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## The Invisible Citizen: A Study on the Legal Status of the Third Gender Community in Bangladesh

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*This thesis begins with a fundamental question: if Bangladesh has officially recognised the ‘third gender,’ why do members of this community continue to struggle for dignity, safety, and basic rights in their daily lives? To explore this gap between recognition and reality, the study adopts a qualitative and doctrinal approach. It combines fieldwork conducted in Shabbagh, Dhaka, conversations with hijra community members, expert perspectives, and an analysis of national laws, international human rights standards, and comparative experiences from South Asia. The research examines four central issues: why legal recognition has failed to translate into substantive equality; which legal and policy gaps continue to exclude third-gender persons from education, employment, healthcare, family life, and access to justice; what lessons Bangladesh can learn from the legal developments in India, Pakistan, and Nepal; and what reforms are necessary to ensure meaningful protection of rights. The findings reveal that recognition without enforcement has remained largely symbolic. Despite policy changes, third-gender persons continue to face social stigma, institutional discrimination, and procedural humiliation, particularly in identity documentation, policing, healthcare, and employment. The fieldwork highlights deeply human experiences of rejection, fear, and resilience, showing a persistent disconnect between legal promises and lived realities. The study finds that Bangladesh lacks a coherent anti-discrimination framework, clear implementation guidelines, and institutional accountability mechanisms. Drawing on comparative and international human rights standards, the thesis proposes key reforms, including the adoption of a comprehensive Third Gender Rights Act, constitutional inclusion of gender identity as a protected ground, reform of family and inheritance laws, mandatory training for law enforcement, and simplified, respectful identity documentation procedures. The thesis concludes that recognition alone is insufficient. Without structural legal reform and social acceptance, third-gender persons will remain excluded. Real equality requires that rights are not only written in law but also felt in everyday life.*

**Keywords:** *third gender, hijra community, gender identity, human rights, social exclusion.*

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## INTRODUCTION

For centuries, hijra communities have been part of everyday life in Bengal. They are seen at weddings and at the birth of children, where they offer blessings in exchange for small amounts of money.<sup>1</sup> In stories and popular belief, hijras occupy a unique and often misunderstood position. They are respected in ritual spaces but kept at a distance in daily life. Outside these moments, many live on the margins. They are pushed out of schools, denied regular jobs, separated from family life, and often left unprotected by law. In 2013, the Government of Bangladesh officially recognised hijras as a third gender.<sup>2</sup> This decision was widely welcomed. It was seen as a sign of progress and inclusion. However, the promise of recognition soon began to fade. In 2014, when hijra persons applied for government jobs, many were forced to undergo invasive medical examinations to prove their gender identity.<sup>3</sup> What was meant to open doors instead caused humiliation and fear. The process revealed that recognition without clear legal protection can lead to harm rather than justice. Today, hijra persons in Bangladesh live in a legal gap. They are recognised in name but not fully protected in practice. Many still struggle to obtain identity documents. They face harassment in hospitals, schools, police stations, and workplaces. This article begins from that contradiction.<sup>4</sup> It asks why legal recognition has failed to improve everyday life for third gender persons. It explores where the law remains silent, how discrimination continues despite constitutional promises, and what lessons Bangladesh can learn from international human rights law and South Asian experiences. The aim is simple. To move beyond recognition on paper and ask how the law can protect dignity in real life.

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<sup>1</sup> Serena Nanda, *Neither MAN nor WOMAN: The Hijras of India* (2nd edn, Wadsworth Publishing Co Inc 1998)

<sup>2</sup> *Gazette Notification on Recognition of Hijra as Third Gender* (Ministry of Social Welfare, Bangladesh)

<sup>3</sup> Kyle Knight, "I Want to Live With My Head Held High" (*Human Rights Watch*, 23 December 2016) <<https://www.hrw.org/report/2016/12/23/i-want-live-my-head-held-high/abuses-bangladeshs-legal-recognition-hijras>> accessed 15 December 2025

<sup>4</sup> A S M Amanullah et al., 'Human rights violations and associated factors of the Hijras in Bangladesh – A cross-sectional study' (2022) 17(1) *PLOS One* <<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0269375>> accessed 15 December 2025

## CONCEPTUAL AND THEORETICAL FRAMEWORK

**Defining the ‘Third Gender’ in Law and Society:** The term ‘third gender’ is used for people who do not fit neatly into the categories of man or woman. In Bangladesh and much of South Asia, this term mainly refers to hijras. Many hijras are born male or intersex, but they live and understand their gender in ways that do not match the male-female divide. Society has known them for generations, yet the law has struggled to understand them. The problem begins when legal definitions do not match social reality. In everyday life, hijras are known through their roles, relationships, and shared community life. But legal recognition has often been based on medical ideas. Some laws treat third gender identity as a biological problem or disability, rather than a matter of self-identity and dignity.<sup>5</sup> This approach does not reduce stigma. Instead, it quietly strengthens it. When the law defines people without listening to how they define themselves, recognition becomes shallow and even harmful.

**Symbolic Recognition and Real Equality:** In 2013, Bangladesh recognised hijras as a third gender. This was an important moment. For the first time, the state used language that acknowledged their existence. But recognition in words does not always lead to change in life.

Symbolic recognition happens when a group is named in official papers, but nothing else changes. Schools remain unsafe. Jobs remain closed. Hospitals remain hostile. Substantive recognition is different. It means laws, policies, and systems that protect dignity and allow people to live freely and safely. Sonia Katyal argues that true recognition must go beyond labels and translate into ‘structural inclusion.’<sup>6</sup>

Other countries show this difference clearly. In India, courts recognised gender identity and also asked the state to take real steps, like access to education and jobs.<sup>7</sup> Even there, progress has been uneven. In Bangladesh, recognition stopped at the symbolic stage. There are still no clear laws on discrimination, inheritance, or family life. As a result, third gender persons are recognised in name but excluded in practice.

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<sup>5</sup> Adnan Hossain, ‘The paradox of recognition: *hijra*, third gender and sexual rights in Bangladesh’ (2017) 19(12) *Culture, Health & Sexuality* <<https://doi.org/10.1080/13691058.2017.1317831>> accessed 05 October 2025

<sup>6</sup> Sonia K Katyal, ‘The *Numerus Clausus* of Sex’ (2017) 84 *The University of Chicago Law Review* <[https://lawreview.uchicago.edu/sites/default/files/16%20Katyal\\_ART\\_IC.pdf](https://lawreview.uchicago.edu/sites/default/files/16%20Katyal_ART_IC.pdf)> accessed 05 October 2025

<sup>7</sup> *National Legal Services Authority v Union of India & Ors* (2014) INSC 275

**Understanding Equality Beyond Sameness:** Equality is often explained as treating everyone the same. This idea is known as formal equality. On paper, it sounds fair. If the law treats all citizens equally, justice should follow. But real life is not that simple. Communities that have faced long years of rejection and poverty cannot catch up just by being treated ‘the same.’ This is where substantive equality matters. Substantive equality focuses on removing barriers. It looks at power, history, and disadvantage.

For example, a law may promise equal access to education. But that promise means little if a third gender student is bullied, denied admission, or forced to leave school. Substantive equality asks what support, protection, or special measures are needed so that the right can actually be used. Courts in South Asia have recognised this difference. They have said that dignity requires more than formal promises. It requires action.

**Development with Dignity:** Development is often measured through numbers. Income levels. School enrolment. Health data. But for third gender persons, development without dignity is incomplete. A human rights-based approach to development changes the focus. It treats people not as passive receivers of help, but as rights-holders. Education is not charity. Healthcare is not kindness. They are legal duties of the state.<sup>8</sup> Countries like Nepal and India have linked development with dignity by recognising gender identity in citizenship and legal rights. These steps show that inclusion is not a favour. It is an obligation.<sup>9</sup> In Bangladesh, adopting this approach would mean ensuring that third gender persons can claim their rights in education, health, housing, and work. Development that ignores dignity leaves people behind. Development that respects rights allows everyone to move forward.

## LEGAL RECOGNITION OF THE THIRD GENDER IN BANGLADESH

**Constitutional Promises of Equality and Dignity:** The Constitution of Bangladesh begins with a strong promise. It says that all citizens are equal before the law. It also promises dignity, freedom, and protection. Article 27 speaks of equality before the law. Article 28 bans discrimination based on sex, religion, race, caste, or place of birth. Article 29 ensures an equal chance in public jobs. Article 32 protects the right to life and personal liberty.<sup>10</sup> Together,

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<sup>8</sup> *THE HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT PROGRAMMING: HRBA TOOLKIT* (United Nations Development Programme, 1998)

<sup>9</sup> *Sunil Babu Pant v Nepal Government* [2007] Supreme Court of Nepal, Writ No 917 of the year 2064 BS (2007 AD)

<sup>10</sup> Constitution of Bangladesh 1972, arts 27, 28, 29 and 32

these articles imagine a fair society. But for third gender persons, this promise often feels distant. The Constitution does not clearly mention gender identity. It does not name hijra or third gender persons. Because of this silence, many are left unsure if these protections truly apply to them. When rights are not clearly stated, claiming them becomes harder. This gap matters. Equality written in law has little value if it cannot be used in real life. If the Constitution is meant for everyone, it must also protect those who have long been ignored.

**State Recognition Through Government Decisions (2013–2014):** In November 2013, the government officially recognised hijras as a third gender. This decision allowed ‘Hijra’ to appear on documents like passports and National ID cards.<sup>11</sup> In January 2014, a gazette notification confirmed this recognition. For many, this felt like hope. It felt like the state was finally seeing them.

But recognition did not come with clear rules. There was no clear process to decide how someone would be recognised as a hijra.<sup>12</sup> Officials were given no guidance. As a result, many continued to face rejection or confusion when applying for documents. Some were forced to accept male or female markers against their identity. These decisions were important, but they stayed mostly symbolic. Without strong policies and clear procedures, recognition remained fragile. Being named is not the same as being protected.

**Identity Documents and Legal Visibility:** For most people, identity documents are a routine matter. For third-gender persons, this is a deeply personal issue. An ID card or passport can decide whether someone can study, work, travel, or vote. For years, hijras lived without proper recognition. So, when the ‘third gender’ appeared in the national census in 2022, it mattered, recording 12,629 people<sup>13</sup> and was a rare moment of visibility. Still, problems remain. Many third gender persons struggle to change their gender marker on official documents. Officials often demand medical proof or ask intrusive questions. Some simply refuse to help.<sup>14</sup> There is still no clear legal process that respects self-identity. Visibility is not

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<sup>11</sup> ‘Govt recognises sexual identity of hijras’ *The Daily Star* (12 November 2013)

<<https://www.thedailystar.net/news/govt-recognises-sexual-identity-of-hijras>> accessed 06 October 2025

<sup>12</sup> *Country policy and information note: Bangladesh – sexual orientation and gender identity* (UK Home Office, 2025)

<sup>13</sup> ‘Bangladesh includes transgenders in national census for first time’ *The Business Standard* (27 July 2022)

<<https://www.tbsnews.net/bangladesh/bangladesh-includes-transgenders-national-census-first-time-466230>> accessed 06 October 2025

<sup>14</sup> ‘Bangladesh’s population is now 16.51 crore’ *BSS News* (27 July 2022) <<https://www.bssnews.net/news-flash/73987>> accessed 06 October 2025

only about data. It is about belonging. Without correct documents, people remain locked out of basic rights. Recognition should make life easier, not more painful.

**Education, Work, and Healthcare:** Recognition was supposed to open doors. In reality, many doors remain closed. In employment, the government introduced welfare allowances and training programmes for hijra persons. These programmes helped some, but only a few. Most hijra persons still struggle to find safe and stable jobs. Many are pushed back into begging or ritual work because workplaces do not accept them.<sup>15</sup>

In education, discrimination starts early. Many third gender students face bullying. Some hide their identity. Others drop out.<sup>16</sup> Schools rarely have inclusion policies. Teachers are not trained. Education, which should offer escape from poverty, often becomes another site of harm.

In healthcare, the experience can be humiliating. Hijra patients are often misgendered. They are placed in wards without consent.<sup>17</sup> Doctors lack training on gender diversity. Many avoid hospitals altogether out of fear and shame. There are talks of a Hijra Protection Act. But until laws are passed and enforced, these sectors will continue to fail the community.

**Gaps Between Law and Reality:** Bangladesh has taken an important step by recognising the third gender. But recognition alone is not enough. There is still no clear legal process to change gender markers with dignity. There is no strong anti-discrimination law that clearly protects gender identity. Many welfare programmes are small and temporary. They do not change deeper structures of exclusion. Social stigma remains strong. Officials still act on bias. Institutions still treat hijra persons as problems, not citizens. The law has spoken, but softly. For recognition to matter, it must be backed by action, enforcement, and respect. Until then, equality for the third gender will remain unfinished.

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<sup>15</sup> Kamrun Nahar Sumy, 'Govt schemes fail to change fate of hijras' *New Age* (19 November 2022) <<https://www.newagebd.net/article/186816/govt-schemes-fail-to-change-fate-of-hijras>> accessed 06 October 2025

<sup>16</sup> 'Bangladesh's transgender community ready to shatter boundaries with education' *Dhaka Tribune* (12 October 2024) <<https://www.dhakatribune.com/bangladesh/361611/bangladesh-s-transgender-community-ready-to>> accessed 06 October 2025

<sup>17</sup> Hedait Hossain, 'Healthcare disparities: hijra community faces bias in govt facilities' *Dhaka Tribune* (02 January 2025) <<https://www.dhakatribune.com/bangladesh/369783/hijra-community-faces-discrimination-in-govt>> accessed 12 October 2025

## INTERNATIONAL HUMAN RIGHTS LAW AND THE THIRD GENDER

**Global Human Rights Ideas: Equality, Dignity, and Non-Discrimination:** International human rights law is built on one simple idea. Every person deserves dignity and equality. This idea appears clearly in three major treaties. These are the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Together, they set global standards for how states should treat all people, including those who are third gender or gender diverse.

The ICCPR protects equality before the law. Articles 2 and 26 say that rights must be given to everyone without discrimination. Over time, the UN Human Rights Committee has explained that discrimination does not only mean race or religion.<sup>18</sup> It also includes gender identity and sexual orientation. This means that denying rights to third gender persons breaks the promise of equality under international law. For Bangladesh, this matters because the Constitution also speaks of equality, yet third gender persons still struggle to enjoy it in practice.

The ICESCR focuses on daily life. It protects the right to work, health, education, and decent living conditions. Articles 6, 7, and 12 talk about fair jobs and proper healthcare. The UN committee that monitors this treaty has made it clear that these rights belong to everyone, including people of diverse gender identities.<sup>19</sup> In Bangladesh, many third gender persons are pushed out of jobs and treated badly in hospitals. International law reminds the state that dignity is not only about recognition, but also about real access to services.

CEDAW is mainly about women, but it is still relevant here. The CEDAW Committee has said that discrimination based on gender identity comes from harmful gender norms.<sup>20</sup> Because of this, such discrimination also falls under CEDAW. Bangladesh has been a party to CEDAW since 1984. This means the state must look beyond equal words and focus on real equality that removes social barriers. Together, these treaties show that international law

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<sup>18</sup> *Toonen v Australia* CCPR/C/50/D/488/1992

<sup>19</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights (art. 2, Para. 2, of the International Covenant on Economic, Social and Cultural Rights)* (2009)

<sup>20</sup> UN Committee on the Elimination of Discrimination against Women, *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women* (2010)

already supports third gender rights. The real challenge is not the absence of law, but the failure to apply it in everyday life.

**Evolving Global Standards Beyond Treaties:** Human rights law does not stand still. Over time, new standards have developed to respond to real human experiences. Three important examples are the Yogyakarta Principles, ILO standards, and the Sustainable Development Goals. These tools help states understand how to protect people who face exclusion because of gender identity.

The Yogyakarta Principles were written in 2006 by international experts. Their goal was simple. They explain how existing human rights law applies to sexual orientation and gender identity. These principles say that everyone deserves equal protection, privacy, and the right to work. In 2017, the Yogyakarta Principles Plus 10 expanded this protection to gender expression and sex characteristics.<sup>21</sup> These principles are not legally binding, but they carry strong moral weight. For a country like Bangladesh, where laws are often silent on gender identity, they offer clear guidance on how to turn recognition into respect.

Work is another key area. The International Labour Organisation plays an important role here. ILO Convention No 111 bans discrimination in jobs and employment.<sup>22</sup> In recent years, the ILO has clarified that this protection also covers gender identity and sexual orientation.<sup>23</sup> This means people should not lose jobs or face harassment because of who they are. The ILO, HIV and AIDS Recommendation (No 200) (2010) also stresses safe and inclusive workplaces. These standards are especially important in Bangladesh, where many hijra persons are refused jobs or pushed into unsafe, informal work.

The Sustainable Development Goals connect human rights with development. Goals on gender equality, decent work, reduced inequality, and justice all matter here. Even though the SDGs do not name third gender persons directly, their promise is clear. Development cannot be called progress if whole communities are left behind. For Bangladesh, protecting

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<sup>21</sup> *YOGYAKARTA PRINCIPLES plus 10: ADDITIONAL PRINCIPLES AND STATE OBLIGATIONS ON THE APPLICATION OF INTERNATIONAL HUMAN RIGHTS LAW IN RELATION TO SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION AND SEX CHARACTERISTICS TO COMPLEMENT THE YOGYAKARTA PRINCIPLES* (International Commission of Jurists (ICJ), 2017)

<sup>22</sup> International Labour Organization Convention 1958

<sup>23</sup> Naoko Otobe, *Resource guide on Gender issues in employment and labour market policies* (ILO 2014)

third gender rights is not only a legal duty. It is also part of building a fair and inclusive society.

**Bangladesh's International Promises and the Gap in Practice:** Bangladesh has accepted many international human rights obligations. It has ratified the ICCPR, ICESCR, and CEDAW.<sup>24</sup> It is also a member of the ILO and supports the SDGs. On paper, these commitments show a strong promise to protect equality, dignity, and social justice.

In practice, the picture is different. The recognition of hijras as a third gender in 2013 created hope. The inclusion of third gender options in passports and other documents also felt like progress. But these steps were not followed by strong laws or clear procedures.<sup>25</sup> Bangladesh still does not have a clear anti-discrimination law that protects gender identity.

Many third gender persons describe painful experiences with public offices. Some are mocked. Some are asked to prove their identity through humiliating methods. Others are sent away without explanation.<sup>26</sup> Schools and hospitals often ignore their identity altogether. These stories show how international promises lose meaning when there is no system to enforce them.

The National Human Rights Commission has spoken about the need for a Hijra Protection Act. However, the law is still under discussion. Reports submitted to UN bodies often mention gender equality in general but say little about third gender persons. Without data, training, and political will, change remains slow.

To close this gap, Bangladesh must act beyond recognition. Laws should clearly ban discrimination based on gender identity. Officials should be trained to treat third gender persons with respect. Policies must be coordinated across education, health, and employment

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<sup>24</sup> International Covenant on Civil and Political Rights (ICCPR) 1966; International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979

<sup>25</sup> *Overview of laws, policies and practices on gender-based violence and harassment in the world of work in Bangladesh* (ILO, 2020)

<sup>26</sup> Mohammad Golam Faruk Sarker, 'Discrimination against Hijra (Transgender) in accessing Bangladesh public healthcare services' (Master's Thesis, Mahidol University, 2024) <<https://repository.li.mahidol.ac.th/items/915762fb-6b20-477b-8a94-13bfe4d09742>> accessed 10 October 2025

sectors. Most importantly, third gender persons must be included in decision-making. Not as charity cases, but as equal citizens.

Only then can international human rights promises move from paper to real life. Only then can dignity become something that is lived, not just spoken.

## LIVED REALITIES OF THE THIRD GENDER COMMUNITY IN BANGLADESH

Legal recognition can sound powerful. But for many third-gender persons in Bangladesh, life after recognition has not changed much. This section shows how law and reality often move in opposite directions. It draws from reports, studies, and my own fieldwork to show what recognition feels like in everyday life.

**Work, Income, and Silent Exclusion:** For most people, work means independence and respect. For many hijra persons in Bangladesh, it means survival. Even after being recognised as a third gender in 2013, most are still pushed out of formal jobs. Many end up singing blessings, dancing, or begging because employers refuse to hire them. Research on workplace inclusion shows that employers fear ‘social discomfort.’ They worry about customers, office culture, or reactions from other staff. As a result, hijra applicants are rejected even when they are qualified. One interviewee told me, ‘I finished my studies. But when they knew my identity, they said I was not suitable.’

In 2021, the government announced tax rebates for companies that hire transgender workers.<sup>27</sup> On paper, this looked hopeful. In reality, it had little impact. Many employers were unaware of the scheme. Others did not trust it. Most importantly, no law clearly bans discrimination based on gender identity in employment. Without legal protection, rejection remains easy and invisible. Recognition without protection pushes people into poverty. Without reform, hijra persons will remain stuck in survival work, not because of a lack of ability, but because of social fear and legal silence.

**Education and the Fear of the Classroom:** School should be a place of safety. For many third-gender children, it becomes a place of shame. Studies show that bullying, mocking, and pressure from teachers force many hijra students to drop out early. Uniform rules, gendered

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<sup>27</sup> ‘Tax rebate for Bangladesh companies hiring transgender people’ *Al Jazeera* (04 June 2021) <<https://www.aljazeera.com/news/2021/6/4/tax-rebate-for-bangladesh-companies-hiring-transgender-people>> accessed 10 October 2025

seating, and washrooms make daily school life unbearable. During my fieldwork, one young hijra shared, ‘The teacher told me to sit with the girls and wear their uniform. That did not feel right. Everyone laughed. I stopped going.’ Legal recognition has not changed school culture. Teachers are rarely trained. Anti-bullying policies do not mention gender identity. Many students are afraid to even enrol. Education fails not because the door is closed, but because the space inside is hostile. Without safe schools, equal education remains a promise, not a reality.

**Healthcare Without Dignity:** Hospitals should heal. For many hijra persons, hospitals humiliate. Studies from Dhaka show that medical forms still allow only ‘male’ or ‘female.’ Staff often misgender patients or ignore them. Some refuse treatment altogether.<sup>28</sup> Many interviewees said they avoid hospitals unless the situation is serious. One person told me, ‘The nurse saw my file and walked away. I waited. Then I left.’ Fear of ridicule keeps people away from care. This is not about missing services. It is about missing respect. Training doctors and nurses, updating hospital records, and enforcing patient dignity are not luxuries. They are basic duties of a rights-based health system.

**Family, Inheritance, and Legal Silence:** Family law in Bangladesh is based on religion. Muslim, Hindu, and Christian inheritance laws all divide property between sons and daughters. No mention of third-gender persons. This silence has real consequences. Many hijra persons are disowned early in life. When parents die, inheritance is often denied. One participant told me, ‘They said I was not a son or daughter, so I had no share.’ Without legal recognition in family law, identity becomes a reason for exclusion. A proposed Hijra Protection Act may address inheritance rights, but it is still pending.<sup>29</sup> Until personal laws are reformed, recognition will stop at identity cards and never reach family life.

**Old Laws and Moral Control:** Colonial laws still shape modern fear. Section 377 of the Penal Code<sup>30</sup> remains in force. Though rarely used in court, it is often used as a threat. Police,

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<sup>28</sup> Kazi Sudipta Kabir, ‘Experience of The Hijra Community in Accessing Formal Healthcare in Dhaka City: An Exploratory Qualitative Study’ (Master’s Thesis, BRAC University, 2022) <[https://dspace.bracu.ac.bd:8443/xmlui/bitstream/handle/10361/18774/22167003\\_IPGSPH.pdf?sequence=1&isAllowed=y](https://dspace.bracu.ac.bd:8443/xmlui/bitstream/handle/10361/18774/22167003_IPGSPH.pdf?sequence=1&isAllowed=y)> accessed 11 October 2025

<sup>29</sup> Arup Barua and Shehreen Aatur Khan, ‘Addressing violence against transgender people in Bangladesh: A call for policy intervention’ (2023) 7 *Frontiers in Sociology* <<https://www.frontiersin.org/journals/sociology/articles/10.3389/fsoc.2022.995448/full>> accessed 20 March 2020

<sup>30</sup> Indian Penal Code 1860, s 377

neighbours, and local leaders invoke it to shame or silence gender-diverse people. Human rights reports show that fear of this law creates constant anxiety. It allows harassment without arrest. It turns morality into a weapon. One hijra told me, 'We are not scared of jail. We are scared of being treated like dirt.' That fear comes not from punishment, but from social judgment backed by law. Other countries have moved forward. India struck down Section 377.<sup>31</sup> Nepal reformed its legal system. Bangladesh has not. As long as this law exists, dignity remains fragile.

**Voices from the Community:** My fieldwork in Shahbagh, Dhaka, Bangladesh, involved conversations with around fifty people. What I heard was not anger, but exhaustion. Many said recognition changed nothing. They still face insults, rejection, and fear in public spaces. Some shared small moments of hope. A passport issued without question. A teacher who showed respect. But these moments were rare. Most spoke of daily struggle. Some refused to speak at all. Silence, in many cases, felt like the deepest response. It showed how tired people are of explaining their pain.

These voices answer the research questions clearly. Recognition failed because it did not change systems. Gaps in the law keep people excluded. Lessons from other countries remain unused. Reform must address both law and attitude. Recognition means little unless it reaches daily life. The community is not asking for privilege. They are asking to live without fear. Their stories remind us that dignity is not given by words, but by action.

## COMPARATIVE SOUTH ASIAN PERSPECTIVES ON THIRD-GENDER RIGHTS

**India: Recognition by Law, Struggle in Daily Life:** India is often described as a turning point for third-gender rights in South Asia. In 2014, the Supreme Court of India, in *NALSA v Union of India*, clearly said that every person has the right to choose their gender. This includes male, female, or third gender.<sup>32</sup> The Court linked gender identity to dignity, equality, and freedom. For many people, this judgment felt like the law was finally listening. Later, India passed the Transgender Persons (Protection of Rights) Act, 2019. The law promised protection from discrimination in education, work, healthcare, and housing.<sup>33</sup> But the law also introduced a requirement that people must get a government certificate to be

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<sup>31</sup> *Navtej Singh Johar and Ors v Union of India Thr Secretary, Ministry of Law and Justice* (2018 (10) SCC 1

<sup>32</sup> *National Legal Services Authority v Union of India & Ors* (2014) INSC 275

<sup>33</sup> Transgender Persons (Protection of Rights) Act 2019

legally recognised. Many in the community felt this was unfair. They asked a simple question: why should anyone have to prove who they are?<sup>34</sup> Even today, daily life remains hard for many transgender people in India. Many are forced out of their homes at a young age. Schools are often unsafe. Jobs are rare. Reports show that getting ID documents is still slow and stressful.<sup>35</sup> The law recognises them, but society often does not. India teaches an important lesson. Legal change matters, but it is not enough. Without social acceptance and strong implementation, recognition stays limited to paper.

**Pakistan: Strong Laws, Fragile Protection:** Pakistan once appeared to be moving fast in protecting third-gender rights. In 2009, the Supreme Court ordered the state to recognise a separate gender category on national identity cards. This allowed many transgender people to exist legally for the first time.<sup>36</sup> In 2018, Pakistan passed the Transgender Persons (Protection of Rights) Act. The law was progressive. It allowed self-identification without medical tests.<sup>37</sup> It promised protection in education, healthcare, work, housing, and inheritance. Many believed this law could change lives. However, this hope did not last. In 2023, the Federal Shariat Court struck down key parts of the law. The court said that self-identification and certain inheritance rights went against religious principles.<sup>38</sup> This decision created fear and confusion. People who had already updated their documents felt unsafe again. Even before the court ruling, life was difficult. Many transgender people in Pakistan face violence, homelessness, and job loss. Human rights groups report frequent attacks and police harassment. The law existed, but protection was weak. Pakistan shows how fragile rights can be. When laws are not supported by society and strong institutions, they can be challenged or undone. Bangladesh must learn from this risk.

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<sup>34</sup> Ankita Mukherjee, 'Citizenship laws and transgender subjectivities in new India' (*Open Global Rights*, 27 February 2024) <<https://www.openglobalrights.org/citizenship-laws-transgender-subjectivities-new-india/>> accessed 06 November 2025

<sup>35</sup> 'Guide on the Rights of Transgender Persons in India' (*Nyaaya*) <<https://nyaaya.org/resource/guide-on-the-rights-of-transgender-persons-in-india/>> accessed 06 November 2025

<sup>36</sup> Aniruddha Dutta, 'Claiming Citizenship, Contesting Civility: The Institutional LGBT Movement and the Regulation of Gender/ Sexual Dissidence in West Bengal, India' (2012) 4(1) *Jindal Global Law Review* <[https://www.academia.edu/1882390/Claiming\\_Citizenship\\_Contesting\\_Civility\\_The\\_Institutional\\_LGBT\\_Movement\\_and\\_the\\_Regulation\\_of\\_Gender\\_Sexual\\_Dissidence\\_in\\_West\\_Bengal\\_India](https://www.academia.edu/1882390/Claiming_Citizenship_Contesting_Civility_The_Institutional_LGBT_Movement_and_the_Regulation_of_Gender_Sexual_Dissidence_in_West_Bengal_India)> accessed 06 November 2025

<sup>37</sup> Transgender Persons (Protection of Rights) Act 2018

<sup>38</sup> 'Pakistan: Revocation of rights of transgender and gender-diverse people must be stopped' (*Amnesty International*, 19 May 2023) <<https://www.amnesty.org/en/latest/news/2023/05/pakistan-revocation-of-rights-of-transgender-and-gender-diverse-people-must-be-stopped/>> accessed 06 December 2025

**Nepal: Constitutional Recognition with Real Impact:** Nepal stands out in South Asia because it placed gender diversity directly within its constitutional framework. In 2007, Nepal's Supreme Court ordered the state to recognise third-gender people and protect them from discrimination. This promise became stronger in the 2015 Constitution. Nepal became the first South Asian country to clearly protect gender and sexual minorities in its Constitution.<sup>39</sup> Many in the community felt something powerful had changed. The state had finally said, 'You belong.'<sup>40</sup> Yet challenges remain. Reports show that many transgender people still face problems getting citizenship certificates that match their identity.<sup>41</sup> Local officials are often unsure or unwilling. Without proper documents, access to jobs, banks, and services becomes difficult.<sup>42</sup> Still, Nepal offers an important lesson. When recognition is rooted in the Constitution, it creates stronger protection. Rights become harder to ignore or reverse. Nepal shows that dignity grows when law, identity, and citizenship are connected.

**Regional Reflections: Common Struggles Across South Asia:** When we look at Bangladesh, India, Pakistan, and Nepal together, clear patterns appear. Laws may differ, but daily struggles are similar. First, social stigma remains strong everywhere. Families reject children. Schools' bully students. Public spaces feel unsafe. Second, identity documents cause constant trouble. Without correct papers, people cannot study, work, vote, or access healthcare. Third, economic insecurity is common. Many are pushed into informal or unsafe work. Another shared problem is poor implementation. Governments announce policies, but frontline workers are not trained. Police, doctors, teachers, and clerks often act with bias or confusion. Good laws stay far away from real life. At the same time, there is hope. Activists and community groups across South Asia continue to fight. Their work shows that change is possible when law and society move together.

**Bangladesh: Moving Beyond Symbolic Recognition:** Bangladesh recognised the third gender in 2013. That step mattered. But recognition alone has not changed daily life. Stories from the field show fear, humiliation, and exclusion still exist. India shows that recognition

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<sup>39</sup> Constitution of Nepal 2015

<sup>40</sup> Angel L Martinez Cantera, 'Nepal's third gender' *Al Jazeera* (12 March 2014)

<<https://www.aljazeera.com/features/2014/3/12/nepals-third-gender>> accessed 06 December 2025

<sup>41</sup> 'Nepal: Barriers to Transgender Legal Recognition (*Human Rights Watch*, 15 February 2024)

<<https://www.hrw.org/news/2024/02/15/nepal-barriers-transgender-legal-recognition>> accessed 06 December 2025

<sup>42</sup> Ahonaa Roy, *GENDER, SEXUALITY, AND DECOLONIZATION IN SOUTH ASIA IN THE WORLD PERSPECTIVE* (Routledge 2020)

without acceptance is not enough. Pakistan warns that rights can disappear if society resists them. Nepal shows the strength of deep constitutional protection, but also reminds us that procedures matter.

The lesson for Bangladesh is clear. The country must move from symbolism to real equality. This means passing a strong anti-discrimination law. It means making identity processes simple and respectful. It means training police, teachers, doctors, and officials. It means creating real paths to education and jobs. Rights only matter when they reach daily life. Bangladesh has taken the first step. Now it must walk further, so that third-gender people can live without fear, with dignity, and with a true sense of belonging.

## **SUGGESTIONS AND RECOMMENDATIONS**

This research shows that Bangladesh does not need to abandon its Constitution, but it must strengthen and clarify it. The Constitution already promises equality, but it does not clearly protect people based on gender identity. Therefore, Article 28(2) should be amended to explicitly include gender identity as a prohibited ground of discrimination. This small change would have a powerful legal effect.

At the same time, constitutional protection alone is not enough. Bangladesh needs a separate and comprehensive Third Gender or Transgender Rights Act. Such a law would explain how recognition works, how identity documents are issued, which services must be accessible, and how discrimination will be punished. The law should follow a self-identification model and completely end invasive medical examinations.

Identity documentation procedures also require reform. Although third-gender options exist in passports and NIDs, the process is uneven and often humiliating. A single national guideline must be introduced, and officers must be trained to handle applications with respect.

Family and inheritance laws are another urgent area. Current religious personal laws do not recognise third-gender persons as heirs. This results in disinheritance and social exclusion. The law should introduce gender-neutral terms such as 'child' or 'heir,' or create specific provisions to protect inheritance rights. Legal recognition of chosen families within the hijra community should also be considered.

Law enforcement reform is equally important. Many participants expressed fear of the police. Mandatory training on gender identity, strict penalties for harassment, and clear complaint mechanisms must be introduced to rebuild trust. Bangladesh also needs a strong national anti-discrimination framework covering education, employment, healthcare, housing, and access to justice. Without such a law, victims have no real remedy.

Finally, legal reform must be supported by social awareness. Educational institutions, media, workplaces, and religious spaces should be encouraged to promote dignity and understanding. Law can open doors, but society must allow people to walk through them. If these reforms are adopted, Bangladesh can move beyond symbolic recognition and build a system where third-gender people live not in fear, but with dignity, safety, and belonging as equal citizens.

## **CONCLUSION**

This study finds that the recognition of hijras as a 'third gender' in Bangladesh has remained largely symbolic. While the 2013 decision created hope, it did not change daily life for most members of the community. Through fieldwork in Shahbagh, Dhaka, Bangladesh and analysis of law and policy, it became clear that harassment in public spaces, rejection by families, bullying in schools, and discrimination in hospitals, workplaces, and police stations continue. Recognition exists on paper, but safety and respect do not exist in practice.

The research also shows that Bangladesh lacks a clear anti-discrimination law protecting third-gender persons. Because gender identity is not explicitly recognised in ordinary legislation, institutions often deny responsibility. Schools have no inclusion rules, hospitals lack training, and police behaviour frequently increases fear rather than protection. Even basic processes, such as obtaining identity documents, remain confusing and humiliating.

Another key finding is the fragmented nature of the legal framework. Different ministries use different terms, and there is no unified guideline for implementation. While passports and NIDs include a third-gender option, there is no consistent process, leaving individuals vulnerable to arbitrary treatment.

The lived experiences shared during fieldwork reveal a deeper issue of social exclusion. Many participants said they must constantly 'force' others to respect their rights. This shows

a strong gap between legal language and social reality. Finally, the comparative study shows that Bangladesh lags behind neighbouring countries. Nepal provides constitutional protection, India has strong judicial recognition, and Pakistan attempted legislative reform despite setbacks. Bangladesh, however, has stopped at recognition without building legal protection.

Overall, the study concludes that recognition was only the first step. Without strong laws, trained institutions, and social acceptance, third-gender people in Bangladesh will remain excluded. Rights must be lived, not only written.