

THE (NON) BINARISM EXISTENCE IN INDIA VIS-À-VIS THE BIOLOGY BEHIND THE NON-BINARY IDENTITY: THE UNANSWERED QUERIES

Subhashree S Sen (Corresponding Author)¹, Prof. (Dr.) Madhubrata Mohanty²

¹Research Scholar, Faculty of Legal Studies, SOA National university of Law, Siksha 'O' Anusandhan (Deemed to be) University, Bhubaneswar, Odisha, India. Email id – ssssenadv@gmail.com

²Faculty of Legal Studies, SOA National university of Law, Siksha 'O' Anusandhan (Deemed to be) University, Bhubaneswar, Odisha, India. Email id – madhubratamohanty@soa.sc.in

Abstract

A possible indication that social perspectives on gender are evolving is the growing prevalence of individuals who identify as neither male nor female or with a gender identity that does not fall into either of the two binaries. Consider the new non-binary gender options that Facebook has introduced for user profiles - the legal recognition of indeterminate and 'third gender' identities in a number of countries (for example, Australia, Germany, India, Bangladesh, Pakistan, Nepal, New Zealand, and Thailand), and the addition of the term 'cisgender' to the Oxford English Dictionary, which describes individuals whose self-identity corresponds to the gender and biological sex that was assigned to them at birth. Community discussion forums and blogs on the internet are typical sites where individuals share and develop narratives about gender identities that do not fall within the binary. However, academics in the social sciences have not paid a great deal of attention to either these narratives or non-binary gender identities up until this point. This research will propose that a reduction in the gap between the formulation of legal rights and actual access to rights may be achieved by gaining an awareness of the structural and institutional processes, as well as their intersectionality, identifying the obstacles, and discovering strategies that are possible for overcoming them. The purpose of this essay is to propose that this reduction may be achieved.

Keywords: Biology, Genetics, Gender identity, Intersectionality, LGBTQAI+, Non-binary, Sexual Orientation.

INTRODUCTION

Every human is born with some uniqueness in them. One's identity and orientation is God's creation, not something that has been chosen with time. Non-binary gender identities are described as individuals who identify as either both genders or neither. This indicates that transgender individuals who transition beyond the gender binary are gaining an increasing amount of societal recognition. Several recent developments in social understandings of gender, including the introduction of non-binary gender options for profile pages on Facebook, the legal recognition of 'third' and indeterminate gender in countries such as Australia, Germany, India, Bangladesh, Pakistan, Nepal, New Zealand, and Thailand, and the recent inclusion of the term 'cisgender' in the Oxford English Dictionary, which refers to individuals whose self-identity matches the gender and biological sex assigned to them at birth, all point to the fact that these changes are currently taking place. The findings of surveys that are being carried out across LGBT groups are also revealing that the number of persons who state that they do not identify with either of the two binary genders is expanding (Balarajan, 2011; Trans Media Watch, 2010; Kuper et al. 2012). This is in addition to the fact that the number of individuals who are identifying as non-binary does not appear to be decreasing. Despite these developments, there remains a noticeable lack of research on the lives and experiences of people who identify as nonbinary. This is a deficiency that cannot be ignored. The vast bulk of the research that has been done on the topic of transgender living has focused on transgender men and women who transition inside the boundaries of the gender binary. As a result, there is a requirement for research on the ways in which non-binary gender identities are now being understood, negotiated, and lived in a society where binary gender has been a practically universal norm. Through the dissemination of some preliminary findings that were obtained from a qualitative research study that was centered on non-binary gender identities, the objective of this work is to contribute to the expansion of this research field.

Concept of non-binary

Most people fall into one of two gender categories: male or female. This includes most transsexual people. This encompasses every single individual. But there are certain individuals who defy easy categorization as either "man" or "woman", or even "male" or "female". These individuals defy easy categorization. Gender hybrids are persons who exhibit characteristics more commonly associated with men or women, as well as those whose gender

is distinct from that of either sex. A small percentage of the population may identify as neither male nor female. They may have a transition in gender at some point in their lives.

When expressing oneself, people who do not identify as either male or female use a wide range of languages. Among these individuals, “nonbinary” (often written “non-binary”) is a popular phrase. Words and phrases like “genderqueer”, “agender”, “bigender”, and “genderfluid” are all part of this umbrella term. Each of these statements has its own unique meaning, yet they all hint to a gender experience that goes beyond the simple concepts of male and female. To politely inquire as to the meaning of a term when one is unsure of its meaning is standard practice.

Why “Nonbinary”?

Some societies, like the one in which we live, tend to recognize exclusively the sex binary. Our society is one example of this type. This is the case in several different cultures around the globe. A popular way to explain the idea that there are only two sex types in the world is the “gender binary”. Reason being, according to its meaning, the word “binary” stands for “having two parts” (male and female), which is exactly what this concept represents. For identities that do not neatly fit within the male or female binaries, the term “nonbinary” is used. One way that individuals describe these genders is as nonbinary. Many individuals use the term “nonbinary” to characterize the situation because of this.

THE BIOLOGY BEHIND THE NON-BINARY IDENTITY

1. Biological Factors Influencing Gender Identity

Research suggests that gender identity develops through the interaction of several biological processes rather than a single genetic or hormonal cause (Joel et al., 2015; Hyde et al., 2019).

Prenatal hormone exposure is considered one of the most significant biological influences. During fetal development, sex hormones such as testosterone and estrogen contribute to the differentiation of the brain. Variations in hormone levels or the body's response to these hormones may influence gender identity independently of external genital development (Bao & Swaab, 2011; Swaab, 2007).

Neuroscientific studies have also explored differences in brain structure and function among transgender and gender-diverse individuals. Research has identified variations in regions associated with self-perception, emotional processing, and body awareness. While evidence specific to non-binary individuals remains limited, preliminary findings suggest that brain characteristics do not fit a simple male–female dichotomy, supporting the concept of a spectrum of gender identities.

Genetic studies further indicate that multiple genes involved in hormone regulation and brain development may contribute to gender identity. However, no single “gender identity gene” has been identified. Twin studies suggest that hereditary factors play a role, but environmental and developmental influences are also important, reinforcing the multifactorial nature of gender identity (Hyde et al., 2019; Kreukels & Guillamon, 2016).

2. Biological Diversity Beyond the Binary

Biological research has increasingly challenged the assumption that sex exists as a strict binary. Naturally occurring variations in chromosomes, hormone production, reproductive anatomy, and differences in sex development demonstrate that biological diversity is an inherent feature of the human species (Ainsworth, 2015; Fausto-Sterling, 2000). Likewise, intersex variations illustrate that sex characteristics exist along a continuum rather than within two rigid categories (Fausto-Sterling, 2000; World Health Organization [WHO], 2019).

It is important to distinguish non-binary identities from intersex variations. While intersex conditions involve biological differences in sex characteristics, non-binary identity relates to an individual's internal experience of gender. Nevertheless, both illustrate that human biological diversity extends beyond traditional binary classifications.

Table No. 1 – The tabular analysis of Biological aspects of non-binary gender

Biological Aspect	Evidence	Relevance to Non-Binary Identity
Genetics	Multiple genes involved in hormone regulation and brain development may contribute to gender identity.	Suggests a genetic influence but no single “gender identity gene” has been identified.
Prenatal Hormones	Variations in fetal exposure to sex hormones may influence brain sexual differentiation.	May contribute to gender identity developing independently of assigned sex at birth.

Biological Aspect	Evidence	Relevance to Non-Binary Identity
Neuroscience	Brain imaging studies indicate variations in neural structure and connectivity among gender-diverse individuals.	Supports the view that gender identity has a neurobiological basis, although no distinct "non-binary brain" exists.
Intersex Variations	Natural differences in chromosomes, hormones, and reproductive anatomy demonstrate biological diversity.	Highlights that biological sex is not exclusively binary, providing context for gender diversity.
Biopsychosocial Model	Gender identity develops through interactions among biological, psychological, and social factors.	Represents the most widely accepted scientific explanation for non-binary gender identity.

2. The Legislative Provisions – the pros and cons

I. Substantive access and practice of human rights across institutional spaces

Throughout their lives, transgender, and gender-diverse people face discrimination and stigma (Chakrapani et al. 2017). Members of their own family, classmates, co-workers, and other members of the public can all contribute to this climate of stigma and discrimination (Palkki and Beach, 2016). “No person or establishment shall discriminate against a transgender person”, as stated in subclause 3, clause 2 of the Act, has been made public knowledge by the Act. After the Transgender Persons (Protection of Rights) Act was passed, how did transgender people deal with the challenge of obtaining rights in institutional settings? By drawing on the insights and life experiences of the people who participated in our research, this section aims to provide a solution to this problem. Human rights practice in institutional settings is informed by an understanding of structural processes, intersections, and barriers to attaining social, economic, and healthcare rights; the incorporation of lived experiences lends credence to this understanding. Human rights practitioners rely on this information to direct their work.

II. FAMILY AND RELATIONSHIP SPACES

People who took part in our study said that their loved ones seldom recognized their rights, even if such rights were based on the law. This persisted even though they had a legitimate claim to these privileges. A hijra participant in their late 40s recounted how, other from their mother, no one in their family saw them as an equal, even though they were the sole breadwinner. The person, who was in their late 40s, had this incident. The participant's father immediately after their mother's death demanded that they “look like a man” by getting rid of their lipstick and any feminine clothing. He had this taken care of before we went to collect the death certificate. The psychological impact of hegemonic patriarchy on a hijra, even in private familial settings, was validated when other participants recounted many instances of reprimand from their dads, brothers, and other male relatives. This occurred when the male members of the hijra's family, including their dads and brothers, scolded them. One or two individuals expressed regret over the fact that their relationship with their family was predicated entirely on their capacity to give financial assistance. It was common practice for the participants' parents or brothers to gather funds for social events like weddings or prayer services, but the participants themselves were not invited or welcomed. They felt bad about skipping these social events on occasion so they wouldn't have to deal with their relatives' ridicule. The guests at the events they organized were often made fun of, and they were ashamed of it. A surge in cases of abuse, neglect, and trauma has been observed among transgender youth under the age of 18 since they are legally required to live with their biological families as per the Act. Even while the Act explicitly forbids family members from discriminating against each other (subclause 12(c) of clause 5), it is very clear that this provision does not guarantee non-discrimination in the employment.

Anyone in a close connection with a spouse or other person has the same challenge of finding a safe space inside the family. Thirty percent of the population had more than one spouse, and most of those people were in seriously problematic relationships. Half of the people who took part in the study were single. Zivi (2014) asserts that transgender and gender-diverse people often face social rejection for their wedding ceremonies since they do not adhere to these heteronormative standards. Marriage laws in India are based on cultural and religious norms that promote heteronormative behaviour. For this reason, this remains true.

Organizations or individuals are not allowed to engage in “the denial or discontinuation of, or unfair treatment regarding the right to reside, purchase, rent, or otherwise occupy any property” according to a subsection of the Act. Clause 2 of the Act has this subclause. Clause 3(g) has this specific language in the subclause. This doesn't change the fact that our participants still have trouble inheriting their parents' wealth. This is since individuals encounter legal hurdles when attempting to provide verification of their gender identification. Unfortunately, they lack the legal documentation proving their gender identity, and they were unaware of the new regulations pertaining to inheritance that state illegal individuals are needed to provide certain things. This prevents them from inheriting their parents' property (Misra 2009; Kumari 2019), which is a common cause of homelessness for

them. One further contentious aspect of this act is the individual's autonomy to determine his or her own gender according to internal experiences and external factors. According to Jain and Kartik's (2020) argument, there is a big difference between the right to self-affirm one's gender identity and how this right is exercised in the real world, like when inheriting ancestral properties. Many people who fight for women's and sexuality rights have cast doubt on the reality of this divide. Proof of sex reassignment surgery (SRS) and a certification from the District Magistrate (DM) are required for a person's gender identification to be considered complete and official. It follows that the Constitutional principles of individual liberty and self-determination conflict with the DM's role as a paternalistic and bureaucratic gatekeeper with the power to ascertain an applicant's gender identity. The fact that there are differences between the official process for "formal proof of recognition" and how those who do not identify with either gender choose to self-report their gender shows that citizenship is given to people in a varied way. These people have little choice but to use the state as their main means of confirming their gender identity. This not only makes their health care costs go up, but it also makes people go through bureaucratic processes that are annoying and usually corrupt, and it violates their right to bodily autonomy and dignity. During our focus group discussion (FGD), some participants voiced their concerns and suspicions about the differences and gaps that were discussed.

III. EDUCATIONAL SPACE

According to the Transgender Persons (Protection of Rights) Act, 2019, Section 6 says "every educational institution shall provide inclusive education and opportunities for sports, recreation, and leisure activities to transgender persons without discrimination on an equal basis with others". This provision, which asserts its correctness, adheres to the overall concept of equality. Participants considered the fact that schools still didn't incorporate sex education on non-heterosexual identities into their curricula or make plans to introduce transgender characters as role models in elementary or secondary schools, even though a lot of time had gone since the creation of this Act in 2014 (Raj, 2017). Despite the Act's lengthy period of operation, this remained the case. Several interviewees expressed the belief that youngsters lacked the necessary information and abilities to fully embrace and embrace their non-binary sexualities and gender identities, which made it difficult for them to do so. Schools performed a poor job of helping children become self-aware in terms of their sexual identities and created an environment where students were more likely to experience stigma, mental health problems, and developmental roadblocks (Bhattacharya and Ghosh 2020). This was the leading reason for participants to quit school at an early age, according to Palkki and Beach (2016). Furthermore, other individuals said that they were victims of sexual assault and harassment while enrolled at different educational institutions. Most interviewees felt their school experience was negative since their professors and classmates did not understand or care about the prevalence of different gender identities. Because of this, many pupils stopped attending classes. Although the Act vaguely dealt with educational discrimination, it failed to provide any safeguards against the pervasive problems of sexual abuse and physical violence against minors. However, safeguards against sexual assault were not addressed in the Act. The participants believed that educators play a pivotal role in implementing anti-discrimination laws and mediating the processes of legal rights to actual access and exercise of rights, both of which are necessary to establish an inclusive climate in educational institutions that welcomes individuals from all walks of life.

Sexual attacks perpetrated against male students at nearby schools are unfortunately common. Does the educator wish to assert that laws exist to safeguard them and forbid such abuses from happening? Whether or whether the teacher strictly follows the anti-discrimination law depends on the teacher's liberal viewpoint; yet it is possible that the teacher will reprimand the offending youngster. (someone who has completed postsecondary education and who has affirmed membership in several gender identities)

As stated in the Transgender Persons (Protection of Rights) Act, "formulate welfare schemes and programs to facilitate and support livelihood for transgender persons, including their vocational training and self-employment". The importance of supporting transgender people is highlighted in this section. Section 6, subclause 14 of the Transgender Persons (Protection of Rights) Act contains the relevant legislation. The participant made it clear during the conversation that they are not keen in acquiring hands-on experience in fields like fashion design and tailoring. They countered by saying transgender people should have access to the same quality of education as cisgender people. Maybe this may lead them to job openings that better suit their interests.

If you don't provide transgender people with educational opportunities, you can't afford to attract them. If my educational background is lower than that of the other candidate, I will have a hard time competing for jobs in firms with heterosexual people. Is it possible that things may change if sewing machines were handed out or if the candle company offered job opportunities? For a long time, this concept has been floated around. Therefore, starting at the ground level of job development, extensive education and training are necessary. Making labour opportunities available across all industries is the process of creating employment. We won't be able to secure jobs until you provide us opportunity to do so. is forty years old, has a yearly income of over 50,000 Indian rupees, asserts several gender identities, and has finished college or university.

IV. WORKSPACE

The norms and structures that make transgender and gender-diverse people invisible and marginalized inside their homes and schools are the ones that drive them to a position of hypervisibility in the workplace since they are unable to be seen by others. However, when it comes to substantive access to employment, they are rarely accepted into mainstream work arenas. This is the case even though the Act contains measures that provide safeguards for job security. Many individuals find themselves working in occupations that have strong cultural origins, such as badhai, chola, logon, and kharja, since there are no other alternatives accessible to them than to work in these vocations. Nevertheless, even though badhai and logon are lucky according to traditions that date back hundreds of years, they continue to be shunned. Sixty-six percent of the fifteen individuals who took part in the focus group discussion were involved in self-employment and kharja, which is a form of labour associated to sexual work. On the other hand, twenty percent of the individuals were working in the traditional vocations of badhai, logon, and chola. In the shape that it took in 2016, the Act suggested that chola, which is another name for begging, be subject to further punishments. The provision under the Transgender Persons (Protection of Rights) Act specifies that anybody who “compels or entices a transgender person to indulge in the act of begging or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government” is liable to criminal prosecution. This law protects transgender people from being coerced to engage in activities that are considered to constitute forced or bonded labour. The provision in question may be found in the Transgender Persons (Protection of Rights) Act, especially in subclause 18 (a), which is in clause 8. Since it has the potential to erase the past of hijras in India, the presentation of begging as a sort of “bonded labour” is crucial from both a discursive and performative point of view. According to Tapasya 2020, the hijra population in India has traditionally been structured into gharanas, which are comparable to huge families. This is the case in contemporary times as well. A monetary payment has been provided by every individual who is a part of the gharana to guarantee that the gharana will continue to exist. Goel (2018) and Sinha (2019) state that the gurus, who are mentors, teach young hijras who are chellas (apprentices) how to properly beg for chola (alms) at a variety of cultural events, as well as at train stations, bus stops, and other prominent locations. Chellas were permitted to become a part of the culture of a gharana once they had finished their training and were making money. This was the case after they began earning money. In addition, they were entitled to inherit property from the people who had guided them. Because of the restriction on begging, which rendered it difficult to generate money through this guru-chella system, there was a risk of eradicating centuries-old cultural and traditional practices of bonding, social support, and social capital. This was a risk that presented itself because of the prohibition. All hijra houses were put in jeopardy of being criminalized because of this (Saria 2019). The legislation that was approved in 2019 made begging a non-criminal practice, which is a contrast to the previous situation. The fact that members of the hijra community voiced concern about the continuous policing and harassment, even though this action was helpful to the hijra community, demonstrates that there is a disparity between the formulation of legislation and its equitable execution. According to the statement made by one of the individuals who took part in the event, “It has not been said that just because begging has been decriminalized, the police cannot harass the chollawalis (beggars)”. According to a person who is forty years old, has finished their college education, has an annual salary of more than fifty thousand Indian rupees, and identifies with more than one gender identity, the new legislation contains an excessive degree of uncertainty. This characterization is since the individual has completed their college education.

Not only does the major dependency on other conventional occupations persist even after the act of begging is decriminalized, but it also makes the difficulties of everyday lived experiences of shame, prejudice, and violence much more difficult to deal with. A transgender person's ability to make a living is frequently put in peril with the presence of law enforcement. In addition to the unjust cost of paying police for continuing to work in such occupations at the same time, most people are left buried in poverty and debt because their sole access to earning a livelihood through conventional employment is frequently restricted by severe policing. This is the case because most people are unable to earn a living through conventional employment.

There are also transgender persons who are members of the middle class and who find themselves trapped in the center of the social spectrum. As a result of the houses that we come from, we are not permitted to engage in cholla, which is a form of street begging, or to do sex work in public. Because doing so would cause a disruption in the standards and reputation of our family, which is of a middle-class background. The transgender community, which most of its members are people from the middle class, is in a vulnerable situation. I am not permitted to engage in open khajra, which is also referred to as sex labour, nor am I permitted to undergo castration to become a hijra and engage in badhai or logon. Both activities are prohibited. In addition, because we do not possess any form of formal education, it is challenging for us to acquire employment (a person who has completed their education at a college or university and who, in addition to being a gender activist, self-identified as belonging to more than one gender identity).

When it comes to employment, stigma based on social standing frequently overlaps with discrimination and policing when it comes to employment. A typical middle-class family in India does not look down on professions such as begging or prostitution for financial reasons; rather, they do so because these activities would have a

negative influence on the family's image among their peers. This is the reason why they do not support these professions. Those people of the community who were born into homes that are classified as middle class and who have had very little to no formal education are more likely to have severe financial troubles. Because of the pressure that they are under from their families, the fact that they do not have any education, and the fact that they do not identify with either of the two genders, they are hesitant to engage in the practice of begging. During the process of acknowledging discriminatory experiences that interact with caste and class, the Transgender Persons (Protection of Rights) Act fails to address the complex underlying mechanism that is present in Indian culture. This is a significant omission. Since it does not incorporate any intersectional perspectives of this sort, the Act is a failure in terms of providing meaningful access to rights.

It is probable that transgender and hijra organizations have been presented with extra obstacles because of mistaken ideas of the larger society, which are rooted in heteronormative norms and traditions, regarding the impact that the Act has had on the community of people who identify as gender non-conforming. Individuals who identify as cisgender are now of the opinion that the state has provided gender-diverse groups with adequate resources, and consequently, they do not require payment for badhai or cholla. When the legislation was passed, this notion emerged, therefore. As an illustration, a transgender woman who took part in the research was paid less than the female prostitutes who were looking for work in the sex industry. All the participants expressed their discontent with the fact that there are no safe spaces available for the solicitation of sexual labour, whether it be online or in traditional settings. Their situation was compared to that of sex workers in Thailand who worked in certain places such as sex clubs, where clients were forced to swipe their credit cards before engaging in any form of sexual activity. They compared their situation to that of sex workers in different countries. A proposal that the participants said should be implemented in India through direct government interventions for the purpose of developing safe places and trustworthy payment methods is that this environment reduces the likelihood of exploitation since it guarantees safe sexual encounters and fair business dealings. It is obvious that non-binary people have a very limited set of job options. Access to traditional occupations (such as logon, cholla, and badhai) is decreasing, there is a heavy presence of police and rules surrounding these occupations, which makes it more difficult for them to earn a living, and there is little to no education for acquiring other types of mainstream jobs. There is a correlation between these issues and significant socioeconomic obstacles, such as the uneven distribution of resources between men and women, harassment by police enforcement, sexism, and classism. If a person who works on a spectrum of non-binary gender identification is not included in other types of employment in a positive way, traditional ways of income will continue to be dominant by default. This includes contributing to the dangers of exclusion, poverty, debt, and a lack of empowerment. Traditional ways of income will continue to be dominant.

V. HEALTHCARE SPACES

If non-binary persons are traveling through healthcare institutions, the process of acquiring access to essential medical treatment may be fraught with challenges and discrimination to a significant degree. Only a tiny number of health centers have created infrastructure and made investments in resources with the community in mind (Reddy 2018). This is even though the Transgender Persons (Protection of Rights) Act mandates that healthcare facilities address non-binary persons and the conditions that they have in terms of their health. It can be a humiliating situation to have to interact with medical personnel, who are seldom schooled in the practice of gender-sensitive healthcare. The stigma that people experience in medical settings is increased when they go through events like these (as described above). Although the Transgender Persons (Protection of Rights) Act was enacted with a particular provision that prohibited discrimination in the health sector (subclause 15 of clause 6), participants recalled a great deal of experiences that they had obtained while working in healthcare facilities. They were subjected to discrimination on account of their gender identity or expression, among other things. When my buddy from the neighbourhood went to see a dermatologist, the physician treated them as if they were untouchable. My friend was treated without respect. A cisgender person is examined and treated by a dermatologist in a different way than a transgender person, according to our point of view. Keeping a physical distance from my friend and avoiding physical contact with them was the physician's approach to the situation. If a transgender patient tries to sit in the waiting area that is near the reception desk, they are reminded to step back immediately. Something like scenario occurred only the year before. As soon as other cisgender patients become aware of the fact that I am a transgender individual, they start acting in a different manner, which results in an uncomfortable atmosphere at different health facilities and medical offices. A lady who identifies as transgender and is now employed, has completed her primary school education, and is 31 years old.

Since we started lobbying for transgender wards in hospitals, the amount of harassment that transgender patients experience has dropped. In the past, transgender patients were subjected to a larger quantity of harassment than before. It was significantly greater before this, but it has fallen in contrast to what it was before. The uncomfortable glances and reactions that healthcare personnel make when they come across a hijra, or a trans woman dressed in a sari (a traditional Indian garment) have grown less prevalent over the course of time. This is because hijras and

saris are known to be worn by transgender women. (The individual in question is a transgender woman who is either looking for work or is now without a job. She is 31 years old and has completed her high school education.) A transgender person's life and well-being are dependent on the accessibility of medical services and the utilization of the therapies that are available to them. The contrasting consequences that change in the law have had on this fundamental human right was one of the most important subjects of debate among those who attended the event. However, these improvements have only been focused on HIV treatment at the Integrated Counselling and Testing Centers (ICTC). There have been some participants who have stated that the Act has resulted in some changes in terms of their healthcare. However, these changes have limited themselves to HIV care. The presence of counsellors and the role that non-governmental organizations (NGOs) and community-based organizations (CBOs) play cause ICTC HIV centers to have a propensity to be the most LGBTIQ+ friendly. This is because of the presence of counsellors. On sometimes, however, the state does not show sufficient appreciation for the efforts that have been undertaken by other organizations. Since the ICTC is just one sector, the state must act to provide healthcare services that are accommodating to a wide variety of people and are friendly toward people of different gender identities. A good example of how heteronormative ideas about gender categories are mirrored in hospital wards is the fact that they are separated into male and female zones. One of the most pressing concerns about healthcare for the community is the lack of hospital wards that are designated for transgender and hijra patients. Additionally, there is a scarcity of healthcare staff who have inadequate training.

Because they are admitted to a male hospital, transsexual women frequently become victims of sexual harassment. This is because of the nature of the ward. When they were transported to a hospital that was only for women, on the other hand, they were treated with contempt and ridicule. Microaggressions are experienced by non-binary patients because of this, which in turn has a detrimental effect on their overall health and emotional well-being. On the other hand, public hospitals do not offer private wards because they are either too expensive or not easily accessible. Non-binary patients would want to be treated in private rooms to ease the stress that they suffer. Provisions for the provision of medical care facilities, such as “sex reassignment surgery and hormonal therapy counselling” (subclause 15(d) of clause 6), were also added in the Transgender Act of 2019, which was passed in 2019. (Yengkhom 2020) A public hospital has established a division that is dedicated solely to the care of transgender patients to give these therapies. Participants, on the other hand, have brought to light the fact that making use of the service provided by that establishment relates to a variety of risks. Legal rights alone will not ensure that individuals who are gender nonconforming have access to the conditions that human rights seek to offer for them, as demonstrated by the lived experiences of the participants at various institutional contexts, such as the home, the workplace, the school, and the healthcare system. To be more specific, these experiences shed light on the necessity of developing standards that would guarantee substantive access to rights and lay a focus on applying what is learned in practice.

3. THE UNANSWERED QUERIES

The non-binary Individuals in India and their place of accountability

Even though India has a long and intriguing cultural past that includes gender-fluid identities, the official statistics of the nation do not consider those who do not fall into either of the two binary categories. This is even though India has a long and fascinating cultural heritage. The Census that was carried out in 2011 revealed that there was a total of 487,803 individuals that were categorized as belonging to the “third gender” group. Nevertheless, this all-encompassing label obscures the distinctions that exist between non-binary identities and transgender identities. Estimates from across the world suggest that the number of non-binary persons in India might be anywhere from 1.3 million to 6.9 million, which would represent between 0.1% and 0.5% of the total population. Despite this, the presence of these documents continues to be statistically negligible. This is because there is no special recognition in documents such as Aadhaar, PAN cards, and voter IDs. The fact that this is the case raises an essential question: if a community is not even acknowledged throughout the process of data collecting, how can it be protected or given additional power?

Legal recognition inclusive of non-binary identities

In the important judgment that the Supreme Court issued in 2014 regarding the National Association of Lesbian and Gay Advocates (NALSA), legal recognition was extended to transgender individuals, and the ability to self-identify gender was confirmed. Both outcomes were significant. Within the context of the binary paradigm of male and female transitions in practice, on the other hand, this admission has been generally accepted. Because of this, there is no distinct location for those who think of themselves as non-binary, agender, or genderfluid. The Transgender Persons (Protection of Rights) Act, 2019, which stipulates that persons obtain medical certification to change their gender identification, makes this situation considerably more problematic than it already was. According to the concept of self-determination, this is incompatible. There were less than 11,000 transgender identification cards in circulation as of the year 2023, and none of them were specifically made for persons who

did not correspond to either of the two binary genders. In this instance, the legal and administrative institutions have failed to acknowledge the existence of a wide range of gender experiences that extend beyond the binary.

Non-binary people representing in education, employment, and housing

In many parts of society, including homes, companies, and schools, people who do not identify with a certain gender face severe form of structural exclusion. Similarly, this kind of exclusion happens at work. According to the 2011 Census, just 46% of identifying as third-gender persons could read and write, and even fewer had earned bachelor's degrees. Many non-binary children either don't attend school at all or endure severe social isolation because of the persistent gender bias in admissions processes, school policies, and the availability of school resources. More than 65% of people who do not identify as either male or female are either jobless or have low-paying jobs, according to estimates. They sometimes feel forced to engage in unofficial activities, like begging or even working in the sex business, due to the constant antagonism they face. Many people experience family rejection when it comes to housing, which leads them to become homeless. Within LGBT collectives that have been historically marginalized, they may discover a haven. Considering these data, adjustments that are inclusive and acknowledge the fact that there is gender diversity in every aspect of life are urgently needed.

The mental health and safety concerns for non-binary individuals

Many sectors, especially mental health, continue to give non-binary people the least amount of attention. The research says between 40% and 60% of LGBTQ+ youth in India had considered suicide at some point. Violence, misgendering, and rejection based on identity are far more common among non-binary people than among binary people. More than 75% of LGBT youth reported experiencing harassment in educational settings, according to a 2018 survey conducted by the United Nations Educational, Scientific, and Cultural Organization (UNESCO). But despite this, most doctors in India aren't trained to comprehend non-binary concerns, and there isn't broad access to gender-sensitive mental health treatment. The result is a general contempt for people's mental and emotional well. Therefore, one of the most pressing unresolved challenges is the difficulty of ensuring that non-binary persons have access to mental health services.

The visibility of non-binary voices visible in culture, policy, and media

Cultural representations of people who do not identify with any gender are still severely lacking in India. Among popular Indian films released between 2020 and 2024, less than five had non-binary roles. Stereotypes or tokenism were common ways these people were depicted. In policy circles, non-binary persons are not mentioned or allocated a special money, even though the government's SMILE Scheme for transgender individuals receives about ₹365 crore. This is so even though the plan is currently in motion. Despite projections that the gender budget for women will exceed 2 lakh crores by 2023, funding for gender-diverse groups is omitted from this bigger allocation. Ladies and gentlemen, this budget is here to help you. A major void is exposed by this erasure, which happens in narrative and numerical statistics as well: how can policies be deemed equal if they obscure and underfund entire identity groups?

4. SUGGESTIONS AND CONCLUSION

There must be an expansion of the gender categories provided to respondents in India's national surveys to include non-binary possibilities. To fulfil the survey's requirements, this is an absolute must. Doing so is critical for better understanding suppressed groups' realities and experiences and for providing answers to such challenges. Gradient evaluations of feminine and masculine traits should be included in surveys, as proposed by much research. Furthermore, it is important to inquire about the gender assigned at birth as well as the current gender expression. Including non-binary gender choices in national surveys would help non-binary persons get more visibility and support, which would go a long way toward combating the discrimination and marginalization they endure. More precise and comprehensive data collecting on gender identity will also be an outcome. Because of this, it will be less difficult for lawmakers and academics to understand and meet the needs of non-binary people. You can't go wrong with either of these results. In addition, there may be executional issues and privacy and data analysis problems brought up by the incorporation of non-binary gender alternatives. This is since these problems might emerge. An adjustment in how gender is conceptualized and assessed within Indian culture is necessary for this to be possible. To meet the standards, it is highly anticipated that non-binary groups and persons would need to be consulted and interacted with.

Additionally, Current scientific evidence supports a multifactorial understanding of non-binary gender identity. Rather than resulting from a single biological cause, non-binary identities appear to emerge through complex interactions among genetic factors, prenatal hormonal influences, neurodevelopment, and environmental experiences. Advances in biology and neuroscience have broadened our understanding of sex and gender, demonstrating that human diversity cannot be fully explained by binary models. Continued interdisciplinary research will enhance scientific knowledge while informing inclusive healthcare, legal recognition, and social policy.

The major problem of non-binary genders being invisible in national surveys is something that can be solved if there is a concerted effort to increase awareness of non-binary gender identities and if the gender categories included in these surveys are expanded. It is possible to resolve this issue. Not only would this show non-binary persons in India that they are valued and included, but it would also encourage legislative changes and lobbying efforts to better their lives. By doing so, this would be achieved.

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