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Transcending Binaries: Exploring the Historical Context of Transgender Community in South Asia

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Abstract

Transgender individuals, known as hijras in South Asia, have played significant roles in the region's social, cultural, and religious spheres for centuries. However, colonialism introduced Western gender norms and criminalized non-conforming gender identities, leading to the marginalization and persecution of transgender communities. This paper explores the historical evolution of transgender identities in South Asia across pre-colonial, colonial, and post-colonial periods. In the pre-colonial era, hijras were revered as a 'third sex' and held esteemed positions in society. However, British colonial rule criminalized the hijra community and enforced strict gender binaries through laws like Section 377 of the Indian Penal Code and the Criminal Tribes Act of 1871, resulting in violence, discrimination, and social exclusion. In the post-colonial era, advocacy and legal advancements have recognized transgender rights in countries like Nepal, Pakistan, Bangladesh, and India, but challenges persist due to societal attitudes and implementation gaps. Transgender communities continue to face discrimination, violence, and limited opportunities in education, employment, and healthcare. This paper underscores the historical injustice and contemporary struggles faced by transgender communities and advocates for their rights and meaningful inclusion in mainstream society.

Keywords: *Transgender, Hijras, South Asia, Colonialism, Gender Norms, Section 377, Criminal Tribes Act, Discrimination, Violence.*

Introduction

Transgender people, commonly known as hijras, have been an integral part of South Asia's rich, social, cultural, and religious history for generations, contributing to its rich and diverse history. In South Asia, Hijras are known by various names, such as Khawaja Sara in Pakistan, Meti in Nepal, Kinner in North India, Napunsaka in Telugu, Aravani in Tamil, and Jogappa in Karnataka, etc. Although the terms may differ, the concept is the same. However, the Hijra community views themselves as different from the term transgender, which they believe is a product of Western culture. (Hinchy, 2019) Transgender is a diverse category that covers many gender identities and expressions, including transsexuals, transvestites, cross-dressers, drag queens and kings, hijras, etc. who strongly identify with a gender opposite to their sex. Historical texts, myths, ancient Hindu law, medicine, linguistics, and temple sculptures provide evidence of the existence of transgender or third sex. However, the British colonial power imposed its narrow views of gender and sexuality on the South Asian society which shaped discriminatory attitudes towards transgender individuals.

In the post-independence era, the colonial era laws were upheld by the successive governments with no attention given to the minority community which further intensified the persecution and marginalization of transgender individuals. Transgender people still face rejection and discrimination from society, the state, and the medical community, which increases the risk of mental health problems, HIV, substance use, and suicide. In the past few years, countries like Nepal, Bangladesh, Nepal, and Pakistan, have taken steps to acknowledge the rights of transgender individuals by identifying them legally as a 'third gender' through Supreme Court verdicts or Cabinet rulings. It is crucial to examine the societal, cultural, and political forces that have influenced transgender identity and experiences, resulting in discrimination over time. The paper will examine the historical context and evolution of the transgender community in South Asia, exploring three distinct periods: pre-colonial history, colonial history, and post-colonial history.

Understanding the Concept and Evolution of Transgender Identity

The term 'transgender' is used to describe individuals whose gender identity does not align with the biological sex assigned to them at birth. The term transgender is often used as an umbrella that includes a diverse range of gender identities beyond the traditional binary system and challenges heteronormative definitions of gender and sexuality. The categories of transgender people are diverse and include a range of gender identities and expressions such as transsexual, transvestite, drag queens and kings, gender non-conforming, third gender, etc. In contemporary usage, transgender is used to describe a wide range of identities and experiences, including but not limited to pre-operative, post-operative, and non-operative transsexual people, male and female cross-dressers, and intersexed individuals. Transgender individuals may undergo physical transition through medical interventions like hormone treatments and surgeries, but some choose social transition only by changing their name, clothing, and grooming habits to align with their gender identity. (Reisner et al.,2016) In 2018, WHO moved gender incongruence out of the mental disorder list and reclassified it as a sexual health-related condition.

At the beginning of the 20th century, Magnus Hirschfeld, a renowned German sexologist, coined the terms 'transvestites' in 1910 and 'transsexuals' in 1949. Hirschfeld used the term 'transvestites' to refer to a category that included cross-dressing and cross-gender identification, while 'transsexual' referred specifically to individuals who desired sex-change surgery. (Meyerowitz, 2001) In 1919, Magnus Hirschfeld founded the Institute for Sexual Science in Berlin, where the first "sex change" operation was performed. (Whittle, 2010) In

1969, Virginia Prince who was a pioneer in the US cross-dressing movement, coined the term 'transgenderist' to refer to individuals who live in a gender opposite to the one assigned at birth, but who do not desire sex-change surgery like transsexuals. (Bettcher, 2020) Virginia Prince considered the term 'transgenderist' to represent a spectrum between 'transvestite' and 'transsexual.' A watershed moment came in 1996 when Leslie Feinberg advocated for a transgender movement that would embrace all individuals who felt excluded by the gender binary. This was a pivotal moment when the term 'transgender' began to be used as a political umbrella term for all forms of gender variance and identity outside of the traditional male/female binary. In 1998, Susan Stryker began using 'trans' as an umbrella term in her writings, further popularizing the term. (Darwin, 2020) Since then, transgender has become a widely used political term associated with the transgender movement's ideology, encompassing all forms of gender identity and expression outside of the binary male/female categories.

Transgender Identities in South Asia

Transgender people across various cultures in South Asia have historically been identified using a variety of indigenous terms such as hijra, kinner, khawaja sira, aravani, kothi, zenana, maigya pola, etc. In recent years, terms such as 'third gender,' 'transgender,' and 'transsexual' have also gained popularity and have been used to describe individuals who do not fit into the binary gender system and are often associated with non-normative gender expression and behaviour.

Hijras/ Kinnar: The term hijra is often translated into English as 'hermaphrodite', and is commonly used in South Asia, particularly in countries like India, Pakistan, and Bangladesh, to refer to individuals who are assigned male at birth but do not identify as either male or female. (Vincent & Manzano, 2017) They are often invited to bless newborns and newly married couples and to perform at cultural events.

Kothi/Koti: The term Kothi is commonly used in India and Bangladesh, to refer to men or boys who exhibit effeminate behaviour or dress in a feminine manner but do not undergo the castration process. Kothis are often associated with same-sex relationships and may prefer to take on a feminine or passive role. (Dutta, 2012)

Jogappas/Jogtas: Jogappas are a transgender community that worships goddess Renukha Devi (also known as Yellamma) and is predominantly found in border regions of Karnataka, Maharashtra, and Telangana. Jogappas are male individuals who dress and live as women and associate themselves with the former Devadasi tradition which was a system of temple prostitution in South India.

Khawajasiras: The term khawajasira is used in Pakistan for individuals who are assigned male at birth but identify as transgender or third gender. Khawajasira is preferred over hijra by the transgender community in Pakistan as it denotes a more respected social status.

Nupa Maanba/Nupi Maanbi: Nupa Maanba and Nupi Maanbi are traditional socio-cultural identities in Manipur that refer to trans masculine and trans feminine individuals, respectively.

Thirunangai: In Tamil Nadu, Thirunangai refers to trans feminine individuals. The term was formerly known as Aravani, but has been replaced by Thirunangai to reflect a more respectful and accurate representation of the transgender community.

Eunuch: The word ‘eunuch’ has Greek roots and originally meant ‘keeper of the bed.’ Historically, the term has been associated with negative attributes such as castration, impotence, and perceived failure of masculinity.

The Pre-Colonial Era: Recognition and Respect for Transgender Identity

Transgender individuals have been integral to South Asian culture for over 4,000 years, as evidenced by Vedic period texts and ancient literature. Acknowledged as a 'third sex' or hijra, they are woven into the region's history, myths, and epics, reflecting their historical significance and societal acceptance. The Manu Smriti, an ancient legal text, explains the biological origins of the three sexes: male, female, and the third sex. According to the text, "a male child is produced by a greater quantity of male seed, a female child by the prevalence of the female; if both are equal, a third-sex child or boy and girl twins are produced; if either is weak or deficient in quantity, a failure of conception results." (Michelraj, 2015) Similarly, the Sangam literature, dating back to the 3rd century BCE to the 3rd century CE, used the term ‘pedi’ for intersex individuals, ‘panthi’ who dress as women and perform dance, ‘aravaani’ who undergo castration and live as women and 'antharlinga' to describe Hijras who exhibit both male and female characteristics. (Mandal & Das, 2020) Chapter nine of the Kamasutra, written by Rishi Vatsyayana, discusses sexual acts, including those involving transgender individuals, which refers to them as the ‘third nature’ or ‘Tritiya-Prakriti’/‘napumsaka’. (Tiwari & Pal, 2020) Even the sculptures at Khajuraho and Konark temples depict diverse sexualities, including the third gender, reflecting ancient Indian society's cultural acceptance. Moreover, the Puranas describe three categories of deities related to music and dance based on gender: apsaras (female), gandharvas (male), and kinnars (neuter).

In South Asia, the term transgender is often linked with the hijra community, viewed as divine incarnations of Hindu deities like Lord Vishnu and Shiva. Historically, hijras were respected by royal courts and revered in Hindu texts for their perceived special powers. Laxmi Narayan

Tripathi, a prominent transgender activist, asserts that transgender individuals were highly esteemed in ancient Hinduism and even regarded as ‘demi-gods’. Jain literature since the 5th century CE delves deeply into the third gender, with Jain thinkers articulating a theory of sexual orientation, recognizing striveda (female), pumveda (male), and napumsakaveda (third sex). (Lal, 1999) Jain literature used terms like 'trtuya' and 'trairasika' to describe the third gender, diverging from Brahmanical and Buddhist views by distinguishing gender from reproductive abilities. (Zwilling & Sweet, 1996) These historical references indicate that ancient India embraced diverse sexualities and gender identities, reflecting a more inclusive and accepting societal attitude.

Ardhanareeswara: The word Ardhanareeswara has three parts, ‘Ardha’ meaning half, ‘Nari’ meaning woman, and ‘Ishwara’ meaning lord. Ardhanareeswara portrays a deity as half-man, half-woman, symbolizing the union of Shiva and Parvati, representing both masculine and feminine energies.

Transgender in the Mahabharata and Puranas: In Indian mythology, Lord Vishnu assumes the form of Mohini on several occasions. Firstly, during the churning of the ocean, Mohini distracts the Asuras from obtaining Amrita. Secondly, Mohini saves Lord Shiva from the demon Bhasmasura by tricking him into his destruction. Lastly, Mohini enchants Lord Shiva, leading to their marriage and the birth of Lord Ayyappa, worshipped as a deity embodying both Vishnu and Shiva at Sabarimala Temple in Kerala. (Srinivasan & Chandrasekaran, 2020)

Transgender in Ramayana: The Sundar Kaand in the Ramayana recounts a tale involving the transgender community. Lord Rama, during his exile, requested all the “men and women” followers to return home to avoid the hardships of forest life. Upon his return after 14 years, he found the hijras, neither men nor women, waiting for him. Touched by their devotion, Lord Rama granted hijras the ability to bestow blessings on auspicious occasions like childbirth, marriage, and inaugurations.

Aravan: Aravan, son of Arjuna and Ulupi, is revered by South India's transgender community. He sacrificed himself during the Mahabharata war for Pandavas' victory but wished to marry before his death. Lord Krishna, disguised as Mohini, fulfilled his wish and mourned Aravan's death before returning to his original form. (Srinivasan & Chandrasekaran, 2020) The Koovagam/Koothandavar festival in Tamil Nadu re-enacts Aravan's marriage to Lord Krishna, celebrated annually by transgender individuals.

Arjuna: Cross-Dressing as Brihannala: According to Hindu mythology, Arjuna was cursed by Urvashi to become a eunuch for life after he respectfully declined her advances, referring to

her as a mother figure. Later, at Lord Indra's request, Urvashi reduced the curse's duration to one year. During his exile, Arjuna spent this time as Brihannala, teaching dance and music, fulfilling his destiny and ultimately being liberated from Urvashi's curse. (O, 2009)

Ila/Sudyumna: In the Shrimad Bhagavata Purana, Ila is both the mother and father of the Chandravanshis or Lunar Dynasty. Vivasvata Manu and Shraddha sought a son through divine intervention, resulting in Ila's birth. Later, guru Vashishtha transformed Ila into a male named Sudyumna. After mistakenly entering Shiva and Parvati's sacred forest Sukumara (Sharavana), Sudyumna was turned into a woman. Seeking a solution, Shiva permitted monthly gender alternation with memory erasure. During her female phase, Ila married Budha/Mercury and gave birth to Pururavas. (S. P. Srinivasan & Chandrasekaran, 2020)

Shikhandini to Shikandi: In the Mahabharata, Princess Amba vows to avenge Bhishma's dishonourable act by undergoing severe penance, receiving Lord Shiva's boon to be Bhishma's cause of death in her next life. Determined to seek revenge, Amba immolated herself on her funeral pyre and was reborn as Shikhandini (female) to King Drupada but raised as a male. (O, 2009) Later in the Kurukshetra war, Shikhandi, a transgender warrior, was crucial in defeating Bhishma, who refused to fight due to knowing Shikhandi's past, leading to Arjuna's victory.

Transgenders in the Mughal Courts: With the Mughals' arrival in the 16th century, explicit references to hijras increased, as they were patronized and appointed to high positions in the imperial court. Medieval European travellers and historians noted the presence of hijras in the Mughal Empire, highlighting their political and social influence. Employed as guardians of harems, hijras held positions of authority due to their perceived intelligence and loyalty. They played a significant role in Mughal politics, even influencing state decisions during the empire's reign from 1526 to 1857. (Mohan, 2022) The Mughal emperors entrusted eunuchs with sensitive matters, considering them confidants of the royal family. Many eunuchs attained prominent positions as political counsellors, governors, and army commanders, showcasing their diverse abilities. Notable figures like Imaduddin Rayhan, Kafur Hazardinari, and Bakhtawar Khan played crucial roles in battles, politics, and empire expansion. Bakhtawar Khan, a renowned historian, was appointed as superintendent of eunuchs during Aurangzeb's reign. (Bhardwaj, 2017) The presence of hijras in the Mughal courts showcases the diverse and nuanced understanding of gender and identity, emphasizing the significance of valuing diversity and recognizing individual potential.

Colonial Legal Framework: Criminalization of Transgender Identity

The colonial era in South Asia was marked by significant changes in societal, cultural, and political norms, which significantly impacted the condition of transgender individuals. The respect and recognition that hijras earned for thousands of years were taken away with the British colonial rule in the Indian subcontinent. According to Hinchy, hijras were categorized by British rule as a criminal community that needed to be policed and controlled by creating a hierarchy of gender and sexual differences, which resulted in hijras being viewed as deviants and criminals. (Hinchy, 2019) During the colonial era, transgender individuals faced numerous challenges as the British administration enforced strict gender binaries that criminalized gender non-conforming individuals, causing them to face persecution and marginalization. They were often subjected to violence and discrimination, and their livelihoods as performers and sex workers were threatened. The colonial government passed laws that criminalized certain hijra practices, such as castration and cross-dressing and created a legal framework that allowed for the policing and punishment of hijras. Their marginalization resulted partly because their identity stands in stark contrast to Western conceptions of gender and sexuality which the colonial masters tried to change by imposing their gender norms. The British rule imposed Western gender norms and medical models that pathologized transgender identities, labelling them as a form of ‘mental illness’ which resulted in widespread discrimination, violence, and social exclusion.

The decision to criminalize the Hijra community by the British colonial government did not occur abruptly but rather was a gradual process. British writings first mentioned hijras after the East India Company acquired Bengal's revenue rights in 1765. (Hinchy, 2022) From 1830 onwards, the hijras' encounters with colonialism were characterized by the removal of state support and patronage, which had detrimental effects on their well-being. After the annexation of various princely states, the colonial government started taking away their rights and privileges which they were granted under the princely rule. For instance, after the British East India Company conquered Maratha territories, the Bombay Presidency aimed to change the established relationship between the state and the hijra community. This eventually led to the government of Bombay revoking the hijras' begging rights in 1853. (Hinchy, 2022) While colonial rulers did contribute to their oppression, it is important to note that some Indian rulers also started changing their attitude towards the Hijra community. Before the arrival of the British, many Indian rulers had recognized and even patronized the Hijra community. They were often employed in the royal courts and were considered to have special powers of blessing

and cursing. However, many Indian rulers, gradually influenced by the Western concepts of morality and gender norms, also changed their attitude towards the Hijra community and limited their patronage. For instance, the Nawabs of Awadh started to exhibit a more hostile attitude towards the Hijra community during the 1830s, and this led to a crackdown on hijra prostitution in the 1840s. (Hinchy, 2022)

In 1860, the British colonial administration introduced Section 377 of the Indian Penal Code, which criminalized non-heterosexual intercourse as 'against the order of nature,' marking the beginning of societal discomfort towards transgender individuals. (Hylton et al., 2018) This discriminatory law targeted diverse sexual orientations and gender identities, contributing to the marginalization of the transgender community. Additionally, in 1871, the enactment of the Criminal Tribes Act categorized hijras as a 'criminal tribe,' further subjecting them to persecution and control by British authorities. In 1897, an amendment was made to the Criminal Tribes Act of 1871, titled ‘Act for the Registration of Criminal Tribes and Eunuchs,’ which explicitly linked sexual non-conformity with criminality. (Hinchy, 2019) The law established a category called 'Eunuchs,' which included all males who acknowledged or were medically found to be impotent. The classification enabled recording the identities and addresses of all 'eunuchs' and monitoring those suspected of abducting or castrating children or engaging in activities prohibited under Section 377 of the IPC. The law allowed detention of 'eunuchs' dressed as women or engaging in public performances without a warrant, punishable by up to two years in prison or a fine. The classification of hijras as a 'criminal tribe' subjected them to ghettos, and police violence, and forced them into prostitution for survival. (Nanda, 1990) Furthermore, societal attitudes, particularly among the middle class, perpetuated the stigmatization and exclusion of hijras. The British colonial administration's laws targeting the transgender community exemplified 'systematic oppression and marginalization'. These laws not only reinforced discrimination but also facilitated their exclusion from society, the education system, healthcare, job opportunities and basic human rights.

Post-Colonial Trans Advocacy: Legal Reforms and Decriminalization

In the post-colonial era, the situation of transgender people was particularly challenging as colonialism often reinforced binary gender norms, which resulted in the criminalization and stigmatization of non-conforming gender identities. The transphobia that was introduced through colonialism was internalised by the modern South Asian nations. Transgender people are frequently excluded from mainstream society, denied access to education, employment, and healthcare, and subjected to discrimination, harassment, and violence. The lack of legal

recognition, employment prospects, and social welfare for transgender people in South Asia has forced them into precarious and stigmatized forms of work to earn a living. These include begging at busy locations such as traffic intersections, trains, and local markets, sex work, collecting money from marketplaces (bazar tola), performing at weddings and blessing newly married couples (badhai) as well as newborn babies (bachcha nachano). However, with changing societal attitudes and the forces of globalization, the traditional roles of hijras are diminishing. Consequently, many hijra individuals are increasingly resorting to sex work as a means of earning a livelihood. In contemporary South Asia, transgender individuals are situated in three different subject positions when interacting with the state. Firstly, as a 'criminal' community, secondly, as a 'third' gender, and that constitutes a distinct legal gender category, and thirdly, as a marginalized or 'backward' community entitled to reservations or affirmative action policies. (Hinchy, 2019) To this day, society, the police, government, and the media often perceive hijras, as criminals, in multiple and intersecting ways. They are frequently accused of stealing from their clients (who are involved in sex work), as well as kidnapping, castrating, and abusing children. There exists substantial evidence to prove that transgender individuals experience harassment, abuse and unlawful arrests at the hands of law enforcement agencies. These arrests often lead to physical abuse, rape and being placed in gender-inappropriate facilities which increases their likelihood of experiencing sexual and physical violence which negatively impacts their physical and mental health. (Hinchy, 2019)

Despite being signatories to the Universal Declaration of Human Rights and other international conventions, many South Asian states have failed to ensure basic human rights for transgender individuals. However, in recent years, some countries in the region have taken steps to recognize and protect transgender rights. Nepal led the way in 2007 when its Supreme Court granted full human rights to LGBTQIA citizens, recognizing a 'third gender' category. (Bochenek & Knight, 2012) Following Nepal's example, Pakistan, Bangladesh, and India granted transgender people the right to self-identify their gender and mandated legal recognition of a third/transgender identity. India's landmark 2009 Naz Foundation VS Government of NCT of Delhi case led to the abolition of Section 377 of the Indian Penal Code, which criminalized consensual sexual acts between adults in private. (Sathyanarayana Rao & Jacob, 2014) In 2015, Nepal introduced a third gender category on passports, and Pakistan passed the Transgender Persons (Protection of Rights) Act in 2018, recognizing the self-perceived gender identity of transgender individuals. India also passed a similar law in 2019, aiming to safeguard transgender rights and provide legal recognition. Despite legal progress,

challenges persist at the ground level. In 2021, the Indian government allocated funds for Garima Greh (shelter homes) for transgender individuals, but lack of funding threatens their closure. More efforts are required to address systemic discrimination and ensure meaningful inclusion and protection of transgender rights.

Conclusion

The historical and contemporary experiences of transgender individuals in South Asia reveal a complex tapestry of societal attitudes, cultural norms, and political dynamics. From ancient times, transgender people, known by various identities such as hijras, aravanis, kothis, and khawaja siras, have played integral roles in South Asian society, religion, and mythology. However, the imposition of Western gender norms during colonialism led to the criminalization and marginalization of transgender communities, perpetuating the stigma and discrimination that persist to this day. Nevertheless, recent developments such as the legal recognition of a third gender category in several South Asian countries signify progress towards inclusion and equality. Additionally, the abolition of discriminatory laws like Section 377 of the Indian Penal Code reflects a growing acknowledgement of LGBTQIA+ rights. Government, civil society, and NGOs must work together to eliminate transphobia and discrimination and build an inclusive and equitable society where transgender individual can enjoy their rights and live with dignity.

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