

Fact Finding Report

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Arrest of 46 persons from the Sexuality minority community and Human rights activists in Banashankari Police station, Bangalore. Police violence meted out to them especially by Sub Inspector Shiv Shankar Murthy and ACP H.T.Ramesh

Introduction:

The Hijra Community in Bangalore:

The Hijras in India are among the most marginalised communities in the country. Many of them, even if from families which can afford to educate them, have to discontinue their education around puberty due to physical and sexual harassment in schools by virtue of their gender identity. Even those who manage to complete a basic education are not given jobs due to the stigma around hijras in our society. If they were to work, they would have to compromise on their gender identity and go to the work place as men, which then forces many of them to lead double lives. Even then, many of them have to face threats and instances of sexual harassment and assault in the workplace apart from other kinds of discrimination. All of these challenges are faced by all of them, apart from a negligible minority, without the support of their natal families. They create their own communities and relationships, involving multiple ceremonies, a system that has continued for centuries, and live their lives with that community.

Many hijras survive by taking up professions such as sex work and asking for alms, both of which are part of hijra tradition. The nature of these professions makes them vulnerable to violence and harassment in public. Whatever their profession may be, hijras have to face harassment on a daily basis in the public sphere. They have to face harassment from the police and goondas alike. This forces many of them to live in abysmal living conditions, primarily in slums in the outskirts of the city.

The hijra community in India has been fighting for their rights for many decades now and has made headway in this regard in some parts. Tamil Nadu for instance now has a

Welfare board to address the needs of this community. Hijras in Tamil Nadu have been given Voters identity cards.

In Bangalore, many hijras have been here for years now with their communities doing what they can to make a living. Recently, the Bangalore police has been openly declaring in the popular media that they will make sure that the hijra population in Bangalore will be eradicated. Such a statement apart from being inhuman and in absolute violation of human rights is also unjustifiable by law. Such statements are being made regarding citizens of this country who are already denied all basic rights in this country. Hijras have the right to live their life with respect and dignity and it is the duty of the government and its components to make sure that this basic standard is maintained. Further, the police in a grave and unjustifiable manner has assaulted human rights defenders and have illegally filed charged against them.

Sangama, the organisation and its work:

Sangama is a sexuality minorities human rights organization for individuals oppressed due to their sexual preference. Sexuality minorities include, but are not limited to, hijras, kothis, double-deckers, jogappas, lesbians, bisexuals, homosexuals, gays, Female-to-male/male-to-female transsexuals and other transgenders. Sangama aims to help these persons to live their lives with self acceptance, self respect and dignity. Sangama's work is especially targeted towards the concerns of sexuality minorities from poor and/or non-English speaking backgrounds and sexuality minority sex workers, who otherwise have little or no access to information and resources. Sangama aims to bring sexuality, sexual preference and gender identity into the realm of public discourse and link it to gender, human rights development and other social movements. It campaigns for the changes in the existing laws, which discriminate against sexuality minorities, including sex workers and People Living with HIV/AIDS (PLHA). Sangama also works with family members, friends, co-workers and partners of sexuality minorities.

Sangama has been instrumental in bringing issues related to sexuality minorities into the public realm in Bangalore and elsewhere. Further, unlike in many other cities, Bangalore has a progressive culture of persons working on one issue seeing the connections between various social issues. Thus, sexuality related issues are accepted and addressed by human rights activists across the board.

Further, in India and the world over, sexuality minorities are asserting their rights. In South Asia alone, there have been movements related to these issues for more than two decades. Nepal has just elected its first openly homosexual member of parliament. Section 377 of the Indian penal code is being challenged in the Delhi High Court. Support for this struggle has come from very important and seemingly unlikely quarters.

It is in this context that the Bangalore police have been making irresponsible statements in public vis-à-vis the Hijra community. They have then proceeded to unleashed unjustifiable violence on these hijras and on human rights activists who strive to defend the rights of this marginalised community.

Part 1: 20th October

Part 1 A

Giri Nagar police station

At around 11 am, Kartika, Selvi, Sadha, Prabha, Muniyamma from the Hijra community were standing near the Hoskerehalli circle. They met some other Hijras and were talking to them. The police came to them and said that they have arranged a meeting and asked them to get into the police jeep. Two members, Prabha and Kartika were made to sit in the jeep and two others, Sadha and Selvi were taken in an auto. Muniyamma came separately in another auto to Girinagar police station. Sundari, another Hijra who was at the scene left from there and informed Mahadevi, a senior hijra community member. These hijras are all individuals who live in their houses. ACP H.T.Ramesh beat Selvi on the hand with a lathi at Giri nagar. police station. Her bangle on her right? hand broke and her wrist began bleeding. They gave Prabha a broom and asked her to clean the police station. The ACP left the station soon after.

Members of the Sangama crisis intervention team (Madesh, Dil Faraz, Kokila, Shahana and Savita) had, by now, been informed and they came to Giri nagar Police station at around 12:30. When the team asked the police officers what charges were booked against the hijra community members, the inspector said that the ACP would come back and would speak to them. Soon after the crisis team members were sent to Banashankari Police station after about half an hour being told that the ACP was there. As soon as they left the ACP came to Giri Nagar Police station and demanded to know why the hijras had informed others about their detention. Further, he also said that as they had informed others, they are going to book a case against them, while earlier they were to be released without charges. The FIR was prepared on which they took the signatures of all five persons. After a while around 4 pm Madesh and Dil Faraz were brought back to the Giri Nagar police station, after much violence being meted out to them. The other three members of the crisis team were brought back after intervention by their lawyers at the Banashankari Police station.

At around 5 pm the legal counsel of the 5 hijras checked the charges filed and they were given an intimation notice by the police. Following which, the 5 hijras were taken in a police jeep to the Magistrate's house in Koramangala and were produced in front of him as is to be done according to procedure. All five persons were taken by male police and there were no women police on the scene. They were remanded to judicial custody by the magistrate and were taken to Central jail in Parapana Agrahara and put in the women's cell. Selvi, the hijra who had a bleeding wound due to the assault by ACP H.T.Ramesh was not given any first aid.

Just when the legal counsel and the five Sangama Crisis team workers were about to leave the Giri Nagar police station (after the 5 hijras were taken to the magistrate's court and further trouble had begun in Banashankari Police station), the police did not allow the crisis team members to leave the station. On asking for the reason for this action, they

informed the lawyers that they were being detained. The police refused to furnish the details of the charges against them and told the lawyers to wait for the ACP to return. At around 9 pm, the five members of the Sangama Crisis intervention team were taken to the Magistrate's house and remanded to judicial custody.

Part 1 B

At Banashankari Police station:

As soon as the five crisis team members got off the police jeep at the Banashankari (BSK) police station (PS), and were told that they came from Giri Nagar PS, some of the police personnel loudly said “ the five people have come.”. The team members tried to clarify that they were not the five arrested hijras. But the police paid no heed to them. A single star police officer, Mr. Doddarayanna started taking down their names. The crisis team asked him why their names were being taken down. He in turn asked to shut up and do as he says as the ACP has asked for the names and details. The team members gave him their names. When asked of their fathers' names, some members of the team had to refuse as they were hardly in touch with their families given that by virtue of their sexuality identity they were forced to leave home. They provided the policemen with their identity cards at Sangama. Dil Faraz and Madesh attempted to leave the police station to make a few calls when they were forcefully stopped and told that they are not to leave till the ACP arrives. The crisis team members began calling other colleagues at Sangama. The ACP arrived at the station and took all 5 team members into the cabin of Mr. Shiv Shankar Murthy (Sub Inspector?). Madesh showed them his identity card and gave all the details they demanded. They asked the team members about Sangama and its work and they quickly furnished the information. The team members then asked again, why the 5 hijras were arrested in Giri Nagar. To this the ACP arrogantly answered saying “we will arrest them. We will do what we please. If you ask us any questions, we will arrest you too.” They also threatened to assault the team members if they spoke any further. Following this, they pushed Savita, Kokila, Madesh and Shahana and held back Dil Faraz. They also pointed to Madesh and said “even it is the same as them”. They questioned Dil Faraz about his parents and his education. He said that he worked in Sangama. The ACP refused to believe him and said he would call his father, following which he the ACP slapped Dil Faraz on his face.

Shiv Shankar Murthy then loudly exclaimed “Oh, you work in Sangama?! How dare you come to my area (BSK) and question me about arresting these people. How dare you stand in front of me to talk about these people.” He then continued to slap him 4 more times. The ACP threatened the team members saying “How dare you all come to protect the hijras who are creating public nuisance and then question the police for arresting them!”. He continued and said he would book the crisis team members on Drug peddling cases and put them behind bars. After being beaten further, Dil Faraz was sent back to where the rest of the team was. SI? Shiv Shankar Murthy came out again and took Madesh and Dil Faraz inside the cabin. Madesh was slapped twice by the SI. Following this, the SI took this big wooden stick and placed it on Madesh's head. He then said “oh you have a center parting in your hair, I will beat you here and your head will break in the

middle”. Madesh was scared and stepped back. The SI then said “Look how he looks at us, check if he is wearing underwear or not. Check if he is male or female. Strip him.” He also ordered that their bags be checked. Dil Faraz was carrying some song CDs in his bag. The SI then held Dil Faraz’s face with grave force and said “You people watch and make a lot of blue films. Do you know what a blue film is?” accusing him of watching and distributing pornography. The other police constables checked the CDs and realized they were only song CDs. They checked Madesh’s bag including his personal diary. Madesh’s Sangama identity card was thrown down. They checked other cards in the bag, including the business cards and said that there was no seal on any of these documents and asked what Sangama was. Dil Faraz and Madesh were then sent back to where the rest of the team was.

It was by now, around 3.30 pm. Savita, Kokila and Shahana were made to stand outside the SI’s cabin, and women police were placed there who were asking them for their details. Soon, Chandini and Rosy from Sangama reached there. They asked the reasons for the detaining of Sangama staff. Soon about 150 People who were employees and supporters of Sangama had arrived at the BSK police station. The single star police official Doddarayanna called the ACP and instructed that the 5 Sangama crisis team members be arrested. They were then to be taken back to Giri Nagar police station. The team members refused to leave the police station. The police officials then first took Madesh, assaulted him again and put him in the police jeep. Dil Faraz refused to leave from his chair. He was kicked and beaten up and dragged to the jeep. They also tried to drag Savita, Kokila and Shahana as well. At this point they stated that they identified as women and if male police would touch them, they would opposed it strongly. Dil Faraz and Madesh were taken to Giri nagar police station (Refer to Part 1A for continuation of events after this), while the rest of the team were in Banashankari police station.

At around 5 pm, after all 5 members of the Sangama crisis intervention team were sent to Giri Nagar PS forcefully, colleagues and friends of Sangama were at the BSK PS trying to speak to the officials there to release them. Around 150 people had by now gathered at the BSK PS. Following the arrogant attitude of the police as they refuse to speak to the activists or give them any reason for the arrest of the Sangama staff, they began a peaceful protest outside the station. At 7:30pm, on the ACP's request a delegation of 6 six activists start a dialogue with the police officials inside the station. The delegation includes Manohar (Karnataka Sex workers Union, founder of Sangama), Yashoda (Karnataka Dalit Mahila Vedike), Sumathi (Hindustani vocalist, member of LesBiT), Jayaram (Garment and Textile Workers Union), Chandini (Sangama), Sowmya (Samara). The ACP and PI said 'It was wrong to hit people in our custody. We know that. We are asked by the senior officials to beat them up. Leave your people and go home. We will not release them even if you go to the Chief Minister. We have orders from the senior officials to round up all hijras on the streets of Bengaluru and book them under extortion cases. We are only following the instructions of our seniors. You go out and do a protest in front of Police Commissioner's Office'. When questioned about the unlawful actions of the police the ACP shouted 'arrest these people and beat them up'. While the delegation continued to peacefully converse with the police they were suddenly pushed into the lock

up at the BSK PS. It was the male police personnel who pushed the women in the delegation. Women among those in the delegation were pushed on their breasts. Soon after the delegation was detained, they heard noises outside where about 31 activists who were outside the PS were lathi charged by the police. Those holding cameras were assaulted so as to prevent the recording of this violence. The Police declared that they were arresting the activists and asked them to get into the police vehicles. When activists demanded the release of the 6 delegates in the lockup, policemen brutally and mercilessly attacked activists (women, men and transgenders). Policemen pushed 31 activists into a small police van.

In the meantime, the 6 activists in the lock up had been assaulted brutally by the police. Manohar and Chandini were hit at the back of their necks. Yashodha was hit on her arm and was pushed by the breasts again. She was hit on the back as well. Sowmya was hit on her fore arm and her breasts were hit as well. Jayaram was also hit on the head gravely. Sumathy, the worst hurt of them all was kicked with police boots on her left thigh and still has trouble walking. She was pushed on her breasts again. She was also assaulted on her back. In short all the activists were brutally attacked primarily by SI Shiv Shankar Murthy and ACP H.T.Ramesh in the lock up and all the women were sexually assaulted. (Medical Reports are attached as APPENDIX 1).

The police van with the 31 activists was taken away from the police station and no intimation was given to any of the legal counsel present at the PS as to where they were being taken. The legal counsel then requested that they be given the details of the reasons for which the six activists were detained in the BSK PS. The lawyers were not given any information. Further, they were not allowed to enter the police station. When they explained that it was proper procedure to intimate the lawyers of the charges against their clients, the police said “go complain to whoever you want. You cannot enter the police station. We will do what we please”.

In the meantime, the activists who were detained inside the PS had to struggle to be able to get drinking water or to use the toilet. The lawyers were made to wait outside the PS without any intimation as to what the charges were or when their clients would be produced in front of the magistrate. Finally at 11 pm, the lawyers were allowed to enter the station. Following this, the activists were released without any charges being pressed against them. 5 of them were taken to Victoria Hospital to acquire a medico-legal certificate and to receive basic medical aid given the violence that was meted out on them.

Part 1 C

The 31 activists who were taken in the police van, were taken to the Mysore Road, Police grounds. Here they were not allowed to come outside the van and had to remain there. They had to struggle with the police to get drinking water and were not allowed to use the toilet. They were not given any food during this time. There was only one female police official there while the rest were all men, who manhandled the women among the activists as well. The police then took down their names and addresses as well and

booked them under Section 143 (unlawful assembly), 145 (joining an unlawful assembly ordered to dispersed) and 353 (obstructing government officials in performing their duty). In the Police grounds, the policemen videotaped the 31 activists. On being asked what the reason for the same was, they refused to reply and continued.

PART 2: 21st October

Magistrate's house:

At around 2 am the van with the 31 activists was brought to the Magistrate's house. Senior advocate BT Venkatesh and a number of human rights lawyers were waiting near the residence when the activists were brought. The police officials went into the magistrate's residence and remained there for close to half an hour. When they came out they tried to take the van away without producing the 31 activists in front of the magistrate. BT Venkatesh and other advocates had to literally sit in front of the police van to stop it from moving while they demanded that due procedure be followed and all 31 activists be produced in front of the magistrate. Following this, the police were forced to produce them at around 2:30 am. Most of the 31 activists were gravely assaulted by the police and related all these facts to the Magistrate. The magistrate told the advocates that the police had told him that none of the advocates of the activists were present downstairs. The magistrate then ordered that their bail be placed in abeyance till medical reports are submitted to him.

Medical examination:

All 31 activists were then taken to Bowring hospital for medical examination. Close to 18? of the 31 activists were gravely injured by police violence. (Medical reports are attached as APPENDIX 2). The lawyers were informed by the police at Bowring hospital that the 31 activists were being taken to BSK PS.

Back to custody:

The van then left the hospital. Soon after, news arrived that the van was going to Subramanyapura police station and not to BSK. The activists were not given any food by the police through this entire time. There was not enough space for all 31 of them to lay down. Most of them spent the night sitting in the cell. They were neither given any blankets nor any mats.

In the court complex:

These activists were to be produced at the magistrate's court at 11 am. The police van reached the complex at 1:20 pm. The police brought all 31 of them out of the van. On reaching the entrance of the court building, it was clear that the court has closed for lunch. They then took all 31 of them back into the van. Within the court complex also, they were not allowed to use the toilet. It is upon the intervention of the lawyers that they were taken to the toilet. While all 31 of them waited outside the court hall surrounded by

the police, one of the activists Deepak as assaulted by a single star police official. This official stood in front of him and grabbed his crotch asking why he wore his pants so tight, and whether he was a man or a woman. While the activist tried to ask the police official not to touch him, the official continued to harass him. All 31 activists were then released on bail by 5 pm. These activists had been in a small van and in police custody in Subramanyapura for close to 22 hours by now.

Judicial Custody of 5 hijras and the 5 Sangama crisis intervention team members

The five members of the Sangama crisis team who were arrested along with the five hijras arrested originally on charges of extortion were brought to the Central Jail in Parapana Agrahara at around 11:00 pm. Madesh and Dil Faraz were taken to the men's cell. Kokila, Savita and Shahana along with the five hijras who were originally arrested (Kartika, Selvi, Sadha, Prabbha, Muniyaamma) were put in the women's cell. All of them were asked to strip completely before entering the prison. While Madesh and Dil Faraz were being stripped, a 3 star police official spoke in a demeaning manner. He said "Check them properly, before you put them inside, some of them might have their operation done and if we put them in the wrong cell there will be problem". Once inside another single star official said, "Are you all men? You are only men to look at". Both Madesh and Dil Faraz were taken to the jail hospital. They were not given any food to eat until Tuesday afternoon. They were kept in the hospital for the next two days. They say that they got better treatment in hospital than they would have to in the men's prison. They were checked twice for a MLC- once by Dr.Kumar and once by Dr. Shashikala. They were told that the MLC certificate will be sent to the court. (Medical certificate is attached as APPENDIX 3). All ten people in jail got bail on Wednesday, night. Madesh was made to run around to get back his valuables that the police had taken before taking them into custody.

Demands

1. Dismiss the guilty police including H. T. Ramesh (ACP) and M. Shivashankara Murthi (PI); and prosecute them for the crimes (assault, abuse, sexual assault and illegal detention) committed against human rights defenders
2. Take immediate steps to stop the brutal police violence (physical and sexual) against hijras and sex workers in Bengaluru and punish the perpetrators of violence
3. Protect the rights of hijra community for their traditional livelihood options including sex work and blessings, or provide them with a reasonable option.
4. Initiate immediate measures to fulfill the obligations of the government so that hijras and other transsexuals have access to education, employment, health, housing, sex-change procedures, savings and credit facilities etc.