



## **Human Rights Violations Faced by People Living with HIV and Sexual Minority Populations**

**Context:** Building the Capacity of People Living with HIV and Sexual Minorities in Odisha and West Bengal to Advance their Health and Rights is a project implemented by Solidarity and Action Against The HIV Infection in India (SAATHII) in partnership with Interact Worldwide, London; supported by the Department For International Development – Civil Society Challenge Fund, Glasgow. Referred to as the Coalition Based Advocacy Project, this is a pilot project insofar as it brings together two disparate (though sometimes overlapping) population groups: People Living with HIV (henceforth PLHIV) and Sexual Minority Group (SMG) members. The idea of this project is rooted in SAATHII’s experiences of working with both population segments, which clearly reflected a range of commonalities in stigma, discrimination, violence and exclusion faced by these two communities in the social, economic, legal, health and media settings. But, these two communities did not have a history of working together to address these shared problems.

**Response:** SAATHII took up the challenge of getting PLHIV networks and community-based organisations (CBOs) of SMG members to work together to advocate for equity in the contexts of sexual and reproductive health (SRH) and HIV through a rights-based approach. Such a strategy was adopted as it encompassed a response to all key challenges faced by PLHIV and SMG members. Other civil society organisations (CSOs) working on different aspects of SRH and HIV were also

included. Located in Odisha and West Bengal, this project has formed two civil society coalitions in the two states through networking, leadership development and other capacity building measures. As

of end March 2011, the West Bengal network, called the Coalition of Rights Based Groups (CRBG), had 34 agencies as members.

The primary aim of the project has been to engage different stakeholders through advocacy and sensitisation in promoting health equity at the levels of policies, programmes and availability and accessibility of services. However, one of the major components has also been to respond to human rights violations faced by PLHIV and SMG members. To address this commitment, a number of information and legal aid mechanisms have been adopted in the project:

1. Reference and Mobile Library Services
2. Phone and Email Helpline Services
3. Legal Aid Units (henceforth LAU)

**This multi-pronged approach was adopted on the basis of a well thought out strategy:**

- The reference and mobile libraries aim at making the intended population groups aware about their rights and entitlements (among other things)
- The helpline is for people to voice their experiences of rights violations and seek assistance (among other things)
- The LAU is a mechanism for helping people to seek redress against incidents of rights violations
- These services not only compliment the project’s advocacy efforts, they also provide evidence base for these efforts

The efficacy of this multi-pronged approach was revealed through a series of cases of human rights violations received and documented through any one or several of these mechanisms.

This factsheet presents an outline of the types of human rights violations faced by the population groups mentioned, and the responses offered through this programme. The time period covered is from July 2008 (project start) to March 2011.

Data collected from the three sources mentioned above broadly reveal **nine different forms of human rights violations** faced by PLHIV and SMG members, as listed below:

1. Property rights violations (PRV)
2. Harassment / abuse / violence faced at health care facilities and/or by health care providers (HHC)
3. Sexual harassment (SH)
4. Domestic violence (DV)
5. Violence by community / neighbours (CV)
6. Harassment / abuse at workplace (WPH)
7. Harassment / abuse / violence by police (PV)
8. Incest
9. Others

Incest has been noted separately because of the added dimensions of trauma it might cause over and above that of any other case of sexual harassment. In the 'others' category, an alimony related case has been included since it does not fit into any of the other broad forms of violations.

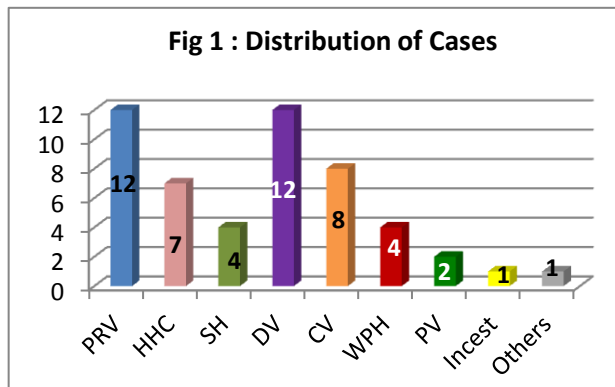
A total of 54 cases of human rights violations were documented during the period

specified, of which 51 have been analysed. However, before getting into those analyses, a look at the CRBG Advocacy Agenda would be helpful to understand the relevance of the kind of cases analysed here.



The first chart depicts the distribution of these cases across different types of violations, as listed before. This chart clearly depicts that property rights violations and domestic violence cases together make up slightly more than 47% of the total cases of violations recorded during the specified period. Each

one singly constitutes 23.52%. Community/ neighbourhood violence come next (15.68%), with harassment at health care service centres and/or by health care providers constituting nearly 14% of the cases. Sexual harassment and workplace harassment make up for almost 8% each.



**Point to Note:** One of the population groups in this coalition initiative was SMG members, who may (and do) have varying gender identities that may not correspond with their biological sex. To capture this spectrum, cases of violations were recorded capturing biological sex and gender identities separately for all

*The important point to note in this distribution is the range of the violations faced. Clearly, PLHIV and SMG members face violence from their bedrooms right up to shared public spaces, with the workplace thrown in between.*

complainants. This has made it possible to analyse the data to draw correlations between different types of violations and sexual orientation cum gender identities.

The graphs and pie charts that follow capture the types of human rights violations faced by PLHIV and SMG members, while clearly indicating which type of violation cuts across multiple groups.

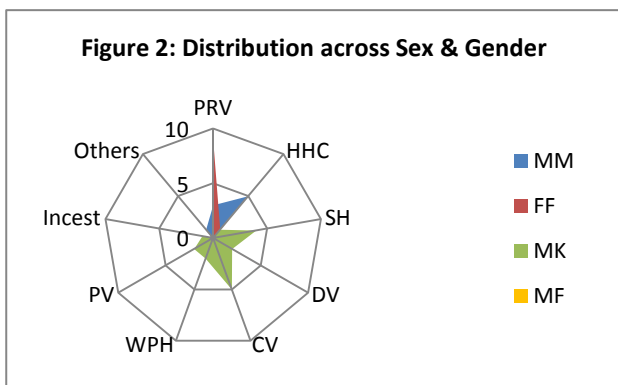
**Commonalities and Divergences**

On the basis of preferences of the complainants, biological sex and gender identities have been captured separately as follows:

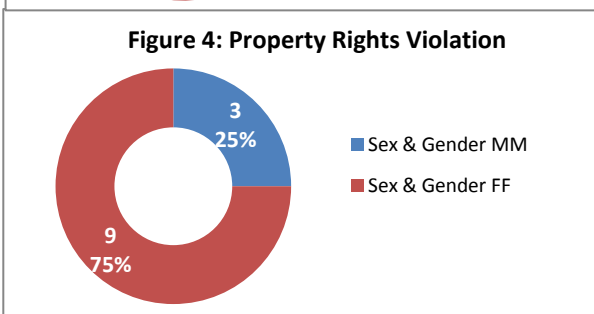
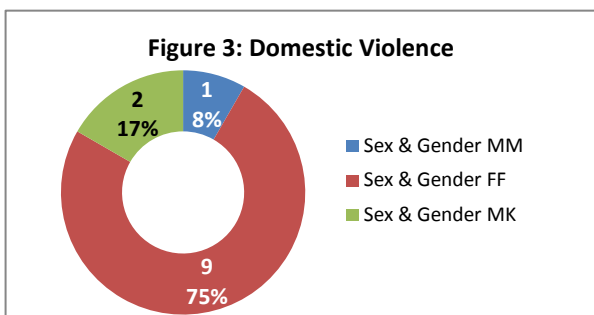
- FF : Female (biological sex) – Female (preferred gender identity)
- MM: Male (biological sex) – Male (preferred gender identity)
- MK: Male (biological sex) – Kothi<sup>1</sup> (preferred gender identity)
- MF: Male (biological sex) – Female (preferred gender identity)

<sup>1</sup> Kothi is one of the preferred gender identities used by male to female transgender people

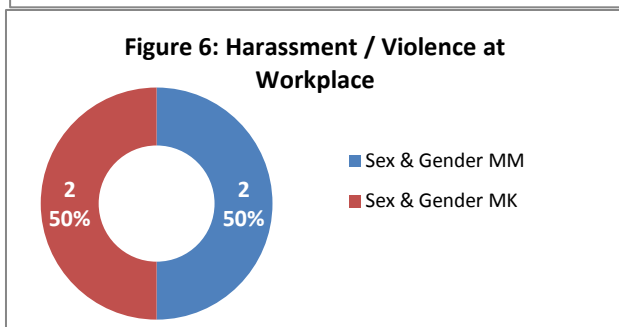
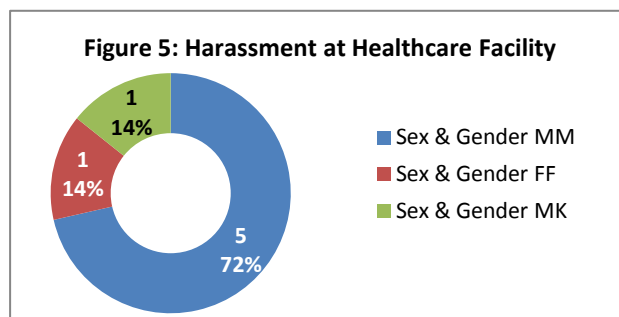
The next graph displays the distribution of cases of violations across biological sex and gender identities:



It is clear from this radar that the two major components of violations recorded during the specified time period – property rights violations and domestic violence – have mostly been faced by biological females who also identify as women gender-wise. Most of them are women living with HIV (henceforth WLHIV).

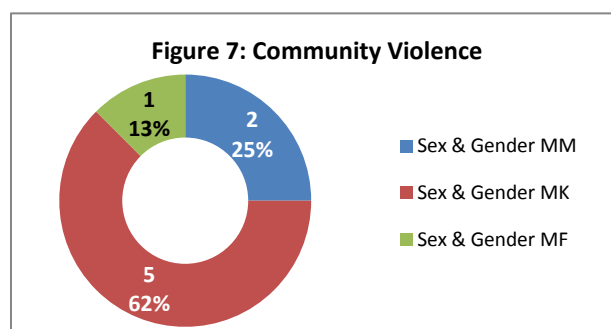


The maximum number of cases of facing harassment or abuse at health care service centres and/or by health care providers has been PLHIV males who also identify as men gender-wise. This could also be deduced to reflect WLHIV and Kothi-identified and/or male-to-female transgender people having even less access to health care services in comparison – but, strictly within this data set – that remains only a possibility.



It is also not surprising that workplace harassment has been faced by male PLHIV and by males with Kothi gender identity. The former, because of their HIV positive status; the latter because of their alternative sexuality and gender identity. However, no such cases reported by biological females with their gender identity also being women might reflect the larger reality of less number of women having access to income-earning opportunities – though that can only be a conjecture in this context.

The relevance of the advocacy agenda, as also the significance of the mechanisms adopted for documenting and attempting redressal of human rights violation cases for the concerned population groups is rather starkly visible in the next two charts. The first one, relating to the violation of property rights is a clear indicator of the plight of WLHIV, while the second one graphically reflects the way larger society often treats SMG members.



It would be important to contrast Figure 3 (depicting how an overwhelming 75% of the cases documented were on biological females whose gender identity is also that of a woman) with Figure 7 (reflecting how the majority of the victims are Kothi identified biological males) – one of the most regrettable practices of our times comes out clearly. Women are tortured more within the four walls – probably because by stereotypical gender norms, that is where they belong. Kothi-identified males, on the other hand, face community violence and/or harassment and abuse by neighbours more – maybe because their gender identity challenges the staunchly propagated images of masculinity and are often viewed as a shame to so-called manhood in public spaces.

**Hearts Speak:** Revisiting the documented cases to generate this fact sheet has not been an easy task. So many cases of pain and loss had been shared – not all of which was actionable for a variety of reasons. Sometimes because documents necessary for legal steps to be taken were not available; sometimes because the complainant backed out because of societal pressure; sometimes because the abused did not want to punish the perpetrator – as in the case of incest, where a Kothi-identified male who had been repeatedly raped by his father since childhood did not want to take any steps. But the very fact that so many cases came to light is a strong pointer to the need for a forum like this coalition – perhaps because existing human rights forums are not necessarily sensitive and receptive to the special and particular needs of PLHIV and SMG members. Equally, and perhaps as a consequence of the above, existing forums are not necessarily responsive to redressing human rights violations faced by the concerned population segments.

These cases also helped the project strengthen the focal areas for advocacy and sensitisation – both thematically and in terms of stakeholder identification. As the project progressed, action points became defined more sharply – getting the interventions to shift the focus from addressing individual cases to larger advocacy for changing the root cause of such individual experiences. While those are to be reflected in a later document – capturing later years of the project – this fact sheet could certainly end with one story of success.

*Biologically a female and by gender identity also a woman – Sampa (name changed) lost her husband and was herself diagnosed as HIV positive. Her in-laws lost no time in throwing the young widow out, along with her children. Determined to get her share of her husband's property for her children, she lodged a case against her in-laws. The Bardhaman CIM passed a favourable verdict, but her in-laws chose to ignore the order. She approached SAATHII LAU in 2009, which appointed a lawyer for her to appeal at the Kolkata High Court. She won an assertive verdict again – after which she could proceed to regain the rightful share of her husband's property.*

What we hope this fact-sheet would do is to impress upon all concerned the need to make a forum such as this coalition and a redressal mechanism like the LAU sustainable and come forward to work out strategies for the same.

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