, ‘There have been serious attacks on free expression since 2013 both by government and extremist groups. Several bloggers, writers, activists and others have been targeted by Islamist groups; after some fatal attacks including on two LGBT+ rights activists, many are forced to remain in hiding’ (Human Rights Watch, 2017, p. 5). The latter reference to the way that the violence is undermining trust and associative life in the country is echoed by another CSO that observed:

The murders of Xulhaz and Tonoy¹⁹ have been traumatic for communities demonstrating the debilitating effect of violence against LGBT+ communities in Bangladesh. Community members are frustrated, depressed and not confident about engaging in the public sphere. Due to widespread mistrust, communication has broken down within the community (Roopbaan, 2017, p. 2).

ii. Authorities' failure to protect human rights defenders (including police malpractice)

This was the second most alluded to pathology (17.6 per cent of quasi-sentences). In their accounts of maladministration, CSOs placed emphasis on police failure to protect human rights defenders (HRDs). As a broad literature attests (e.g., Paksha, 2010; Haque & Mohammad, 2013), corruption is a major factor in the malaise. As one account notes, 'Bangladesh's current endemic corruption situation is deeply rooted in its recent history and the political process it has gone through... the political parties have given way to the military governments and military-backed civil government, who ignored peoples' participation and transparency' (Rahman, 2017: 315). For example, one CSO complained:

'In the face of threats targeting HRDs, the Bangladeshi police routinely refused or ignored requests for protection. In many of the killings the HRDs had previously received death threats which had been reported to, but not addressed by, the police. Upon trying to file complaints, HRDs were instructed to visit other precincts, where their reports were also refused to be accepted. Police told several HRDs, including those who were subsequently attacked and killed, to "just leave the country" when they tried to file a complaint and request protection. Others were told "we can't help you, you're a blogger' (Human Rights Defenders, 2017, p. 4).

Several of the CSOs referred to how the police used the heteronormative provisions of the Penal Code to intimidate civil society organisations. For example, one asserted: 'LGBT⁺ people are among the most marginalised groups in Bangladesh and face both state and non-state harassment and violence. Section 377 of the Penal Code criminalises "carnal intercourse against the order of nature", referring to same-sex relationships between men and women, and carries a maximum sentence of 10 years' imprisonment. Police often use this law as a pretext

to harass, intimidate and detain people (torture and ill-treatment in police custody is rife) on the grounds of their real or perceived sexual orientation or gender identity’ (Amnesty International, 2017: 6). Several CSOs gave powerful accounts of police inaction in the wake of the homophobic, extremist murder of Roopbaan’s editor Xulhaz Mannan. For example, ‘Over a year after the murder of the two HRDs. police had yet to send their investigative report to the prosecutor and failed to meet deadlines set by Dhaka Metropolitan Magistrate more than fifteen times. In April 2017, Xulhaz Mannan’s family stated that they had not been interviewed by any authority investigating the case’ (Front Line Defenders, 2017, p. 8).

iii. Government failure to respond to earlier UN UPR Recommendations

Despite the government’s assurance in its third cycle UPR submission that, ‘Bangladesh remained committed to the obligations of putting its best efforts in implementing the recommendations accepted in the 2nd Cycle of UPR [and...] to continue its efforts in collaboration with its international partners towards making stronger and bigger strides in upholding human rights and humanitarian principles’ (GoB, 2018, p. 2, para 4). Failure to respond to earlier UN UPR recommendations was the third most prominent pathology (11.6 per cent of quasi-sentences). For example, one CSO complained that, ‘With regard to LGBT⁺ rights [at the Second Cycle UPR in 2012] Bangladesh noted the recommendation to abolish section 377 of the Penal Code which criminalises, “sexuality against order of nature”... [This remains unaddressed – our] Recommendation: Abolish section 377 of the Penal Code, and institute measures to increase inclusion and build acceptance of diverse sexual orientations and gender identities’ (Article 19, 2017, p. 3). For its part, the UN evidenced its frustration at the Government of Bangladesh’s failure to respond. For example, it tersely reminded the government ‘the [Human Rights] Committee draws the attention of the State party to its

statement on human rights defenders and economic, social and cultural rights (E/C.12/2016/2),²⁰ (United Nations Economic and Social Council 2018, p. 2, paras 11 and 12).

iv. Threats/ incitement

A broad literature traces the psychological and behavioural impact on LGBT⁺ people of threats and intimidation (Dworkin & Yi, 2003; Browne et al, 2011). Whilst some victims seek to ignore or normalise such oppression, for others it has profound negative effects, including suicide. It was the fourth-ranked pathology (11 per cent of quasi-sentences) in the UPR data. Many CSOs gave powerful accounts of intimidation. For example, one stated:

On 25 April 2016, LGBT⁺ rights defenders Xulhaz Mannan and Mahbub Tonox were killed by a group of unidentified men in their apartment in Dhaka. Mannan and Tonoy were prominent LGBT⁺ rights defenders involved with Roopbaan, Bangladesh's first LGBT⁺ magazine, launched in 2014. The magazine promoted wider tolerance of people of diverse sexual orientations. The week prior to his murder, Mannan reported to his friends that he was receiving an increased volume of threatening phone calls, including death threats, and that he expected to be attacked in the near future. He did not report the threats because of the ongoing police persecution of LGBT⁺ rights defenders (Front Line Defenders, 2017, p. 4).

Others alluded to the consequences of such intimidation. For example, 'the government continues to offer no protection to bloggers and a climate of fear prevails. Scores of secular writers have fled the country, while those that remain often resort to self-censorship' (Freemuse, Drik, PEN International & PEN Bangladesh, 2017, p. 7).

v. Discrimination, (in)equality and oppression

A burgeoning literature describes the way that inequalities are institutionalised in many aspects of life in Bangladesh (Joshi, 2003; Pattanai, 2014; Panday, 2016; Bal & Siraj, 2017). This was the fifth-ranked pathology (9.7 per cent of quasi-sentences). For example, one CSO alluded to the fact that ‘LGBT+ people are discriminated and violated everywhere in the family and society in different ways. Police officers routinely discriminate and target them for extortion, physical and sexual abuse, and improper arrest. LGBT+ students are harassed in educational institutes; they [are] often denied jobs, at times ignored or denied treatment at government hospitals’ (Gender based violence and Sexual and Reproductive Health Rights, 2017, p. 7). Of note here is the case of Hijras. As alluded to earlier, legal recognition of this group is based on notions of disability rather than transgender rights (Cf. Hossain, 2017). The CSOs’ UPR submissions underline how this legal status actually reinforces and compounds rights denial and discrimination. For example, one CSO spoke of how:

Since the recognition builds on... the Hijra as a special group of ‘disabled’ people with genital defects, or missing or ambiguous genitals. As a result, transgendered candidates under the government employment programme were denied employment on account of not qualifying as Hijra when, after being subjected to humiliating medical examinations, it was found that they had male genitalia. Instead, they were accused of “impersonating” Hijras. In the absence of a rights-based procedure for the legal recognition of the Hijra community, and other transgendered persons, they remain vulnerable to violations of their human rights (The Asian Pacific Resource & Research Centre for Women (ARROW), on behalf of Right Here Right Now, 2018, p.5, para 14).

vi. Government suppression of civil society

This was the sixth-ranked pathology in the discourse (17.1 per cent of quasi-sentences). It can be seen as part of a wider international trend as governments have used legal and coercive means to undermine the independence of civil society (e.g. Chaney 2018, 2019; Jefferson & Jensen, 2009; Thornton, 2013; Husain, 2016). Three of the key instruments in the current government clamp down on civil society are Section 57 of the Information and Communication Technology Act (2006), the Foreign Donations (Voluntary Activities) Regulation Act (2016); and, Section 19 of the Digital Security Act (2017). These were repeatedly referred to by CSOs. For example, ‘during the 2013 UPR, the Bangladeshi government agreed to “take steps to ensure that civil society can operate without intimidation’. However, the passage of the Foreign Donations (Voluntary Activities) Regulation Act 2016 signals a further shrinking of civil society space and an increasingly repressive climate for free expression. The Act was passed despite the urging of the UN Special Rapporteur on the rights to freedom of assembly and of association in November 2015’ (Human Rights Forum, Bangladesh, 2017, p. 5). Another CSO pointed to the way state repression of civil society is undermining associative life:

The killings of HRDs [Human Rights Defenders] and the subsequent government inaction also led to the disintegration of activist networks and loss of community trust. In particular, HRDs working for LGBT⁺ rights, Labour rights, and those who use blogs to raise awareness of violations reported significantly decreasing or entirely ending their communications with fellow HRDs. Many LGBT⁺ rights defenders deleted their social media profiles and changed their phone numbers after the attack on Xulhaz Mannan, severing most ties with the community. Interactions between HRDs and some locally-operating international organisations were also affected (Front Line Defenders, 2017, p. 8).

These entreaties have not been lost on the United Nations. Reflecting the organisation’s increasingly assertive stance on LGBT⁺ rights, a recent report said that the HRC ‘is particularly

concerned about overbroad restrictions on the activities of human rights defenders imposed by certain provisions in current or proposed legislation... The Committee recommends that the State party ensure a safe and favourable environment for human rights defenders’ (United Nations Economic and Social Council 2018, p. 2, paras 11 and 12).

vii. The Human Rights Incompatibility of the Penal Code

This was the seventh-ranked pathology (8.5 per cent of quasi-sentences). For example, one CSO called for ‘reform [of] Section 377 of the Penal Code 1860 to put an end to stigma, discrimination, harassment and violence against persons with diverse sexual orientations and gender identities’ (Human Rights Forum, Bangladesh, 2017, p. 8). Others alluded to specific enactments that have been used to persecute LGBT+ people. For example, ‘the Information Communications Technology Act (2006) provides broad powers to the government that restrict freedom of expression online, including vague and unnecessary content-based restrictions that do not comply with Article 19 (3) of the ICCPR. In particular, Section 57 of the ICT Act criminalises several forms of online expression, duplicating prohibitions in the broadly applicable Penal Code, including: ‘false information’; ‘obscene materials’; ‘defamatory statements’; ‘expression likely to cause deterioration of law and order’ (Human Rights Defenders, 2017, p. 8). In response, the UN Human Rights Council asserted:

Discrimination against certain groups continues to occur, such as... Criminalization under section 377 of the Penal Code of consensual sexual acts between same-sex couples, which are termed “unnatural behaviour”, stigmatization, harassment and violence against lesbian, gay, bisexual and transgender persons, barriers to assistance in seeking employment of “Hijras”, who are considered as transgender persons, by the

administration of invasive and humiliating medical examinations to prove transgender status (arts. 2-3 and 26-27) (HRC 2017, p. 3, para 11).

[Temporary Note – Table 2. – about here]

The Framing of CSOs' UPR Discourse on LGBT+ Rights

We now turn to address the fourth research aim, i.e., to use discourse analysis to examine the way that CSOs' frame their critical views. Analysis of the framing of submissions underlines the gravity of the situation facing LGBT+ people. Reflecting the often violent and oppressive climate in the country, the dominant frame was the notion of being subject to 'attack' (42.6 per cent of quasi-sentences). For example, one CSO stated, 'Several bloggers, writers, activists and others have been targeted by Islamist groups; after some fatal attacks including on two LGBT+ rights activists, many are forced to remain in hiding' (Human Rights Watch, 2017, p. 3). In a similar vein, another said, 'In February 2015, under the banner of Roopbaan, Roopongti, a queer poetry book, was released at Ekushey book fair, the largest book fair in Bangladesh. The publisher of Roopongti was attacked by Islamic extremists in September 2015' (Roopbaan, 2017, p. 3).

The second most prevalent frame was 'rights denial' (25.2 per cent of quasi-sentences). For example, one CSO said that 'prevalent religious sentiments in a majority Muslim country are against the rights of [the] LGBT+ community. Tonoy and Xulhaz were sent "kafoner kapor" (white cloth used in Islamic funeral) to their homes' (International Commission of Jurists, 2017, p. 3). 'Defence' was the third-ranked frame (7 per cent of quasi-sentences), typified by

the following observation: we need to ‘Publicly defend the right to free speech, and call upon its security forces to end arbitrary attack and misuse of laws to violate rights to freedom of peaceful assembly and expression’ (Human Rights Watch, 2017, p. 6).

A further significant frame in the discourse was ‘fear’ (7 per cent of quasi-sentences). For example, ‘While acknowledging that there have been several arrests and prosecutions of militants in connection with attacks on bloggers, the government continues to offer no protection to bloggers and a climate of fear prevails. Scores of secular writers have fled the country, while those that remain often resort to self-censorship’ (Freemuse, Drik, PEN International and PEN Bangladesh, 2017, p. 2). Another CSO alluded to the need to, ‘... take effective measures to ensure freedom of expression and thought of citizens without fear of attack and harassment by state and non-state actors, and bring to justice those who are responsible for killings, attacks and threats against them’ (Human Rights Forum Bangladesh, 2017, p. 5). Framing in terms of ‘extremism’ was a consistent trope in the discourse. As one CSO observed, ‘We are deeply concerned by the spate of killings against secular bloggers and LGBT⁺ activists, which are yet to be impartially investigated by the Bangladeshi authorities. CIVICUS is alarmed at the lack of adequate protection offered to bloggers and journalists working on issues of anti-extremism and secularity in Bangladesh’ (Civicus, 2017, p. 3).

Amongst the other frames were ‘traditional values’/ cultural incompatibility – of non-hetero-sexual relations. For example, one CSO stated, ‘during UPR 2009, the Government of Bangladesh... refused to abolish Section 377, arguing that “Bangladesh is a society with strong traditional and cultural values. Same-sex activity is not an acceptable norm to any community in the country... During UPR 2013, according to a UN summary of the UPR meeting, Abdul Hannan, Permanent Representative of Bangladesh to the UN Office at Geneva, told the council that his country could not accept recommendations that conflicted with “constitutional and legal provisions” or “socio-cultural values of the country”’ (Roopbaan, 2017, p. 4).

Although less prominent, two further frames were evident in the discourse, ‘self-loathing/ stigma’ and ‘social pressure/ conformity’. In the former case, a wide literature charts the negative effects of self-hate and low esteem emanating from heteronormative mores in society amongst some LGBT⁺ people (Sultana, 2014; Bayer et al, 2017). The framing of CSOs’ discourse in the third cycle UPR submission also evidences this. For example, ‘the majority of LGBT⁺ people surveyed ‘admitted “to harboring self-hatred and suicidal thoughts’ (Roopbaan, 2017, p. 2). The CSO discourse also alluded to social pressure on LGBT⁺ people to conform to heterosexual norms. For example, one CSO referred to the results of its research: ‘42 percent of participants said it would be likely for them to enter heterosexual marriage without disclosing their sexual orientation due to religious and social pressure’ (International Commission of Jurists, 2017, p.2).

[Temporary Note – Table 3. – about here]

Discussion

The present analysis of civil society organisations’ third cycle UPR discourse on the contemporary situation of LGBT⁺ people in Bangladesh reveals a raft of human rights pathologies, including widespread violence, authorities’ failure to uphold rights (including police malpractice), government failure to respond to earlier UPR recommendations, and threats, discrimination and oppression of LGBT⁺ people. These ills were shown to be compounded by rising extremism and restrictions on civil society. The analysis also reveals

how the CSO accounts framed the pathologies in terms of ‘attack’, ‘fear’, coping with ‘extremism’, ‘hurt/ pain’, ‘injustice’, ‘self-loathing/ stigma’ and ‘social pressure’ to conform with ‘traditional’, heteronormative practices.

These findings make an original contribution to the literature by underlining the need to embed the rights of LGBT+ people into the domestic legal code. Moreover, they highlight the need for Bangladesh to sign the Yogyakarta Principles as a necessary step towards a more inclusive future.²¹ However, notwithstanding the United Nations’ calls to revise Article 28 of the Constitution and extend anti-discrimination rights, short-term progress is unlikely. One of the reasons for this is the politicisation of religion and opposition to reform from those who oppose LGBT+ rights on the grounds they are incompatible with religious teachings. The current analysis also reveals the ‘double discrimination’ facing Hijras. Whilst in some quarters, including the UN (see Table 3), recent state recognition of Hijras has been welcomed; the civil society discourse reveals how state recognition is in fact based on notions of disability rather than rights associated with sexual and gender-orientation. UPR testimony reveals how this results in enforced medical examinations, further modes of discrimination and exclusion from government employment programmes.

It is also important to reflect upon the future research agenda allied to the present study. One of the key areas that is deserving of further original scholarship is critical (re-)examination through spatial and temporal lenses of Bangladesh's notions of tradition when it comes to LGBT+ rights. This is because popular consciousness and extant accounts often view it as starting with independence in 1971. What is needed is a more sophisticated, contextualised view of its location within the larger setting of the subcontinent. This is evidenced by the judicial movements of India and Pakistan. While India has decriminalised same sex sexual behaviour, parliamentarians, law-makers and the judiciary in both countries have given detailed decisions and brought out acts (albeit highly problematic and selective) to recognise and protect

transgender individuals. In contrast, Bangladesh remains an outlier. Its political elites have persistently refused to address the issue.²²

In the face of contemporary civil society accounts of the oppression and rights violations of LGBT+ people, the current analysis has also shown that the country's international treaty obligations convey what the extant literature calls 'soft' rights for LGBT+ people (Cole, 2009). In contrast to legally enshrined and enforceable, 'hard' rights, they are discursive and symbolic (Trubek & Trubek, 2005, p. 343). Viewed in narrow jurisprudence terms, legal scholars (Christiansen 2017; Linus, 2017) might argue that, notwithstanding the United Nations' increasing condemnation of the present situation (see Table 3), the non-justiciability of international treaties in domestic courts undermines the value of the Universal Periodic Review.

However, the present study indicates otherwise. Whilst not a replacement for justiciable rights, it is argued that the discursive processes offered by the UPR are of key significance in seeking to advance LGBT+ rights in countries like Bangladesh where oppression combines with extremism and political elites' refusal to embrace equality in relation to gender identity and sexual orientation. In conceptual terms, this aligns with the theory of communicative action (Habermas, 1987), as well as the work of classical liberal theorists (such as Rousseau (1762/1968) and Hobbes (1651)), who advocate participatory democracy founded upon citizen engagement in governance processes.

These principles are evident in the HRC resolution 5/1 of 18 June 2007 which states the UPR should, 'ensure the participation of all relevant stakeholders, including non-governmental organizations'.²³ Thus, as Ferrie and Hosie (2018, p. 18, emphasis added) observe, such 'a collaborative, participatory qualitative process is much stronger than indicators in realising rights; firstly, because the reform/change is built into the process; it is

produced at the time that violations are shared. And, secondly, *because a hidden voice that needs change is revealed through the marginalised experiences of rights holders*'. Expressed in Habermasian terms (1987, p. 140), 'communicative action serves to transmit and renew cultural knowledge, in a process of achieving mutual understandings. It then coordinates action towards social integration and solidarity. Finally, communicative action is the process through which people form their identities'. Thus, in the face of the ruling elite's refusal to countenance the introduction of justiciable LGBT⁺ rights, ongoing restrictions on civil society and a rise in extremism - the discursive criticality of the UPR serves as a key means of highlighting the violence and oppression facing LGBT⁺ people in Bangladesh today.

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Human Rights Pathology	%
Violence/ hate crimes	32.4
Authorities' failure to uphold LGBT rights (inc. police malpractice)	17.6
Government failure to respond to earlier UPR recommendations	11.6
Threats/ incitement	11.0
Discrimination, (in)equality and oppression	9.7
Government suppression of civil society	9.1
Human Rights incompatibility of current laws	8.5

Table 1. Issue Salience of Human Rights Pathologies in CSOs' Third Cycle UPR Discourse on LBGT Rights: Percentage of all Quasi-sentences (N=831).

Frame	%
'attack'	42.6
Rights (denial)	25.2
defence	7.0
Fear	7.0
radical extremism	5.4
hurt/ pain	3.7
(in)Justice	2.5
Self-loathing/ stigma	2.5
'traditional values'	2.1
Social pressure/ conformity	2.1

Table 2. The Principal frames in the in CSOs' Third Cycle UPR Discourse on LGBT Rights: Percentage of all Quasi-sentences (N=424).

<p>Non-discrimination: The Committee is concerned that article 28 of the Constitution prohibits discrimination only on limited grounds, and that the State party has delayed the adoption of comprehensive anti-discrimination legislation. While welcoming the legal recognition of hijras, it remains concerned that same-sex relations between consenting adults are criminalized (art. 2 (2)).</p>	<p>Committee on Economic, Social and Cultural Rights (2018) - Concluding observations on the initial report of Bangladesh, E/C.12/BGD/CO/1</p>
<p>The Committee recommends that the State party expedite the adoption of comprehensive anti-discrimination legislation that prohibits direct, indirect and multiple forms of discrimination on an open list of grounds and that provides for effective remedies for victims of discrimination, including in judicial and administrative proceedings. It also recommends that the State party decriminalize same-sex relations between consenting adults and take the measures necessary to raise public awareness regarding, and combat discrimination based on, sexual orientation and gender identity.</p>	
<p>Non-discrimination - the Committee is concerned that the anti-discrimination bill, 2015, has not yet been adopted and that discrimination against certain groups continues to occur, such as... stigmatization, harassment and violence against lesbian, gay, bisexual and transgender persons. The State party should ensure that the anti-discrimination bill, 2015, protects against direct and indirect discrimination in the public and private sphere based on a comprehensive list of grounds for discrimination, including colour, descent, caste, national or ethnic origin, religion, sexual orientation and gender identity.</p>	<p>Human Rights Committee, Concluding observations on the initial report of Bangladesh (ICCPR), CCPR/C/BGD/CO/1</p>
<p>Unlike the case of the hijras, other sexual minorities do not find much acceptance in society and often experience verbal or other abuse. The idea that individuals belonging to sexual minorities should be able to exercise their freedom of religion or belief like everyone else may strike many people as unusual or even unthinkable. It seems to be a widespread perception in Bangladesh that persons belonging to sexual minorities must be “non-believers” since their conduct is seen in breach of traditional interpretations of religious ethics.</p>	<p>HRC (2016) Report of the Special Rapporteur on freedom of religion or belief on his mission to Bangladesh, A/HRC/31/18/Add.2</p>
<p>The Special Rapporteur would like to stress that the right to freedom of religion or belief is guaranteed for every single human being, so no one should be deprived the right on the basis of sexuality, gender, ethnicity or caste</p>	

Table 3. United Nations’ Discourse on the Situation of LGBT+ People in Bangladesh

APPENDIX – The Study Dataset: CSO Reports Submitted to the Third Cycle UPR of Bangladesh.

ADF International

Amnesty International

CGNK - Center for Global Non-killing

CIVICUS: World Alliance for Citizen Participation

CSW - Christian Solidarity Worldwide

FLD- Front Line Defenders - The International Foundation for the Protection of Human Rights Defenders

GIEACPC - Global Initiative to End All Corporal Punishment of Children

HRW - Human Rights Watch

ICJ - International Commission of Jurists

Institute on Statelessness and Inclusion

RSF-RWB Reporters Without Borders International

Steps - Steps Towards Development

UNPO - Unrepresented Nations and Peoples Organization

Joint Submission: Aparajeyo Bangladesh ECPAT International, Ain oSalish Kendra (ASK), Association for Community Development (ACO)

Joint Submission: Namati and, Council of Minorities

Joint Submission: Bangladesh NGOs Network for Radio and Communication (aNNRC) and Free Press Unlimited

Joint Submission: International Service for Human Rights and Center for Social Activism

Joint Submission: Coalition of Indigenous Peoples Organizations on LIPR (including: Bangladesh Indigenous Peoples Forum; Jatiya Adivasi Parishad; CRT Citizen's Committee. CRT Headman Network; Kapaeeng Foundation; Malev Foundation; CRT Women Headman Karbari Network; Patro Samproday)

References

Arif, H. K. & Greenwood, J. (2017). Neoliberalism, violence and student resistance in the higher education sector in Bangladesh. *Society and Culture in South Asia*, 3(1), 68–91.

Bal, E & Siraj, N. (2017). We are the true citizens of this country: vernacularisation of democracy and exclusion of minorities in the Chittagong Hills of Bangladesh. *Asian Journal of Social Science*, 45(6), 666-692.

Bayer, V. Robert-McComb, J., Clopton, J. & Reich, D. (2017). Investigating the influence of shame, depression, and distress tolerance on the relationship between internalized homophobia and binge eating in lesbian and bisexual women. *Eating Behaviors*, 24(1), 39-44.

Bhanbhro, M. S. & Wassan, R. (2013). Stigmatization of Hijras in Pakistan: Social exclusion and sex work. *Culture Health & Sexuality*, 15 (Suppl 2), S247-S247.

Bondyopadhyay, A. & Ahmed, S. (2011). *Same-sex love in a difficult climate: A study into the life situation of sexual minority (lesbian, gay, bisexuals, kothi and transgender) persons in Bangladesh*. Dhaka, Bangladesh: Bandhu Social Welfare Society.

Chaney, P. (2017). Limited gains, enduring violations: civil society perspectives on the implementation of the United Nations' Convention on the Rights of the Child in Bangladesh. *Journal of South Asian Development*, 12(3), 31-44.

Chaney, P. (2018). Civil society, human rights and religious freedom in the People's Republic of China. *International Journal of Human Rights*, 22(4), 503-524.

Chaney, P. (2019). India at the crossroads? Civil society, human rights and religious freedom. *International Journal of Human Rights*, 23(2), 34-56.

Chaney, P. & Sahoo, S. (2020 forthcoming). 'Civil Society and the contemporary threat to religious freedom in Bangladesh'. *Journal of Civil Society*, <https://doi.org/10.1080/17448689.2020.1787629> .

Chaney, P. (2021). 'Political failure and the suffering of stateless 'non-citizens': civil society perspectives on the Rohingya crisis', Chapter 3 (pp. TBC) in S. Sahoo and P. Chaney (editors) *Civil Society and Citizenship in India and Bangladesh*, Delhi, Bloomsbury Publishing.

Christiansen, E. (2007). Adjudicating non-justiciable rights: socio-economic rights and the South African Constitutional Court. *Columbia Human Rights Law Review*, 38(2), 1-42.

Cochran, S. & Mays, V. (2017). Advancing the LGBT⁺ health research agenda: differential health trends within the lesbian, gay, and bisexual populations. *American Journal of Public Health*, 107(4), 497-498.

Cole, W. (2009). Hard and soft commitments to human rights treaties, 1966–2001. *Sociological Forum*, 24(3), 563–588.

De Tocqueville, A. (1835/ 1956). *Democracy in America*, R. D. Heffner (ed.), New York: Mentor.

Duncan, D. & Hatzenbuehler, M. (2014). Lesbian, gay, bisexual, and transgender hate crimes and suicidality among a population-based sample of sexual-minority adolescents in Boston. *American Journal of Public Health*, 104(2), 272-278.

Druckman, J. (2001). The implications of framing effects for citizen competence. *Political Behavior*, 23(3), 225–256.

Dworkin, S. & Yi, H. (2003). LGBT⁺ identity, violence, and social justice: the psychological is political. *International Journal for the Advancement of Counselling*, 25(4), 269-279.

Feldman, S. (2015). Bangladesh in 2014: illusive democracy. *Asian Survey*, 55(1), 67-79.

Ferdoush, A. (2016). Revisiting Cass's model of homosexual identity development in context of Bangladesh society, *SAGE Open*, 1-8 DOI: 10.1177/2158244016651913

Fereday, J. & Muir-Cochrane, E. (2006). Demonstrating rigor using thematic analysis: a hybrid approach of inductive and deductive coding and theme development'. *International Journal of Qualitative Methods*, 5 (1), 80-92.

Ferrie, J. & Hosie, A. (2018). Methodological challenges in developing an evidence base, and realising rights. *The International Journal of Human Rights*, 22 (1), 5-21.

Freedom House (2017). *Freedom in the world 2017*, New York, Freedom House.

Goffman, E. (1974). *Frame analysis*, Cambridge: Harvard University Press.

Government of Bangladesh (2018). *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 – Bangladesh*, NY: UN, A/HRC/WG.6/30/BGD/1

Gramsci, A. (1953/1971). *Selections from prison notebooks*. Trans.by Q. Hoare and G. N. Smith. New York: International Publishers.

Habermas, J. (1987/ 1981). *Theory of communicative action, volume two: lifeworld and system: a critique of functionalist reason*. Translated by Thomas A. McCarthy. Boston, Mass.: Beacon Press. ISBN 0-8070-1401-X.

Haque, S. & Ahsan, H. (2014). Human rights violations against women: acid violence in Bangladesh. *American Journal of Preventive Medicine*, 46(2), 216-217.

Haque, S. & Mohammad, S. (2013). Administrative Culture and Incidence of Corruption in Bangladesh: A Search for the Potential Linkage. *International Journal of Public Administration*, 36(13), 996-1006.

Haradhan, M. (2013). "Human Rights in Bangladesh: Stresses on the Period of 2009 to 2012," MPRA Paper 53525, University Library of Munich, Germany, revised 15 Feb 2013 https://mpra.ub.uni-muenchen.de/53525/1/MPRA_paper_53525.pdf [Last accessed 20.11.18].

Heine, B. & Narrog, H. (2015). *The Oxford handbook of linguistic analysis*, Oxford: Oxford University Press, Second edition.

Hobbes, T. (1651). *Leviathan*, Oxford: The Clarendon Press. <https://archive.org/details/hobbessleviathan00hobbuoft> [Last accessed 11.08.2018]

Hogwood, B. & Peters, G. (1985). *The pathology of public policy*. Oxford: Oxford University Press.

Hossain, A. (2017). The paradox of recognition: Hijra, third gender and sexual rights in Bangladesh. *Culture, Health & Sexuality*, 19(1), 1418–1431.

Hossain, S. (2017). Extra-judicial killings and human rights law: Bangladesh perspective. *International Journal of Law and Management*, 59(6), 1116-1125.

Husain, S. (2016). Intolerant Bangladesh? How and why. *Society and Culture in South Asia*. 2(2), 286–291.

Ibhawoh, B. (2014). Human rights for some: sexual minorities, and the exclusionary impulse. *International Journal*, 69(4), 23-29.

International Human Rights Rank Indicator (IHRRI). <http://www.ihri.com/> [Last Accessed 22.01.2019]

Islam, S. M. (2011). Minority Islam in Muslim majority Bangladesh: the violent road to a new brand of secularism. *Journal of Muslim Minority Affairs*, 31(1), 125-141.

Islam, M. (2016). Crisis of Islamist extremism in contemporary Bangladesh. *Economic and Political Weekly*, 1 October 2016, 51(40), 25-29.

Islam, M. R. & Morgan, W. J. (2011). Non-governmental organizations in Bangladesh: their contribution to social capital development and community empowerment. *Community Development Journal*, 50(2), 112-132.

Jefferson, J. & Jensen, S. (2009). *State violence and human rights: state officials in the south*, Abingdon, Oxon. & New York: Routledge-Cavendish.

Joshi, R. (2003). Situation of minorities in Bangladesh. *Himalayan and Central Asian Studies*, 7(3/4), 103-121.

Karim, S. (2014). Erotic desires and practices in cyberspace: “virtual reality” of the non-heterosexual middle class in Bangladesh. *Gender, Technology and Development*, 18(1), 53-76.

Khan, E. S. (2017). Bangladesh: The changing dynamics of violent extremism and the response of the state. *Small Wars & Insurgencies*, 28(1): 191–217.

Khan, S. I., Hussain, M.I., Gourab, G., Parveen, S., Bhuiyan, M. I. & Sikder, J. (2008). Not to stigmatize but to humanize sexual lives of the transgender (Hijra) in Bangladesh: Condom chat in the AIDS era. *Journal of LGBT Health Research*, 4(2–3), 127-141.

Khan, S. I., Hussain, M.I., Parveen, S., Bhuiyan, M. I., Gourab, G., Sarker, G.F., Arafat, S.M. & Sikder, J. (2009). Living on the extreme margin: social exclusion of the transgender population (Hijra) in Bangladesh. *Journal of Health, Population and Nutrition*, 27(4), 441-451.

Linus, N. (2017). Justiciability of fundamental objectives and directive principles of state policy: Under the 1999 Nigerian constitution. *International Journal of Law*, 3(5), 29-37.

Mayers, L. (2018). Globalised imaginaries of love and hate: immutability, violence, and LGBT⁺ human rights. *Feminist Legal Studies*, 44(2): 1-21.

Mikulak, M. (2018). Godly homonormativity: Christian LGBT⁺ organizing in contemporary Poland. *Journal of Homosexuality*, 22(4), 1-23.

Mohajan, H. (2014). Child rights in Bangladesh. *Journal of Social Welfare and Human Rights*, 2(1), 207-238.

Moorti, S. (2016). A Queer romance with the Hijra. *QED: A Journal in GLBTQ World-making*, 3(2), 18-34. <https://www.jstor.org/stable/10.14321/qed.3.2.0018>

Mozumder, M. K. (2017). Validation of Bengali perceived stress scale among LGBT⁺ population. *BMC Psychiatry*, 17(314), 8-15.

O'Brien, N.F. & Evans, S.K. (2017). Civil society partnerships: power Imbalance and mutual dependence in NGO partnerships. *VOLUNTAS: International Journal of Voluntary and Non-profit Organizations*, 28 (1), 1399–1421.

OCHR (2011). 'Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity', Report of the United Nations High Commissioner for Human Rights, Office of the High Commissioner for Human Rights, A/HRC/19/41, 17 November (New York, NY, OCHR), available at: http://www.ohchr.org/Documents/Issues/Discrimination/A.HRC.19.41_English.pdf [Last accessed 26 October 2018].

Paksha, P. (2010). Does corruption foster growth in Bangladesh? *International Journal of Development Issues*, 9(3), 246-262.

Panday, P. (2016). Politics of land grabbing: the vested property act and the exploitation of Hindu communities in Bangladesh. *International Journal on Minority and Group Rights*, 23(3), 382-92.

Pattanaik, S. (2013). Majoritarian state and the marginalised minorities: the Hindus in Bangladesh. *Strategic Analysis*, 37(4), 411-429.

Rahman, Md. A. (2018). Governance matters: climate change, corruption, and livelihoods in Bangladesh. *Climatic Change*, 147(1), 313-326.

Rivers, I., Gonzalez, C., Nodin, N., Peel, E. & Tyler, A. (2018). LGBT⁺ people and suicidality in youth: A qualitative study of perceptions of risk and protective circumstances. *Social Science & Medicine*, 212(1), 1-8.

Rousseau, J. J. (1762/ 1968). *The Social Contract*. Harmondsworth, Penguin.

Rossi, A. & Lopez, E. (2017). Contextualizing Competence: Language and LGBT⁺-Based Competency in Health Care. *Journal of Homosexuality*, 64(10), 1330-1349.

Sabur, S. (2021). Gender rights and social movements in Bangladesh: The changing political field, Chapter 6 (pp. TBC) in S. Sahoo & P. Chaney (editors) *Civil society and citizenship in India and Bangladesh*, Delhi, Bloomsbury Publishing.

Schokman, B. & Lynch, P. (2015). Effective NGO engagement with the Universal Periodic Review, Chapter 6, (pp. 126-146) in H. Charlesworth and E. Larking (eds) *Human rights and the Universal Periodic Review: rituals and ritualism*, Cambridge: University of Cambridge Press.

Stoetzler, M. & Yuval-Davis, N. (2002). Standpoint theory, situated knowledge and the situated imagination. *Feminist Theory*, 3(3), 37-49.

Sultana, S. (2014). Impacts of internal stigma among the people living with HIV/AIDS in Bangladesh: An empirical account. *Asian Social Science*, 10(19), 180-190.

Suykens, B. (2018). A Hundred Per Cent Good Man Cannot do Politics': Violent self-sacrifice, student authority, and party-state integration in Bangladesh. *Modern Asian Studies*, 52(3), 883-916.

Taparia, S. (2011). Emasculated bodies of Hijras: sites of imposed, resisted and negotiated identities. *Indian Journal of Gender Studies*, 18(2), 167-184.

Tasnim, F. (2017). Politicized civil society in Bangladesh: Case study analyses. *Cosmopolitan Civil Societies: An Interdisciplinary Journal*, 9(1), 98-123.

Thornton, P. (2013). The advance of the party: transformation or takeover of urban grassroots society? *The China Quarterly*, 213(1), 1-18.

Trubek, D. & Trubek, L. (2005). Hard and soft law in the construction of social europe: the role of the open method of co-ordination. *European Law Journal*, 11(3), 343–364.

United Nations Economic and Social Council (2018). *Concluding observations on the initial report of Bangladesh*, NY: UN, E/C.12/BGD/CO/1

United Nations Human Rights Committee (2017). *International Covenant on Civil and Political Rights - Concluding observations on the initial report of Bangladesh*, NY: UN, CCPR/C/BGD/CO/1

United Nations Committee on Economic, Social and Cultural Rights (2018). - *Concluding observations on the initial report of Bangladesh*, NY: UN, E/C.12/BGD/CO/1

United Nations Human Rights Committee, (2018). *Concluding observations on the initial report of Bangladesh (ICCPR)*, NY: UN, CCPR/C/BGD/CO/1

United Nations HRC (2016). *Report of the Special Rapporteur on freedom of religion or belief on his mission to Bangladesh*, Geneva: UN, A/HRC/31/18/Add.2 NY: UN.

UN Human Rights Council Working Group on the Universal Periodic Review, (2018). *Compilation on Bangladesh - Report of the Office of the United Nations High Commissioner for Human Rights*, A/HRC/WG.6/30/BGD/2 Geneva: UN.

UN Human Rights Council, (2018). *Summary of stakeholders' submissions on Bangladesh*, A/HRC/WG.6/30/BGD/3 Geneva: UN.

Urquhart, C. (2012). *Grounded theory for qualitative research*. Thousand Oaks, Ca. Sage.

Volken, A. (2001). 'Quantifying the election programmes: Coding procedures & controls', in I. Budge (editor) *Mapping policy preferences: parties, electors & governments*. Oxford: Oxford University Press.

Wintemute, R. (2002). *Sexual orientation and human rights. The United States Constitution, the European Convention and the Canadian Charter*. Oxford, Clarendon Paperbacks.

¹ Specifically, s.377 sets out 'punishment for what is described as unnatural offenses, and this has been understood by the legal system to include the act of sodomy (Bondyopadhyay & Ahmed, 2011). Here, sodomy means both oral and anal intercourse' (Ferdoush, 2016, p.1).

² This is a term given to eunuchs, intersex people, and transgender people.

³ Transgender individuals are not all recognised in Bangladesh. Only those people who identify as Hijras are.

⁴ For a discussion of these murders see <https://www.dhakatribune.com/bangladesh/court/2019/07/28/charge-sheet-filed-in-xulhaz-tonoy-murder-case> [Last accessed 25.05.2020] and; <https://www.reuters.com/article/us-bangladesh-lgbt-murder/bangladesh-charges-eight-over-murder-of-lgbt-activists-idUSKCN1SJ1K9> [Last accessed 25.05.2020]

⁵ The use of the term 'pathology' follows the classic work of Brian Hogwood and Guy Peters' seminal work *The Pathology of Public Policy* (Oxford: Oxford University Press, 1985) comparing the human body and the body politic using the language of medical pathology to investigate the disorders and challenges governments experience in making and implementing policy, including imperatives such as upholding human rights. In metaphorical terms, it also fits with the present use of *corpus* analysis of CSOs' discourse.

⁶ See https://www.upr-info.org/sites/default/files/document/bangladesh/session_30_-_may_2018/a_hrc_39_12_add.1_e.pdf p2, para 148.1 [Last Accessed 25.05.20]

⁷ For a listing see https://www.upr-info.org/sites/default/files/document/bangladesh/session_16_-_april_2013/js10_upr_bgd_s16_2013_jointsubmission10_e_annex_2.pdf [Last accessed 25.05.2020]

⁸ For example the following reservation applies to CEDAW: 16 (1) (c) (elimination of discrimination against women in all matters relating to marriage and family relations, in particular the same rights and responsibilities during marriage and its dissolution).

⁹ <http://www.icnl.org/research/library/files/Bangladesh/comm2006.pdf>

¹⁰ <https://www.cirt.gov.bd/wp-content/uploads/2018/12/Digital-Security-Act-2018-English-version.pdf> [Last accessed 26 May 2018]

¹¹ http://203.112.218.65:8008/WebTestApplication/userfiles/Image/National%20Reports/SED_REPORT_Vol-4.pdf [Last accessed 21.06.18]

¹² See Moorti, S. (2016) A Queer Romance with the Hijra, *QED: A Journal in GLBTQ World-making*, 3(2): 18-34. <https://www.jstor.org/stable/10.14321/qed.3.2.0018>

¹³ <https://www.thedailystar.net/star-weekend/human-rights/how-effective-will-the-anti-discrimination-law-be-1478878> [Last accessed 19.08.18]

¹⁴ Art. 2. ‘Everyone is entitled to all the rights and freedoms ... without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’. See ‘Toonen v. Australia, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994)’, 1995, available at:

<http://hrlibrary.umn.edu/undocs/html/vws488.htm> , accessed 5 August 2018

¹⁵ This refers to ‘combating all forms of discrimination and violence exercised due to discrimination of any kind’. ‘Human rights, sexual orientation and gender identity’, Follow-up to and implementation of the Vienna Declaration and Programme of Action Resolution adopted by the Human Rights Council 27/32, UN General Assembly, 2 October 2014, A/HRC/RES/27/32, available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/27/32, accessed 27 August 2018.

¹⁶ ‘UNFPA for gay rights in Bangladesh’ *Dhaka Tribune*, September 19, 2013

<https://www.dhakatribune.com/uncategorized/2013/09/19/unfpa-for-gay-rights-in-bangladesh> [Last accessed 19.08.18]

¹⁷ Human Rights Forum, Bangladesh (HRFB). The network is Namati.

¹⁸ UAM Corpus Tool 3

¹⁹ For a discussion of these murders see <https://www.dhakatribune.com/bangladesh/court/2019/07/28/charge-sheet-filed-in-xulhaz-tonoy-murder-case> [Last accessed 25.05.2020] and; <https://www.reuters.com/article/us-bangladesh-lgbt-murder/bangladesh-charges-eight-over-murder-of-lgbt-activists-idUSKCN1SJ1K9> [Last accessed 25.05.2020]

²⁰ On January 26, 2014, in its Gazette <https://www.dpp.gov.bd/bgpress/index.php/document/gazettes/140> the Bangladesh government affirmed its recognition of a third gender category with a single-sentence: “The Government of Bangladesh has recognized the Hijra community of Bangladesh as a Hijra sex”. Compared to developments elsewhere in the sub-continent this seems like an afterthought.

²¹ Over recent years the Yogyakarta Principles have been influential driving LGBT+ rights. They were set out in a charter of human rights in relation to sexual orientation and gender identity and published following a meeting of international human rights groups in Yogyakarta, Indonesia, in 2006 – and launched the following year. They were supplemented in 2017 (Yogyakarta +10), to include gender expression and sex characteristics.

²² the single line published by the Bangladesh government in the gazette really seems like an afterthought

²³ http://ap.ohchr.org/documents/alldocs.aspx?doc_id=13360 [Last accessed 24.01.19].