From the front line

The impact of social, legal and judicial impediments to sexual health promotion, and HIV and AIDS related care and support for males who have sex with males in Bangladesh and India

A study report

Study management and reporting by Shivananda Khan OBE
Research and reporting by Aditya Bondyopadhyay
Edited by Kim Mulji

From the front line

The impact of social, legal and judicial impediments
to the sexual health promotion, and HIV and AIDS related care
and support for males-who-have-sex-with-males
in Bangladesh and India

A study report

This report is dedicated to the many males-who-have-sex
with-males who are living with HIV or who have died
from HIV related illnesses

**British
High Commission
India**

Acknowledgements

Contents

Executive summary

The Naz Foundation International (NFI) conducted a study into the impact of the social, legal and judicial impediments to the sexual health promotion, care and support for males who have sex with males (MSM)[1] in Bangladesh and India, as a part of a larger project to develop strategies to reduce the impact of stigma, discrimination and harassment MSM faced, on HIV risk reduction programmes directed at them. This involved capacity-building work with a number of partner agencies involved in the project; regarding advocacy, legal literacy and monitoring human rights[2] abuses.

There was already significant anecdotal evidence to indicate that there was high levels of abuse, violence and rape of MSM, and that the social, legal and judicial environment was having a detrimental impact on sexual health interventions, where even staff of MSM agencies were being targeted for abuse[3]. These impediments, it was believed, led directly to disempowerment and increased the vulnerability of MSM to HIV infection and HIV related illnesses, where violence and the violation of human rights obstructed social justice redress, and created an atmosphere of fear, where implementation of sustained HIV risk reduction programmes was very difficult, if not impossible. However, in the absence of any systematic collected evidence, there was denial by state and non-state actors that this was going on. Effective advocacy was also restricted by a lack of such verifiable evidence. Moreover there was a lack of understanding within the MSM networks and groups of the rights that were available to MSM, which made again made them more vulnerable to abuse.

It was therefore believed that to begin to effectively address the significant levels of abuse that MSM faced across the region, this abuse, and its effects needed to be documented, so the findings and analysis could be used for advocacy work with policy and decision-makers in the field of HIV and AIDS prevention, care and support. Further, since the study contained and element of capacity-building training of the field workers in the partner agencies (those who would be involved in the study), this created an ideal opportunity to develop within each of these partner projects an "advocacy cell", that could advocacy on the rights on MSM, by providing them with training in legal literacy and rights, along with documentation and monitoring skill. It was planned that the advocacy cells would continue to operate after the end of the study. The study, and advocacy development work was conducted in Chennai, Hyderabad, Kolkata, Lucknow and Pune in India, and in Dhaka for Bangladesh.

This work was funded by the British Foreign and Commonwealth Office (through their Human Rights Fund), and the focus of the study was to detail the social justice issues and the human rights violations faced by MSM, to analyze how this impacts upon their vulnerability to HIV infection, HIV related illnesses and human rights abuses.

It needs to be recognised that male-to-male sex and sexualities in Bangladesh and India, to a large extent, do not "fit" the heterosexual/homosexual oppositional paradigm that is so commonly used as a discourse to discuss same-sex behaviours in the west. Rather, the primary pattern appears to be that of a gendered framework, with specific orientations and sex roles. This framework reflects a belief in a "man"/not-"man" duality, where the "man" perceives himself as a normative male from the general male society, while the not-"man" perceives himself as a feminised male, self-identifying as a *kothi*[4]. It is the issue of feminisation, as much as that of sexual practice, that can itself lead and individual to be abused.

---

[1] The acronym "MSM" is usually used to mean "men who have sex with men", however, the term "men" can be problematic within the context of different cultural definitions of "man", "manliness", and "manhood". Males are not usually perceived as adults until they are married, and often sex between males can occur when one or both of them are too young to be thought of as adults.

[2] Human rights in this context are the internationally accepted body of civil, political, economic, social, and cultural rights that have been recognised to form the basic rights of citizens of most countries, first by way of the Universal Declaration of Human Rights, and then through various covenants signed and ratified by these countries, and that have been included as fundamental rights of citizens in India and Bangladesh.

[3] In July 2001, staff at the NFI Regional Liaison Office in Lucknow, India, along with staff from a local MSM sexual health project, were arrested and accused of "promoting homosexuality", and imprisoned for forty-seven days before bail was granted and they were released. During this time, they were frequently physically abused. Other MSM projects have reported a range of abuse against their staff and clients.

[4] *Kothi* is a self-identifying label for those males who feminise their behaviours (either to attract "manly" male sexual partners, and, or, as a part of their own gender construction (usually feminizing themselves in specific situations). *Kothis* state that they prefer to be sexually penetrated. *Kothi* behaviours have a highly performative function in social spaces. *Kothi*-identified males label their "manly" sexual partners as "panthis". For the penetrating partner (the panthi), the self-belief is that since he is doing the penetrating he is still a "normal man". The majority of both *kothis* and panthis are married to women.

The study utilised both quantitative and qualitative tools, including 240 questionnaires, and twelve focus group discussions, seventy two in-depth interviews, following pre-testing in each method of data collection in each of the six cities.

Key Findings

Demographic profile

- 52% of respondents were between 25-30 years old
- 42% reported education levels of only primary education or less
- 30% of respondents had sex with female sexual partners who were not their wives
- 80% of respondents self-identified as *kothis*

Marriage

In South Asian cultures, marriage is obligatory, irrespective of personal preference and choice. The vast majority of marriages are arranged between two families. Whereas the usual marriage age of males in India and Bangladesh about 25 years, many *kothi*-identified males try and delay their marriage as long as possible, and will often marry later.

- 34% of respondents were married

This does not reflect marriage as a choice, but the fact that the majority of respondents had managed to avoid marriage so far.

- 39% respondents who were married stated that their wives knew that they had sex with other men, but claimed that their wives accepted it, or were incapable of doing anything about it. It needs to be recognised that to divorce is highly stigmatising for the woman, and often leads to ostracisation.

Sexual debut

For most *kothi*-identified males, early sexual debut is the norm, usually between 6 to 14 years of age, and when they first display feminised characteristics. This sexual experience was usually coercive with an older adolescents friends, schoolteachers, male relative, or neighbours. It appears that femininity in a male is considered an indication that a person is sexually available.

- 25% of respondents stated that their friends had sexually abused them

Harassment, abuse and violence

- 42% of respondents reported that they had been sexually assaulted or raped
- 60% reported sexual assault or rape by *goonda*[5].
- 75% of respondents who reported being sexually assaulted or raped by either policemen or *goondas*, stated that they thought this occurred because they were effeminate.
- 70% of respondents reported facing harassment from police, ranging from extortion, blackmail, beatings, restrictions to movement, and disclosure of sexual practices to *goondas* and their family members.

Education, poverty, sex and vulnerability to violence and abuse

- 50% of respondents stated that fellow students or teachers harassed them in school or college because

---

[5] *Goondas* in India and *mastaans* in Bangladesh are the local language equivalents of thugs.

they were effeminate. Such harassment had a drastic effect on their education and employment opportunities.

- 70% of respondents stated that they thought that the fact that they had sex with other males had had negative impact on their economic situation.
- 45% respondents stated that they thought that their effeminacy had affected their work opportunities.
- 82% of respondents stated that they thought that if they had not been *kothis*, then they would have had better job opportunities.
- 64% of respondents had a monthly income of between 1000-3000 Taka or Rupees (less than US$70).
- While 36% of respondents in Dhaka reported that they faced harassment from religious leaders, only 8% in Indian cities reported such harassment.
- 28% of respondents reported that they had either thought of suicide or had tried to commit suicide at some point in their lives.

It is clear from the study, that not only does poverty, class, and educational level stigmatise individuals, along with the fact of HIV infection, but also the specific gendered[6] roles and self-identity that some MSM align with. Thus *kothi*-identified males are doubly stigmatised because as biological males, they express a feminised identity and sexual practice – they are penetrated. They do not perceive themselves, nor are they perceived, as "men". Their feminisation, the crossing of gender roles and barriers that are accepted as social norms, reinforces their stigmatisation, leading to exclusion, harassment, violence and at times, rape, along with a denial of access to services and justice.

This stigmatisation and social exclusion further disempowers feminised males educationally and economically, increasing their poverty, which often forces them into sex work. But, it is not only poverty that makes *kothi*-identified males vulnerable. It is also because of the sexual and gender roles they perform within male sexual practices, which for many, lead to significant levels of "manly" sexual partners, sexual abuse, violence, rape, and harassment, often from an early age.

In other words, social justice and human rights issues for MSM are a complex matrix of concerns and needs that reflect personal psycho-sexual histories, economics, gendered roles, socio-cultural beliefs and norms, as well as legal policies and social policing that create a context for MSM - particularly for feminised males - of low self-esteem, disempowerment, and marginalisation that lead to further abuse, violence and social exclusion, in a vicious cycle. On the other hand, the "manly", more masculine[7] partners of *kothi*-identified males, easily merge into the general normative male society, their sense of masculinity maintained because they are the penetrators, not of other "men", but of "not-men".

Power inequality dynamics arising from Bangladesh and India constructions of masculinity, social and sexual attitudes towards feminised males and their practices, sexual abuse, assault and rape, stigmatisation and poverty, discrimination and disempowerment, all frame the lives of most feminised males. As a consequence, they play a significant role in shaping the emotional, sexual, physical and economic situation of these males, giving rise to a range of physical, psychological, and emotional problems, that further increases heir risk and vulnerability to HIV. Such disempowerment also creates significant levels of suicidal thoughts, acts and other self-harming behaviour. This all leads to increases in sexually transmitted infection (STI) risks, as well as impeding successful implementation of STI risk reduction strategies.

---

[6] In terms of gender, there are some basic biological differences between female and male bodies, often linked to their different roles in reproduction. But beyond these differences, many societies define different roles, rights and responsibilities for males and females. Gender is a term used to refer to these socially defined differences between males and females. Gender differences are based on widely shared beliefs and norms within a society or culture about male and female characteristics. These beliefs and norms about gender often create oppositional hierarchies and inequalities between males and females. In most societies, males have more political, social, and economic power than females. Such gender inequalities have a significant impact on female's and male's sexual health. Thus, in terms of the term gendered framework: the word gender is a classifying noun, but usually the term is used solely in the context of females. We have used the term "gendered" as an adjective to describe a state. In Bangladesh and India, where there is often strict social policing of gender boundaries, and where the primary (and most visible) framework of male-male sexualities, identities and behaviours are constructed not around sexual orientation, but around gender identities – "man"/not-"man" – the term gendered framework is used as a short-hand description of this state of affairs.

[7] Masculinity is interpreted here as the dominant and "hegemonic" framework, which defines how a "man" should perform, behave and act personally, sexually, socially, and culturally. However, it is also recognised that there are different constructions of masculinity that vary across cultures, age groups, sexual orientations, sexual preferences, actual behaviours, gender identifications, economic classes, and religions.

Those who should be protected as citizens of their country, sustain abuse, violence and discrimination. Many *kothis* not only face harassment, sexual violence and rape from law enforcement agents, as do often to staff from projects providing HIV prevention services, but also from those whom they have called friends in schools, colleges and work places, along with those in positions of trust, such as relatives, neighbourhood elders, elder friends, and teachers. Gang rape is not uncommon. And of course, such forced sex is usually unsafe, and often resulting in internal injuries, further increasing their vulnerability to HIV infection.

One of the central issues that have arisen from this study is that often it is effeminacy and not the factual knowledge of male-to-male sexual behaviour that is a precursor to abuse. Because such feminised males do not live up to the expected normative standards of masculine behaviour, this leads to the notion that those who are feminised can be exploited and abused, that being feminised somehow weakens the person, a notion that is often internalised by *kothis* themselves.

Accepted notions around effeminacy are therefore one of the major factors that lead to disempowerment and opens feminised males to abuse and to a denial of service provision. The fact that many *kothis* themselves have internalised these notions so strongly, means that specific tools will need to be developed for *kothis* and other feminised males to empower them to begin to value their own lives and improve their self-respect.

It is clear that effective social, legal and judicial advocacy is urgently required, not only for MSM living with HIV, or about social justice and human rights issues for MSM, but also work that can challenge accepted notions of masculinity and femininity, so that stigmatisation and discrimination, social exclusion and marginalisation can be effectively challenged.

Recommendations

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

- Sensitisation training at all levels of police forces on MSM issues along with the general principals of fundamental human rights.
- Work with the police and the judiciary, especially the criminal justice system, to ensure that instances of violence and abuse and rape are addressed and legally redressed.
- Advocacy work aimed at changing appropriately the discriminatory laws like section 377 of the Indian Bangladeshi penal codes, the laws relating to obscenity that impede dissemination of safer sex information and make outreach workers and educators vulnerable to police abuse, and the laws relating to public conduct and nuisance that are often used to target MSM in public areas.
- Ensure the creation of a trained legal task force that can take up cases of MSM who have been abused.
- To address the cases of male rape, and other forms of sexual assault, appropriate male rape laws need to be enacted and put in place.
- Legal funds need to be created that can take on public interest litigations on MSM issues.
- The need to address the social construction of masculinity that allows genderphobia to be a part of that construction, that enables violence against feminised males (as well as against females) as socially permissible, and that socially excludes such males as less than human. There needs to be educational work on masculinity and gender and the way the distorted stereotype of gender affects MSM, especially feminised MSM.
- Activities that provide economic empowerment to MSM, including schemes like micro-credit and income generation project. In this regard work also needs to be done on gender sensitisation and MSM with industry bodies and labour unions.
- Psychological counselling and psychiatric help should be made part of HIV intervention efforts amongst MSM.

Introduction to the Naz Foundation International

The Naz Foundation International (NFI) became established, and registered itself as a charity in England and Wales, with its head office based in London, UK, and its Regional Liaison Office in Lucknow, India, when it became clear that HIV was increasingly becoming a problem in South Asia, whilst at the same time, there was not only very little recognition of male to male sex in the region, but even will or action, in providing services to this vulnerable population.

NFI believes in a world where all people can live with dignity, social justice and well-being. With a primary focus on marginalised males who have sex with males (MSM), NFI's mission is to empower socially excluded and stigmatised males to secure for themselves social justice, equity, health and well-being through technical, financial and institutional support. NFI works and advocates in South Asia and internationally to ensure that issues of masculinities, sexualities and sexual behaviours, together with the social justice and human rights concerns that arise from them, are appropriately and adequately addressed in the provision of HIV/AIDS, sexual health[8] services, welfare and human rights policies and services.

NFI strongly believe in the innate capacity of local MSM collectivities, groups and networks to develop their own sexual health services, through self-help organising and community-building, and provides technical, institutional and financial support towards achieving this goal.

NFI's objectives

NFI has five overarching objectives:

- To empower low-income MSM groups to develop and deliver self-help sexual health programmes addressing their needs, by providing them with appropriate technical, financial and institutional support
- To work with other organisations, institutions, and agencies to improve the lives and well being of MSM
- To advocate on the social justice and human rights concerns of MSM
- To foster cooperation, understanding and support between organisations developing responses to health, welfare and human rights needs of MSM, their partners and families
- To undertake research that highlight the issues and problems that marginalised and socially excluded MSM face, identify solutions and pro-actively promote the findings
- To identify and leverage appropriate funds, resources and technical assistance to support the above activities.

---

[8] We use the World Health Organisation's definition of sexual health, which is that "Sexual health is a state of physical, emotional, mental and social well-being related to sexuality; it is not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence. For sexual health to be attained and maintained, the sexual rights of all persons must be respected, protected and fulfilled." WHO Draft working definition, October 2002

Why work with males who have sex with males?

Because it is the right thing to do:

- On human rights grounds
- On social justice grounds
- From a public health perspective

Males who have sex with males, whether they self-identity is linked to their same-sex behaviour or not, have the right to:

- Be free from violence and harassment
- Be treated with dignity and respect
- Be treated as full citizens in their country
- Be protected from HIV and AIDS

And MSM who already are infected with HIV have the right to access appropriate care and treatment equally, regardless of how they acquired the virus.

Introduction to the study

In July 2003, with financial support from The British Foreign and Commonwealth Office, NFI started a two-year project to address the legal, social, and judicial impediments for the improvement of the sexual health for males who have sex with males in India and Bangladesh.

The project included capacity building of MSM partner projects that were delivering sexual health promotion, support and care programmes in five cities in India, and one in Bangladesh regarding legal literacy, human rights and advocacy work, together with the development of "advocacy cells" that could work locally to advocate for improved policies and services for MSM, and a study to document human rights abuses against MSM as they affect effective HIV prevention work with this group.

Six cities were included in the study; Chennai, Hyderabad, Kolkata, Lucknow, and Pune in India, and Dhaka in Bangladesh. The objective of the study was to explore social justice issues concerning MSM and the human rights violations faced by them, and analyse how this impacts upon their vulnerability to sexually transmitted infections, including HIV.

It was thought that a study to look at human rights abuses of MSM was necessary, as there was, and still remains, a high degree of knowledge and denial about the human rights abuses of MSM, and their vulnerability to HIV infection, and HIV illnesses. This denial acted as a major roadblock to the development of an enabling environment where MSM could seek information and services without fear, denial or harassment. This denial was, to a large degree, rooted in the fact that there existed very little empirical data on the existence, or degree, of such human rights abuses. This study was an attempt to obtain such data in an objective, and verifiable way.

In its ten years of work in the South Asia, NFI has come to recognise that the process of stigmatisation of MSM arises from concepts of masculinity in South Asian cultures, which leads to marginalisation, social exclusion, and abuse of the most vulnerable of MSM. It is largely the perceived femininity of many MSM, as a performance-based identity, that often leads violence, harassment and stigmatisation. In a sense much greater than homophobia, there is appears to be a prevalence of genderphobia in South Asia, leading to victimisation of MSM.

Genderphobia, or the fear of the gender variant and the those who are not acting out the normative masculinity leads to social exclusion and marginalisation, creating personal and social histories that lead to negative impacts on educational and employment opportunities, which, of course, increases poverty and concomitantly increases the potential for sex work activities as a survival strategy. One essential aspect that this study looked into, was the power inequality dynamics arising from constructions of masculinity, social attitudes towards feminised males and their sexual practices, sexual assault, stigmatisation and poverty, discrimination and disempowerment.

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

Social justice and human rights concerns of MSM are a complex matrix of issues, concerns, and needs that reflect personal psycho-sexual histories, economics, social-cultural polices and attitudes, social cultural understanding of gender, gender roles and gender stereotypes, as well as legal concerns, all of which create a context for MSM, but particularly for feminised males, of low-esteem, disempowerment, and marginalisation, that leads to further abuse, violence and social exclusion.

Prevalent social attitudes and beliefs often inform governmental policies for combating HIV/AIDS. Therefore, while the health ministries of South Asian countries advocate work with MSM to reduce the spread of HIV, the home ministries often persist with promoting laws that criminalise homosexual behaviour. The actions of local law enforcement agents commensurate with the penal laws are primary impediments to

HIV prevention interventions and outreach with MSM. Since most of this police action is never recorded, as money or sexual assaults usually accompany the individual being "let-off", there is little official data on this. This often allows the denial of any violence, abuse or violation of human rights of MSM. This study hopes to fill that gap by providing evidence of such abuse, so that advocacy work for MSM can be improved.

Methods and activities

The study was an action-based study involving field staff of the partner projects in the collection of the data, and was conducted in two phases.

The first phase involved collection and analyses of qualitative data by way of focus group discussions (FGDs) and in-depth interviews, that explored the nature of right abuses; the social, legal, political, and religious dynamics that allow such violations of rights to occur; the processes that impede corrective and retributive justice; the causative agents of abuse; the extent of its spread, and the characteristics of those affected by it; and the possible preventive steps that can mitigate the adverse impact of this abuse were explore.

The second phase was quantitative and explored the extent, and degree of prevalence, and the nature of human rights abuses MSM. This involved a pre-set questionnaire.

The success of the study depended on the richness of the data obtained in the qualitative phase of the study. Therefore extra care was taken during this phase. The qualitative phase of the study was broken down into two parts. First, a set of parameters to guide the interviews were developed, based on preliminary feedback from the partner agencies. Following this, three interviews were conducted in each city to test the efficacy of these parameters. Based on the feedback and suggestions received from these test interviews, the parameters were adjusted and the final guidelines for the qualitative interviews were developed. Twelve interviews per city were conducted based on these readjusted final guidelines.

Sampling was based on randomly selected individuals at a range of respondent meeting places, identified by the field staff of the partner projects, using their knowledge of these spaces and those that used them.

Consent to conduct the interviews and participate in FGDs, along with the completion of the questionnaires, was obtained using a document which was read out to respondents in their own language, and signed by the respondent if they consented to take part in the study.

Using field staff from the different project partners to conduct the study required skills building through a number of capacity-building workshops, that not only explored study methodologies, but also developed the skills and knowledge of the trainees legal literacy agents. These workshops included topics such as:

- Types of law, its origin and its practices
- The importance of rights in HIV/AIDS prevention intervention
- Bangladeshi and Indian law relating to MSM issues
- Laws in other countries relating to MSM issues
- International law where it applies to MSM issues
- HIV infection and the law
- Issues of free informed consent and ethical issues involved in conducting social studies
- Issue to be addressed in the qualitative data collection and appropriate ways of conducting in-depth interviews
- Issues to be addressed in conducting an pre-set questionnaire based interview

The FGDs were moderated by the principal investigators in the drop-in centres of the partner collaborating project in the respective city, and in local languages.

In order to ensure that advocacy work was developed that would address concerns being highlighted in the study, as a part of the process of implementing the study, policy and advocacy cells in all of the cities covered by the study were also developed. Further to this, National Policy and Advocacy coordination units in New Delhi and Dhaka were also developed. It is the remit of these local cells to monitor and document violations of the rights of MSM in the geographical area they work in; conduct advocacy at a policy level to change attitudes as wells as policies and laws; provide legal aid and interventions where actual violations come to light; and finally work on a long term basis to improve the socio-legal environment to make it conducive and supportive of MSM so that they are empowered to protect themselves against STI/HIV infection.

Project partners and locations

Partner organisation name	City	State	Country
Bharosa	Lucknow	Uttar Pradesh	India
Mithrudu	Hyderabad	Andhra Pradesh	India
Pratyay Gender Trust	Kolkata	West Bengal	India
Sahodaran	Chennai	Tamil Nadu	India
Udaan	Pune	Maharashtra	India
Bandhu Social Welfare Society	Dhaka	No applicable	Bangladesh

Sampling

- Guidelines developed for qualitative in depth interviews were field tested on three subjects in each city with a total of 18 interviews.
- Re-adjusted guidelines for qualitative in depth interviews were applied for 12 interviews in each city with a total of 72 interviews.
- Two focus group discussion were held in each city, with on average of 10-15 participants in each discussion group, with a total 12 focus group discussions.
- Pre-set questionnaires were administered to 40 subjects in each city, with a total of 240 questionnaires being administered.

Monitoring

The progress of the study was monitored and evaluated by the Naz Foundation International, and on-going monitoring and guidance to the partner organisations was provided by the principal investigator.

Guidance and technical support

Guidance and technical assistance was provided by Shivananda Khan OBE, Chief Executive of Naz Foundation International, and technical support for data analysis was provided by Lok Prakash of Bamon Development Consultants, New Delhi.

Duration of the project

The study, and the range of activities associated with it was started at the beginning of August 2003 and ended at the end of July 2005. The project continues with support for the national coordination bodies in New Delhi and Dhaka, and the policy and advocacy cells in the respective cities until the end of July 2006.

Outputs

The overall project achieved the following outputs:

Output 1: Legal, judicial and social impediments to sexual health promotion amongst MSM identified.

Output 2: Advocacy cells established within each partner MSM sexual health project involved in the study.

Output 3: Training and sensitisation programmes conducted, and dialogue developed with national and state AIDS control organisations, policy makers and law enforcement agencies at local and national levels, and training conducted with lawyers and partner agencies on social justice concerns for MSM.

Output 4: Replicable tools developed for training MSM projects on policy advocacy and social justice issues for MSM.

Output 5: Independent national MSM co-ordination organisations on MSM social justice and sexual health issues established in New Delhi and Dhaka.

Activities

The following activities were undertaken or are planned to occur after this report is published:

1. Dialogue was initiated with national and state AIDS organisations, human rights agencies and local and national legal, judicial and law enforcement agencies.

2. Collection and analyses of qualitative and quantitative data through interviews, focus group discussions and questionnaires, to identify the specific legal, social and judicial impediments that affect the lives and health of MSM in the target cities has been undertaken through the following steps:

    *   Issues were identified for the qualitative phase of preliminary study with partner organisations.
    *   Identification of field interviewers, training and development of interview guidelines was undertaken.
    *   Field-testing of the methodology and review of guidelines for the qualitative interviews was conducted.
    *   Implementation of the qualitative study phase, data analysis and dissemination of preliminary findings was done.
    *   A three-day workshop with partner agencies to develop quantitative data collection process arising from preliminary findings was conducted.
    *   Quantitative data collection with linguistically appropriate questionnaires, and data analysis was undertaken.
    *   Production and local dissemination of final reports, and a synthesis report was produced for national disseminations.

3. Capacity building training programmes for local partner MSM sexual health projects to address the concerns highlighted in the initial survey where implemented to facilitate the development of local advocacy and sensitisation mechanisms with the national and state AIDS control organisations, policy makers, legislators, judicial functionaries, and local law enforcement agencies. For this the following trainings sessions were held:

    *   A four-day training workshop with the field researchers following development of interview guidelines, on social justice issues for MSM, interview techniques and processes, redress mechanisms available in law, and intervention with law enforcement agencies.
    *   Partner agency hosted workshops for targeted MSM prior to quantitative data collection, co-facilitated by trained field researchers in terms of capacity-building on legal literacy.
    *   Dissemination and advocacy development and training workshop for establishing regional and local policy and advocacy cells held, following publication of final report of investigation, involving partner agencies lawyers/para-legal and social justice workers.

4. Dissemination meeting in each target city of the results of investigation involving the state AIDS societies, the local law enforcement agencies, human rights groups, social activists, representatives of the judicial and legislative branches of local government, and AIDS organisations were held.

5. National seminars with participation of national AIDS control organisations, policy makers, and parliamentarians, to disseminate the results of the investigations, and involve them in policy advocacy efforts, are to be held as part of the activities of the regional policy and advocacy cells and the national coordinating organisations.

6. Advocacy and training cells developed within each of the partner MSM sexual health projects to sustain legal literacy among MSM, monitor and document abuse issues, and conduct regular advocacy work with state AIDS control organisations, policy makers and law enforcement agencies.
7. A replicable training and advocacy tool on legal literacy and methodologies of addressing legal, social, and judicial impediments to sexual health for MSM with policy makers and law enforcement agencies which can be replicated in all states has been developed.

8. Independent MSM national co-ordination organisations (one in India and one in Bangladesh) developed, including in it appropriate individuals of relevant expertise including two representatives from each partner training and advocacy cell, which will monitor issues of concern, and will take on sustained advocacy work with policy makers on MSM sexual health issues.

9. Post-study evaluation conducted.

Stakeholders and their involvement in the project

This project arose from the expressed needs of MSM CBOs and NGOs to address social justice issues that affect MSM and impede health promotion with them. These MSM CBOs were instrumental in conceptualising this project at the NFI partners meeting held in December 2000, in Hyderabad, India.

Primary beneficiaries of the project are MSM and MSM sexual health agencies. Apart from capacity-building training in advocacy and legal literacy work, MSM have been directly involved in training that formed part of the study. The advocacy cells that have been established at local and regional levels are located within existent MSM sexual health agencies. Further, MSM formed the study teams, and collected the data.

The national co-ordination organisations that have been developed, also directly involve MSM in their management and project work, and will be registered as independent organisations in India and Bangladesh, and are undertaking advocacy and policy related work on MSM issues with MSM health agencies, as well as local, regional and national organisations including government organisations.

Secondary stakeholders are local, regional and national CBOs, NGO and other government and non-government agencies working in the field of HIV/AIDS/STI prevention, care and support, whose programme activities and objectives are of reducing levels of HIV/AIDS/STI according to national targets. Empowering these agencies to empower MSM to address their own sexual health concerns in an enabling environment will have an impact on HIV/STI levels.

Further to this, secondary beneficiaries will also be the judiciary, constabulary, health officials, policymakers, and national and state AIDS control organisations whose ability to provide equitable social justice will be enhanced by the project.

Study findings and analysis

Demographic profile of respondents

Just over half (52%) of the respondents were between 25-30 years. Except for Dhaka in Bangladesh, where 45% of the respondents said that they traced their roots to villages, most of the respondents were urban dwellers. In India, 60% of the respondents had migrated to major urban areas from smaller towns looking for employment. Usually the pattern of such migration included not just the individual, but also of their family, and often their extended family.

Most of the interviewees, as well as those that responded to the questionnaires, were from economically disempowered backgrounds, and the median monthly income of individual was less than US$ 70. 42% of the respondents had only primary education or less (see Chart 1).
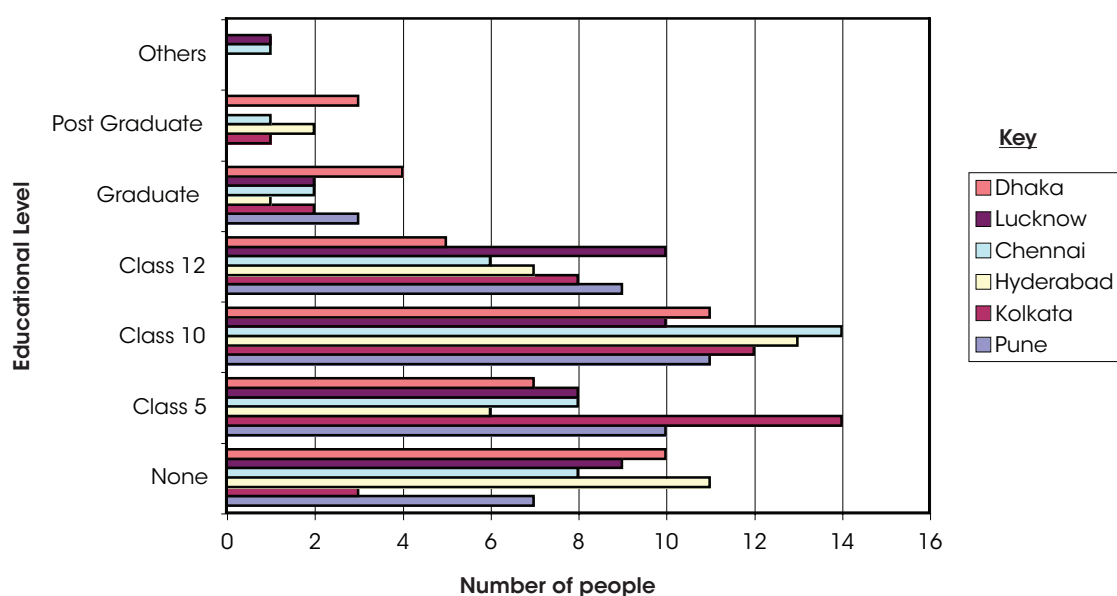

Chart 1: Education

80% of the respondents stated that they considered themselves to be *kothis*. Most of these said that they at some point in their lives had faced unprovoked sexual harassment, many having faced it more than once.

Most of the interviewees live with there families. Stated in both focus groups discussions, as well as the in-depth interviews, was the fact that living with the family was more out of economic compulsion, than out of any particular desire to stay with them. In fact, the compulsion to live with their family was often cited as a hindrance to a satisfying sexual life.

In the cities of Pune and Hyderabad, those *kothis* that have taken to wearing *satla*[9] permanently, usually stay alone or in peer groups. Some form relationships with men, who usually stay with them. But such relationships often are exploitative where the man either lives off the earnings of the *kothi*, or acts as the pimp, and takes a major portion of their earnings. The trend in Dhaka is similar to that of Kolkata and Chennai, where the wearing of *satla* is occasional, linked to their work as a sex worker or sexual activity, whilst they wear "men's" clothes at home with their wife, and, or, children.

---

[9] A *kothi* slang term for the feminine attire and make-up worn by *kothis*

Usually those *kothis* that permanently wear a *satla* develop close ties with *hijra*[10] networks and groups, and often become part of such groups. It is those *kothis* that develop ties with *hijra* groups that face the greatest pressure to castrate themselves. Traditional castration is seen as a way of reconfirming ties with a *hijra* community, and is taken as an expression of renouncing the traditional family and the expected male role, to live the life of a *hijra*. It is also perceived as a cheap and affordable way of changing one's sex. However some *satla kothis* actually express a genuine desire to get castrated or opt for sex reassignment surgery.

In Dhaka, many interviewees as well as those that participated in the FGDs expressed a deep sense of duty towards their families, which some felt stopped them from fully exploring their sexuality or choosing to leave their families. However, since the families of many interviewees were based back in ancestral villages, this led to a greater opportunity to explore cross dressing options in the city of Dhaka where the *kothis* lived.

Even when the family of the interviewee lived away in the village, family ties are strongly retained, and often the earnings from sex work were given to the family, which depended on such earnings. Also, the self perception and identity of many *kothis* in Dhaka is so closely linked to the identity of their family and their native villages, that it sometimes becomes difficult for them to fully adopt or explore other identity constructs.

Most of the interviewees report that they had significant pressure on them to get married. A lot of the interviewees were actually married, and some had children. Sexual activity with another male was often not seen as an impediment to getting married, which was perceived as a social duty towards the family.

About a third of the respondents were married (see Chart 2). Only 14 out of 240 respondents said that they had got married out of choice. Since marriage is seen as a social duty and an obligation to the family, most looked at their own marriage as a discharge of that duty. The fact of their sexual preference for other males, and their obligations to fulfil sexual duties required in a marriage did not create concern for those interviewed. Sex within marriage was treated as a duty confined to the production of an heir to the family, and discharge of this duty was considered enough to give freedom to have sexual relationships outside of the marriage with other males.
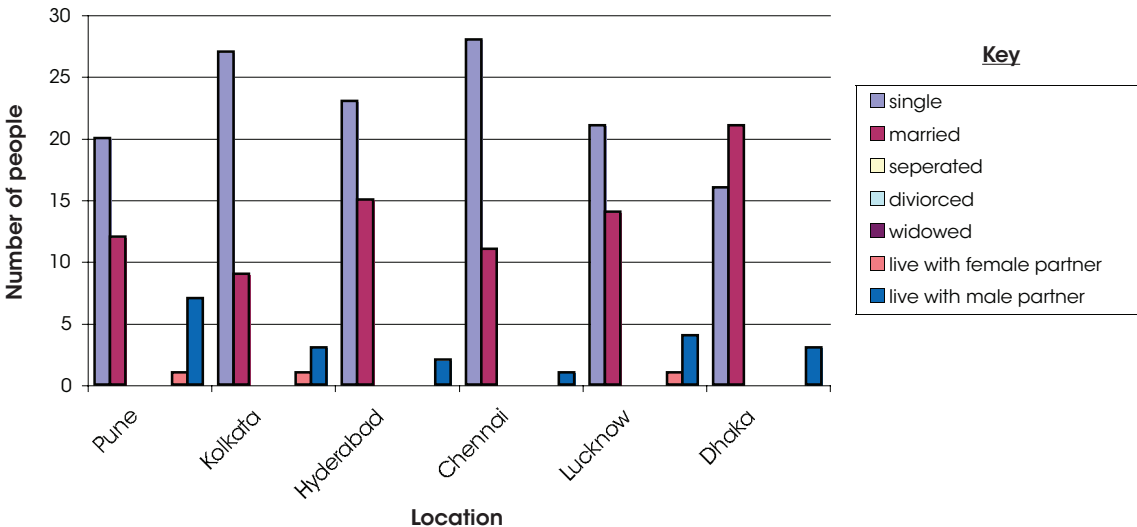
Chart 2: Marital status

---

[10] A self-identified term used by males who define themselves as a not "man"/not "woman", but a third gender. *Hijras* cross dress both publicly and privately, and are a part of a social, religious and cultural community. Ritual castration may be a part of the *hijra* identity, but not all *hijras* are castrated. *Hijras* are either a *guru* (a leader of a *hijra* community) or a *chela* (the follower of a particular *guru*), and there can be a number of tightly knit *hijra* communities in an urban area. *Hijras* commonly have sex with "men". *Kothis* and other feminised males have traditionally joined the *hijra* communities, and after an apprenticeship of few years usually opt for a traditional castration. Many *hijras* are involved in sex work as a survival strategy, but they also perform at social events, where it is thought that they bring luck to any occasion. It is thought they are a continuation of the tradition of having eunuchs to guard Mogul harems.

In most cases their wife was not considered as an autonomous individual with independent desires, but as proximate extension of the larger family. This denial of the rights of the woman was found in equal measure amongst feminised MSM as amongst masculine MSM. 32 out of 81 married respondents said that their wife knew that they have sex with other men, but most claimed that their wives were incapable of doing anything about it, and had accepted it. Deeper questioning revealed in many cases that the wives do not have any tangible choice, but had to accept the sexuality of their husbands, and to stay in the marriage out of social pressure.

30% of the respondents had sex with female sexual partners who were not their wives. Approximately half of these respondents were married, showing high levels of multiple female sexual partners even amongst married MSM.

Harassment, abuse and violence

The qualitative analyses show that the process of stigmatisation of MSM arise from concepts of masculinity in India and Bangladesh culture, leading to marginalisation and social exclusion of MSM, especially targeting the most vulnerable, namely those with feminised self-identities. Feminisation is a beacon that opens MSM to sexual exploitation and abuse, beginning at an early age, and often at the hands of those who are in a position of trust or responsible for providing protection.

Often, it is effeminacy and not the factual knowledge of homosexual behaviour that leads to harassment. A predominate pattern of male-to-male sex is focused on gendered behaviours of both sex partners. This is accepted both by the *kothis*, as well as the public they interact with. It is also understood that male feminised behaviour is considered to be less worthy than the accepted standards of how a man should behave. This leads to a notion that those who are feminised can be exploited and abused, that being feminised somehow makes a person more weak, a notion often harboured by the *kothis* themselves. That *kothis* themselves have internalized these notions so strongly, means that specific tools need to be developed for *kothis* in order to empower them to start valuing their lives and enhancing their self respect.

This study also exposed the significant levels of male-on-male rape and sexual abuse of feminised males from early childhood to adulthood. 42% of the respondents reported that they have been sexually assaulted or raped by policemen, and 60% have reported that they have been sexually assaulted or raped by *goondas*.[11] Almost 75% of the respondents reporting sexual assault or rape by policemen or *goondas*, said that they had been subjected to sexual assault or rape, because they were effeminate. While this shows the high degree of sexual assault and rape amongst feminised males, it more significantly reinforces the role that notions and stereotypes of masculinity play in exposing feminine men to abuse (see Chart 3).
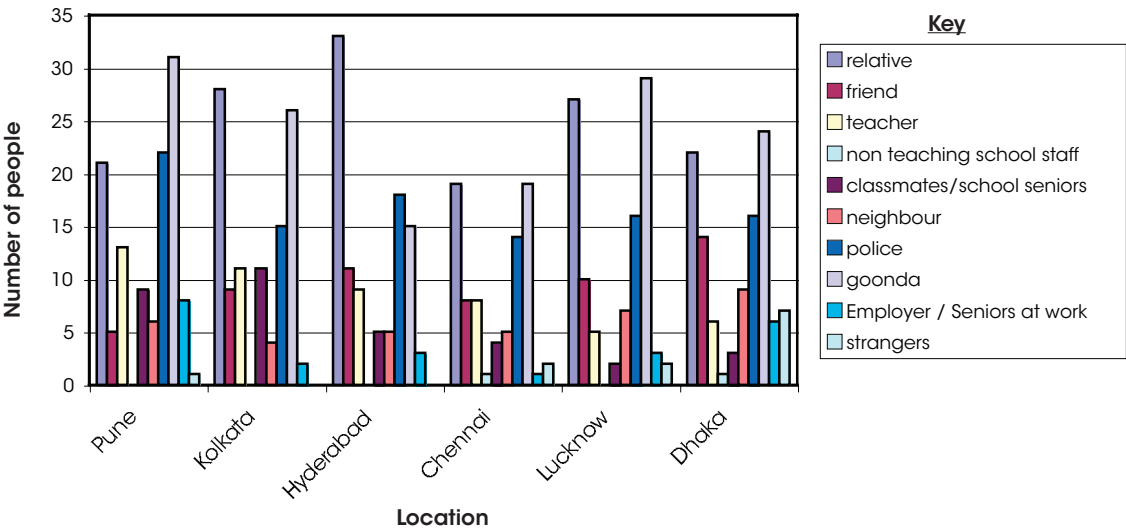

Chart 3: Sexual assault/rape

[11] Local term for thugs

Extortion, and public harassment or violence is another significant exploitation that MSM face at the hands of police. 70% of the total respondents reported facing harassment of one kind or the other at the hands of the police. Such harassment ranged from extortion on threat of imprisonment, prolonged blackmail, beatings, restriction of movement in public places, and disclosure of sexual practices to *goondas* or to the family of the *kothi*.
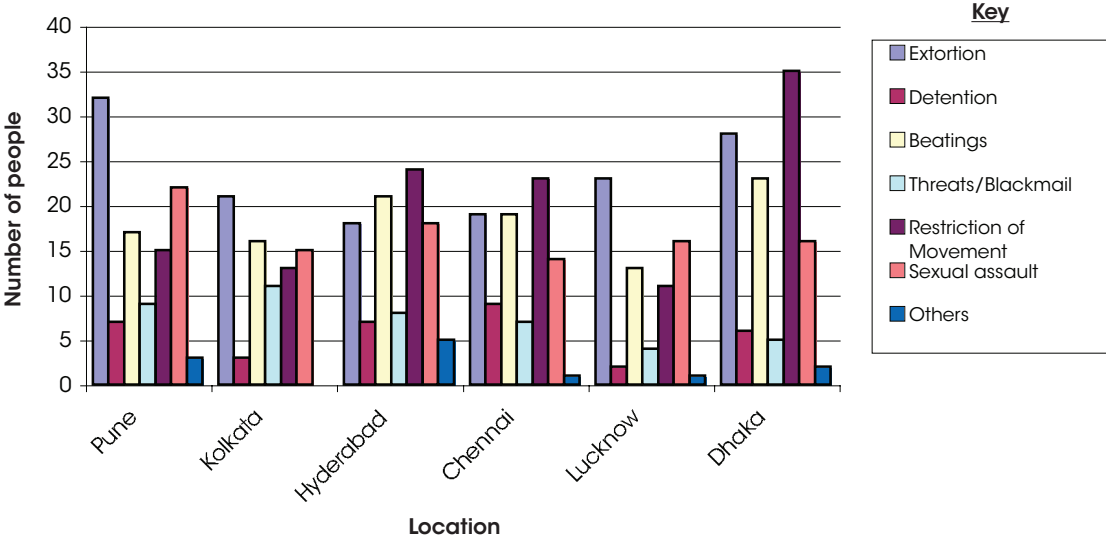
Chart 4: Nature of police harassment

The understanding that anyone feminised is available for sex is often manifested in a demand for sex. With the police, this demand is often translated as a demand for sex in lieu of extortion money at cruising areas. This is especially true with the police attitude towards sex workers. While the incidence of police abuse of feminised males is relatively less in Kolkata, it is significantly high in Chennai, Hyderabad, Pune and Dhaka. *Kothi* identified male sex workers are often targeted with sexual violence, if either money or sexual favours are not forthcoming. Pune, Chennai, and Hyderabad in India and Dhaka in Bangladesh have reported cases of gang rape by groups of policemen (or army personnel in case of Pune).

Often collusion between local *goondas* in public areas and beat constable impede MSM from filing complaints or seeking justice. Approaching a police post or station often exposes the MSM to the risk of exposing them to sexual abuse. One incident was reported in Dhaka where a *kothi* was taken to a police van and raped by a group of six policemen.

A recent trend was to book an MSM who refused extortion for a petty offence or for possession of drugs. Such incidents have been reported from Chennai and Hyderabad. In one incident in Hyderabad in July 2002, 50 *kothis* were detained for over 24 hours on false charges of drug peddling, and while in custody they were beaten up.

In Pune, the trend is to round up *kothis* in raids that are supposedly for the prevention of pick pocketing. The railway police force stationed in the Pune railway station were regular perpetrators of this. They targeted *kothis* and then not only took money from them, but usually detain them for sex repeatedly, by successive groups of railway policemen. In Chennai, *kothis* have often been detained for soliciting sex from customers under anti- prostitution laws or for alleged possession of drugs. Significantly, no charges have ever been filed in any of these cases.

Often, *kothis* are picked up and detained by the police on false and frivolous charges. However the fact that they are MSM is revealed to the other inmates of police cells, who are often hardened criminals, and feminised MSM are often sexually assaulted by the other inmates. This has been reported in Pune and Chennai, and it also happened in July 2002 in Hyderabad when many MSM were picked up in raids in public areas, and then charged with drug possession. Local police often target outreach workers of MSM sexual health projects too with extortion demands, and if such demands are not met the work of outreach is obstructed. This has a direct impact on vulnerability and risk of HIV.

In Pune and in certain areas of Dhaka where there is a very large army presence, the army often indulge in similar violence against *kothis*. At least six incidents of illegal detention in army barracks have been reported in Pune, where the *kothis* were illegally kept confined for many hours while they were raped by groups of soldiers.

Education, poverty and sex work

The study found that feminised males often have to face economic and educational consequences of their femininity. Often advancement in educational and economic standing is impeded due to harassment and discrimination. Educational institutions often target feminised males with harassment and violence, including sexual violence, which impeded their education, and resulting employment opportunities.
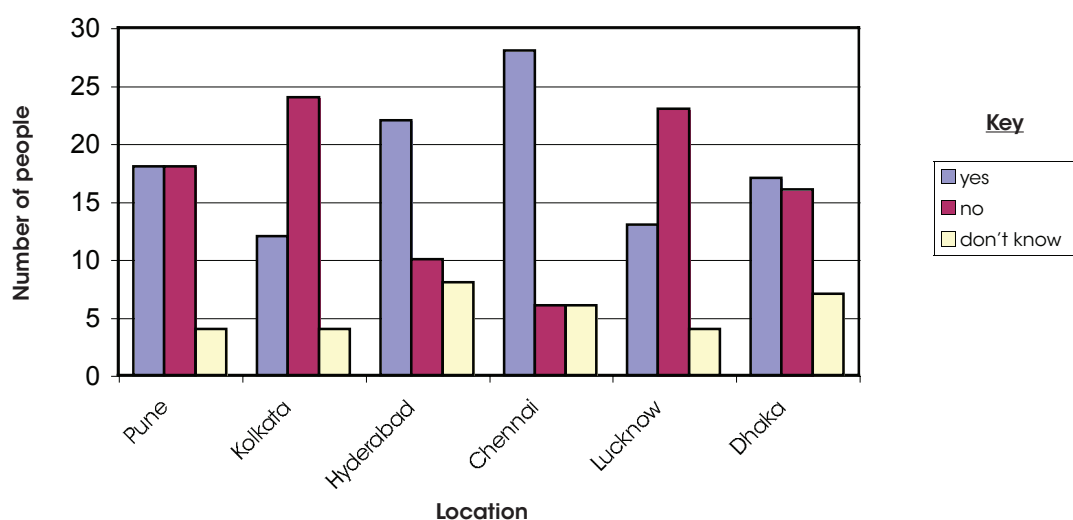

Chart 5: Harrassment in school/college

50% of the respondents stated that fellow students or teachers had harassed them in school or college because they were effeminate. They reveal that often they have not been able to carry on with their education due to this harassment, and this has impacted on their employability at a later date. Interestingly, those that reached a higher stage of their education reported a greater degree of harassment than at lower levels. This is because, at higher education levels, their manifestation of femininity is more pronounced, and they suffer more abuse from others.

70% of the respondents say that the fact that they have sex with other males had had some form of impact on their economic prospects, often negative (see Chart 6, page 20). Those that report a positive impact on their economic standing were all in sex work. 45% of the respondents stated that the fact that they were effeminate had affected them at their workplace. 82% say that if they were not a *kothi*, they would have found it easier to find work, or would be doing better in their present job. 76% of the respondents felt that because of being a *kothi*, they do not get similar income opportunities as others. 64% of respondents had a monthly income in the lowest bracket of 1000-3000 Indian rupees or Bangladeshi taka ((less than US$ 70) a month.

A significant 75% of interviewees reported being in sex work. Sex work could be full or part time. Sex work was often conducted in a space that is controlled by either the client or a pimp, and the interviewees had very little negotiating power within this space, especially for safer sex options. Negotiation power, to whatever extent it exists, usually only extended to the determination of the economic cost for the sex, not to safer sex options.

There is a direct linkage between lack of economic opportunities and sex work. Sex work was often not a matter of choice, but one of economic necessity. Interviews with sex workers revealed that if they had other sources of income, they would not have taken up sex work.
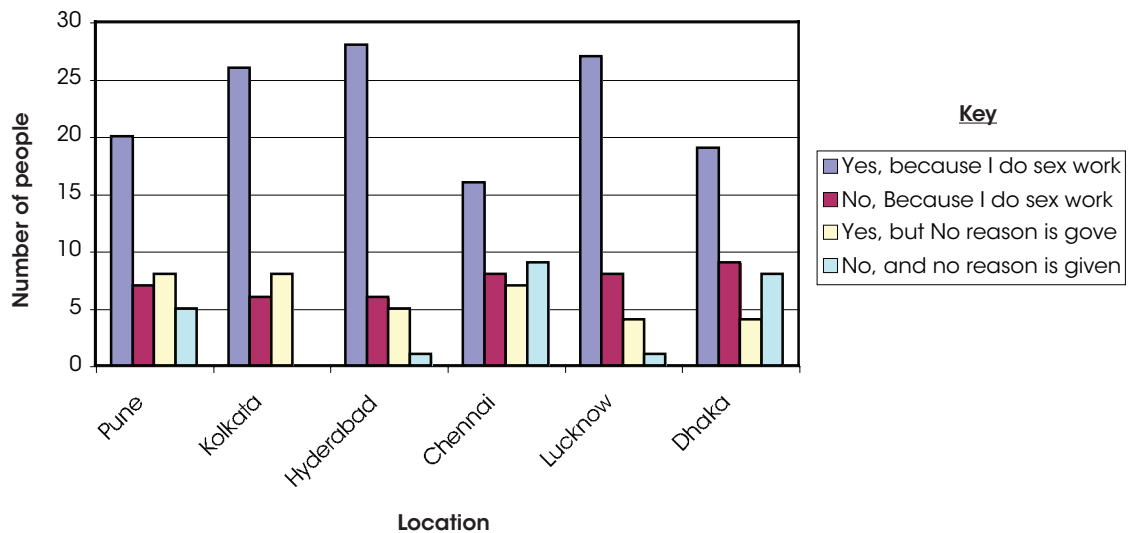
Chart 6: Has your income status been affected because you are a Kothi?

Sometimes there is temporary or seasonal migration of an economic nature, often for sex work or sex work related activities like *launda naach*.[12] The marriage season in the state of Bihar sees hundreds of *kothis* migrating from Kolkata to the state to take part in the *launda naach*, which is usually also accompanied by sex work, but is performed in a milieu that is cruel, exploitative, and often sexually abusive, where rape, often gang rape by groups of men from the marriage party, beatings, and torture is commonplace, and sometimes even murder occurs.

In Lucknow, some of the interviewees said that they migrate to cities like Delhi and Agra for specific festive seasons when they don the *satla* and indulge in sex work. However, even in cases of migration, strong family ties are maintained, and the families often depend on the income of the *kothi*.

For many *kothis* who have experienced sexual abuse at the hands of other men, often men from their own families, an inverted logic of revenge often plays out as a part of their sex work. This facet of sex work is often an attitude of getting something back from society, or their sexual partner, who is usually equated in their minds-eye as the abuser. Even in cases where there is no economic need to take money for sex; they do, as it is seen as a recompense for their suffering. This aspect of sex work that a *kothi* would not usually openly acknowledge. However, whenever searching questions are put in FGDs, or in depth interviews, it usually comes out that there is also a revenge motive that plays out in the psyche.

Vulnerability to violence and abuse

20% of the respondents say that their families knew that they had sex with other males. Another 32% felt that their families might have been aware of this fact. 45% of respondents said they had suffered from violence within their family.

Many interviewees reported facing discrimination within the family based on their femininity and this often translated into long term and deep seated psychological problems, like low self esteem, depression, and suicidal tendencies. Femininity often lead to sexual abuse. Interviewees in Dhaka, Kolkata, Pune, Hyderabad, and Lucknow, and FGD participants in Chennai report sexual abuse within their family often from powerful male members, often uncles and/or elder cousins. The family when it becomes aware of such abuse (which was rare), usually reacted with a sense of shame, and attempted to cover up the incident, rather than to protect the abused and punish the perpetrator.

---

[12] Traditional dancing during the marriage season, where males, often *kothis*, cross-dress and dance as women. This tradition is most prevalent in the state of Bihar and in Eastern Uttar Pradesh in India

There had been sixteen direct reports of disinheritance of interviewees by their families due to their femininity and the perceived male-to-male sexual behaviour that this femininity was supposed to signify. There had also been more anecdotal references to this that had come out in interviews and in FGDs. Interestingly, disinheritance happened without actual proof of male-to-male sex by the interviewee. The mere fact of femininity was taken as proof of this. Even in cases of disinheritance, the family has often continued to rely upon the income of the interviewee, often using violence to obtain money from them. A uniform pattern that is found across all the cities, is that femininity in males is considered to be an indication that the person is sexually available, and can be sexually accessed.

38% of the respondents in Dhaka reported that they faced harassment from religious leaders due to their sexuality, but only 8% of the Indian respondents reported such harassment. However, three people in Hyderabad and one person each in Pune and Chennai reported sexual abuse by religious leaders.

While the incidences in Dhaka mainly pertains to public rebuke and abuse by maulavis[13] on *kothis* for congregating near mosques, all the three incidence in Hyderabad pertains to child sexual abuse by the *maulavi* of *madarssas*[14] to which the *kothis* were entrusted for their education.

An incident described by one interviewee in Pune is very interesting. The family of the interviewee had discovered that the interviewee had sex with other males, which led to them physically abusing the interviewee. Thereafter the family took the interviewee to a Hindu holy-man for spiritual counselling. However, after the so called holy man came to know of the sexual preference of the interviewee, he enticed him alone to come to a room and thereafter forced him to have sex with him.

In Dhaka, the Muslim faith forms a very staunch part of the individual identity of almost all of the respondents. Many observe the customs of Islam regularly and offer prayers five times a day. However the fact that Islam preaches against homosexuality, and calls it a sin is often manifest in their psyche as a disconnect between their faith and their life style practices. This leads to many believing themselves to be sinners and having a very low self esteem. Many understand the violence and abuse that they face as a form of punishment from god, and believe themselves to be deserving of such punishment. In terms of intervention efforts, this often means that they are not willing to take the necessary precautions to protect themselves against STI and HIV, for to them such illnesses would be the just punishment from god.

Social justice and human rights of MSM is a complex matrix of factors, including socio-cultural attitudes and understanding, religious concerns, social standing, economic and class considerations, personal psychosexual histories, social-cultural-legal polices in place, and the attitudes these generate, all of which work to create a context of abuse, violence, and violation of basic fundamental and human rights of all MSM, but particularly of feminised males.

The impact of the matrix is manifested in low-esteem, disempowerment, and marginalisation that lead to further abuse, violence and social exclusion, creating a vicious cycle of violence, abuse, and exploitation. These create emotional, sexual, physical and economic exploitation of feminised males, and give rise to a range of physical, psychological, and emotional problems, which increase vulnerability and disempowerment. And this leads to significant increases to STI/HIV infection risks as well as impedes successful implementation of risk reduction strategies. Without addressing these psychosocial concerns appropriately and with urgency, sexual health promotion programmes targeting MSM would not be able to adequately develop sustainability in risk reduction and behaviour change.

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

---

[13] A person who is educated in Islamic scriptures and texts and who leads prayers in a mosque
[14] A place of education, where instruction on Islamic scriptures is given to students.

Psychological impact of violence and abuse

The reported first sexual experience of most of the interviewees was often quite young, between the ages of 6 and 14. Most of the interviewees stated that they did not know what sex was, and were initiated into it by others. First sexual experiences were typically at an age when a person started showing the stereotypes of femininity. First sexual experience for feminised males were usually coercive, and with either peers, or school teachers, or someone from within the family. Significantly, a quarter of respondents said that they have been sexually abused by their friends.

Where sex at an early age has been with peers and not forced, their does not appear to be any psychological problems, and the sex was often seen as an adventure and responds reported having happy memories of their early sexual experiences. However, this was not the case where they were forced to have sex against their will.

The study highlighted the significant level of suicidal impulses and self-damage of these males because of low self-esteem and self-worth. The study revealed stories of unhappiness, despair, and lack of hope for the future. 27% of the respondents in India reported that they have either thought of or tried to commit suicide at some point in their lives. the figure for those in Dhaka, Bangladesh was 33%.

Some of the causes of the lack of self esteem amongst *kothis* can be identified as:

- Guilt complex: *Kothis* often have a deep sense of guilt, as many seriously believe that either there is something wrong with them, and that is why they are not "normal", or that they are committing and/or living a life of sin.
- Internalised trauma: Often *kothis* internalise the pain and trauma of the repeated abuses that they face due to their feminised behaviours and their sexual preferences, especially from a very young age. This, and the fact that they are rendered helpless in finding any remedy or recourse to justice, often leads to an intense frustration with their own self.
- Lack of support services: There is usually no psychological or psychiatric help available to deal with the trauma of rape, which most had suffered at some point. The stigma of rape and the shame attached to it, unless addressed and dealt with appropriately, can lead to problems.
- Lack of control: There is a deep sense of frustration arising from the inability to deal with the regular harassment and abuses that as *kothis* they face.
- Self shame: Recurring frustrations in many aspects of their life lead to self-blame, which manifests itself as self-hate.
- Frustrated desire to change: Because many *kothis* blame themselves, and believe that something is wrong with them, they often have a desire to change and become "normal" and "respectable". However, as they find they cannot change, they become frustrated with themselves.
- Lack of respect: *Kothis* feel that they are not respected by society in general. The notion that society does not respect or accept them is compounded by the fact that in India and Bangladesh, respect is a highly valued thing. This leads to frustrations and destructive tendencies.
- Economic disempowerment: For some *kothis* economic disempowerment also leads to an eroded sense of self-worth.
- Sex work: For some *kothis*, the fact that they had to sell sex in order to survive is a reason for great shame and trauma, and being sex workers who are often not in control of either their economic or their physical situations well; they regard themselves as dirty and unworthy.

Masculinities in Bangladesh and India

It is important to locate the findings of the study, and subsequent analysis in a theoretical framework around the construction of masculinities in Bangladesh and India. This is necessary to contextually conceptualize the dynamics which give rise to human rights abuses against MSM in these countries.

Sexual and gender identities/orientations take shape within psychosocial and historical processes, which in turn are contextualised by culture and language. Therefore, one finds that different cultures often translate similar words and phenomena into different meanings, with inherent subtleties typical of that culture. It is clear that euro-centric perceptions and values gives a definition to heterosexual, homosexual and bisexual identities, quite different from how these phenomena are understood in Bangladesh and India.

In Bangladesh and India, the behaviour and experience of the male is affected by socio-cultural realities such as:

- The invisibilisation of sexual behaviours
- Gender segregation and the social policing of females
- A homosocial and homoaffectionalist culture
- Male dominance over public space and public discourse
- A shame-based culture, where family and community respect and honour are paramount
- Social compulsory and arranged marriages
- Family and social pressure for reproduction, particularly to produce sons
- An understanding of sex only in its reproductive sense
- Joint and extended families as providers of welfare and social control
- The negation of the self before the community/family

This behaviour is further defined by gender roles, attributed to males and females within society, especially when important defining events in life such as the assumption of adult-hood, are defined by such gender roles, duties and obligations.

The fact that the Western medicalisation of sexuality and sexual behaviours in the last century has given rise to a whole new discourse and understanding of gender, sexuality and sexual behaviour based on who one has sex with, has little relevance in the social and cultural context of Bangladesh and India. Therefore, to say that homosexuality exists when a male has sex with another male does not "fit" into the context of these two countries.

In Bangladesh and India, sexuality is primarily defined within frameworks of gender roles/orientation and reproductive sex, rather than in sexual orientation. Sexual interaction between biological males is also defined by the gender/sex role that each partner plays. Thus, the penetrating partner perceives himself as a "man" penetrating a "not-man". In this context then, we need to talk about "males who have sex with other males". Homosexuality as a condition, with homosexuals as a "species afflicted with this condition", is not the Bangladesh and Indian context of male-to-male sex, and there are really no local equivalents to the English terms such as heterosexuality, homosexuality, or bisexuality. What terms do exist reflect gender, gender/sex roles, and specific acts.

This fact also underlines a history of tolerance of same sex behaviour between males that has existed in the entire south Asian region. It is only with the advent of criminalisation of sodomy, imposed by the colonial powers, that the notion of right and wrong, and normal and abnormal sexual behaviours, as dichotomised states became a reality in public discourse. However, this discourse has taken shape in the gendered context of South Asia, which means that it is the feminised male, rather than the penetrating partner, who tends to be discriminated against and criminalised.

In the phallo-centric patriarchy that dominates social life in Bangladesh and India, sex is understood in a reproductive sense, and masculine power is defined by the act of sexual penetration. In this scheme any-one who does not penetrate loses the claim to be defined as a "man". The penetrator always remains the

"man" but the one penetrated becomes "not-man" and therefore somehow of a lower status and standing as compared to the "man". Again, given the fact of accepted male superiority, such penetrated people are also considered to be degraded and open to abuse.

The superior status of "men" is enforced by gender segregation of social spaces, and of labour, both these spheres being dominated by men. The perception of the male child as family capital, along with strictly defined gender roles both in social duties and obligations, as well as in terms of liberties enjoyed, often translates into severe punishment and retribution against a male who transgresses his role, and thus devalues his status. This also means that every male faces strong societal and familial pressures to marry and reproduce (preferably to giving male children), so as to reassert his claim to be the "man" in the penetrative oriented phallo-centric society, that recognizes only reproductive sex as legitimate and "real".

In other words, it is marriage (and children) that makes a man a "man", and institution which effectively defines his passage into adulthood. Thus, not getting married implies that a biological male has not yet become a "man" (an adult), and this perception affects how this individual views themselves, and is viewed by others, regardless of their age. In a sexual context, the only way to deal with all of the above complexities, and to preserve the semblance of the gender superiority of the "men", is to invisibilise sexual behaviour. This invisibilisation helps preserve the fiction that sex only occurs within marriage, and this sex is purely for reproductive purposes. Most importantly, it sweeps the possibility of all sexual acts and behaviours outside the bounds of marriage under the proverbial "carpet", by rejecting public discourse on the subject. It further helps in inculcating a sense of superiority vis-à-vis all traditions that are expressive of sexual diversities, which are seen as "dirty" and perverted. This is a huge psychological "apple cart", which is toppled by males who are anally penetrated by other males' penises. They challenge all accepted and ingrained ideas, and are punished. The punishment takes the form of demasculinisation, dehumanisation and deprivation of various rights.

Sexual behaviour takes the place of sexuality. Male (masculine) sexual desire becomes self absorbed and is reduced to one of discharge, rather than based upon a desire for another person. The silencing and denial associated with this leads to an exile like situation, where, closeted and schizophrenic states of mind easily emerge and subsumes the person, where every expression of an alternate sexual desire has to be mired in shame, silence and done in secret. All this has two significant fallouts, both curiously attached to the need of the "man". The first is that sex is often seen as a means of releasing what is locally defined as (body) tension. That is why, one hear terms like "I did sex to release heat". The other is that sex takes the form of fun and play, where the stigma attached to it is sought to be reduced by defining it in a frivolous light. Therefore, one gets to hear terms like maasti[15] that is associated with sex. The term maasti can be defined as fun or play or both. It is not serious enough to be sex, it just happens as if a game.

We arrive at a state where sexual preference and sexual behaviour is not a matter of identity. It takes place in hushed circumstances, and is propelled by opportunity, accessibility and the need of discharge. It is almost negated by giving it the appellation of play and fun.

One needs to take this understanding into the detailed analyses of the *kothi* construct. *Kothi* is a term that has existed for a long time in the popular discourse of South Asia. It was especially a part of the various dialects that was spoken by the *hijras* of south Asia. It did not define an identity, but rather a behaviour. In the gendered world of Bangladesh and India, or the rest of south Asia for that matter, a male person who acted in a feminised manner was called a *kothi*. The term was derogatory and abusive in nature, and was intended to put the *kothi* down. There was always the hidden implication that because a male was feminine, that he would be penetrated by a "man". But, such feminised males gradually adopted the term themselves, so that often in their communication amongst themselves they called themselves *kothis*. The opposite of this, the "man", can be any masculine, penetrating male, and he is in fact everywhere. He need not hide, or be ashamed, for he is penetrating partner, therefore he is doing what "men" do. He is not doing anything deviant, in as much as he is having sex with those who are not "men". Also he can disappear into the mainstream life of society and therefore cannot be easily identified. He therefore cannot be targeted either for HIV prevention work easily. And since his entire sexual act is in secret, and is never spoken of or acknowledged in public, he can safely hide behind the security that anonymity and lack of knowledge provides. He can also violate the rights of those who do not conform to the gendered roles of society with impunity, for he himself cannot be targeted or shamed. He has been given the term panthi, girya, and

---

[15] The term maasti can be defined as mischief, play or fun. It is not serious enough to be thought of as "real sex".

parikh amongst other terms by *kothis*. However, it should be kept in mind that the panthi does not call himself such. He need not, for he is the regular "man" in society. It is only the *kothis* who call him such, in counter-distinction to themselves. As stated above, he can be anyone and he is in fact everywhere.

Society at large however, has all the reason to target and abuse a *kothi*. He is not a penetrator; therefore he is not "man" enough to enjoy the privileges of "men". He is less than a "man", but still being a biological male, he is available and more accessible in the social domain than females. Therefore he can be sexual accessed by "men" to fulfil their play, fun, and need of discharge. He is a cause of shame to the family, and therefore often abused its members. He does not qualify for, and fulfil the expected manly gender roles, and therefore has to be policed, often with violence. Most importantly, he is seen as perverted, because he does sex for reasons that are not solely reproductive with women, and therefore poses a threat to the "normal" social order of society.

The self that is so negated by society, and which negation is deeply internalized by *kothis* themselves, is responsible for *kothis* lack of self worth and self esteem, along with their feeling of disempowerment. The *kothi* is made vulnerable by the actions of society at large, and he increases his vulnerability by defining his self in the stereotype of the gender role of an oppressed female. Being told that he is not a "man" or less than a "man", and feeling uncomfortable with the roles and responsibilities that "men" have appropriated for themselves, a *kothi* begins to identify as the female. But, this identification is not in the image of an empowered woman. It is in the image of an exaggerated parody of the vulnerable woman. Therefore, in the traditional societal structures, a *kothi* does not find the moorings of empowerment. He continues to languish in a self-defined and society determined disempowered role.

It is often observed, that this sense of disempowerment translates into the *kothi* accepting his human rights abuses, as his due in society. He rarely fights back, and he deals with the trauma of the abuse, by either turning on himself in self-destructive ways, or by suffering in silence. The effect of abuse also has economic ramifications. A *kothi* is often hounded in educational institutions, so he cannot study. His lack of literacy impels him into economic disadvantage. He is very often denied inheritance, and is forced into sex work. Employers discriminate and harass him at the workplace, compelling him to leave the job market, or seek jobs that under-pay him.

In any HIV and AIDS intervention, the above needs to be taken into account. While it is generally accepted that a rights-based approach to HIV and AIDS prevention, care and support is essential to reduce the potential spread of the virus, it is imperative that we approach specific interventions with *kothis* within a context of empowerment, participation, and ownership, creating an enabling environment that enhances self-worth and self-esteem, so that they can be perceived (by themselves and others) as equal partners and participants in social life and as full citizens of their country.

The legal framework with regard to male-to-male sex in Bangladesh and India

The criminalisation of the act of sodomy is at the root of much of the discrimination that takes place against MSM in Bangladesh and India. The law on sodomy talks only of "carnal intercourse against the order of nature." It does not criminalise sexuality as such. It is therefore very important to understand at the very beginning that sexuality or mere sexual desire and feelings is not a criminal offence in Bangladesh and India. It is an offence only if there is a sexual act.

The act of sodomy is described and criminalised in Section 377 of the Bangladesh and Indian penal codes. It is a continuation of the colonial Indian Penal Code formulated in 1860 by Lord McCauley. It is adequately vague as all laws pertaining to anything sexual had been in the Victorian times. Its exact wordings are as follows:

"*Anyone who voluntarily has carnal intercourse against the order of nature with man, woman or animal, shall be punished with imprisonment of either description which may extent to life, or to ten years and shall also be liable to fine*"

The explanation appended to the sections sates "*Penetration is sufficient to constitute the offence as described in this section*".

We therefore see that it is an "unnatural" penetrative act that is criminalised. Same sex desire is not dealt with at all, and rightly so, for the Victorian understanding was that such desire cannot and does not exist. As to what exactly constitutes an "unnatural" act is not described, but it has been the common understanding that it is meant to deal with the act of sodomy. The courts have also proceeded largely to give effect to this understanding. However, in a common law setting, where precedent plays an important part in the development of jurisprudence, courts have also interpreted the law to include other sexual acts like thigh sex, oral sex, and mutual masturbation. We therefore get a situation where all sex between males is criminalised.

The Bangladesh and Indian constitutions protects the right to expression as a fundamental right. Therefore, if one simply expresses a desire or attraction for the same sex, this it is not a crime. Therefore ,one can safely say that homosexuality is not a crime in Bangladesh or India per se. But, the real problem arises when we see that the social construction of masculinities is such in Bangladesh and India, that sexuality is not a matter of identity in the first place. Therefore, one only talks of or understands homosexuality in terms of the sexual act or sexual behaviours. And, as mentioned above, sexual behaviour of any kind between males is criminalised.

What is the real impact of this criminalisation? The Bangladeshi and Indian evidence act is strong and rigid enough to make the crime described in 377 very difficult to prove. Therefore in the two countries in this study, Bangladesh, cases under Section 377 are rarely booked. But 377 is a non-bailable offence and is also a cognisable[16] offence. This means that bail is at the discretion of the court and once arrested, bail can take anything up to even a couple of years to obtain. Also, it is worth bearing in mind the fact that consent between adults is of no consequence, and even consensual act are criminalised.

We see that Section 377 hangs as the proverbial sword over the heads of all MSM in Bangladesh and India. It gives the police the wide discretion to target MSM with blackmail, extortion and physical abuse. And there is nothing that they can do about it, for if the threat of using Section 377 is actually carried out, then it is a process of long incarceration and effective punishment before trial. Not to speak of the shame and loss of face that occurs in a traditional shame based society, when one's sexual preferences become public knowledge due to the criminal proceedings.

The abetment and the conspiracy laws also affect MSM when they are read in conjunction with Section 377. Abetment is when a person instigates another to commit an offence. A reading of Section 377 makes

---

[16] For a cognisable, a police officer can actually initiate proceedings and arrest without the intervention or prior direction from a magistrate of competent jurisdictions.

it clear that it is the penetrator who is the criminal. However, if there is consent behind the sexual act, then the penetrated person is liable and equally an offender as either an abettor or a conspirator. In other words, we have a situation, where the penetrator may escape into the mainstream of society and may be difficult to identify, but feminised males, *kothis*, and male sex workers, who are identifiable, can easily be targeted with this act ,as abettors or conspirators to a criminal offence.

The fact that Section 377 exists, gives not only the police but also local thugs a free hand in the abuse of *kothis*, for they are complacent in the belief that *kothis* would not seek any legal remedy or redress, as that would effectively criminalise themselves.

In the field of HIV/AIDS interventions, community development efforts and outreach work suffers as out-reach workers are themselves often members of these MSM networks, and are therefore targeted. Also, the very fact that work is being done with a community that is effectively criminalised, may attract the abetment provisions against CBOs and NGOs that are attempting to do this work.

Lately, one finds that the police have actually carried out arrests in many parts of Bangladesh and India, and, because they are themselves aware that Section 377 may be hard to prove, they either let the persons off without filing any charges after obtaining monitory or physical gratification from them. When the police do file a charge, they justify the incarceration under local civic laws against vagrancy, nuisance, loitering, arrest on suspicion etc.

Section 377 has never had any legal or constitutional challenge in Bangladesh. In India two attempts at challenging the constitutionality of the law have been made, both in the Delhi High Court. The first attempt lapsed because it was not prosecuted properly by the petitioners. The second writ application was summarily dismissed after two years of due court processes on the grounds that none of the petitioners have actually been targeted with the law. This position of the court is contrary to the jurisprudence of public interest litigation that has been developed in India over the past thirty years. An appeal against the dismissal of the petition has now been filed in the Supreme Court and it is still currently under consideration. However, given the fact that the Indian constitution protects such rights as freedom of expression, freedom of movement, right to life and personal liberty, right to equality before the law, and equal protection from the law, provides strong legal grounds for the success of the challenge to the law that is pending before the Supreme Court. A legal challenge does not occur in vacuum. It is contextualised by the socio-cultural order. May be at a future date, when adequate sensitization has taken place due to advocacy efforts, the legal challenge will become a success, and a similar challenge may become possible even in Bangladesh.

Recommendations

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

1. Training at all levels of the police forces in India and Bangladesh on sensitisation to MSM issues, and also on the general principals and practice of human rights as they effect MSM.

2. Work with the police and the judiciary, especially the criminal justice system to ensure that instances of abuses against MSM are addresses and legally redressed where appropriate.

3. Advocacy work aimed at changing appropriately the discriminatory laws like Section 377 of the Indian Penal Code and the Bangladesh Penal Code respectively, the laws relating to obscenity that impede dissemination of safer sex information and make outreach workers and educators vulnerable to police excesses, and the laws relating to public conduct and nuisance, that are often used to target MSM in public areas of congregation.

4. Ensure the creation of a trained and sensitised legal task force that can take up cases for MSM who face human rights abuses.

5. To address the cases of male rape, and other forms of sexual assault, the male rape laws need to be enacted and put in place.

6. Legal funds need to be created that can take on public interest litigation on MSM issues.

7. There needs to be work on masculinity and gender, and the way the distorted stereotype of gender affects MSM, especially feminised MSM.

8. Advocacy work need to be conducted with educational institutions to address the issues of institutionalised homophobia, and also mitigate the effects of homophobia on MSM, especially feminised MSM.

9. Activities that provide economic empowerment to MSM, including schemes like micro-credit and income generation project need to be developed. In this regard work also needs to be done on gender sensitisation and MSM with industry bodies and labour unions.

10. Psychological counselling and psychiatric help for MSM should be made part of HIV intervention efforts for this group

List of tables and charts

Tables

Charts

Acronyms

AIDS	Acquired immune deficiency syndrome
BSWS	Bandhu Social Welfare Society
CBO	Community-based organisation
CSA	Child sexual abuse
DIC	Drop-in centres
FCO	Foreign and Commonwealth Office
FGD	Focus group discussion
HIV	Human immunodeficiency virus
HR	Human rights
MSM	Males who-have-sex-with-males
NFI	Naz Foundation International
NGO	Non-governmental organisation
STI	Sexually transmitted infections
TG	Transgender/transgendered

Annex 1: Questionnaire

Questionnaire on human rights, violence, abuse, stigma, and discrimination faced by MSM

This is the beginning of the questionnaire...

The following questionnaire has been developed for a study being conducted by the Naz Foundation International, and supported by the British Foreign and Commonwealth Office. It seeks to find out the various human rights related issues faced by and/or pertaining to MSM. It shall therefore be administered only to males-who-have-sex-with-other-males (MSM]). It shall probe any violence, abuse, stigma or discrimination that interviewee may have faced in the past, or continues to face.

This questionnaire is strictly confidential, and save and except for the purpose of gathering data for the study, the details provided by the interviewee, which may be of an intimate nature and personal, shall not be disclosed to any person or organization for any reason whatsoever.

The following questionnaire has been structured to gather information on a wide range of topics. We therefore request you to spend some time with the interviewer in answering all the questions. The interviewer will assist you in explaining any aspect of the questionnaire that you may find difficult or confusing to comprehend. Therefore please take the help of the interviewer as and when you feel the necessity.

Please try to answer the entire question truthfully and honestly. Please also try and answer all the questions to the best of your ability

Place/area code   :

Personal code   :

Date of Interview   :

Interviewer's preface

I am from an HIV/AIDS prevention organisation named [**please write name of your organisation**], and I want to thank you in advance from my organisation for agreeing to fill up this questionnaire. I shall assist you in explaining any aspect of the questionnaire that you may find difficult or confusing.

Please understand that you can stop the interview at any time. What you answer will be kept strictly confidential.

Interviewer name   :

Date   :

Signature   :

Start here:

1. What is your age?

- 15-20 years
- 20-25 years
- 25-30 years
- 30-35 years
- Above 35 years

2. Is your native place/ancestral home:

- Urban
- Sub-urban
- Rural
- Other (please specify):

3. Are you:

- Muslim
- Hindu
- Buddhist
- Christian
- Other (please specify):

4. What is your highest educational qualification?

- No education
- Up to Class 5
- Up to Class 10
- Up to Class 12
- Graduate
- Postgraduate
- Other (please specify):

5. Your marital/family status?

- Single
- Married
- Separated from spouse
- Divorced
- Widower
- Live together/committed relationship with female partner
- Live together/committed relationship with male partner

If you chose the options "Single" or 'Live together..."' then please go directly to question 10

6. You got married because (tick all that apply):

- You wanted to have a wife
- You did not want a wife but wanted to have children
- You fell in love with someone and married her
- You did not want to get married, but family/friends/relatives pressurized you to get married.
- Other (please specify):

7. Does your wife knows/knew (if you are widower, divorced, or separated) that you have sex with other men?

- Yes
- No
- Don't know

8. If your wife know/knew that you have sex with other men, how has/had she reacted about this knowledge (tick all that apply)?

- She has/had accepted it.
- She has/had not accepted it, but she cannot / could not do anything about it
- She frequently fights / fought with you about it
- She has/had told others which created problems for you
- She has/had threatened to leave you
- Other (please specify):

9. Have/had you any female partners other that your wife?

- Yes
- No

10. Who knows the fact that you have sex with other men (tick all that apply)?

- Friends
- Parents
- Relatives
- Neighbours
- Wife/female partner
- Children.
- Other (please specify):

11. How did these people come to know (tick all that applies)?

- You told them
- They found out by accident
- They were told by people you had sex with
- They guessed because you act in a non-masculine manner.

- They were told by police/*goondas* who saw you in cruising areas.
- Don't know

12. Please state your income

- Below Rupees 1000 a month
- Between Rupees 1000-3000 a month
- Between Rupees 3000-5000 a month
- Above Rupees 5000 a month

13. Has your having sex with other men affected your income status?

- Yes
- No
- Don't Know

14. If you have answered the above question as yes, then in what way has it affected your income status?

- It has made your income status better.
- It has made your income status worse.

Please give a brief reason for your answer

15. Do you know that it is against the law to have sex with other men and that this can even send you to jail?

- Yes
- No

16. Have you ever been subjected to harassment by the police simply because of the fact that you have sex with other men?

- Yes
- No

17. If your answer is yes to the above question, then what has been the type of harassment (Tick all that applies)?

- Extortion of money on the threat of putting you in jail.
- Illegal detention
- Beating
- Threats and/or blackmail
- Restriction of movement and/or arrest
- Sexual assault and/or rape
- Other (please specify):

18. If you have been harassed by the police, then how did the police find out that you have sex with other males (tick all that apply)?

- Because you are effeminate
- You were caught having sex
- Some one who know about your sexual behaviour/preference informed the police.
- Other (please specify):

19. Have you ever been subjected to harassment by *mastaans/goondas* simply because you have sex with other males?

- Yes
- No

20. If your answer is yes to the above question, then what has been the nature of the harassment (tick all that applies)?

- Extortion of money on the threat of handing you over to the police.
- Beating
- Threats and/or blackmail
- Restriction of movement and/or arrest
- Sexual assault and/or rape
- Other (please specify):

21. If you have been harassed by *mastaans/goondas*, then how did they come to know that you have sex with other men (tick all that apply)?

- Because you are effeminate
- You were caught having sex
- Some one who knows about your sexual behaviour/preference informed the *mastaans/goondas*.
- Others (please specify):

22. Does you near family know about the fact that you like to/do have sex with other men?

- Yes
- No
- Don't Know

23. If you answer to the above question is yes then how have they reacted to this knowledge?

- They have accepted it and it is OK with them.
- They have not accepted it.
- Other (please specify):

24. If your family has not accepted your sexual behaviour/preferences, then what have they done about it (tick all that apply)?

- They have disinherited / disowned you and have thrown you out.
- They have beaten you and tortured you physically.
- They have tortured you mentally/psychologically
- They have tried to forcibly marry you off.
- They have tried to "cure" you by taking you to a doctor or psychiatrist.
- Other (please specify):

Please name the members of your family who have done any of the above to you (e.g. father, brother etc.)?

25. Do you consider yourself as?

- *Kothi* identified and effeminate acting
- *Kothi* identified but straight acting
- Gay identified and effeminate acting
- Gay identified and straight acting
- Dupli/double decker/do paratha/versatile and effeminate acting
- Dupli/double decker/do paratha/versatile and straight acting
- Panthi/giria and masculine
- Straight

26. If you have answered yes to 'effeminate acting' choices above, have you ever been sexually harassed by anyone simply because you are effeminate, even though you did not make any sexual advances, or were not attracted to that person?

- Yes
- No

27. How often have these kinds of sexual harassment happened in the past year?

- It happens regularly
- More than 10 times
- Between 5 and 10 times
- Less than 5 times
- Never happened

In your opinion the sexual harassment that you faced was (please strike out those not applicable) very violent/violent/threatening but not violent/harassive but not violent (please note that violence here implies physical violence only).

28. Has anyone ever sexually assaulted you or raped you simply because of your sexual identity/behaviour?

(*Please note that any forced sexual activity of a physical nature is a sexual assault while forced penetration without your consent is rape*)

- Yes
- No

29. How often have you faced such sexual assaults or rape in the past year?

- It happens regularly
- More than 10 times
- Between 5 and 10 times
- Less than 5 times

30. If you have been sexually assaulted or raped as mentioned above, who has been the person doing the assault/rape (tick all that apply)?

- Relative
- Friend
- Teacher
- Non teaching staff in school
- Classmates or seniors in school
- Neighbour
- Police
- Mastaan/*goonda*
- Employer/senior manager at workplace
- Stranger
- Other (please specify):

31. Do you have a job or employment?

- Yes
- No

32. Do you have any source of income other than a job or employment?

- Yes
- No

33. Has your sexual identity or behaviour affected you at your place of employment?

- Yes
- No
- Don't Know

34. Do you think that if you had not been homosexual/*kothi*/gay/MSM etc, you would have got a better job, or done your present job without harassment?

- Yes
- No
- Don't Know

35. Do you think that being a *kothi*/homosexual/MSM means that you do not get the opportunity to earn as much as others?

- Yes
- No
- Don't Know

36. Have you ever been harassed by fellow students and/or teachers when you were in School or college, simply because you are effeminate/*kothi*?

- Yes
- No
- Don't Know

37. If you have answered yes to the above question, do you think that this harassment has hampered your studies?

- Yes
- No
- Don't Know

38. Do you think that if such harassment had not been there, then you would have been better qualified/ educated and that this would have helped you earn more?

- Yes
- No
- Don't Know

39. Have you ever been targeted or harassed by any religious leader because they came to know of your sexual preferences?

- Yes
- No
- Don't Know

40. Do you generally feel that it would have been better for you if you had not been effeminate or if you did not prefer to have sex with other men?

- Yes
- No
- Don't Know

41. If you have answered yes to the above question, then you think it would have been better because (tick all that apply)?

You believe that your sexual behaviour as a homosexual/*kothi*/MSM etc. is wrong.

- You would not have faced any violence or abuse
- You would not have faced any sexual assault or sexual violence
- You would not have faced all the harassment that you have to face
- You feel that then people would have loved/respected you more
- You feel that then you would have been better off economically
- Any other reason (specify):

42. Have you ever attempted or thought of attempting suicide because of all the harassment that you have had to face due to your sexual identity?

- Yes
- No

43. Even if you have not faced any harassment due to your sexual preferences, do you know of anyone else who has faced such harassment?

- Yes
- No

44. If you have answered yes to the above question, how many such people do you know?

- Less than five
- Five to ten
- More than ten

45. Do you think that if the law that criminalises homosexuality is changed, then the amount of harassment that you have had to face will go down?

- Yes
- No
- Don't Know

46. Have you heard about STD/HIV/AIDS ?

- Yes
- No

47. If you have answered "Yes" to above question, then where from have you heard?

- Radio/TV/media
- Social worker
- Hospital
- Clinic
- Friends

- Sex partners
- NGOs/CBOs
- News papers
- Other (please specify):

48. If you know of STD/HIV/AIDS, do you always practice safer sex?

- Yes
- No

Annex 2: Focus group discussion guidelines

Consent from all the participants must be taken before the focus group discussion can be initiated.

- Start with transparent and clear introductions
- Introduce the facilitators and participants by the name they have given.
- Explain the purpose of the focus group

Statement

We are from Naz Foundation International, and we are here to understand the problems and concerns of MSM in regard to their experience of any violence and abuse, and violations of their human rights by others.

We are conducting this study across 6 cities in India and Bangladesh, and it is supported by the Foreign and Commonwealth Office of the British Government.

Focus group discussions are a significant part of this study, which also includes, interviews and question-naires.

We ask you to be open and frank about your experiences, but there is no compulsion to do so however, and if you feel that there are issues that you would rather remain silent, you have the right to do so. You also have the right to withdraw your participation in this focus group discussion at any point by simply leaving this space.

All information given will be strictly confidential, and your name and any information that you give about yourself, or about others will not be given to any one else.

If anyone does not wish to participate in this focus group discussion is now free to leave.

Facilitator please sign below with the date following this.

I have read and explained the above statement to all the participants in the focus group discussion, and there has been no inducement, coercion, or force on any of the participants in the group.

Name of facilitator:

Signed:

Date:

Focus group discussion checklist

The following issues need to be covered in the discussion:

- Family background, work, members in the family, economic background
- Childhood, how one discovered about one's sexuality
- First sexual experience, at what age, and under what circumstances
- What does the person feel about the first sexual experience?
- Childhood Instance(s) where any sex happened where the person did not want to do it or know what sex is.
- What does he feel about this incidence/these incidents?
- Does family know about his sexual behaviour? Who knows? What has been the reaction?
- What does the person feel about this reaction?
- Does friends, neighbour know, and what has been the reaction?
- Has the person been abused or beaten ever due to the fact of his sexual behaviour or gender identification (details and anecdotes)
- What does the person feel about it?
- Situation in school/college....how he feels about it?
- How his work is affected...what he feels about it?
- Has *goondas* ever threatened/abused/beaten him (details and anecdotes)?
- What has he done about it?
- How he feels about it?
- Has the police ever done anything to him (like abuse, violence, extortion)?
- Has he ever complained about any of this?
- What does he feel about this?
- Has any client (of a male sex worker) ever abused/been violent/ threatened etc. (details and anecdotes)?
- What has he done...how does he feel?
- Details pertaining to his personal relationships. Have they been good/bad?? What are his feelings now?
- Has he thought of suicide...why when where?
- Has anyone ever had sex by force or fraud or any other means where he did not want to have sex with that person.
- Has he done anything about it?
- What does he feel about this?
- Does he access healthcare in government/private health facilities? How the medical staff treated him?
- Why does he think people like him face problems/abuse violence....what does he think to be a solution?

Annex 3: Interview guidelines

How to conduct an in-depth Interview

Always take the consent of the person for the interview and inform him about general rules

You as the interviewer must know:

- What the interview is about. Never force or coerce anyone to give an interview.
- Maintain the confidentiality of all that you learn at all times. Never share what you learn with anyone else.
- Names are not important and need not be taken. But you should be able to trace the person back if required. Therefore, keep that information safe with you for at least three years.
- Properly code every interview as per the guidelines given.
- Fill up the interview top sheet very carefully and correctly.
- Record everything that is important (recording means either taking notes or taping & transcribing).
- MEMORISE BY HEART the checklist of issues to be covered.
- There is no hurry...take your time...give the other person time. An interview can spill over into more than one session/sitting if required.
- Let the other person talk...you decide what is important from within all that he says
- You decide what is important by checking against list of issues to be covered
- There is no proper sequence of events/issues to be followed in the interview....follow the flow of conversation freely and record everything important.
- Pick up clues to carry forward a conversation from what the other person says....try to pick those clues that lead to further discussion on the list of issues to be covered.
- Be polite at all points
- You do not ever show your disagreement with anything the person says. You are just recording/observing...you are not influencing the discussion.
- Take down anecdotes from life-stories.
- Try and cover all the points in the checklist. Your notes must be preserved and given to the researcher.

As the interviewer you must:

1. Write down the interview report from your notes within 24 hours of taking the interview.
2. The report can first be made in vernacular/local language and then translated into English
3. If you have a problem in translating, your project leader should do it for you.
4. If the interview is taped, then it must be transcribed in writing within 7 days of the interview. At no stage should it be more than 7 days.
5. Always be honest with what you report.

Declaration

I declare that I have explained fully the reason for the interview to the satisfaction of the interviewee and that I have taken his full, free and valid consent for the interview. Every detail that is mentioned in the interview transcript is true to what the interviewee had said and expressed and a fair representation of the facts that came out in the interview. The transcription was made from notes within 24 hours of the interview / within seven days from date of taping of interview.

Signed by the interviewer:

Name:

Date:

Place:

Coding:

[City/first name of interviewer/interview No.]

Date/Time of interview:

Date/Time of transcript:

Interviewee Details

Age:

Educational status:

Resident of:

Monthly income: