

UCLA

UCLA Electronic Theses and Dissertations

Title

The Biopolitics of Third Gender Category in India

Permalink

<https://escholarship.org/uc/item/77h4d7f5>

Author

Bose, Diya

Publication Date

2020

Peer reviewed|Thesis/dissertation

UNIVERSITY OF CALIFORNIA

Los Angeles

Biopolitics of the Third Gender Category in India

A dissertation submitted in partial satisfaction of the
requirements for the degree Doctor of Philosophy

in Sociology

by

Diya Bose

2020

© Copyright by

Diya Bose

2020

ABSTRACT OF THE DISSERTATION

Biopolitics of the Third Gender Category in India

by

Diya Bose

Doctor of Philosophy in Sociology

University of California, Los Angeles, 2019

Professor Vilma Ortiz, Chair

My dissertation, *The Biopolitics of Third Gender Category in India*, uses 18 months of ethnographic data and 32 in-depth interviews to investigate how transgender women sex workers in West Bengal negotiate claims to state resources following the Indian Supreme Court’s ruling of a “Third Gender” category in 2014. Significantly, the implementation of this non-binary gender category occurred while “homosexual acts” remained criminalized by the Indian state; for transgender women—especially those who are sex workers. This produced a paradox in which state visibility around gender identity could also expose them to criminalization, depending on how local state actors perceived the legitimacy of transgender women’s claims to womanhood. On the surface, legal recognition of the Third Gender category seems to be steps towards greater inclusivity and gender equity; however, there is currently little research that explores the impact of such legal recognition on the lives of people who identify as gender non-binary. My

scholarship addresses this gap by demonstrating that people who fall into the Third Gender category do not necessarily interpret legal recognition as an unambiguous good. Across empirical chapters on state surveillance, sex work, and the family, I reveal how cultural and social structures shape the ways which people interpret, contest, and expand this new category. The theoretical implications of my research are catalyzed by the premise that much of the sociology of gender in the United States takes the experiences from the West as its point of reference, thereby, erasing and Orientalizing knowledge produced in and about the Global South. My research intervenes into the sociology of gender by centering the experiences of non-Western transgender people. To this end, I analyze how the legal and social categories of transgender and third gender continue to be contested, expanded, and shaped by the politics of social location. For example, my manuscript, “Queering Like a State: Third Gender, Governance, and Legibility,” addresses the questions: How do transgender people become visible to the state as Third Gender? I find that the Indian state has created the Third Gender category but lacks the mechanisms and methods to account for variations of all genders in an inclusive way and one that respects an individual’s self-determination. The state lacks a pan-Indian law that articulates and enshrines the rights and protections for people in the Third Gender. As a result, as transgender people attempt to become visible to the state, they face ground-level state actors who attempt to arbitrate who falls in this legal category. These ground-level actors engage in what I name gender calculations, a process by which the State renders certain gendered bodies visible while further obscuring others and that are embedded in local gender, class, and caste ideologies. In the context of India, these calculations occur within a context of Brahminical (Caste-based) patriarchy. Specifically, the state and media commonly conflate the Third Gender with Hijra. In this vein, Third Gender communities in India continue to be haunted by the legacy of British

colonial law that deemed them “criminal tribes” and cited their existence as evidence of the moral decadence and inferiority of the entire population of the Indian sub-continent. Therefore, investigating the gendered and sexual violence against transgender people in India demonstrates how gender and sexuality have been central to the project of post-colonial nation-building.

The dissertation of Diya Bose is approved.

Stefan Timmermans

Juliet Williams

Teresa Cecilia Menjivar

Vilma Ortiz, Committee Chair

University of California, Los Angeles

2020

This dissertation is dedicated to my mother, Durba Bose, in honor of her love, courage, and imagination.

TABLE OF CONTENTS

INTRODUCTION.....	1
ARTICLE 1: GENDER CALCULUS: THIRD GENDER IDENTITY IN INDIA.....	17
ARTICLE 2: TRANSGENDER SEX WORKERS & THE POLITICS OF QUEER RESPONSIBILITY.....	46
ARTICLE 3: QUEERING DOMESTIC VIOLENCE.....	81
Conclusion.....	113

Acknowledgments

As is the case with all dissertations, this is a collective accomplishment. I could not have dreamed up this project without the Kothi/transgender activists in Kolkata who generously shared with me their stories of struggle and triumph. Now, even in the wake of multiple catastrophes that have visited upon their corner of the world, they continue to inspire me with their vision and perseverance. I owe a tremendous debt of gratitude to Raina Roy, Sumi Das, Sintu Bagui, and Soma Roy were my partners and teachers on the field.

I owe my very survival in graduate school to my sisters, Susila Gurusami, Rocio Garcia and Elena Shih, who believed in me when I couldn't believe in myself. Thank you for supporting and nurturing me not only as a scholar, but also as a mother—and acknowledging how these two journeys are connected.

I am thankful to my committee members—Vilma Ortiz, Stefan Timmermans, Juliet Williams, and Cecilia Menjivar. I am grateful for the unconditional support they extended to me during tumultuous times. Vilma's commitment to mentoring future generations of scholars of color, particularly women of color, to do social justice research is inspirational. I'm in awe of her generosity and will make sure to pay it forward for the generations of scholars to come.

My cohort-mates, Ariana Valle, Yewon Lee, Nicole Itturiaga, Mirian Martinez-Aranda, Rahim Kurwa, and Preeti Sharma, consistently inspired me with their brilliant theorizing that is always unapologetically grounded in a commitment to social justice. I am enormously grateful for the unconditional support and mentorship of Marie Berry, Kolleen Duley, Georgiann Davis, and Ranita Ray. This project could not have taken shape without the guidance of Purnima

Mankekar and Akhil Gupta and the community of scholars of South Asia they have nurtured at UCLA. My colleagues, Carla Salazar Gonzalez, Terrell Winder, Uriel Serrano, Josefina Flores Morales, and KT Bender have all contributed to my graduate studies journey. I also deeply grateful to the early support and mentorship of Tamara Black. My friendships with James Bradbury, Sambuddha Banerjee, Sudeshna Banerjee, and Toorjo Ghosh sustained me throughout of my fieldwork days. I would not have been never dared to begin the journey at UCLA if it were not for the incredible mentorship Christine Chin. It has been a privilege to teach undergraduate students, particularly those who are first-generation students and queer students of color.

Finally, I owe everything to my family. My mother, who taught me that the fight for human dignity is the most sacred work one can undertake. I took my first steps into the world of intersectionality holding her hand. I stand on the shoulder of my late grandmother, Bela Bandyopadhyaya, who taught me to bear witness to the invisibilized labor of women. I owe my curiosity about the world and my sociological imagination to my grandfather, Nripen Bandyopadhyaya. I am also grateful to him for nourishing me in body and spirit, even at the age of ninety, while I lived with him during my fieldwork and pregnancy. Baby Ujaan was there from the beginning of this project and has been my constant source of inspiration. I am endlessly grateful to my partner and co-parent, Supratip Majumdar. He embodies a vision of alternative masculinity—one that is playful and nurturing—and it fills me with hope. I thank my father, Dipu Bose, without whose support in raising my child, I could not have completed this project.

In a world that devalues women's careers, I thank him for prioritizing my work. Many thanks to my brother, Deepayan Bose, for his unwavering faith in my ability to conquer every challenge.

To be an immigrant of color is to contend with what it means to thrive on stolen land made rich by the labor of stolen people. To the Tongva people, whose land birthed this project, I owe a debt I can never repay. Finally, this work could not exist without the scholarship and activism of Black queer scholars—thank you for giving the world a language of freedom.

EDUCATION

- 2012 M.A. Sociology, University of California, Los Angeles
- 2009 M.A. International Communications, American University, SIS
- 2005 B.A. English Literature & Political Science; Summa cum laude; North Central College

AREAS OF INTEREST

Gender; Sexuality; Race; Class; Intersectionality; Global Sociology; Social Movements; Sociology of Knowledge; Postcolonial Social Theory; Culture; Qualitative Methods

PUBLICATIONS

- 2018 Bose, Diya. “‘There are No Victims Here’: Ethnography of a Reintegration Shelter for Survivors of Trafficking in Bangladesh.” *Anti-Trafficking Review* 10: 139-155.
<https://doi.org/10.14197/atr.201218109>

UNDER REVIEW

Bose, Diya. “Queering Like a State: Third Gender, Governance, and Legibility.”

WORK IN PROGRESS

Bose, Diya. “Carceral Gender Regimes.”

Bose, Diya. “Third Gender, Anti-Trafficking Laws, and the Politics of State Familialism.”

FELLOWSHIPS, GRANTS, AND AWARDS

- 2019 UCLA Center for the Study of Women Constance Coiner Graduate Student Award
- 2017 UCLA Sociology Department Writing Fellowship
- 2013 UCLA Graduate Summer Research Mentorship Fellowship
- 2010 UCLA Sociology Department Fellowship
- 2010 J. William Fulbright Scholar, Bangladesh
- 2009 American University, SIS Honors Fellowship Recipient

PROFESSIONAL PRESENTATIONS

“Ethnography of Transgender Sex Workers: Politics of Respectability vs. Politics of Queer Responsibility.” Annual meeting of the American Sociological Association, August 2019.

“Ethnography of Transgender Sex Workers: Politics of Respectability vs. Politics of Queer Responsibility.” Annual meeting of the Society for the Study of Social Problems, August 2019.

“Subverting the Controlling Image of the Hijra.” Annual meeting of the Society for the Study of Social Problems, August 2018.

“Dangerous Desires: Life Inside Rescue Shelter in Bangladesh.” Annual meeting of the UCLA Thinking Gender Conference, February 2013.

“Ethnography of Anti-Trafficking Organization in Bangladesh.” Annual meeting of the Social Science History Association, November 2013.

TEACHING EXPERIENCE

Instructor, Undergraduate Seminars

- 2019 Decolonizing Queer, First-year Undergraduate Seminar, UCLA
- 2018 Decolonizing Queer, First-year Undergraduate Seminar, UCLA
- 2015 Sex and the Global City, First-year Undergraduate Seminar, UCLA
- 2014 Sex and the Global City, First-year Undergraduate Seminar, UCLA
- 2013 Sex, Gender and Violence, First-year Undergraduate Seminar, UCLA

Teaching Assistant

- 2017 – 2018 UCLA Interracial Dynamics in American Society Cluster
- 2013 – 2015 UCLA Sex and Gender Cluster
- 2011 - 2012 UCLA Introduction to Sociological Theory

SERVICE

- 2018 Organizer: *Queer India*: Film Screening and Discussion, World Arts and Cultures, UCLA
- 2016 Reviewer: *International Social Science Journal*
- 2013-15 Co-organizer: Gender Working Group (Sociology)

INTRODUCTION

In this article-based dissertation, I use the case of the legal recognition of the Third Gender Category in India as a lens to understand how and why seemingly progressive legal developments exacerbate or reproduce social inequality and punish marginalized communities.

In a landmark judgment on April 14, 2014, in the case of *National Legal Services Authority (NALSA) vs. Union of India* (2014), the Indian Supreme Court recognized “third gender” as a separate category for those who do not identify as male or female. This move addressed the inability of transgender people to secure identity cards that match their gender identity. The mismatch in identification has repercussions for their daily transactions and can adversely impact their ability to access employment, health, and educational opportunities.

Additionally, the Supreme Court ordered the Indian Central Government (the Center) to class transgender persons as members of the Other Backward Classes (OBC). OBC is a collective term that refers to subaltern or minority groups that have been historically marginalized in Indian society. Being classified as a Backward¹ Class entitles communities to government benefits. The Supreme Court ruling means that the Center and state governments will now have to provide greater educational and economic opportunities to transgender and gender queer groups, particularly the hijra, who are considered third gender. The hijra² are a community of people who were marked as male at birth but have a feminine gender presentation. Although the community

1 Political theorists have considered the ontological issues that the term “backward” raises, including who is considered “backward”, is backwardness political, what kind of subjectivities does the term generate (Gupta 1998; Jaffrelot 2003; Snodgrass 2006; McDowell 2011).

2 The hijra community in South Asia (which includes India, Pakistan and Bangladesh) encompasses persons with a variety of gender identities and sexual orientations. The exact number of hijras in India is unknown since there are no specific nationwide efforts to systematically collect such information, though is estimated that there are between 50,000 to 1.5 million hijras in India. Hijras are pan-South Asian; they are known as “kinnar” in parts of North India and “Aravanis” in South India.

has deep roots in South Asian culture, historically they have been marginalized, stigmatized and policed (Nanda 1999).

According to a group of prominent lawyers, the Supreme Court decision will go a long way in:

“stopping egregious police practices of stripping, feeling up breasts and genitals and subjecting transgender persons to intrusive body searches or medical examination to ascertain their gender. Discrimination in the areas of public employment, health care, education and access to services will be open to challenge and redress. Transgender women may be able to seek protection under gender-specific laws for women” (Lawyer’s Collective, 2014).

On the surface, this ruling seems to signal a progressive shift in the way that the Indian legal code treats gender and sex difference. However, the legal and political victories that hijras have won do not necessarily translate into greater inclusion for transgender people who do not identify as hijra, including female to male transgender people; the ruling frequently uses the term hijra represent all transgender and gender non-conforming people (Boyce 2015, Dutta 2015). This emphasis on the hijra as the stand-in for all those who do not fit into the gender binary suggests that the acceptance of a third gender category does not necessarily indicate that the Indian courts acknowledge sex and gender as fluid concepts. That is to say, rather than recognizing that gender identity is a continuum, this ruling may simply reflect the idea that Indian culture accommodates the addition of a third category that is as distinct and discrete as the categories of “male” and “female”. Moreover, for a community that has been historically criminalized, the idea of greater intervention by local and state governments is met with concern (Dutta 2015).

Adding to these concerns, only months earlier, on December 11, 2013, in the case of *Koushal vs. Naz Foundation* (2013), the Supreme Court reinstated the ban on homosexuality that had been briefly repealed by a lower court. This continued criminalization of homosexuality

meant that many within the transgender and gender non-conforming community remained vulnerable to state intervention and repression³.

Thus, although the new ruling on third gender appears to provide benefits and protections to a visible population of transgender persons, the contradictions in the Supreme Court rulings may have unintended consequences. These contradictions raise the question: How do transgender people understand, contest, and experience the legal category?

To answer these questions, I gathered ethnographic data of transgender as well as collect oral histories and conduct in-depth interviews of the two most visible transgender groups living and working on the streets of Kolkata, India: hijras and non-hijra transgender sex workers. This study will ultimately build on existing research on the sociology of transgender and the intersections of law, society and sexuality.

Background: Historicizing hijras and other ‘sexual minorities’ in Indian society

In order to situate the study and provide context, I will examine the history of attitudes towards sex and gender in India and the current status of hijras and other sexual minorities in the country. Both *NALSA*, the ruling that created the third gender category, and *Koushal*, the ruling that recriminalized homosexuality, contained arguments shaped by appeals to Indian history. The diverse and the contradictory ways in which Indian society has treated transgender people in the past also illuminate the vulnerability that the hijra and other trans-identified communities continue to face.

The two major rulings by the Indian Supreme Court argue that the third gender, or those who do not fit into the gender binary, has deep roots in Indian culture, whereas homosexuality is inconsistent with Indian values (Boyce 2015). However, a review of the history of sexual

³ Homosexuality was finally decriminalized on September 6, 2018.

minorities reveals that, until the British colonial period, Indian society accommodated a diverse range of gender and sexual identities. In the pre-colonial Hindu, Buddhist and Muslim periods in India, instances of sexual variance were recorded in medical treatises and other cultural products (Boyce 2015). Significantly, eunuchs and hijras were folded into Indian hegemonic heteronormativity and made non-threatening by de-emphasizing their sexuality and personal familial ties (Sindhe 2012). Hijras themselves contribute to the idea that they are asexual by referring to themselves as “sanyasin”, meaning one who renounces all material possessions to live like a holy wanderer. As a result, they deemphasize their sexuality as a part of their identity even though many engage in sex with men, both for pleasure and as a means to generate income. This legacy of attaching asexuality to hijras and eunuchs is reflected in the modern Supreme Court rulings that delink sexuality from sex identity: the Court recognizes rights of third gender people as it simultaneously criminalizes their sexual activities.

Hindu mythology and classical Sanskrit texts capture a diverse range of attitudes towards transgender identities and homosexual conduct. In reviewing ancient Sanskrit medical treatises, which included a detailed taxonomy of gender and sexual variance, Vanita and Kidwai (2000) argue that though ancient Indians often displayed derogatory attitudes toward same-sex activity and “third sex” persons, their approach to sexual minorities could be characterized by “overall tolerance and relatively non-judgmental attitude, and an absence of violent repercussion” (p.26). Literary and artistic cultural products, including the epic, Mahabharata, include numerous depictions of gender-bending, sex-change and same-sex sexual activity. For example, in the Mahabharata, the demi-god Arjuna becomes a transwoman for a year and the princess Sikhandini is transformed from female to male.

In the Mughal (Muslim) period, so-called eunuchs, who would be now considered 'third gender,' persons had access to a number of employment opportunities in the imperial palace, as guards, cooks, and domestic servants. Eunuchs were generally not supposed to have loyalties to the military, the aristocracy, nor to a family of their own having neither offspring nor in-laws, at the very least, and were thus seen as more trustworthy and less interested in establishing a private 'dynasty'. As a result, eunuchs often rose to occupy high-status positions as advisers to royalty.

Some versions of the Mahabharata also include instances of homosexuality. For example, the male god Vishnu marries the son of Arjuna, Aravan, for one night. The carvings on the sides of the Khajuraho temple, which was built between the tenth and twelfth centuries, depict explicit scenes of same-sex sexual activity. While these artistic displays may not represent hegemonic values around sexuality in ancient India, they suggest that the ideas of disrupting the gender binary and same-sex activity are not new to India and indicate openness to plurality of gender and sexual expression. Although the Code of Manu, written around 100 to 200 CE, prescribes penalties for homosexual conduct for members of the upper castes, usually resulting in the loss of caste position, the penalties were minor compared to those for heterosexual crimes such as adultery (Doniger 1991). Similarly, tolerance for the plurality of gender and sexual difference continued into the Islamic or Mughal period (1526-1857) in India. Vanita (2000) found that artistic and poetic traditions that of the eighteenth and early twentieth century in North India were steeped homoerotic tropes and even included explicit depictions of same-sex sexual activity and gender change.

In contrast to the tolerance for sexual minorities that characterized pre-colonial Indian society, the British rulers in India repressed both gender non-conforming people and homosexuality. The

British criminalized homosexuality under Section 377 of the Indian Penal code, which criminalized all penile-non vaginal sexual acts between persons, including anal sex and oral sex, came to, de facto, include transgender persons as they were also typically associated with the prescribed sexual practices.

Hijras, one of the most visible communities of transgender people in India, have long been objects of study by Western scholars whose work informed the policies of British colonial administrators. Early orientalist ethnographers misidentified hijras as a particular kind of male prostitute (Castairs 1956) and argued that their ritualized public performances were considered obscene and polluting. To colonial masters in India, hijras were an abomination, another example of the barbarism of their Indian subjects (Lal 1999; Hinchy 2014). In her historical research on the disciplining of hijras by British colonial officers, Hinchy (2014) demonstrates that colonial officials referred to them as “men”. Hinchy argues that the use of the masculine pronoun was a deliberate linguistic strategy aimed to erase hijra as a distinct category and restore the gender binary (Hinchy 2014). This suggests that the colonial police used humiliation and gender discipline as ways to control the hijra population. I will seek to build on and extend Hinchy’s (2014) historical research by highlighting in my ethnographic research the ways in which gender variant people are policed now.

For colonial officials, efforts to erase hijras from the public sphere were, in this sense, a part of a larger process of civilizing Indians. In terms of practices on the ground, police banned public performances by hijras and forcibly removed children residing with them, so as to prevent their social reproduction. The Criminal Tribes Act, 1871, later subtitled “An Act for the Registration of Criminal Tribes and Eunuchs”, equated hijras, who were considered “eunuchs”, with criminal tribes. The 1871 law required the local government to keep a register of the names and

residences of all eunuchs who were “reasonably suspected of kidnappings or castrating children” (Sindhe 2012, p.3). According to Sindhe (2012), the British police were empowered to remove children living with hijras if they were found guilty of “committing offences under Section 377 of the Indian Penal Code” (implemented in 1860, the code, including s.377, still stands). Section 377, Unnatural offences”, criminalized all “carnal intercourse against the order of nature”, that is, all penile-non-vaginal penetration between persons, including anal sex and oral sex; thus it condemns the sexuality of many hijra and specifically censures sex work, an occupation that serves as one of the primary means of survival for the hijra community. Given the colonial history of repressing hijras through the use of laws against same-sex sexuality suggests that the current anti-homosexuality law may continue to criminalize this group. Therefore, both, the Criminal Tribes Act of 1871 (which was repealed in August 1949) and Section 377 of the Indian Penal Code (which stands) demanded repression and surveillance by the police of hijras in the colonial era. The current law is an extension of this colonial legacy.

Finally, the hijras’ history of negotiating, resisting and subverting the state’s efforts to control them, tells us that, far from static, their gender performance and practices have been politically shaped. Historical research shows that hijras resisted their criminalization and subverted colonial ideologies of masculinity and obscenity (Hinchy 2014). Following Hinchy’s (2014) approach, I will attend to the ways in which hijras and the other transgender people interpret, deploy and subvert the third gender category in their daily encounters with the state.

Despite the importance of Hindu mythology to the social role of the hijras, many of them identify as Muslim. As a result, these individuals not only disrupt the gender binary, but they also transgress religious and caste boundaries, evading simplistic typologies. Though they live

different regions of South Asia and come from different linguistic and cultural backgrounds, hijras share customs and traditions that are specific to their community (Reddy 2007).

Hijras earn a living primarily through three activities: ritualized begging, singing and dancing, and commercial sex work (although sex work is not traditionally sanctioned in the hijra community). *Badhai*, or performance, was central to the social role of hijras in the nineteenth century and is still significant to hijra identities in contemporary India (Reddy 2005). When a child is born or after a wedding, hijras perform the badhai and bless the family. Although hijras cannot bear children themselves, they are often thought to have special powers to confer fertility to others (DeMello 2007). This religious role creates a space for hijras and folds them into the heteronormative Indian society. Moreover, the hijra clan has a strict hierarchy that often mimics the hierarchy of the heterosexual family structure of the Indian joint family. Changes in the Indian urban landscape such as increasing number of people living in high-rise buildings and gated communities, mean that hijras no longer have the same level of access to perform their badhais. With the decline of badhais, hijras are increasingly choosing sex work to earn a living (Somasundaram 2009). Besides the vulnerabilities to the threat of criminalization that this group shares with other sex workers, hijras face added level of insecurity as their engagement with sex work may undermine their culturally valued sacred role (Nanda 1985).

In modern India, violence against hijras is commonplace and often systemic. Indian newspapers have reported “social cleansing” in Bangalore through mass evictions and arrests of hijras (Human Rights Watch 2008). State recognition of ‘gender minorities’ has been an important platform for sexuality rights groups, especially those that work with economically disadvantaged LGBT communities. In December 2002, hijras, kothis and other sexual minorities in Bangalore formed a collective called Vividha. Its charter of demands includes the repeal of

Section 377 and the Immoral Traffic (Prevention) Act, ITPA, an anti-sex trafficking law that conflates sex work with sex trafficking. It has also demanded that hijras be recognized as women and, be given equal opportunities, with entitlement to housing, employment benefits and rail travel concessions. In light of the Supreme Court's ruling on third gender, the federal and state governments are now grappling with the question of what systems to set up in place to help identify these communities (Narrain 2012).

In contrast to the progressive changes in regards to state recognition of transgender people in other countries, the Indian Supreme Court ruling on third gender seems to be much more flexible and requires little institutional verification of one's gender. In the NALSA ruling, the SC pointed out that in other parts of the world like the UK, Argentina and Germany a transgender person has only the choice of transitioning from female to male or vice versa, the third gender not being provided as an option (NALSA. 2014 at p. 35-41), suggesting that India's concept of the third gender clearly defies the gender binary. Several international developments point to countries around the world moving towards legislation that will legally enable change in gender identity. In Japan, the Gender Change Bill, 2003, allowed people with "Gender Identity Disorder" to ask a family court for a change of gender on the family registry but only if they were (1) diagnosed by at least two medical experts as having "Gender Identity Disorder" (2) older than 20 years of age (3) single and childless (4) have already completed sex reassignment surgery (Narrain 2012, p.113). In Indonesia gender change can be legally effected by a district court after a gender reassignment surgery. The Philippines Supreme Court also allowed for gender change, but only for those individuals that the state deems intersex. In contrast, the Indian Supreme Court's ruling is much more flexible.

State recognition of gender minorities⁴ has evolved in India over the past decade, both at the national and state levels. However, until the decision in *NALSA*, there was no formal status of third gender except in a few states. For example, in Tamil Nadu, state officials provide a special “T” designation on ration cards for hijras, as well as separate access to public toilet facilities (Kumar). Certain other states recognize them as “third category” (*NALSA*, 2014 at 70). Even though no national legislation in India openly recognized the third gender until 2014, gender-sensitivity within the Indian bureaucracy took a small step, with “eunuchs” being given the option to enter their sex as 'E' instead of either 'M' or 'F' in passport application forms on the internet from 2005 (*The Telegraph*, 2005). And in 2009, India's Election Commission introduced "other" as a gender category on ballot forms (*BBC News*, 2009).

In the petition before the Supreme Court, *NALSA* argued that “moral failure lies in society’s unwillingness to contain or embrace different gender identities and expressions” (*NALSA*, 2014 at p. 1). The group argued that police conduct is not limited to indiscriminate hostility, but also includes targeted gender violence and extortion. Because hijras have no effective legal means of lodging complaints or asserting their rights, they are forced to negotiate terms with police—often involving the exchange of unprotected sex. According to the PUCL(K) report, the integrally sexual nature of the violence against hijras indicates that the sexuality of the hijra becomes the target of prurient curiosity, which could in its extreme form manifest itself as brutal violence. Sexual abuse and violence, apart from being a systematic tool for dehumanizing an individual, can also be understood as a punishment for not conforming to the society’s prescribed gender roles.

⁴ This term comes from the language of the Karnataka Government Order related to entitlements for a community that are gender non-conforming.

In terms of implementation, the Ministry of External Affairs, which is in charge of both passport applications and online visa forms, allows individuals to choose third gender in the category of sex; the Election Commission of India and the UID enrolment forms have similar provisions (Narain 2012). While cautiously optimistic, legal scholars and activists have highlighted the limitations of the new ruling. For example, throughout the ruling, the Court often uses the term hijra to represent all transgender people (Boyce 2015, Dutta 2015). Although it asks states to recognize identities of those who claim to be third gender without asking for medical verification, it largely leaves the onus on the state governments to ensure that they target specific communities for social intervention.

For a community that has historically experienced harassment and surveillance by the state, policies and technologies that facilitate further surveillance in the name of support or affirmative action, such as creating population registers, can prove a double-edged sword. Some fear that, in the guise of opening up citizenship rights for transgender persons, the ruling might “allow for the invasion of privacy rights, greater surveillance and police tracking of a community that has historically faced the threat of criminalization” (Narain 2012, p. 112). This, combined with the banning of same-sex activity, which can be used as a pretext by police to harass hijras, threatens to undermine the positive strides the courts have made. As we can see from a cursory glance at the major Supreme Court decisions in India in the last year, the acceptance of third gender category by no means signals that the Indian courts have recognized that sex and gender are fluid categories.

Since the 1990s, activists and scholars in the West have attempted to disentangle sexual desire of homosexuality or heterosexuality from transgender identity (Bernstein). Valentine (2007) underscores the political stakes of separating transgender identity from homosexuality. He

argues that the mainstream lesbian and gay movement in the United States worked to distance itself from those who are gender variant, in order to make a case for civil rights on the basis of similarity to heterosexuality. This separation of transgender from homosexuality also enabled homosexuality to be presented as a private act that would not disrupt the public sphere through displays of gender variance. Thus, the separation of sexuality from gender in this case is pernicious and appears to disadvantage anyone who is gender variant (Bernstein 2007). In India too, the law seems to attempt to unfasten gender from sexuality; however, in the case of India, third gender people are accommodated while homosexuality is considered deviant. As the law only recognizes vaginal intercourse as legitimate sex, hijras who have not gone through sex reassignment surgery may find themselves criminalized. Valentine's (2007) overarching claim is that ontologically separating gender and sexuality "ignores the complexity of lived experience, the historical constructedness of the categories themselves, the racial and class locations of different experiences and theorizations of gender and sexuality as systemic and power laden, and transforms an analytic distinction into a naturalized trans historical, transcultural fact" (p.62). This raises the question of who will be included in the third gender category, and how the reification of the hijra as the only legal form of gender variance might affect the hijra community itself and other transgender individuals who do not identify as hijra.

Significantly, the implementation of this non-binary gender category occurred while "homosexual acts" remained criminalized by the Indian state; for transgender women—especially those who are sex workers and at a time when violence against minorities, including Islamophobic and Caste-based violence was on the rise. This produced a paradox in which state visibility around gender identity could also expose them to criminalization, depending on how local state actors perceived the legitimacy of transgender women's claims to womanhood. On the

surface, legal recognition of the Third Gender category seems to be steps towards greater inclusivity and gender equity; however, there is currently little research that explores the impact of such legal recognition on the lives of people who identify as gender non-binary.

References

- Boyce, B. (2015). Sexuality and Gender Identity under the Constitution of India. *Journal of Gender, Race and Justice*, 18(1).
- Brown, W. (2006). Regulating aversion. *Tolerance in the Age of Identity and Empire*. Princeton–Oxford.
- Butler, J. (1997). Gender is burning: Questions of appropriation and subversion. *Cultural Politics*, 11, 381-395.
- Chasin, A. (2001). *Selling out: The gay and lesbian movement goes to market*. Palgrave Macmillan.
- Crenshaw, K. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford law review*, 1241-1299.
- Currah, P., Juang, R., & Minter, S., (Eds.). (2006). *Transgender Rights*. Minneapolis: University of Minnesota Press.
- Dean, M. (1999). *Normalising democracy: Foucault and Habermas on democracy, liberalism and law*.
- Dutta, A. (2014). Contradictory Tendencies: The Supreme Court's NALSA Judgment on Transgender Recognition and Rights. *Journal of Indian Law & Society*, 5, 225.
- Evans, K. (2013). *Negotiating the self: Identity, sexuality, and emotion in learning to teach*. London: Routledge.
- Fausto-Sterling, A. (2000). *Sexing the body: Gender politics and the construction of sexuality*. New York City: Basic Books.

- Foucault, M., Burchell, G., Gordon, C., & Miller, P. (1991). *The Foucault effect: Studies in governmentality*. Chicago: University of Chicago Press.
- Hinchy, J. (2014). Obscenity, moral contagion and masculinity: Hijras in public space in colonial North India. *Asian Studies Review*, 38(2), 274-294.
- Hines, S. (2007). *Transforming gender: Transgender practices of identity, intimacy and care*. Bristol: Policy Press.
- Hollway, W., & Jefferson, T. (2000). *Doing qualitative research differently: Free association, narrative and the interview method*. Sage Publications.
- Grewal, I., & Kaplan, C. (2001). Global identities: Theorizing transnational studies of sexuality. *GLQ: A Journal of Lesbian and Gay Studies*, 7(4), 663-679.
- Jaffrelot, C. (2000). The Rise of the Other Backward Classes in North India. *Journal of Asian Studies*, 59(1).
- Lal, V. (1999). Not this, not that: The hijras of India and the cultural politics of sexuality. *Social Text*, 119-140.
- Lemke, T. (2001). 'The birth of bio-politics': Michel Foucault's lecture at the Collège de France on neo-liberal governmentality. *Economy and society*, 30(2), 190-207.
- McDowell, A. (2011). Echoing Silence: Backwardness, Governmentality and Voice in Contemporary India. *Journal of Asian and African Studies*.
- Nanda, S. (1999). *The Hijras of India: Neither man nor woman*. Canada: Wadsworth.
- Narrain, S. (2012). Gender Identity, Citizenship and State Recognition. *Socio-Legal Rev.*, 8, 106.
- Schilt, K., & Lagos, D. (2017). The Development of Transgender Studies in Sociology. *Annual Review of Sociology*, 43(1).

Somasundaram, O. (2009). Transgenderism: Facts and fictions. *Indian Journal of Psychiatry*, 1, 73–75.

Valentine, D. (2007). *Imagining transgender: An ethnography of a category*. Duke University Press.

ARTICLE 1: GENDER CALCULUS: THIRD GENDER IDENTITY IN INDIA

Introduction

Conventionally, the state has constructed, interpreted and administered gender categories as binary, dividing people into male or female. However, gender exists on a spectrum, and people who do not identify as either male or female have been demanding for their existence to be recognized, especially by the state. Some nations, including India, Pakistan, and Bangladesh, have made the seemingly progressive move to create a separate legal category known as “Third Gender.” In India, the 2014 Supreme Court, in the *National Legal Services Authority vs. Union of India* (hereafter *NALSA judgement*) case, granted legal recognition and stated that “transgender is generally described as an umbrella term for persons whose gender identity, gender expression or behaviour does not conform to their biological sex” (Radhakrishnan 2014: 9). Viewed within a larger historical context that includes British colonial laws criminalizing Third Gender communities such as Hijras and Aravanis, this judgement appeared to be a watershed moment for gender equality and inclusivity.

The NALSA judgement further held that the definition of transgender⁵ included “trans-man” and “trans-woman” (whether or not the person has undergone gender confirmation surgery, hormone therapy, laser therapy, or another therapy); persons with intersex variations; genderqueer individuals; and those with certain socio-cultural identities, such as Kinner, Hijra,

⁵ The term transgender is typically used as an umbrella category that includes those who identify as genderqueer, those who cross-dress, and transsexuals. In the United States and other Western countries, it is often conceived of as a “collective political identity” (Currah, Juang and Minter 2006, p. xv). Transgender is also an informal term whose definition varies by discipline and has evolved over time (Combs 2014).

Aravani, and Jogta. By excluding biomedical testing as a requirement for legal recognition, the Court affirmed an individual's right to self-determination in the context of gender identity.

Acknowledging historical discrimination and exclusion, the Court designated Third Gender people as a Backward Class (a protected legal category in the Indian Constitution), thereby mandating that India's provinces and union territories assist and grant special privileges to people holding Third Gender identities. While this move was meant to redress the legacy of historical discrimination, it also associated Third Gender people with poverty and marginalization, which made the Third Gender both a class/caste *and* a gender category. Given that state resources such as pensions and academic and employment quotas are at stake, the Court's pronouncement raises the question: How do transgender people become visible to the state, and how is this process shaped by social location?

In spite of the ruling's wide and inclusive definition of Third Gender, it is important to note that the socio-cultural communities mentioned in the ruling constitute "ideal types" of transgender individuals in the imagination of the Indian public—that is, transgender women, intersex persons, and those who have a preference for the female gender despite having been categorized as male at birth. The lack of clarity over how transgender or Third Gender categories are defined by the state, and the conflation of transgender with Hijra⁶ in many parts of northern and eastern India, means that who is considered to be Third Gender is negotiated between transgender people and street-level bureaucrats in everyday practice. The data I present in this study speaks to these negotiations.

⁶ Hijras are a socio-cultural group, common in several regions in India, who describe themselves as neither men nor women.

I advance the concept of *gender calculus* to argue that the Third Gender category is situated within a broader project, whereby, the state uses gender as statecraft⁷ in its attempts to fold previously invisible and marginalized gender identities into the body of the nation. This project, I find, entails a process of searching for markers of “authenticity.” The idea of a *gender calculus* highlights how state agents derive and deploy markers that emerge from local discourse, resulting in a process through which the state aims to transform illegible bodies into legible ones by making sense of their gender.

Through the process of this *gender calculus*, the state renders certain gendered bodies visible while further obscuring others that are embedded in local gender/class/caste ideologies. In India, these calculations occur within the context of Brahminical (caste-based) patriarchy, which results in the state and media commonly conflating transgender individuals with Hijras. Traditionally, Hijras have offered blessings and danced at weddings or when a baby is born, and they are compensated for this. There are two common ways that Hijras are viewed. The first sees a community defined by religious beliefs, gender, and profession, while the second perceives Hijras to be beggars, thieves and sex workers—people who are generally poor and worthy of suspicion.

Drawing on 18 months of ethnographic research on transgender women in Kolkata, India, I examine how the NALSA judgement has been interpreted and enforced at the local level. I argue that street-level bureaucrats draw from local discourses on gender, using local gender ideologies to determine the legitimacy of individual claims to the Third Gender legal category. I identify three ways that state agents engage in the labor of *gender as statecraft* when they

7 In “Seeing Like a State,” James Scott (1998: 1) defines statecraft as the government’s attempt to assert social control by making populations “legible” by arranging people and their physical environment.

interpret gender through local understandings of Third Gender: (1) “Tell us what you are,” (2) “Tell us what they are,” and (3) “We will tell you what you are.”

I find that the move to recognize *all* gendered bodies is undermined by a micro-level process informed by local discourses, which flattens gender categories in ways that are ultimately exclusionary and reproduce gender hierarchies.

Literature Review

Over the past several decades, there has been a growing consensus among scholars that the sex/gender binary is neither natural nor absolute (Butler 1990; Fausto-Sterling 2000; Preves 2002). A growing body of research attests to the diversity of cis-gender and transgender identities and social locations (see, for example, Connell 1995; Halberstam 1998; Rubin 2003; Dozier 2005; Namaste 2005; Valentine 2007; Lombardi 2009; Abelson 2014) and posits that a person’s sex and gender categories may change over time (Meyerowitz 2002). Fausto-Sterling (2000) further demonstrates that not only is *gender* socially constructed, but also biological *sex*. Queer theorists have argued, for example, that our sexed bodies are discursively produced because they never exist outside of social meanings (Butler 1999). Furthermore, how we understand gender shapes the way we understand sex (Butler 1999, 2004), which forms a basis for stratification (Risman 1998; Lorber 1999). Therefore, the creation of the Third Gender category exposes how institutions construct and reify gender categories, rather than dismantle them. As the sociology of gender has shown, gender inequality is maintained and reproduced at multiple levels of social analysis simultaneously (Risman and Davis 2013).

How gender emerges from interactions between individuals is socially situated (West and Zimmerman 1987), as gender is produced “both as an outcome of and rationale for various social arrangements and as a means of legitimating one of the most fundamental divisions of society,”

with the social construction of gender buttressing social stratification (West and Zimmerman 1991:14). Moreover, theories of intersectionality hold that how people *do* gender is also shaped by race and class hierarchies. However, the idea of “doing gender” assumes that individuals are operating within a gender binary and assumes a mutual understanding of gender categories; furthermore, it overlooks how relations of power undergird the process itself.

This raises the question of what happens when the gender binary is itself unsettled, and particularly, how people attempt to maintain social hierarchy in the context of changing notions of gender. Much of the research in the sociology of gender and queer theory has focused on the performativity of gender. Recently, however, scholars have focused on the people, structures, and systems that dictate the possibilities and limits of how people can “do gender.” For example, Georgiann Davis et. Al. (2016) show that medical professionals treat intersex conditions as medical emergencies, while tending to slow down transgender patients’ hormonal treatment, despite transgender patients’ urgent requests for transition services. Providers are keen to help intersex individuals to have so-called “healthy” sexual lives, which means turning intersex bodies into heteronormative male and female bodies. In other words, they make medical recommendations based on what they believe the person’s gender to be. Providers are quick to intervene in order to help align an individual’s biological sex to their perceived gender, and this “gender assessment is deeply rooted in cultural understandings of femininity and masculinity” (Davis et. al. 2016: 503). Therefore, Davis et.al. (2016) argue that providers “give sex to give gender.” Tey Meadow (2010) also shows that parents of trans children “give gender”—actively engaging in projects that assist their children in becoming what they believe their gender to be. The creation of the Third Gender legal category creates an impetus for the state, much like a parent, to “give gender”: a process that—in the absence of legal protections and social awareness

—has the potential to undermine transgender individuals’ self-determination when they do not conform to traditional, local conceptions of gender.

These findings underscore the need to attend to the micro-level interactions between transgender people and government officials, as well as to the institutions that buttress these levels of analysis, in order to understand how the creation of the Third Gender reifies a gender hierarchy. Even as states attempt to recognize variations in gender identity, scholars have critiqued such policies for trying to subsume the unique identities of gender-nonconforming individuals within the gender binary system (Butler 2004; Schilt and Westbrook 2009). Spade (2003), for example, critiques the tendency to rely on medical examinations to determine gender identity in the legal sphere. The sociology of transgender identities tends to focus on the experiences of transgender people in the context of “doing” gender and analyzes these experiences in relation to gender categories more broadly. In contrast, I situate my work in the emerging literature that addresses the contested terrain of laws and legal institutions governing the lives of transgender people, examining how identity is managed by bureaucracies and what this can tell us about the construction of gender (Meadow 2010). Such research renders visible the “institutional aspects of trans lives” (Namaste 2005, p. 7).

This line of research is informed by the understanding of gender as a social structure embedded in the historical dynamics of colonialism and forms of international political domination. Research emerging from the Global South demonstrates that national and historical contexts shape and alter gender constructs. For example, Najmabadi’s (2005) work on gender systems in Iran reveals that the categories of masculine and feminine, as we understand them in the West, neither translate across cultures nor remain constant over time. Furthermore, Connell (1995) posits that new developments in these structures create both constraints and opportunities.

There is a need for research that shows how the state attempts to maintain traditional gender and class/caste orders, even as it faces challenges from marginalized communities asserting their rights.

Anthropologists have explored alternative gender constructions in Third Gender communities such as the Travesti in Argentina, Sambia in Papua New Guinea, and Berdache/Two-Spirit in Native American traditions (Kulick 1998; Roscoe 1998). Previously, Western scholars have argued that the concept of a Third Gender has historical continuity. As quoted by in Towle and Morgan (2002), Janish Walworth (1998: 89) claimed that “Older, so-called primitive societies usually valued their transgendered people as special beings. They were given roles of healers, visionaries, spiritual leaders, mediators, teachers and guides” (Towle and Morgan 2002: 673). However, as Towle and Morgan (2002) have argued that the ways in which Third Gender concepts are used in popular American writing by and about non-Western transgender people continues to exoticize these groups in what amounts to re-orientalization. Rather than adopting the dominant view of Third Gender people in India as timeless and immutable, the Third Gender category should be understood as contested, shaped by the linguistic, regional, and religious contexts of post-colonial India.

Significantly, the post-colonial Indian state has continued many colonial practices and logics in its state-building projects that determine who can claim Indian citizenship (Dutta 2011; Puri 2016). The state’s selective and uneven enforcement of colonial-era laws pertaining to the regulation of sexuality targets minorities including transgender women, Muslim migrants, sex workers, and Dalit women, confirming that we cannot simply view the criminalization of queer bodies as a vestige of the British colonial past.

Much of the recent literature on state and power takes Michel Foucault's concept of biopower as its starting point. In other words, they focus on the modern state's need and ability to control and manage populations (Foucault (1979) 2000). However, Ferguson and Gupta (2002) have critiqued the biopolitical model as Eurocentric, noting that post-colonial states such as India have rarely enjoyed the resources or panoptic reach of biopower regimes and welfare states in the West (Ferguson 1994; Gupta 2001). Extending the discussion of governmentality to modes of government that are exercised on a global scale, they argue that what is often seen as a retreat of the state in the neoliberal era was not caused by more self-government, but rather by a replacement of the state with local and international non-governmental entities, as the modern state has become more dispersed and comprised of contradictory sets of institutions and logic (Ferguson and Gupta 2002). However, Puri (2016) posits that these inconsistencies and incoherence make the modern state more powerful and that the state relies on an "active fashioning through ideas and practices, giving it the illusion of being monolithic, coherent, rational, permanent and irrefutably there" (p. 9). Puri's theory usefully demonstrates how the state produces gender through encounters with transgender individuals. India's recognition of the Third Gender category is a case of the state attempting to account for and manage populations that were previously invisible.

Existing scholarship, based on findings from the West, has also established that the state may foment social anxieties about fraud to restrict the recognition of transgender individuals' elective gender and police transgender bodies at the US border (Currah and Moore 2009; Vogler 2019). As they seek evidence to confirm a transgender person's gender identity, cis-gender state agents police the boundaries of gender according to normative and traditional conceptions. This suggests a need to interrogate the process by which such policing happens. In the context of the

legal recognition, the specter of the “fake transgender” looms over transgender people when they attempt to access resources allocated by the state to underrepresented groups through the newly created Third Gender category. Furthermore, it is worth noting that the Western, orientalizing notion of the Third Gender from the Third World—an identity that is deemed ancient and revered—bolsters discourse on the “authentic” Third Gender (Towle and Morgan 2003).

Methods

This research is primarily based on eighteen months of participant observation with two transgender women’s rights organizations in Kolkata, India. I also participated in the planning meetings for the LGBTQ+ Community Parliament, a coalition of over forty transgender rights organizations, as a notetaker. At this Community Parliament, leaders from LGBTQ organizations gathered to develop a bill of LGBTQ rights to present to the government through a democratic and intersectionally-minded process. I was invited to and attended two Queer Cafes, which are spaces for the LGBTQ community and its allies to come together in a way that is not directly related to professional activism. At these events, friends share their poetry, dance, and music, as well as support each other financially by buying art, crafts, and jewelry. Additionally, I regularly attended meetings in non-profit offices, government offices, and the homes of transgender activists. To further triangulate my research, I conducted in-depth interviews with 32 transgender women, employing a snowball sampling method. These interviewees ranged in age from 23 to over 70, and none of them had undergone gender confirmation surgery. Most were taking some form of hormone therapy, but only one had access to a doctor on a regular basis.

My identity as a *savarna* (caste Hindu), cis-gender woman with middle-class status and an advanced education meant that many of the transgender women initially regarded me with

caution. My long-time connection with transgender women in a sex workers' union gave me an entrée into the world of transgender rights activism. After I had attended several open meetings and public events on transgender issues, activists began to accept me as an ally.

Following Timmermans and Tavory (2012), I took an abductive approach to my data analysis. In contrast to grounded theory, in which the researcher enters the field without any theoretical framework, the abductive approach calls for the active engagement of the researcher's positionality as well as an openness to surprising evidence. Further, as opposed to the grounded theory approach, in which the researcher is aided only by observations and pays attention to patterns and repeated information, the abductive approach refers to the creative production of hypotheses based on surprising evidence in order to construct theory. I found that the abductive approach was well suited for burgeoning areas of gender research, such as the sociology of transgender identities. This approach allowed me to analyze how centering the experiences of transgender women from the Global South confirms, alters, or modifies existing gender theory, which frequently takes the experiences of people in the West as its point of reference.

Research Context

In India, as elsewhere, transgender people are not a single, homogenous group, but have diverse gender identities, socio-economic histories, and political commitments. However, the NALSA decision tends to conflate all transgender communities with the traditional Hijra community (Boyce 2015, Dutta 2015). As such, contestations about the boundaries of the Third Gender play out over the bodies of transgender men and women on a daily basis, as they attempt to secure their newly enshrined rights.

Patterns of state-supported gendered violence in the Global South can be traced back to colonialism. British law criminalized Hijras under the Criminal Tribes Act of 1871, later subtitled “An Act for the Registration of Criminal Tribes and Eunuchs,” and through Penal Code 377, which banned non-heterosexual intercourse. The Hijras’ history of negotiating, resisting, and subverting the state’s efforts to control them tells us that their gender performances and practices have been politically shaped and far from static.

With gender boundaries policed according to normative and traditional conceptions, the anxiety over identifying “fake transgender” persists, as Third Gender people attempt to access newly available state resources. The court rationalized its decision to recognize the Third Gender by claiming that, rather than being a Western import, the recognition of Third Gender people is rooted in Indian culture. This has had unintended consequences, as it reifies the figure of the Hijra or Kinnar as the sole legible Third Gender identity and erases other transgender identities, particularly transmasculinities. Dutta and Roy (2014) point out that it was only in the third phase of the National Aids Control Program (NACP) that the category “transgender” came into official circulation as yet another “high-risk group” requiring attention in India. While global public health institutions such as the World Health Organization (WHO) circulated terms like “men-having-sex-with-men” (MSM), which tend to pathologize queer marginalized populations and give rise to the image of the ever-suffering queer body, representations of transgender people in the Indian mass media focus almost exclusively on the Hijra. Because of the lack of clarity in the state’s definition of transgender or Third Gender, who is or is not Third Gender is negotiated in practice between transgender people, bureaucrats, and activists. Given that the NALSA decision tends to conflate all transgender communities with the traditional Hijra community, I address the ways that non-Hijra communities experience these changes in the law.

Although the NALSA judgement instructs states to recognize the identities of those who claim to be Third Gender without asking for medical verification, it largely leaves the onus on state governments to ensure that they target specific communities for social intervention. The representation of the Third Gender as an integral part of Hindu culture with deep ties to ancient scriptures “allows for a majoritarian conception of the Indian nation as a Hindu state that can bring the Third Gender into the fold” (citation here with page number). The text goes on: “Divisions between ‘real’ and ‘fake’ Hijras, or more or less feminine men, are translated into the distinction between transgender persons and cisgender [sic] MSM (men-having-sex-with-men), reifying such divides through institutional discourses of identification” (Bhattyacharya 2019: 9). Examples such as the invocation of “*Jai Hind*” (“hail Hindustan/India”) at Pride rallies; state-sponsored music videos featuring Hijras singing the national anthem; and calls by Laxmi Narayan Tripathi, a prominent Hijra activist and the *mahamandaleshwar* (main leader) of the *Kainnar akhada*, for transgender women to claim their place in the Indian army as they have carved out their space in religion demonstrate not only how transgender and intersex rights are subsumed by demands for the recognition of Hijras, but also how some transgender women have been co-opted by the Hindu nationalist state. As Bhattyacharya argues, “the danger lies in a community-based understanding of gender becoming pan-Indian law” (Bhattyacharya 2019: 9).

Framed in this way, transgender people are legible to the Indian state either as Hijras, who can be folded into the grand narrative of the nation, or those at high risk of HIV/AIDS who therefore require intervention.⁸ In either case, they are viewed as individuals who lack the capacity for self-determination and are in need of rescue.

⁸ As funding to fight HIV/AIDS flowed to communities perceived as high risk, including cis-gender and transgender sex workers, and governments and NGOs engaged members of these communities as partners in fighting a public health crisis, there was greater political mobilization in these communities. Sex-work activists and people previously categorized as MSM used the newfound opportunities to gain a seat at the policy-making table and push for greater citizenship rights (Lakkimsetti 2014).

Most of the transgender women I interviewed had dropped out of school by the age of sixteen because they had experienced gendered and sexual violence. A lack of education and discrimination in formal workplaces drove many transgender women to become sex workers or join Hijra communities. Many also joined the non-profit sector in the 1990s, but funding in this area is now slowly drying up, leaving many in precarious positions.

The fear that transgender people may be subjected to both physical and psychological tests in order to be considered Third Gender and access appropriate healthcare was validated by the regressive Transgender Protection Bill passed by the Lok Sabha (the lower house of India's Parliament) on August 5, 2019. This bill requires those applying for the Third Gender category to appear before a district magistrate and local "screening committees" to secure certification, effectively undermining the self-determination of transgender individuals and formalizing the process of a gender calculus. Additionally, the bill sets lighter sentences for crimes committed against transgender women than cis-gender women. This discrepancy reveals the state's tacit understanding that transgender women are not "real" women and therefore do not merit the same level of protection. Finally, the bill undermines the freedom and self-determination of transgender people, as it states that a transgender person will be placed in a rehabilitation center if a family member cannot care for him or her.

Findings

While the Supreme Court ruling has generated public discourse that allows transgender people to define themselves, I find that people and state agents far more often rely on local understandings of who belongs in the Third Gender. As transgender people attempt to become visible to the state, everyday actors engage in what I call a *gender calculus*: a process that

determines who is included under the Third Gender category and requires flattening all gender variance. I argue that gender operates as statecraft because gender calculations cannot account for marginalized transgender women, who, therefore, remain invisible to the state. I find that by engaging in the politics of measurement, cis-gender state actors flatten gender identities in order to simplify transgender people and their experiences.

Through a meaning-making process I term *gender calculus*, the state transforms subjects who were previously illegible because of the gender binary into legible subjects. I show how transgender women's difference is managed through negotiations and calculations between state actors, media, and cultural discourses. The Third Gender category relies on simplification to rationalize and standardize bodies, thereby obfuscating certain transgender individuals. Through the Supreme Court ruling, the Indian state created a new category, but in the absence of a pan-Indian law and due to regional diversity in how transgender identities are understood, the state does not yet have the required technologies to determine who fits into it.

This article demonstrates how the micro-level interactions between transgender women and street-level bureaucrats attempt to define the contested category of Third Gender. To this end, I find that the interactions fall into three categories, and I describe these with the questions or statements that street-level bureaucrats posed in order to rationalize the existence of a Third Gender. These are: (1) *Can you tell us what you are?*—officials seeking clarification regarding the Third Gender from outsiders whom they deem experts; (2) *Can you tell us what they are?*—officials asking transgender women to explain their gender identity; and (3) *We know what you are*—officials making normative judgements about an individual's identity based on deeply-held cultural assumptions. While it is the legal change that motivates asking these questions, it is

street-level bureaucrats who use local knowledge to transform diverse transgender identities into a static, reified gender category.

Can you tell us what you are?

By requiring medical certification as a step towards accessing the Third Gender category, the state implicates physicians and psychologists in the process of the rendering transgender people visible. The sensitivity and education (or lack thereof) of these state agents are of critical concern to transgender people. By asking, “Can you tell us what you are?” street-level state agents including doctors initiate the process of a *gender calculus* to decipher a person’s gender while simultaneously othering them.

Tara, a middle-class transgender woman who works in a call center, shared the following experience:

The last time I disclosed to a psychologist that I am transgender when I went to see her for my depression, the doctor ran out of her room and came back after a few minutes with several colleagues. She said, “We would like to ask you some questions. We’ve never had a transgender in our clinic before.” What is the point of getting these cards, the special TG wards (in hospitals), and the government’s promise of better treatment when there is so much ignorance?

The humiliation that Tara felt in being objectified was borne out by the fact that she has not sought ought any counseling since then.

Even as the doctors sought to learn from her by saying “we’ve never had a transgender in our clinic before,” they transformed her into a spectacle, thereby othering her. The subtext of this line of questioning suggests that the doctors were asking Tara to define the boundaries of her transgender identity in order to then use this information to identify and gauge others. This lack

of knowledge about gender and sexuality in the medical community, coupled with the fear of being made into a spectacle, results in transgender women avoiding medical attention. Even though the Supreme Court ruling affords self-determination in terms of gender identity, fears that authorities will demand medical tests and certification before issuing Third Gender identity cards continues to weigh heavily on the minds of respondents.

Significantly, Tara has round, soft, feminine features; she wears makeup, but also generally wears t-shirts and jeans, so she does not look like a Hijra who might beg on the street. This adds another layer of subtext to the question “Can you tell us what you are?” because Tara did not correspond to the idea of a transgender person in the doctors’ minds, i.e., a body read as masculine despite being in a *sari* (the traditional attire of Indian women).

Transgender women I interviewed frequently reported that they were asked invasive questions about their bodies by people who were trying to understand what it meant to be transgender. A transgender woman whose gender presentation was hyper-feminine shared that her perceived hyper-femininity sometimes worked against her. She said:

I have been in front of doctors and lawyers and cops before—all they are interested in is what is between my legs, even if I go in there because I have a cold. They always say I look too “womanly” to be a TG. Honestly, the men want to have fun and the women are just jealous and want to humiliate me. No one is interested in helping me.

The idea that a transgender woman appears “too womanly” suggests that there is an “ideal type” of transgender woman in the public’s imagination, which is the Hijra or the eunuch. Moreover, the reliance on bodily markers to determine gender conflates sex and gender.

Another example further clarifies how local state agents engage in *gender calculations* that reveal assumptions about what it means to be transgender. One evening Raima, an activist who works for a small transgender rights advocacy group, called me and asked to meet up to share a “funny” story about her latest encounter with the police. Sipping her tea at a neighborhood cafe, she shared, “The thing that has changed since we won the Third Gender category is that now we get invited into the police stations as experts rather than being dragged there by our hair when they suspect us or shooed away when we ask for help.” Apparently, the local police station had invited her to conduct a workshop about the rights of the Third Gender. As a self-identified trans-feminist, Raima seized upon the opportunity because she hoped to provide some gender sensitivity training to the police officers. But as she tried to open up discussion about gender equity more broadly, one of the officers stopped her and said, “We didn’t invite you to talk about this stuff. Just tell us what is a ‘Third Gender,’ what kinds of rights they now have, and how to identify the fake ones.” Raima and her colleagues then tried to explain that transgender is an umbrella term and that there is no way to “spot a fake one.” Subsequently, the police officer asked, “But you *are* a Hijra, right?” No matter how many times Raima repeated that she was not a Hijra, the officers continued to call her Hijra and TG (for Third Gender) interchangeably.

This example shows that although the state and local state agents such as police officers may want to learn about changes in the law, they continue to rely on local knowledge. Moreover, it is important to note that the police were mainly concerned with “spotting the fake ones,” revealing the stakes of the *gender calculus*.

Can you tell us what they are?

Sitting on the concrete floor of her office in a suburb of Kolkata, I interviewed Aparna Banerjee, the only Hijra member of the West Bengal State Transgender Development Board. Though Aparna is a proud member of the Hijra community, she is one of the very few Hijras who participates in Third Gender advocacy. This is in part because, unlike most Hijras, she comes from an upper-caste, upper-class background and has received an English-medium education. I asked her to explain how the state counts Third Gender populations. She responded:

We have no idea how many transgender people there are in the state. First of all, many people, especially in the rural areas, don't even know what transgender or Third Gender is—all they know is that they have been called names like hijra, chhakka, koti, and so on. But, more importantly, the government doesn't know how to count gender minorities. Think about it. How do we count anyone in the census? An official with a clipboard shows up at your door and speaks to the head of the household. Who is the head of the household? A father, a brother—a cis-man. How many men in Bengal do you know who will volunteer information about the transgender or gender-non-conforming person in their household?

Raima, the activist mentioned above, echoed the same point at the 2018 press conference.

By naming those involved in the census process, namely a street-level bureaucrat and the man of the household, transgender women reveal how they are erased and silenced in the process of gender negotiations. First, most transgender people in rural areas do not have access to terminology such as “Third Gender,” so they are unlikely to identify themselves using such vocabulary. Second, the Census is unreliable as a mechanism for the government to count and make legible marginalized populations because it a process of knowledge production that is embedded in heteropatriarchy.

From my first arrival in Kolkata in January 2016, it was clear that the NALSA judgement had forced the discourse on transgender people into the public's consciousness as never before. It seemed that every week there was a workshop on the topic of Third Gender in a university or a government agency. Invited by the transgender sex workers' organization I was affiliated with, I arrived at the Bankshall Court in Kolkata for a legal workshop conducted by a retired lawyer who had been asked by the West Bengal State Legal Services Authority (SLSA) to educate the public about the NALSA judgement. When I reached the seminar room in the old courthouse, I found that leaders of several transgender rights groups were also in attendance, along with a large group of twenty or so of cis-women legal volunteers, who were there to fulfill part of their legal training. Before the workshop began, I was approached by these trainees, one of whom asked me, "*Didi*, are you with them? Can you tell us what they are? I mean, what (body) parts do they have?"

The focus on "body parts" shows that most people conjure up the image of the intersex Hijra when thinking about the Third Gender. When I asked a lawyer associated with the state's legal aid services how they planned to find and target Third Gender populations for awareness-building programs, he said, "Do you know who can tell us where the transgenders are? It's the girls with the red ribbons in their hair. That is why we always start with the red-light areas." In terms of gender calculation, people seek out "experts" on the Third Gender by relying on misguided, stereotyped assumptions.

We know what you are

The transgender women I worked with and interviewed most often reported incidents where they had been told who they were by the public, including street-level bureaucrats. They

reported being subjected to such incidents both in one-on-one contexts and in group situations. I witnessed such an incident first-hand at a workshop held by the SLSA in April 2016. Three older cis-men were welcomed to the stage and introduced as lawyers with expertise in this area of the law. One of the lawyers began his remarks by narrating a story of the first time he had encountered transgender women. He said, “Nothing is sadder than seeing women, who are not women, with painted faces and gaudy jewelry sitting on the stoops waiting for customers... It is a shame how we have neglected you people.” Another lawyer opened his remarks by declaring, “We are here for the development of your community, the empowerment of your people.” The remark suggests that he understood all transgender people to be part of a single community and in need of rescue.

Understandably, these introductory comments elicited murmurs of discontent among the transgender activists in attendance. As the meeting progressed, the discontent grew stronger. Some transgender activists walked out, others took the microphone to deliver sharp rebukes, and still others, standing in the back, engaged in “*taali*”, a distinctive form of loud clapping that is identified with the Hijra community. In response to the transgender activists’ overt displays of outrage, the legal volunteers said to me, “How can we help them if they yell, curse, and cause disruption? The government is wasting their money on these Hijras.” It is important to note here that the non-Hijra transgender women doing the “*taali*” were also symbolically aligning themselves with the Hijras because Hijras are what the public know, recognize, and fear. While riding with me in an Uber taxi, Arpita, a transgender non-profit worker, once told me, “Listen, if the driver gets too chatty or creates problems, all I have to do is do the *taali*—that will shut him right up.” The gender calculation, therefore, is often an iterative process—because the public can

only interpolate transgender women as Hijras, they, in turn, adopt Hijra techniques in order to be heard.

Raima shared the following story about the time she went to a local branch of the state bank to open an account for our non-profit organization: “The banker said to me, ‘I don’t deal with you people.’ Then he turned to his colleague and said, ‘Dada (brother), there are a couple of *transistors* here to see you.’” Raima continued, “Now, I don’t know if this was meant as a joke or if he was just ignorant, but either way, it was humiliating.” These are everyday examples of state agents engaging in gender calculus by weighing the gender presentation of a transgender person against that of the Hijra.

I witnessed a similar case of *gender calculus* one afternoon when I was walking to the train station with my friend Tina, a transgender NGO worker and part-time make-up artist. After Tina had boarded the train and I turned to leave, a police officer approached me and said, “Didi, I know you are probably a social worker and have good intentions, but not all of them are Hijras. Some of them are men dressed like Hijras to make some easy money. Just be careful, they might snatch your purse.” When I asked the police officer how I would know if someone is a man pretending to be a Hijra, he replied, “Some of them don’t even shave their beards properly and don’t pay attention how their saree is draped. You know those ones are men, who don’t smile and just ask for your money.”

Discussion

My ethnographic data and interviews with transgender women show they are consistently confronted with questions about their gender presentation when they approach the state. Once agents of the state realize that these individuals cannot be placed in the gender binary, they fall

back on local understandings of what it means to be Third Gender. These local understandings often consist of an ideal type—the Hijra⁹. Thus, even as they make room for the recognition of transgender people, cis-gender state maintain and reproduce traditional heteronormative ideas. My concept of the “gender calculus” reveals, in the process of determining who belongs to the Third Gender category and who does not, they continue to rely on locally held assumptions about gender and caste to make that decision; thereby they hold on to the old systems of hierarchy. My research is consistent with recent research in the U.S. that demonstrates that even as the U.S. media has shifted to reflect greater societal acceptance transgender people, in its coverage of transgender reproduction, it creates new scripts to produce an ideal type of transgender person—one that is based on cis-normative beliefs and practices (Lampe, Carter, and Sumerau 2019). In this vein, heteronormative concepts—albeit differently configured based on time and place—persist and reproduce even as societies attempt to become more accepting.

By creating the Third Gender category in 2014, India’s Supreme Court seemingly took a much-needed step towards inclusivity. Yet, this research adds to the emerging literature from South Asia demonstrates that the creation of a legal category does not necessarily make all gendered bodies more visible, nor does it necessarily secure gender justice. Rather, in keeping with Puri’s (2016) theorization of the centrality of sexuality in state-making and state power, I find that by recognizing the Third Gender category, the state poses as the liberator and protector of minorities even as it expands its powers to regulate them.

9 Another way that the state “sees” transgender women is through the lens of HIV/AIDS intervention projects. Though the *gender calculus* that occurs in these contexts is beyond the scope of this article, it is not difficult to see that both understandings of transgender women, either as Hijras or as victims of HIV/AIDS, allow the state to view them as deviant and in need of protection.

Given that multiple states are adopting the Third Gender Category as a mechanism to redress violence and discrimination against queer bodies, it is important to examine its actual impact. This research shows that, when the state attempts to count and thereby, “see” its populations, it cannot, but flatten or erase certain identities. Thus, colonial gendered and caste-based logics justify the neglect of certain “unruly” populations. In the context of a post-colonial welfare state, being *seen* by the state is vital to access, often, life-altering resources; denial of the Third Gender identity comes at a tremendous cost.

Moreover, while theories of gender have primarily focused on the process of “doing gender,” this article adds to a growing body of research that lays bare the relations of power that define the limits of “doing gender.” Previous scholarship has shown how the state and medical institutions “give gender.” The concept of *gender calculus* allows us to analyze what happens when the creation of Third Gender creates an impetus to “give gender.”

However, the concept of *gender calculus* is not limited to the state or its bureaucrats. It can be observed in any situation where there is a hierarchy of power and gender is used to discipline and maintain social stratification. To illustrate, recently a school district in Texas told the guardians of a four-year old African American boy that they must cut his long hair or have him wear a dress. In this instance, the school authorities are engaging in “gender calculus” as they weaponize the concept of transgender to discipline a Black child¹⁰. Their “gender calculus” relies on the assumption of a gender binary on the part of authorities and perversely uses the concept of transgender to maintain gender and racial order. Therefore, the concept of *gender calculus* allows us to see and name the symbolic violence and structural violence certain

10 “East Texas school district tells boy to cut his hair or wear a dress.” *Indianapolis News*: <https://www.wthr.com/article/east-texas-school-district-tells-boy-cut-his-hair-or-wear-dress>

individuals whose gender presentation or identity do not neatly map onto the imagination of the nation-state. However, as Foucault observed, power is always met with resistance. In future research I take up issue of how transgender activists pushing back against the “gender calculus” of the state, both on an individual and societal levels.

References

- Abelson, Miriam J. 2014. Dangerous privilege: Trans men, masculinities, and changing perceptions of safety. *Sociological Forum* 29(3):549–570.
- Bhattacharya, Sayan. 2019. The transgender nation and its margins: The many lives of the law. *South Asia Multidisciplinary Academic Journal* (20): 1-15.
- Boyce, B. 2015. Sexuality and gender identity under the Constitution of India. *J. Gender Race & Just.*, 18:1.
- Butler, J. 1990. Gender trouble, feminist theory, and psychoanalytic discourse. *Feminism/postmodernism*, 327, x.
- Butler, Judith. 2004. *Undoing gender*. New York: Routledge.
- Camminga, B. 2017. Categories and Queues: The Structural Realities of Gender and the South African Asylum System. *Transgender Studies Quarterly*, 4(1): 61-77.
- Combs, Ryan. 2014. Key issues in transgender health care policy and practice. In *Transgender rights and politics: Groups, issue framing, and policy adoption*. Edited by Jami K. Taylor and Donald P. Haider-Markel. Anne Arbor: University of Michigan.
- Connell, R. W. 2013. *Gender and power: Society, the person and sexual politics*. Cambridge: John Wiley & Son.
- Currah, Paisly and Richard M. Juang eds. 2006. *Transgender rights*. Minneapolis: University of Minnesota Press.
- Currah, Paisly and Lisa Jean Moore. 2009. “We won’t know who you are”: Contesting sex designations in New York City birth certificates. *Hypatia*. 24(3): 113–135.

- Davis, Georgiann and Erin L. Murphy. 2013. Intersex bodies as states of exception: an empirical explanation for unnecessary surgical modification. *Feminist Formations* 25(2):129–52.
- Davis, Georgiann, Jodie M. Dewey, and Erin L. Murphy. 2016. "Giving sex: Deconstructing intersex and trans medicalization practices." *Gender & Society* 30, no. 3:490-514.
- Dreger, Alice D. 1998. "Ambiguous sex"—or ambivalent medicine? Ethical Issues in the treatment of intersexuality. *Hastings Center Report*. 28(3):24—35.
- Dozier, Raine. 2005. Beards, breasts, and bodies: Doing sex in a gendered world. *Gender & Society*, 19(3), 297–316.
- Dutta, Aniruddha. 2014. Contradictory tendencies: The Supreme Court’s NALSA judgment on transgender recognition and rights. *Journal of Indian Law. & Society*, 5: 225-236.
- Dutta, Aniruddha. 2015. Sexualities, South Asia. *The International Encyclopedia of Human Sexuality*, 1115-1354.
- Dutta, Aniruddha & Raina Roy. 2014. Decolonizing transgender in India: some reflections. *Transgender Studies Quarterly*, 1(3), 320–337.
- Fausto-Sterling, Anne. 2000. *Sexing the body: Gender politics and the construction of sexuality*. New York: Basic Books.
- Ferree, Myra Max, Judith Lorber & Beth B. Hess. (Eds.). 1999. *Revisioning gender*. Rowman Altamira.
- Ferguson, James and Akhil Gupta. 2002. Spatializing states: toward an ethnography of neoliberal governmentality. *American ethnologist*, 29(4): 981-1002.
- Foucault, Michel. 1998. *Michel Foucault: politics, philosophy, culture, interviews and other writings, 1977-1987*. Ed. Lawrence D. Kritzman. New York and London: Routledge.
- Halberstam, Judith. 1998. *Between butches*. Na.

- Kulick, Don. 1998. *Travesti: Sex, gender, and culture among Brazilian transgendered prostitutes*. Chicago: University of Chicago Press.
- Lakkimsetti, Chaitanya. 2014. "HIV Is Our Friend": Prostitution, biopower, and the state in postcolonial India. *Signs: Journal of Women in Culture and Society*, 40(1): 201-226.
- Lampe, Nik M., Shannon K. Carter, and J. E. Sumerau. 2019. "Continuity and Change in gender Frames: the Case of transgender reproduction." *Gender & Society*. 33(6): 865-867.
- Lombardi, Emilia. 2009. Varieties of transgender/transsexual lives and their relationship with transphobia. *Journal of Homosexuality*, 56(8): 977–992.
- Lorber, Judith. 1994. *Paradoxes of gender*. New Haven, CT: Yale University Press.
- Meadow, Tey. 2010. "A rose is a rose": On producing legal gender classifications. *Gender & Society*, 24(6): 814–837.
- Menjívar, Cecilia & Abrego, Leisy J. 2012. Legal violence: Immigration law and the lives of Central American immigrants. *American Journal of Sociology*, 117(5): 1380–1421.
- Meyerowitz, Joanne J. 2002. *How sex changed: A history of transsexuality in the United States*. Cambridge, MA: Harvard University Press.
- Najmabadi, Afsanef. 2005. *Women with mustaches and men without beards: Gender and sexual anxieties of Iranian modernity*. Berkeley, CA: University of California Press.
- Namaste, Vivienne. 2005. Sex Change. *Social Change: Reflections on Identity, Institutions, and Imperialism*: 92–93.
- Nanda, Serena. 1999. *Neither man nor woman: The hijras of India*. Cengage Learning.
- Nisar, Muhammad Azfar. 2018. (Un)Becoming a man: Legal consciousness of the Third Gender category in Pakistan. *Gender & Society*, 32(1): 59–81.

- Preves, Sharon E. 2002. Sexing the intersexed: An analysis of sociocultural responses to intersexuality. *Signs: Journal of Women in Culture and Society*, 27(2): 523–556.
- Puar, Jasbir K. 2007. Introduction: Homonationalism and biopolitics. *Terrorist Assemblages: Homonationalism in Queer Times*, 1-36.
- Puri, Jyoti. 2016. *Sexual states: Governance and the struggle over the antisodomy law in India*. Durham, NC: Duke University Press.
- Radhakrishnan, K.S. *National Legal Services Authority v. Union of India*. 2014. SCC 438.
- Reddy, Gayatri. 2006. *With respect to sex: Negotiating hijra identity in South India*. Yoda Press.
- Risman, Barbara J. 1998. *Gender vertigo: American families in transition*. New Haven, CT: Yale University Press.
- Risman, Barbara J. and Georgiann Davis. 2013. From sex roles to gender structure. *Current Sociology*, 61(5-6): 733–755.
- Rubin, Henry. 2003. *Self-made men: Identity and embodiment among transsexual men*. Nashville, TN: Vanderbilt University Press.
- Schilt, Kristen and Laurel Westbrook. (2009). Doing Gender, Doing Heteronormativity: “Gender Normals,” Transgender People, and the Social Maintenance of Heterosexuality. *Gender & society*, 23(4): 440-464.
- Scott, James C. 1998. *Seeing like a state: How certain schemes to improve the human condition have failed*. New Haven, CT: Yale University Press.
- Spade, Dean. 2003. Resisting medicine, re/modeling gender. *Berkeley Women’s Law Journal*, 18: 15-39.

- Timmermans, Stefan and Iddo Tavory. 2012. Theory construction in qualitative research: From grounded theory to abductive analysis. *Sociological theory*, 30(3): 167-186.
- Towle, Evan B. and Lynn M. Morgan. 2002. Romancing the transgender native: rethinking the use of the "third gender" concept. *GLQ: A Journal of Lesbian and Gay Studies*, 8(4): 469-497.
- Valentine, David. 2007. *Imagining transgender: An ethnography of a category*. Durham, NC: Duke University Press.
- Vogler, Stefan. (2019). Determining transgender: Adjudicating gender identity in US asylum law. *Gender & Society*, 33(3): 439–462.
- Walworth, Janis. 1998. *Transsexual workers: An employer's guide*. Center for Gender Sanity.
- West, Candace and Don Zimmerman. 1987. Doing gender. *Gender & Society*, 1(2): 125–151.
- Westbrook, Laurel and Kristen Schilt. 2014. Doing gender, determining gender: Transgender people, gender panics, and the maintenance of the sex/gender/sexuality system. *Gender & Society*, 28(1): 32–57.

ARTICLE 2: TRANSGENDER SEX WORKERS & THE POLITICS OF QUEER RESPONSIBILITY

INTRODUCTION

Like many other nations, India is contending with new developments in transgender rights globally and at home, as evinced by the legal recognition of the Third Gender category by the Supreme Court in 2014. This was the outcome of social interest litigation filed by the National Legal Services Authority, a state-constituted body that fights on behalf of marginalized groups. However, the impact of these changes and how they shape the lived experiences of transgender women, who are the most visible among transgender identified people in India, is not well-understood. That violence against transgender women continues unabated¹¹ despite the social and legal progress indicates that the reality of the transgender lives and experiences remain precarious.

Transgender people in India, as elsewhere, are not a single homogenous group, but have diverse gender identities, socio-economic histories, and political commitments. However, as Ani Dutta argues, the Supreme Court decision often conflates all transgender communities with the traditional Hijra¹² community (Boyce 2015, Dutta 2015). Thus, I attend to the ways in which non-Hijra transgender women experience the changes in the society, including the legal recognition of the Third Gender Category and greater visibility in the media. In particular, I focus on transgender sex workers because, having been pushed out of their families, educational systems and facing exclusion from other forms of employment, many transgender women have

11 Reports 11 transgender people were murder between October 1, 2018 and September 30, 2019

12 Hijra: Hijras are a socio-cultural group, common any several regions in India, who describe themselves as neither men nor women.

found sex work¹³ as one of the only means of survival. Moreover, transgender sex workers have been at the forefront of transgender rights in West Bengal. Since the early 1990s, the global HIV/Aids funding and governance projects have informed the lives, gendered subjectivities, and activism. Thus, my research focuses on those whom, despite their increased vulnerability, have been the most active in challenging the precarity of their condition.

The legal recognition and greater visibility of transgender women may indicate a shift in seemingly progressive shift in terms of gender equity in India. This political and social moment in India presents an opportunity to examine how these tendencies manifest on the ground. Centering their experiences, practices and strategies bring to light key insights about limits and possibilities of the changing gender/sexuality regime in India.

Transgender sex workers occupy a position at intersection of oppression based in class/caste and gender identity. When we consider queer activism, we often only think of cis-gender gay men, and the dominant analysis of sex workers' movement focuses on cis-gender women¹⁴. An intersectional lens reveals that transgender women have often been erased from narratives regarding social movement¹⁵. To that end, I ask: How do transgender sex workers respond to new developments regarding gender in India and this new geopolitical economic and moral moment—one that is shaped by austerity and neoliberalism and, at the same time, marked by Hindu nationalism, through every-day practices and activism strategies?

13 While sex work is not technically illegal in India, there are several laws related to sex work that criminalize sex workers and their families. This includes laws that criminalize soliciting sex work and living off the income of sex workers. The Immoral Trafficking Act (ITPA) is also often used to criminalize and persecute sex workers.

14 Lakkimsetti's (2019) recent work excluded.

15 Another group that is consistently erased from narratives of transgender rights are transmen maybe due to the fact that, within a patriarchal context, transmen who are raised as girls, by and large were not allowed to occupy public space. Moreover, the HIV/AIDS prevention programs that helped fund and politically mobilize transwomen, inadvertently reproduced the erasure of transmen. Due to the fact that Hijras and MtF transgender people are more visible and because the HIV/Aids prevention agencies in the 1980s and 1990s did not identify lesbian women and transmen as a high-risk groups and, therefore, did not fund organizations that catered to these communities. As a result transmen are much less visible and politically organized.

In this article, I situate the lives and strategies of transgender sex workers in the current socio-political climate that is informed by the logics of neoliberalism as well as the Caste-based heteropatriarchal regime. Here, the dual pressures of neoliberal subject-making and post-colonialism have profound impact on what scholars call the “politics of respectability”. In turn, the politics of respectability (Higginbotham 2003) shape gender identities and expression. Scholars of race, gender and social movements have come to understand politics of respectability to describe moralistic discourse that sanctions internal policing within a marginalized community in the hopes of achieving respect and acceptance by the dominant groups in society. In the context of transgender women in India, politics of respectability can be seen as a gender-making process, as being recognized as a woman is dependent on performances of respectability, while a politics of queer responsibility can create gender-disrupting possibilities.

By using the case of transgender women in India, I reveal the life and death stakes of performing a politics of respectability under the pressures of neoliberalism through a process I name a *politics of queer responsibility*. A *politics of queer responsibility* emerges from disciplinary forces that compel transgender women to self-discipline and, at the same time, create an impetus to subvert the calls to respectability by upper-class/upper-caste transgender women. To that end, I examine the competing social logics that inform individual’s gender presentation in public and the claims they make to state resources, such as quotas for employment and education.

This research centers the experiences and knowledge produced by transgender women in order to shed light upon the new uses of gender in an era of shifting neoliberal globalization. The focus on transgender sex workers reveals the way in which global and local discourses of gender and sexuality speak to each other and provides new insights into the ways in which gender roles

and performance are shaped by dimensions of social location, including region, class, and caste, within a particularized geopolitical space and place. central feminist concerns are at stake in this analysis. Not only does this work (re)consider the social expectations attached to genders and the way in which boundaries of gender are destabilized and policed, but it reveals how marginalized people attempt to mobilize around intersecting systems of oppression and the limits of these efforts.

LITERATURE REVIEW

The theoretical framework of this article draws on theories of contemporary social constructions of transgender, post-colonialism, Black feminist and Queer of color theory and political economy of transgender rights. Each of these theoretical lenses help elucidate the pressures and stakes of the politics of respectability that transgender women in India face

1. Social constructionism

In contemporary gender studies, ‘transgender’ has come to be used as:

An umbrella term for a wide variety of bodily effects that disrupt or denaturalize heteronormatively constructed linkages between an individual’s anatomy at birth, a non-consensually assigned gender category, psychical identifications with the sexed body images and/or gendered subject position, and the performance of specifically gendered social, sexual, or kinship functions.” (Stryker 1998, 149)

It is also an informal term and its definition varies by discipline and has evolved over time (Combs 2014). Until recently, the area of transgender studies has consisted of studies that considered the transgender person as the object of research. For example, West and Zimmerman used the example of Agnes, a transwoman, to highlight how individuals learn to “do gender” in general (1987). In contrast, by centering the lives, experiences, and knowledge of transgender women this research builds on a burgeoning body of critical literature (Namaste 2000, Rubin 2003, Vidal-Ortiz 2002) that Schilt and Lagos (2017) identify as causing epistemic and paradigmatic shifts in the transgender studies.

Gender scholars generally agree that while gender identity is individual (an “internal” matter) in the sense that people self-identify with a gender; it is an embodied experience (Bullough 2000), gender identity is also a public issue in the sense that even in the performance of gender—for the performance to make sense—people draw on social understandings of gender. Moreover, sociologists of transgender, especially intersectional transgender scholars, have come to understand that gender identity and sexual desire are always unstable and intertwined with relations of power (Collins 2015).

Yet, often these insights remain largely forgotten when turning to the construction of non-Western transgender. Towle and Morgan (2002) have characterized the West’s understanding of transgender people in the non-Western contexts as a form of re-orientalism. It presents this identity as fixed and immutable and rooted in spirituality and culture. This view essentializes both non-Western cultures and transgender people who fall into the Third Gender category. However, emerging research from South Asia, East Asia and Middle East (Najmabadi 2005; Dutta and Ray 2014; Hegarty 2017; Nisar 2018) show the diversity, complexity and contested nature transgender subjectivities and lives and contextualize them they interrogate the

relationship between lived realities transgender people within the histories of colonialism and contemporary national and global contexts. This article relies on the understanding of gender as an individual and collective achievement and pays attention to the circumstances in which people seeming “fail” to do gender and the stakes of that apparent failure.

Moreover, recent scholarship of transgender demonstrates that, rather than being two discrete categories, gender and sexuality are inextricably linked and mutually-constitutive (Spade 2003; Dutta 2015).

Finally, drawing on Halberstam’s (2006) use of ‘queer’ as a critical position one adopts toward hegemonic constructions of gender as fixed, oppositional, and immutable. This paper attends to the ways sexuality in which is disciplined by social institutions and practices that normalize heterosexuality and how this informs recognized and accepted gender identities and are deemed to deserve state redress and respect.

2. Post-coloniality

Given that gender, rather than being a permanent ontological position, is interactional, for gender performance to make sense, we need to have a common understanding of gender.

Therefore, discussions of gender and sexual identities must be framed within national contexts that shift and evolve over time. Situating transgender sex workers culturally and socially allows us to understand why they perform gender a certain way, understand the meanings attached to certain gender presentation, identity and the individual and the limits and possibilities for subversive tactics, individual or collective—helps to analyze and brings to focus the stakes. To understand how the new developments in the Indian society’s idea of transgender impact the experiences and strategies we need to understand the symbolic and historical meanings that the body of transgender woman holds in the Indian national imagination.

As Vijayakumar observes, “[on] the shifting terrain of contemporary Indian sexual politics, two opposing narratives often surface. On one hand is an account of linear progress from oppressive tradition to globalization, modernity, and sexual freedom. On the other is an account of an idealized, precolonial, sexually tolerant past, suppressed by, and finally freed from, colonial morality” (2019, p.). The contradictions and clashes between the two often play out on the bodies of transgender women, particularly sex workers. In fact, these contradictory narratives are present in the 2014 NALSA judgement that mandated legal recognition of the Third Gender category. The judgement cited laws in numerous “more developed” states to make the argument that recognition of the rights of transgender people is a step in linear march toward equality and individual liberty that modernity mandate. Simultaneously, the judgment also cites India’s long tradition of Hijra and other Third Gender communities to claim that acceptance of gender diversity is rooted in pre-colonial Indian culture.

The figure of the sex worker serves as foil for the middle-class and Upper Caste Indian woman, in the case of Bengal, the *bhadramahila*, “the civilized woman.” Post-colonial theorists have argued that with the Indian nationalist movement, a new patriarchy was born—the Bhadramahila: “new social responsibility, and by associating the task of female emancipation with the historical goal of sovereign nationhood, bound them to a new, and yet entirely legitimate, subordination” (Chatterjee 1989). I trace the politics of respectability that animates class divisions among transgender women to the invention of the *new Indian woman*.

Contemporary South Asian scholars of gender argue that in their theorizing of gender and nationhood in post-colonial India, the Subaltern Studies group—that was foundational to post-colonial studies—did not contend with the question of gender non-binary or queer Indians, colonial law as well as masculinist post-colonial movement and institutions it generated,

criminalized queer people. Addressing this gap, I build on the emerging body of literature that explores nuances of queer identities indigenous to South Asia, which do not fully map on to the western LGBTQ framework (Cohen 1997; Dutta and Raina Roy 2015). I am building on this work to make explicit contested nature of the post-colonial queer identities and the limits and possibilities of queer social movements. My intervention is to show how Indian sex workers, through their presentations of self and advocacy strategies deploy a queer critique to resist classist/Casteist heteropatriarchy and, at the same time, develop positionalities.

3. Black Feminist & Queer of Color Critique

However, to what extent heteronormativity is disrupted by this change remains to be seen. Scholars have argued that the transgender phenomenon can be both anti-heteronormative and heteronormative (Bryant and Vidal-Ortiz 2008; Wiegman and Wilson 2014). trans –deserving of respect and recognition of rights

We learn from Black feminist theory, that politics of respectability entailed, "reform of individual behavior as a goal in itself and as a strategy for reform." This strategy had two audiences: African Americans who were encouraged to be respectable and white people who needed to be shown that African Americans could be respectable (Higginbotham 1993). Furthermore, Higginbotham (1993) observed that it was the duty of the “respectable” Black woman to conduct herself in a way that would uplift her race. While the discourse of respectability was designed by Black women as a form of resistance to racist stereotypes, it has the effect of authorizing discrimination against Black women who did not conform to the boundaries of respectable behavior. I borrow this concept of politics of respectability to analyze the upper-class women attempt to police poor transgender women in order to show to upper class

cis-women and men that transgender woman can be respectable, and therefore, are deserving of respect.

Moreover, in the West, queer political struggles have characterized by Fraser (1997) as being part of the politics of recognition in contrast to the class politics of redistribution. Queer people of color, as organizers and scholars, disrupted this binary. By centering the experiences of queer people of color, they revealed that a politics of recognition not fully address the kind and range of oppression they face. Drawing on the insights of gender/sexuality scholars of color in the U.S., I use the term queer to signal a politics that “rejects a minoritizing logic of toleration or simple political interest-representation in favor of a more thorough resistance to regimes of the normal” (Cohen 1997). This research shows us how marginalized people attempt to mobilize around intersecting systems of oppression and the limits of these efforts. As Dean Spade’s concept of the critical trans lens indicates, a rights-based approach to addressing marginalization and poverty fails to address the marginalization and poverty of transgender communities as it individualizes violence against trans people.

4. Political economy

To analyze the layers of meaning in the gender positioning and activism tactics of transgender sex workers in changing terrain of sexual politics in India, I turn to theories of emergent subjectivities the neoliberal moment produces. While in classical liberal political thought constitutional equality sought to guarantee political rights for the citizen subject, neoliberalism seeks to produce an entrepreneurial subject, one who is actively making choices to maximize one’s economic interest within a free market economy. The neoliberal social order mandates that one must engage with and contribute to the free market economy in order to be valued. In the Indian context, scholars have noted the intensification of neoliberal social order

since the mid 1980s, in which economic liberalization concomitantly has given rise to the citizen subject (Grewal 2005, Oza 2006).

Suparna Bhaskaran (2004) observes that ideas about personal responsibility and transnational human rights rhetoric which frame lesbian, gay, bisexual and transgender (LGBT) individuals as subjects of legal rights. Moreover, queer identities in the Global South are situated within global circuits of HIV/Aids funding and transnational LGBTQ social movements and the global NGO industrial complex. As Warere finds, marginalized queer people in Asia commodify their suffering in order to capitalize on the thirst of audiences in the West for documentaries featuring stories of Third World victimhood. He argues that “it is through affective labor for the mass media that the *waria* have increasingly come to see victimization—in particular, the evocation of pity—as an important part of a performativity repertoire through which they articulate claims of mobility.”

Since the early 1990s, the global HIV/Aids funding and governance projects have informed the lives, gendered subjectivities, and activism. We learn from Lakmasetti’s (2014) analysis of the complex changes the transnational HIV/Aids governance effected in the relationship between sex workers and the Indian government. I build on the insight that new subjectivities are being formed among Indian sex workers themselves by the new biopower projects of the state, but also the demands of the epidemic has resulted in internal contradictions for the Indian state that influence how the state responds to the sex workers’ claims of citizenship.

Transgender sex workers face exclusion for various transgender and feminist activist circles. In response to this, they develop ways to resist and form alliances. They do so within and disrupting what Ray (1999) terms “hegemonic fields of protest.” These fields include: the West Bengal’s history of hegemonic leftist mobilization in which class subsumes all other dimensions

of oppression and international LGBTQ discourse imported through international HIV/AIDS funding agencies since the 1990s that offers the language of rights but also subsumes diversity of local gender identities under the category of ‘transgender.’

In India, as elsewhere, transgender people are not a single, homogenous group, but have diverse gender identities, socio-economic histories, and political commitments. However, the NALSA decision tends to conflate all transgender communities with the traditional Hijra community (Boyce 2015, Dutta 2015). As such, contestations about the boundaries of the Third Gender play out over the bodies of transgender men and women on a daily basis, as they attempt to secure their newly enshrined rights.

RESEARCH CONTEXT

1. The Legal Context

Patterns of state-supported gendered violence in the Global South can be traced back to colonialism. British law criminalized Hijras under the Criminal Tribes Act of 1871, later subtitled “An Act for the Registration of Criminal Tribes and Eunuchs,” and through Penal Code 377, which banned non-heterosexual intercourse. The Hijras’ history of negotiating, resisting, and subverting the state’s efforts to control them tells us that their gender performances and practices have been politically shaped and far from static. However, while criminalization of trans communities came with British colonialism, pre-colonial Indian society was not free from transphobia. Dalit trans activist and artist Living Smile Vidya talks describes transphobia as a type of Brahminism (Caste-based Hinduism), wherein the hijra is an untouchable subject (Semmlar 2014).

Even though, in 2014, the Supreme Court granted legal recognition to transgender people, the regressive Transgender Protection Act of 2019, undermines the purported goals of recognizing the freedom and dignity of trans people. This act requires those applying for the Third Gender category to appear before a district magistrate and local “screening committees” to secure certification, effectively undermining the self-determination of transgender individuals. Additionally, the act sets lighter sentences for crimes committed against transgender women than cis-gender women. This discrepancy reveals the state’s tacit understanding that transgender women are not “real” women and therefore do not merit the same level of protection. Finally, the act violates the freedom and self-determination of transgender people, as it states that a transgender person will be placed in a rehabilitation center if a family member cannot care for him or her. Thereby, the state will push transgender people to remain with their biological families, in spite of the fact that family is often the site of violence for queer folks or be forced to enter a “rehabilitation home,” which amounts to carceral protectionism.

Moreover, even though the decriminalization of homosexuality was an important step, it is important to remember that very few people were ever prosecuted under the Article 377. In contrast, the state regularly criminalizes hijra and other transgender communities under laws that criminalize organized begging and sex work, such as under the Immoral Trafficking Prevention Act, which remains in effect.

2. Cultural and Political Context

With gender boundaries policed according to normative and traditional conceptions, the anxiety over identifying “fake transgender” persists, as Third Gender people attempt to access newly available state resources. The court rationalized its decision to recognize the Third Gender

by claiming that, rather than being a Western import, the recognition of Third Gender people is rooted in Indian culture. This has had unintended consequences, as it reifies the figure of the Hijra or Kinnar as the sole legible Third Gender identity and erases other transgender identities, particularly transmasculinities. Dutta and Roy (2014) point out that it was only in the third phase of the National Aids Control Program (NACP) that the category “transgender” came into official circulation as yet another “high-risk group” requiring attention in India. While global public health institutions such as the World Health Organization (WHO) circulated terms like “men-having-sex-with-men” (MSM), which tend to pathologize queer marginalized populations and give rise to the image of the ever-suffering queer body, representations of transgender people in the Indian mass media focus almost exclusively on the Hijra. Because of the lack of clarity in the state’s definition of transgender or Third Gender, who is or is not Third Gender is negotiated in practice between transgender people, bureaucrats, and activists. Given that the NALSA decision tends to conflate all transgender communities with the traditional Hijra community, I address the ways that non-Hijra communities experience these changes in the law.

Although the NALSA judgement instructs states to recognize the identities of those who claim to be Third Gender without asking for medical verification¹⁶, it largely leaves the onus on state governments to ensure that they target specific communities for social intervention. The representation of the Third Gender as an integral part of Hindu culture with deep ties to ancient scriptures “allows for a majoritarian conception of the Indian nation as a Hindu state that can bring the Third Gender into the fold” (citation here with page number). The text goes on:

¹⁶ The court stated, that “transgender person” means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.

“Divisions between ‘real’ and ‘fake’ Hijras, or more or less feminine men, are translated into the distinction between transgender persons and cisgender [sic] MSM (men-having-sex-with-men), reifying such divides through institutional discourses of identification” (Bhattyacharya 2019: 9). Examples such as the invocation of “*Jai Hind*” (“hail Hindustan/India”) at Pride rallies; state-sponsored music videos featuring Hijras singing the national anthem; and calls by Laxmi Narayan Tripathi, a prominent Hijra activist and the *mahamandaleshwar* (main leader) of the *Kâinnar akhada*, for transgender women to claim their place in the Indian army as they have carved out their space in religion demonstrate not only how transgender and intersex rights are subsumed by demands for the recognition of Hijras, but also how some transgender women have been co-opted by the Hindu nationalist state. As Bhattyacharya argues, “the danger lies in a community-based understanding of gender becoming pan-Indian law” (Bhattyacharya 2019: 9). Framed in this way, transgender people are legible to the Indian state either as Hijras, who can be folded into the grand narrative of the nation, or those at high risk of HIV/AIDS who therefore require intervention.¹⁷ In either case, they are viewed as individuals who lack the capacity for self-determination and are in need of rescue.

3. Social/Economic Context

Most of the transgender women I interviewed had dropped out of school by the age of sixteen because they had experienced gendered and sexual violence. A lack of education and discrimination in formal workplaces drove many transgender women to become sex workers or

¹⁷ As funding to fight HIV/AIDS flowed to communities perceived as high risk, including cis-gender and transgender sex workers, and governments and NGOs engaged members of these communities as partners in fighting a public health crisis, there was greater political mobilization in these communities. Sex-work activists and people previously categorized as MSM used the newfound opportunities to gain a seat at the policy-making table and push for greater citizenship rights (Lakkimsetti 2014).

join Hijra communities. Many also joined the non-profit sector in the 1990s, most of the people I interviewed had, in the 1990s, been affiliated with the MSM Advocacy for Social Action, Bengal (commonly known as Manas Bangla). However, as funding in this area is now slowly drying up, leaving many in precarious positions.

In response to the 2014 Supreme Court Third Gender ruling, the West Bengal state government set up a Transgender Development Board, led by Manabi Banerjee, an upper class/caste transwoman. Almost all of the transgender women I interviewed agreed that the Board has done next to nothing for transgenders communities and is widely viewed as a symbolic institution. West Bengal has been at the forefront of sex workers' rights movement in India for over three decades. The Transgender sex workers' activism is shaped by two aspects of the hegemonic political field in West Bengal. The first is the 70 years of Communist party rule that grew out of a long history of struggle for peasants' and workers' rights. Many of the leading transgender activists I interviewed were from Left-identified families. The second aspect of the political within which the transgender activists operate is that national and international HIV/AIDS funding. Almost all of the activists I interviewed were, at some point in their lives, worked for HIV/Prevention campaigns in the 1990s. The legacies of these two histories continue to shape the contours of the transgender rights movement in terms of what issues activists deem to be "transgender community issues" as well as the kinds of solutions they propose.

METHODOLOGY

This research is primarily based on eighteen months of participant observation with two transgender women's rights organizations in Kolkata, India. I also participated in the planning

meetings for the LGBTQ+ Community Parliament, a coalition of over forty transgender rights organizations, as a notetaker. At this Community Parliament, leaders from LGBTQ organizations gathered to develop a bill of LGBTQ rights to present to the government through a democratic and intersectionally-minded process. I was invited to and attended two Queer Cafes, which are spaces for the LGBTQ community and its allies to come together in a way that is not directly related to professional activism. At these events, friends share their poetry, dance, and music, as well as support each other financially by buying art, crafts, and jewelry. Additionally, I regularly attended meetings in non-profit offices, government offices, and the homes of transgender activists. To further triangulate my research, I conducted in-depth interviews with 32 transgender women, employing a snowball sampling method. These interviewees ranged in age from 23 to over 70, and none of them had undergone gender confirmation surgery. Most were taking some form of hormone therapy, but only one had access to a doctor on a regular basis. Importantly, as I am a native Bengali speaker, I conducted all of the fieldwork in Bengali. I took notes in both English and Bengali and transcribed and translated them myself.

My identity as a *savarna* (caste-privileged Hindu), cis-gender woman with middle-class status and an advanced education meant that many of the transgender women initially regarded me with caution. My long-time connection with transgender women in a sex workers' union gave me an entrée into the world of transgender rights activism. After I had attended several open meetings and public events on transgender issues, activists began to accept me as an ally. As a cisgender person writing about transgender lives, I am keenly aware that I have a responsibility to question my own assumptions and analyze my cis-privilege, both while I worked on the field and analyzed my data. To this end, I take the directive Paisley Currah, Richard M. Juang, and Shannon Price Minter state in their introduction to the seminal collection

Transgender Rights, to ensure that my goal is to create scholarship that "does not situate [transgender] people as a means to an end or an intellectual curiosity but considers the well-being of [transgender] people as an end in itself."

FINDINGS & ANALYSIS

I present the findings in two categories: first, I discuss how upper-class transgender women hold poor transgender women accountable to what it means to be a "good woman." Then, I present ethnographic moments from transgender sex workers organizing to show the variety of ways in which transgender sex workers respond to the pressures of respectability politics.

1. *Transgender sex workers and politics of respectability:*

The common perception of Third Gender in India is that they are all hijras and that all hijras are ritualistic beggars, sex workers and thieves. Significantly, the hijra community is acutely aware of this association most people make between their community and profession with sex work and respond by punishing anyone within community who engage in sex work. Over the last decade, transgender activists have attempted to change public perception to show that there is variance within people who identify as transgender or Third Gender. Yet, the stigmatized image of the hijra proves to be sticky. Below are two instances during my field work that demonstrate how powerful this image seems to be.

During the 2016 local election season, a television journalist asked to interview Gohon, a transgender sex worker and a few of her colleagues at the sex workers' union. Gohon asked me to present, "to make sure I say the right things". I told her that she didn't need to me to help her with what to say, but that I would be present at the interview to bear witness to how the

journalist, a Hindu, middle class cis-woman, treats Gohon and her friends. During the interview, the journalist kept referring to the transgender women gathered as hijra, after they corrected her multiple times. They explained that they were sex work activists and NGO workers and that their main concern during the election was that their community would finally have a voice because a Hijra was running against the Chief Minister. “We know that she will not win, but at least people will know that Third Gender people exist and that we have more to offer than blessings in exchange for a few coins.”

By the end of the interview, the journalist suggested: “as we close, please sing a song you would sing when you are together as a group.” Gohon explained: “we don’t sing, we told you, we are NGO workers.” However, the journalist kept insisting, so the group sang “amar mukti aloy aloy” “my freedom is the light in the horizon” by Rabindranath Tagore. Knowing a song by Tagore and being able to use it strategically in the context of a discussion about political liberation and self-determination, signifies a certain cultural capital and respectability. Deploying this song can be read as an articulation of complete personhood as she challenges the journalist’s preconceived notions about her.

The chair of the Transgender Development Board, as well as other prominent upper-class transgender women activists, often call out members of the transgender community for being loud, obnoxious and not feminine enough. This politics of respectability also dictates that questions of sexuality are sidelined in the public discourses, in favor of a discourse of “development” and “empowerment” of transgender people. One of the most striking examples of demands for upper-class femininity came from the Chair of the Transgender Welfare Board & Mainstream Media. As Raima, a transgender petty NGO worker expressed, talking about the first transgender woman to become principal of a college and the Chair of the West Bengal

Transgender Development Board, “not everyone of us can be Ms. Banerjee or even want to be... she was good, in a sense, brought the issue of people like us to the mainstream public, but I don’t think she told the newspapers that hijras need to act more civilized and not be so loud.” Another working class transgender woman, Minu said, “Ms. Banerjee tells us to “act like women, you will be accepted as women” but I knew her back when she was still wearing pajamas under her saree (**indicating before she had gender confirmation surgery)...it’s a betrayal for us.” Given that in these instances, the calls for transgender women to be more “respectable” comes from someone within the transgender community, but also attached to the state, as a member of the Transgender Development Board gives this politics of respectability an additional layer of legitimacy.

Raima, a transgender activist and former sex worker, expressed concern about Banerjee’s position on the criminalization of sodomy. She said, “upper class transwomen refuse to talk about 377¹⁸, they say that it’s a private matter and that the police aren’t following them into their bedrooms, but TGs like us [those who have not had SRS or hormone therapy] have a different life story.” The reluctance of upper caste transgender women in taking a stand against 377 even as the fight to abolish 377 has been a rallying cry for upper caste ciswomen, is explained by the fact that, for transgender women, perceived heteronormativity is key to gaining respectability.

Srila—a light skinned, middle class transgender woman celebrated by the media and other transgender women as a “success story” upon her marriage. According to a newspaper interview, Srila said: “my father-in-law can’t go a day without my cooking...my husband and I have been friends from when we were young, before my transition...it was just meant to be. It’s wonderful how they have accepted me. I got my dream wedding...and now we are just a normal family.” A

¹⁸ Article 377 of the Indian Penal Code criminalized “unnatural sexual intercourse” and was recently overturned by the Supreme Court in 2018

wedding and performance of traditional gender roles is a critical part of gaining social legibility and respectability.

Responding to this narrative, Nirmala, transgender woman sex worker said: “I’m really happy for Srila, but not everyone can achieve that. Not everyone can afford or want the surgery and, more importantly, not everyone can be as fair and beautiful as she is... That is why I don’t like to call myself “female”. I am not, how can I be?” This comment was echoed by a Joya, a transgender activist whom I interviewed while she was speaking at the National Queer Asian Pacific Islander Alliance. Joya shared that “in South Asia, if you have the resources, you can get surgery and hormones without too much hassle—if you have money, you can change your certificates from male to female. But most of us do not have such resources. The elite transsexuals can’t relate the struggles of those of us on the streets.” These comments reveal the extent to which access to certain gender identities are shaped by class status. The performance of ideal Bengali femininity is necessarily tied to class and cannot be fully achieved without medical and cosmetic intervention that is out of reach for most people. Moreover, the urban Bengali culture and society is deeply grounded in the gender binary and does not allow for the numerous forms of gender identities exist in rural Bengal that lie beyond the gender binary and cannot be mapped easily on to Western LGBTIQ discourse (Dutta and Roy). Thus, the kind of respectability that upper class transgender women demand from what they call the larger “trans community” is not only an exercise in futility for most, it also reinforces a Caste/class-based heteropatriarchy.

Transgender sex work activists not only face the pressure of politics of respectability from elite transgender women, but also from elite Bengali ciswomen. For years, transgender women

have been barred from traditional feminist organizations that are dominated by urban and English-language educated ciswomen.

As Raima recalled,

“[the cis-upper-class feminists] would not let us into their meetings..they said it was because we wore sindur and shankha (the markers of Bengali married women)...they would say, ‘How dare you show up to our meetings dressed like that? You people insist on holding on to the very relics of the patriarchy we want to smash.’ Those ladies made us feel ignorant, but did not realize that when we, as transgender women who openly identify ourselves as sex workers wear the sindur and shankha, we were also thumbing our noses at the patriarchy. No one looks at me [being a transgender woman] and says ‘oh, what an ideal bride’ just because I put on a sindur.”

In the context of upper-class, English-educated feminist space, the elite narrowly focused on the sindur and sankha, which they read as indicator of backwardness and ignorance. an intersectional analysis would have enabled the organizers of these meetings to see how the meaning of the sindur and shankha are altered when marginalized transgender women wear in a way that subverts rather than reifies the hetero-patriarchy. Thus, transgender sex workers repeatedly found themselves beyond the boundaries of respectability and in search of a politics that respond to the complex realities of their lives at the intersection of multiple oppressions.

2. Transgender sex workers and politics of queer responsibility

In response to the politics of respectability advanced by upper class transwomen, Gohon and other transgender sex workers present what I call a *politics of queer responsibility*, one that is

grounded in intersectionality. Transgender sex workers have drawn on a politics of queer responsibility for decades, if not longer. It emerged, in part, from a need to distance themselves from a stigmatized category, training/professionalization through decades of anti-HIV/AIDS activism¹⁹, and the drive to address the realities of the day-to-day struggles of poor, marginalized transgender women. In so doing, the transgender sex workers are able to not only align themselves with other transgender communities and sex workers, but also with other marginalized people in the city, including migrant laborers, Dalits, and dispossessed Muslim communities. At the same time, the transgender women's politics that emphasizing *responsibility* over *respectability* can be interpreted as attempts to conform to a neoliberal subject-making process.

1. Intersectional response to crisis

This politics of queer responsibility was demonstrated in the aftermath of a major tragedy in the city. On 31st March, 2016, a portion of the then-under construction Vivekananda flyover in the Girish Park neighborhood of North Kolkata collapsed on top of cars and pedestrians passing underneath. Official records indicate that twenty-seven people were killed and eighty were injured, but residents of the neighborhood, including many of the sex workers, suspected that the number was significantly higher. One the reasons that residents suspected that the official number was low is because many of the people affected by the accident were invisible to officials. They were migrant men who worked as taxi drivers and parked their taxis under the

¹⁹ As Dutta has noted, most HIV/AIDS funding has been targeted toward working class/Dalit (so-called) MSM-TG sections, who serve both as clients and cheap labor.

flyover, cigarette and snack vendors who kept illegal shops under the bridge, and hijras²⁰ who solicited alms at the traffic stop.

“We are not just here for the “Hijra-*didis*” (sisters) we lost,” insisted Gohon, “people need to know that we are here for everyone who died. The taxi drivers and shopkeepers were our friends and customers...Many of them left their families in far-away places to work in this city, their families may never know how their loved ones died. We are here for them. They are all our community. This city is ours. Who else cares about it like we do? Who takes responsibility for it?” This image of Gohon, in her usual long hair and salwar kameez without a dupatta—dark skin, no make-up—waiting with a candle in front of the park strikes an evocative image—one that demands respect that is not tied to a performance of upper-class Bengali cis-womanhood. When speaking to the media about this vigil, Gohon insisted that the government’s figures about the death toll could not be correct—that the actual figure must be much larger than thirteen. She said, “We know our own neighborhood. There are people missing. How can we pretend like the never existed?” In this instance, the transgender sex workers aligned themselves not only with the Hijras who beg in their neighborhoods, but also with migrant workers. As a result, they demonstrated a commitment to a politics of representing those who are invisibilized.

In another instance, Nirmala shares that “I don’t have a paid position with the HIV project anymore, but I don’t feel like I can leave this neighborhood because so many people depend on me because I know how to navigate the police—whether someone is facing domestic

20 The hijra community in South Asia (which includes India, Pakistan and Bangladesh) encompasses persons with a variety of gender identities and sexual orientations. The Hijra is more than a gender identity—it is a religious, professional community that has been a part of South Asian culture for centuries. Though marginalized, they performed key rituals, such as childbirth and wedding ceremonies across religions boundaries. Criminalization of this population dates back to the British colonialism and the 1871 Criminal Tribes Act. While this act is no longer in effect, the police continue to persecute them under various vagrancy and public nuisance laws. The exact number of hijras in India is unknown since there are no specific nationwide efforts to systematically collect such information, though is estimated that there are between 50,000 to 1.5 million hijras in India. Hijras are pan-South Asian; they are known as “kinnar” in parts of North India and “Aravanis” in South India.

violence or having conflict with their landlord, people know to come to me for advice...I help them fill out FIRs...yeah, I know how the cops work and people in my neighborhood know and respect that.” They also shared that many people in the neighborhoods, especially in semi-rural areas, often approach them about health issues because of their reputation as peer health educators. “People ask us about all sorts of illnesses, not just STDs, but also about Dengue fever and malaria...If we had a little bit of training, like in nursing, we would be able to do a lot of good in places where doctors and nurses are hard to come by.” So, even as funding for HIV/AIDS related projects wane, transgender sex workers often try leverage their social and cultural capital to create space within the larger society.

2. Partnering with the state agencies

Another way in which transgender sex workers attempt to leverage their social capital for larger transformations is by framing their role within a neoliberal and carceral feminist discourse of sex trafficking. For example, when a lawyer from DLSA met with Gohon to discuss the issue, she began introducing herself by fore-fronting her work fighting trafficking of girls in the red-light area. Gohon said, “I am from the sex workers union. I am sure you have heard of us, we work with other units in the agency on rescuing the trafficked girls from the Sonagachhi. What we want to do is give back to the community. That is why we want to be legal volunteers...we need to be a part of the system to change it.” By engaging discourse of rescue and rehabilitation of trafficking victims, Gohon demonstrates her familiarity with the discourse of development in a way that allows the government official to see her not as a “Hijra” but as a professional rights activist.

The kinds of efforts towards coalition-making among transgender rights groups reflect the contradictions that arise from fighting for transgender rights within a neoliberal context. August

of 2016, thirteen LGBTKH groups from five districts of the West Bengal gathered together in a conference hall in Kolkata to consider the need and feasibility of a LGBTQHK people's parliament. The groups ranged from transgender sex workers, Hijras, and feminist lesbian and transmen's organizations. The group also cut across class and urban/rural divides. Gohon opened the meeting by paying homage to both cis-and transgender sex workers who had created a people's parliament over two decades ago that helped establish the sex workers' movement for dignity in West Bengal.

Two central concerns animated the meeting: 1. to create an infrastructure that will help identify, encourage and support the participation of under-represented members of the LGBTKH community, particularly Dalit and rural transgender men and women. In an effort to establish and maintain the democratic norms of the meeting, participants reminded each other that this meeting is not a "closed circuit," anyone can join the meeting at any point and 2. the need to stop the passage of the regressive Transgender Protection Bill from the lower house of the Parliament. After almost seven hours of deliberations, the discussions regarding democratizing transgender rights activism fell apart as members argued over funding sources. There seemed to be a general consensus in the room that the main barrier to democratizing the field of transgender activism was unequal division of funding, which was mainly concentrated in the urban areas.

3. Mobilizing a (*trans)people's Parliament

However, the meeting the group committed to continue the effort to build parliament, arguing that a people's parliament was necessary in order to draft an alternative to Transgender Protection Bill that would center the self-determination of transgender and gender non-binary individuals. While this people's parliament has not yet been established, in the last two years, since this first meeting, there have been multiple coalition-building events. Most recently, after

the passage of the Transgender Protection Bill, all of the organizations held joint press conferences and massive public rallies. The public demonstrations in the last two years have explicitly connected transgender rights to other major people's movements around the nation, including the struggle of farmers, the rising intolerance towards non-Hindu populations and the state crack-down of student activists around the country. As one of the speakers at the people's parliament remarked: "Yes, this government has agreed to give us legal recognition, but how far will that get us? This is the same government that wants to create a Hindu nation—what does that mean? That means we are going back to old hierarchies. Right now they are going after our neighbors who are Muslim, then they will more discrimination of against folks from the Harijan neighborhoods (Dalit/"Untouchable" community) —why would we believe the transgender community will not be negatively affected in the making of a Hindu nation? Some of here are just transgenders, but we are children of sex workers, we are Dalit, we are Muslim." Not only do these remarks evince an intersectional analysis of issues facing transgender people, it pushes back against the government's efforts to appease transgender community through incremental and narrow legal measures.

4. Community care-giving

Transgender sex workers often shared how important they are to taking care of their own community, particularly aging sex workers. Upon being rejected by their biological families, many of them created community with other transgender women. These relationships come with obligations of their own. For some transgender women, doing care work for the community is "one of the biggest challenges of holding on to a 9-5 job." According to Nirmala, "you know that I have to care for one of the older community members...she has given so much to us, we cannot abandon her, but ever since she had the stroke, she requires full-time care. Who is going to do

that if not me?” Gohon, another transgender activist trained through HIV/AIDS peer education projects, said, “I don’t want to take a job that does not directly help our community...that is what I did all throughout my youth, I can’t just abandon my people now...I just need a couple grants and I can keep myself and my organization afloat.”

This tradition of taking on care-work for the community among transgender women has also been bolstered by the history of anti-HIV/AIDS work. For many transgender women in Kolkata, their awareness and acceptance of their gender and sexuality is linked to activism around HIV/AIDS in the 1990s. Most of the service and advocacy organizations are trans-rights can trace their roots directly to that era. As Nirmala puts it, “The 2000s were a great time, we found ourselves, we found each other and we got paid to do work for the community.” But as the funding dwindled, it resulted in both personal and community-wide economic insecurity. As Nisha expressed, “Do you know why so many of us are on the streets doing challa (ritual begging) these days? Many of these didis were drawn to the city when there were anti-HIV work, but now those organizations are disappearing...what else can we do?” Many transgender women feel conflicted about leaving the area where they had done the anti-HIV work. As Gohon said, “They accepted me into this community because I provided a service, how can I just abandon them just because I don’t have an NGO-job?”

Moreover, the lack of traditional family structure and a social safety net, the work of caring for elderly transgender women falls upon others in the community. This is why Nirmala dreams of building an elderly care center run by transgender women and Gohon is advocating with the government for a pension for transgender persons. As Gohon says, “I may not be the leader of any organization, but there are about ten people I know who I will take care of as long as there is breath in body. These people rely on me and I will do whatever it takes—whether it’s working

with NGOs on HIV (PreP) projects (clinical trials) or begging from the governments or foreign university folks like you.”

When asked about what the recognition of their work from international funders and academia has meant, she responded, “Because people like you invite me to talk your students in colleges and universities, we are also getting respect. I love talking to the young people because they don’t judge us—instead they listen. I am proof that there are different ways to gain respect. I don’t have to change myself to gain respect, I just have to continue to be useful to the community and people will pay attention.” Later she added, “I do, however, get tired of repeating the same stories about suffering and pain in these meetings (with the students). I hate having to prove to bare my scars and say, ‘We are human too.’” These remarks point to the contradictions embedded in the politics on queer responsibility. On one hand, it is a politics based on intersectionality and, as such, allows for a recognition of the larger structural and intersecting forms of oppression, attracting attention of the other activists and academics. On the other hand, reliance on a politics of queer responsibility may, in certain contexts, mean engaging in affective labor to amplify queer suffering in order to gain entre and recognition in spaces that have previously been completely inaccessible, including colleges and other scholar-activist spaces.

5. Queer Cafes

Finally, I found that Queer Cafés emerged around the city, as judgement-free spaces for transgender people come together and celebrate and support each other outside of the hegemonic cis-heteronormative gaze. Through music, dance and poetry queer folks create moments of joy and healing. As Sonali, a twenty-something year old transwoman affiliated with an activist organization shared, “When we are talking to media people or asking money from funders, we have to keep talking about our suffering—I get tired of having to prove to people that we are

human and having to retell stories of trauma to prove it. Here (at the Queer Café) we can just be ourselves.” However, these Queer Cafes, were not always the oasis of freedom from the pressures of representation and affective labor that Sonali sought. As cis scholars like myself and journalists began to show up in these Cafés, word about these innovative spaces spread. Soon funding agencies and some corporations, like local coffee chains, began to show interest in partnering with them. However, this interest proved to be a double-edged sword; while the funding opportunity was welcome, it also brought competition for funding that quickly escalated into conflicts and, eventually, led to the dissolution of a few of the Cafés. Thus, these Queer Cafes show how vexed the efforts are for transgender sex workers and activists when they attempt to create space for articulating transgender identity and community on their own terms.

DISCUSSION

To understand how the new developments in the Indian society’s idea of transgender impact the experiences and strategies we need to understand the symbolic and historical meanings that the body of transgender woman holds in the Indian national imagination. My findings show that this tension emerges among transgender rights organizations in India; while upper class/caste transgender women are interested in the accessing middle class Bengali femininity and keeping issues of sexuality private, transgender sex workers bring concerns regarding their livelihood, including decriminalization of homosexuality to the forefront. I find that upper class/caste women espouse a politics of respectability, wherein they attempt to police the gender presentation and activism strategies. In doing so, they draw boundaries regarding desirable activism strategies, but also engage in a process of gender-making. For upper class transgender women acceptance hinges on conforming to the heteronormativity. The transgender

woman is positioned in opposition to both of these *tolerable* transgender identities. This suggests that gender and sexuality are mutually constitutive and that theories of gender cannot be separated from theories of queerness.

Transgender sex workers counter instances of respectability politics with, what I term, politics of responsibility, defined as a more inclusive politics, which stems from need to distance themselves from a stigmatized category, training/professionalization through decades of anti-HIV/AIDS activism, and the desire to address the realities of the day-to-day struggles of poor, marginalized transgender women. In so doing, the transgender sex workers are able to not only align themselves with other transgender communities, but also with other marginalized people in the city. Politics of queer responsibility still has two audiences—poor transgender women and Upper caste cis-gender people—except, in this case the aim was to show that transgender women could be responsible, productive members of society *in spite* of their appearance.

Additionally, my findings show how Caste, class and gender interact in India to produce experiences of marginalization as well as opportunities for political activism. Gender and sexuality are inextricably tied together and the criteria for membership in a gender category are significantly different in social versus (hetero) sexual circumstances.

The finding that transgender sex workers are working with various groups, including ciswomen sex workers suggests that they are engaging in queer as resistance to the normative heteropatriarchy. As Cohen (1997) articulates, the privileges of heteronormativity are not distributed evenly. The efforts to align themselves with the causes that impact ciswomen and migrant workers, shows that, unlike queer movements of the West, particularly in the 1980s and 1990s, transgender movement in India has the potential to create intersectional coalitions that address broader social change that is not limited to What transgender sex workers deem to be a

“transgender issue” name, issues of livelihood and freedom from police/street violence are different from the issues of upper-class transgender women, who are interested in gaining acceptance as “*bhadramahila*” (upper class womanhood). Transgender sex workers are responsive to lack of state safety net as well as the private field for human dignity.

In this vein, they are practicing queering as a verb and a mode of socio-political engagement. The queer social responsibility that transgender sex workers develop is a product of class position, hegemonic field and history of anti-HIV/Aids training. However, a singular analysis of class to understand the subjectivities of the most marginalized people within the transgender community would be reductive (Ferguson). The pride, dignity and humor with which my transgender informants carry themselves demonstrate that poverty does not define their identity.

This data shows the paradoxes and possibilities of such a politics, as they are informed both by neoliberal subjectivity and a critical queer analysis that merges politics of recognition with the politics of redistribution. The tension between two factors that shape the queer politics of responsibility, the social position of transgender sex workers and this history of NGO-led anti-HIV/Aids program training, help us anticipate the limits and dilemmas inherent to this strategy (Lakkimseti 2003). On one hand the social location of transgender sex workers led them to develop sharp critiques of the Casteist heteropatriarchy and align themselves with other marginalized groups, including cis-sex workers, domestic workers and college students fighting against the influence Hindu right on campuses. On the other hand, the failure to launch the LGBTQ People’s Parliament and the disintegration of the Queer Café show us that competition for funding among various organizations and turf-wars. Social scientists have long demonstrated that depoliticizing impact of NGOs within social movements and, here, we see that the transgender movement is no exception. Tension between expanding the welfare state and reliance

on the global and local funding agencies, which means presenting their politics palatable.

However, in spite of these dilemmas, the transgender sex workers demonstrate a possibility for a movement for queer rights that is grounded in a critique of Brahminical Hinduism and capitalism—one that is not easily co-opted by the pink-washing of the state apparatus.

REFERENCES

- Bhattacharya, Sayan. 2019. The transgender nation and its margins: The many lives of the law. *South Asia Multidisciplinary Academic Journal* (20): 1-15.
- Boyce, B. 2015. Sexuality and gender identity under the Constitution of India. *J. Gender Race & Just.*, 18:1.
- Butler. *Social Text*, (52/53), 279-289.
- Chatterjee, P. (1989). Colonialism, nationalism, and colonized women: The contest in India. *American ethnologist*, 16(4), 622-633.
- Cohen, C. J. (1997). Punks, bulldaggers, and welfare queens: The radical potential of queer politics?. *GLQ: A journal of lesbian and gay studies*, 3(4), 437-465.
- Collins, J. C., McFadden, C., Rocco, T. S., & Mathis, M. K. (2015). The problem of transgender marginalization and exclusion: Critical actions for human resource development. *Human Resource Development Review*, 14(2), 205-226.
- Cossman, Brenda. 2002. "Gender Performance, Sexual Subjects and International Law." *Canadian Journal of Law and Jurisprudence* 15(2):281-96.
- Dutta, Aniruddha. 2014. Contradictory tendencies: The Supreme Court's NALSA judgment on transgender recognition and rights. *Journal of Indian Law. & Society*, 5: 225-236.
- Dutta, Aniruddha. 2015. Sexualities, South Asia. *The International Encyclopedia of Human Sexuality*, 1115-1354.

- Dutta, Aniruddha & Raina Roy. 2014. Decolonizing transgender in India: some reflections. *Transgender Studies Quarterly*, 1(3), 320–337.
- Ferguson, James and Akhil Gupta. 2002. Spatializing states: toward an ethnography of neoliberal governmentality. *American ethnologist*, 29(4): 981-1002.
- Fraser, N. (1997). Heterosexism, misrecognition, and capitalism: A response to Judith
- Grewal, Inderpal. 2005. *Transnational America: feminisms, diasporas, neoliberalisms*. Duke University Press.
- G., Bryant, K., & Vidal-Ortiz, S. 2008. Introduction to retheorizing homophobias. *Sexualities*, 11(4), 387-396.
- Halberstam, Jack. 2006. ‘Rethinking Feminist and Queer Theory’, paper presented at ‘Trans/Forming Knowledge: The Implications of Transgender Studies for Women’s, Gender, and Sexuality Studies’ sy
- Higginbotham, E. B. (1993). The politics of respectability. *Righteous discontent: The women’s movement in the Black Baptist church, 1880–1920*, 185-230.
- Hegarty, Benjamin. 2017. The Value of Transgender: Waria Affective Labor for Transnational Media Markets in Indonesia. *Transgender Studies Quarterly*, 4(1), 78-95.
- Lakkimsetti, Chaitanya. 2014. “HIV Is Our Friend”: Prostitution, Biopower, and the State in Postcolonial India. *Signs: Journal of Women in Culture and Society*, 40(1), 201-226.
- Najmabadi, Afsanef. 2005. *Women with mustaches and men without beards: Gender and sexual anxieties of Iranian modernity*. Berkeley, CA: University of California Press.
- Namaste, Vivienne. 2005. Sex Change. *Social Change: Reflections on Identity, Institutions, and Imperialism*: 92–93.

- Nisar, Muhammad Azfar. 2018. (Un)Becoming a man: Legal consciousness of the Third Gender category in Pakistan. *Gender & Society*, 32(1): 59–81.
- Oza, Rupal. 2012. *The making of neoliberal India: Nationalism, gender, and the paradoxes of globalization*. Routledge.
- Schilt, Kristen., & Lagos, D. 2017. The development of transgender studies in sociology. *Annual Review of Sociology*, 43, 425-443.
- Spade, Dean. 2003. Resisting medicine, re/modeling gender. *Berkeley Women's Law Journal*, 18: 15-39.
- Stryker, S. (2008). *Transgender history*. Seal Press.
- Timmermans, Stefan and Iddo Tavory. 2012. Theory construction in qualitative research: From grounded theory to abductive analysis. *Sociological theory*, 30(3): 167-186.
- Towle, Evan B. and Lynn M. Morgan. 2002. Romancing the transgender native: rethinking the use of the "third gender" concept. *GLQ: A Journal of Lesbian and Gay Studies*, 8(4): 469-497.
- Valentine, David. 2007. *Imagining transgender: An ethnography of a category*. Durham, NC: Duke University Press.
- Vijayakumar, Gouri. 2019. Book Review: Unruly Figures: Queerness, Sex Work, and the Politics of Sexuality in Kerala by Navaneetha Mokkil.
- Wiegman, R., & Wilson, E. A. (2015). Introduction: Antinormativity's queer conventions. *differences*, 26(1), 1-25.

ARTICLE 3: QUEERING DOMESTIC VIOLENCE

INTRODUCTION

“Sister, our lives are a river of pain, we just keep floating along...”

-Tiklu, transwoman, londa dancer/sex worker

“Pain is my intimate friend, I must carry-on with this by my side”

-Ranjana, londa dancer/activist

The paradox of violence against transgender women is that it is both viewed as routine and rendered invisible. Veena Das, a theorist of violence, argues that certain forms of violence are “unsayable” within normal frames of one’s life (2004). Such is often of the case of violence against transgender women, especially when it occurs within intimate or familial contexts. In this article, I document the experiences of family and intimate partner violence among transgender women in Kolkata, India. By highlighting the various ways in which transgender women respond to such instances, I reveal the possibilities and limitations of the criminal justice approaches to domestic violence and uncover how domestic violence law constructs the gender and sexuality. My analysis is guided by the central question: Can a criminalization of abuse, which mandates arrest and prosecution, actually be a solution? Furthermore, I explore the ways in which transgender women make meaning from such instances of violence and how this contributes to knowledge-production about themselves and their community vis-a-vis the larger society. To this end, I draw on Ayona Dutta’s (2016) work to show how and under what conditions those living

with violence make links between intimate violence in their private lives and the wider violence of exclusion from society.

I concur with Dutta's conceptualization of violence not just as death, pain, or trauma that disrupts everyday life nor simply as a "violence of law" (Benjamin 1978) created and enforced by the state but crucially also a condition that is internalized among its subjects in order to allow everyday life to exist (Dutta 2016). In other words, violence is a form of knowledge. In order to unpack the accounts of domestic violence, we must pay attention to what Hume (2009) calls "vocabularies of violence." Hume argues for "foregrounding subaltern vocabularies that have historically been ignored in debates on violence" by "locating these vocabularies in a critical analysis of the relations of domination" (). Centering non-Western accounts of violence reveals that agency is not necessarily expressed through resistance to violence, but through ways of living with that violence. The above quotes from transgender women in Kolkata reflect what Veena Das calls the "descent into the ordinary". The attitude towards violence captured in the above quotes, that idea that violence is part of everyday life, recalls Das's (2004) interviews with survivors of intimate violence during the partition and the 1984 riots in Delhi, where she notes that "what comes across is not a standardized recognizable narrative of suffering but inhabiting the space of suffering and hence giving new meaning to agency in ordinary life." Central to the construction of domestic violence or intimate partner violence as a distinct category assumes a heteronormative idea of the "domestic." Since the domestic violence law is based on the gender binary and does not give legal recognition to non-heteronormative relationships, their experiences of intimate partner violence are erased. Moreover, this research shows that, for transgender people, the law assumes that the natal home is the safest and natural place for transgender individuals.

Domestic violence in the broadest sense can be understood as “attempting to cause or causing bodily injury” to a person in one's family or household or taking actions that place such an individual “in fear of imminent physical harm” (Child Welfare Information Gateway of the U.S. Department of Health and Human Services, 2013, p. 2). *Intimate-partner violence* (IPV) is a specific example of domestic violence that Catalano (2013) defines as “rape or sexual assault, robbery, aggravated assault, and simple assault committed by the victim's current or former spouse, boyfriend, or girlfriend” (p. 1). The World Health Organization (2002) conceptualizes IPV as including “acts of physical aggression, psychological abuse, forced intercourse and other forms of sexual coercion, and various controlling behaviours [*sic*] such as isolating a person from family and friends” (para. 2). According to the WHO (2002), transgender individuals were among the subgroups that experienced the most severe IPV. Specifically, trans individuals were 1.8 times as likely as cisgender people to have been harassed and were twice as likely to have faced threats or intimidation from a partner (NCAVP, 2013, p. 32). Additionally, trans women “were more likely to suffer injuries, require medical attention, experience harassment, or face anti-LGBTQ bias as a result of IPV” compared with other LGBTQ survivors (NCAVP, 2013, p. 9).

As used within this article, the term *transgender* incorporates:

a range of gender experiences, subjectivities and presentations that fall across, between or beyond stable categories of ‘man’ and ‘woman’... [including] gender identities that have, more traditionally, been described as ‘transsexual,’ and a diversity of genders that call into question an

assumed relationship between gender identity and presentation and the ‘sexed’ body.
(Hines, 2010, p. 1).

Theorization on domestic violence can be divided into two parts—first, theoretical lens that make violence visible that would otherwise remain obscure and, second, critical analysis of state responses to that violence. This research addresses both of these aspects of domestic violence and its legal remedies. I anchor my analysis in the broader literature on domestic violence and queer interventions in the conventional literature. To further contextualize transgender women’s experiences in Kolkata, I discuss the historical and gendered dimensions of domestic violence law in India.

LITERATURE REVIEW

5. Feminist analysis of gender violence:

Two major theoretical approaches have traditionally dominated the study of domestic violence: the “feminist” perspective (CITE) and “family systems” perspective (see Anderson, 2010; Loseke, 2005). The “feminist” perspective keeps the woman who is experiencing the violence at the center of the analysis; however, it does not attend to various intersections of power structures and inequality at play. In contrast, while the family systems perspective attends how the family structure—whether nuclear or extended—impacts the dynamics of family conflict. However, this approach does not address the gendered nature of family violence. In contrast to both of these approaches, intersectional feminist scholars have attended to the interactions between gender, race, class and in the context of family violence (Sokoloff 2005).

This approach has an additional advantage of being able to show how and why state responses to family violence fail those it intends to protect.

For the Second Wave feminists, such as Catherine McKinnon, rape as well as domestic violence is simply an expression of general male violence against women and it turned to the state for protection against such male violence. This approach characterized the so-called battered women's movement. The goal of the battered women's movement was for domestic violence to be taken as seriously as other assaults, batteries and homicides. Whereas earlier police minimized domestic violence (Schneider 2000) in the early 1970s, advocates have worked to increase the involvement of the criminal law system and have been successful (Schechter). Some argue that interventions such as arrest and prosecution were not only intended to interrupt the "cycle of violence," they were of symbolic importance as well as in that they indicated that the system was beginning to take violence against women by intimate partners seriously. However, recent literature suggests that carceral interventions are often ineffective in reducing rates of violence (Hirschel, Hutchison, and Dean 1992; Maxwell, Garner, and Fagan 2002). Alternative interventions, such as social network building and cognitive behavioral therapy, conversely, are associated largely with positive outcomes, including increased victim satisfaction and lowered probability of future victimization (Arroyo et al. 2017; Goodman et al. 2016; Kubany et al. 2004; Trabold et al. 2018). In spite of this evidence, criminal-legal interventions became accepted as the best response to domestic violence in the battered women's movement (Xie and Lynch 2016).

The battered women's movement has, also, rightly been critiqued as "legally codifying and thereby ontologizing a cultural construction of male sexual rapaciousness and female powerlessness, this appeal for protection both desexualizes and depowers women in its

assignment of responsibility to the state for women's fate as objects of sexist sexual construction" (Brown). The kind of feminism that underpins the battered women's movement is heteronormative. Most states' domestic violence criminal laws are not gendered on their faces. This means that the laws are not specifically restricted to males or females, to men or women or to the roles each plays, such as husband or wife. However, the fact that a statute is not facially gendered does not mean that it is gender-neutral. This is because the relationship definitions are gendered. The relationship is a major element of the legal construction of domestic violence as a crime. The way in which the term "relationship" is defined (for example, as marriage, cohabitation or dating) genders a given domestic violence situation because the roles discussed in definitions of relationships are attributed to one gender or the other. Not only are these roles gendered, they are also binary: for example, "father" and "mother" or "husband" and "wife." The narrow relationship definitions included in domestic violence statutes thus limit their applicability to spouses or to adults with "a minor child in common," as in California law. These roles infer gender. They "give" a gender to that which appears to be neutral. As the QAWS points out, queer women are excluded from the heterosexist terminology that enables survivors to access services (Chung & Lee p. 5).

Embedded in the battered women's movement is a psychological approach that "seek[s] to explain domestic violence in terms of the psychological or personality characteristics of either the men who perpetrate violence, or the women who are victims of domestic violence.' The psychological theorists who espouse this theory posit male batterers as different from males who do not batter in their psychological profiles. These theorists also argue that female victims also

have a particular psychological profile, termed "codependent" that can compel them to seek (male) partners who are or will be abusive (Ake and Arnold 2017). Such a pathologizing approach betrays deeply engrained assumptions regarding femininity and masculinity based on a rigid gender binary. In contrast, I argue that we can retain a critique of a heteropatriarchal society at the center of our analysis of domestic violence without essentializing male violence by attending to the legal and institutional structures that authorize violence under certain circumstances in order to maintain gender power. In their qualitative study of poor and working-class, white women, Weis et al. (1998) remind us that white women are not monolithic in their responses to domestic violence. In fact, the main reason for their staying in abusive relationships has to do with economic concerns, not problems of passivity or psychological dependency.

Theorists of gender and the state who view patriarchy as central to the problem of domestic violence have cautioned that the appeals to the state to intervene may come at the cost freedom as state-centered social policy inevitably invites regulation and surveillance in the name of protection (Brown ; Walby 1990). Arguing that state power is not gender neutral, Brown claims, "state's masculinism becomes more diffuse and subtle even as it becomes more potent and pervasive in women's lives. Indeed, although the state is replacing the man for many women, its jurisprudential and legislative powers, its welfare apparatus, and even its police powers often appear as leading vehicles of sex equality or female protection" (28).

Moreover, intersectional feminist scholars and activists have challenged the primacy of gender as an explanatory model of domestic violence and have emphasized the need to examine how other forms of inequality and oppression intersect (Sokoloff 2005). Not all women's experiences with carceral intervention was the same. Intersectional feminists of color pointed out

that while white middle class feminists, such as the ones represented by the National Organization of Women, prioritized criminal justice approaches eclipsed analyses that placed domestic violence in the context of other oppressions like racism and poverty (Ritchie 2000; Weisman 2013). Critiques of criminalization have since lined up along a continuum of political positions expressed by concerns over the “overreliance on the criminal justice system” (DasGupta, 2003), the identification of pro-criminalization forms of feminism as carceral feminism (Bernstein, 2005, 2012), and a call for an analysis of responses to gender violence that align with a more radical vision of prison abolition (Bierria et al., 2011; INCITE! Women of Color Against Violence, 2006).

As the Third World Women’s Caucus (later renamed the Women of Color Task Force) INCITE argue that poor women of color require holistic support in order to leave abusive relationships rather than arrests and prosecution, that can backfire on the very people the law intends to protect (Schechter 1982). In particular, the mandatory criminal justice interventions advocated by many feminists and widely adopted in the 1980s, including mandatory arrest, and reporting...likelihood of police mistreatment and deportation and other forms of police surveillance Buzawa & Buzawa 2003; Coker 2008; Wacholz & Miedema 2000). Research shows that service providers in most domestic violence organizations, encourage victims of violence to report their victimization to the police, file for restraining orders, and cooperate with law enforcement’s ongoing investigations (Bumiller 2009; Gamache, Edleson, and Schock 1988; McDermott and Garofalo 2004; Steinman 1990). This is, in part, due to emergence of the neoliberal mode that mandates more NGO involvement and state-NGO cooperation.

There are a number of ways in which criminal justice reform in domestic violence has failed to protect survivors. Some trace the problem to the pervasive influence of male values and

practices in the occupational culture of law enforcement” (Corrigan) others point to the “restructuring of the state according to neoliberal principles since the 1980s, which has intensive regulation of the poor and minorities. These latter critics argue that contemporary state interventions in domestic violence cases reproduce the kinds of controlling dynamics women experience in abusive relationships, including the lack of choice in decisions, social isolation, degradation, and terrorization (Bumiller 2008; Haney 2010; Wacquant 2009). In order to receive aid, poor families are often forced into interactions with the therapeutic apparatus of the state, which combines punitive and therapeutic approaches (Brush 2011; Cruikshank 1999; Polsky 1991). Women have to labor to transform their practices of self in order to become “worthy” victims and credible survivors through “respectable” motherhood and sexuality (Konradi 2007; Menjívar and Lakhani 2016). Given that heteronormative respectability is central to how the legal systems function to distinguish “good” from “bad” victims, how transgender women can access the state’s resources warrants scrutiny.

6. Queering Domestic Violence

While we may concede that campaigns around domestic violence have led the criminal law system to incorporate, to a modest degree, feminist ideas about domestic violence into its standard understanding of violence between cis-men and women, mainstream feminism’s normative construct about sexuality prevent the criminal legal system from accurately assessing and intervening in LGBTQ domestic violence. To analyze the conditions around domestic violence against transgender women and to understand whether the problem of domestic violence can be resolved through criminal-legal remedies, I turn to extant literature that takes queer theory and a queer of color lens to domestic violence.

As Kandiyoti (1988) pointed out, there are different forms of patriarchy and women bargain within specific sets of constraints in different sociocultural contexts. Nevertheless, what is consistent is that, within a heteropatriarchal socio-legal context, gender relations and constructs of masculinity and femininity are not symmetrical but are based on an organizing principle of heterosexual and cisgender men's superiority and social, political, and economic dominance over non-heterosexual and non-cisgender men and women. The patriarchal context is central to explaining the gendered nature of intimate partner violence against transgender women.

While there is a dearth of data on domestic violence impacting transgender women, in a review of statistical literature in the United States, Stotzer (2009) noted that there is more thorough information about sexual assault and rape compared with other forms of violence affecting trans people because studies of this population often focus on sexual behaviors and related risks. Such research has indicated that a large subset of the transgender community experiences sexual assault and rape, and many are subjected to such violence at multiple points during their life course. Importantly, violence against transwomen is not confined to violence from current or former partners but is also from other family members and acquaintances. Some argue that a queered police response would be one that is devoid of gendered assumptions when responding to domestic violence cases (Morrison 2003). However, for transgender women who find themselves at the intersections of multiple forms of oppression, this narrow application of queer theory to policing elides their experiences. A Queer of color analysis reveals that, ultimately, a criminal-legal approach to domestic violence set up a dichotomy between good and bad victims, is necessarily harmful to transgender women, particularly those from marginalized communities. This argument is borne out by data that shows that when a police officer identifies

a person as transgendered, the officer's attitude and behavior towards that individual often change (CITE). Transgender victims are often gender-misidentified and treated as if they are violating the law by simply being trans. As Vivian Namaste notes, "trans- gender sex workers stated that police officers seemed to make a point of calling them 'sir,' 'boy,' and 'guy.' " Officers demanded, "What are you? Are you a guy or a girl? We don't like these fucking half-breeds," or referred to transgender people as objects, using the pronoun "it" to describe them rather than appropriate gendered pronouns. Transgender women often report having had numerous negative interactions with the police who see themselves as enforcers of conformity with gender norms (Goodmark 2013). Moreover, transgender women's engagement with sex work makes further marked as deviant and less deserving of state support. Such heterosexist bias and race/class-based bias in the law undermines the possibility that criminalization of abuse, which mandates arrest and prosecution, can actually be solution for queer experiences of domestic violence.

Importantly, data suggests that in both domestic violence and rape crisis services, transgender people's risks for unequal treatment frequently connect to other identities or risk factors that they hold, which is in line with research about discrimination affecting transgender people in other settings (Bradford et al., 2013; Lombardi, 2009). In general, when seeking support, those with other marginalized identities tend to experience increased risk for unequal treatment related to their transgender or gender-nonconforming identity. Data collected from the National Transgender Discrimination Survey, conducted in 2008 to 2009, revealed that unequal treatment of transgender people in domestic violence and rape crisis programs (Seelman 2015). In both settings findings indicated that transgender people who are low-income, not US citizens, and have disabilities are more likely to experience discrimination. As Dean Spade argues, rights-

based approaches to addressing violence against the transgender people that focus on the individual are narrow in scope and do little to address the broader context of criminalization and poverty that enable such violence. Transforming a system that undermines the self-determination of survivors, picks and chooses which victims deserves protection, and fails to provide adequate economic safety nets for all survivors requires rejecting the primacy of the criminal justice system in domestic violence law and policy.

Transgender people of color, in particular, have taken leadership in innovative analysis of intersectional forms of violence and demands for new social movement strategies that are not complicit with the cultural violence of “gender policing” and the state violence of arrest, prosecution, and incarceration (Smith & Stanley, 2011; Spade, 2011). Such an alternative vision is articulated through what Dean Spade names a “critical trans politics,” one that “imagines and demands an end to prisons, homelessness, landlords, bosses, immigration enforcement, poverty and wealth. It imagines a world in which people have what they need and govern themselves in ways that value collectivity, interdependence, and difference” (Spade 2011, p. 68–69).

One of the alternative approaches is the transformative justice framework that has been popularized largely within social movement spaces aligned with the politics of prison abolition, a term signifying opposition not only to the criminal justice system but also to reform measures that can serve to legitimize the existing system of crime control (Generation FIVE, 2007; Herzing & Ontiveros, 2011). Rejecting the criminal justice system as primarily responsible for the violent oppression of marginalized communities, transformative justice responses to gender violence and other forms of interpersonal or community violence seek resolutions within more intimate systems of community or civil society (Bierria et al., 2011; Coker, 2002). Following more radical political traditions, transformative justice relies upon the leadership and interests of

marginalized communities. At the level of individual- or community-level acts of violence, those most impacted by violence understand best the immediate and underlying conditions in which interpersonal acts of violence are embedded (Generation FIVE, 2007). Ultimately, as community members directly impacted by violence but also sharing home and collective space with victims and perpetrators of violence. Transformation, as opposed to restoration, also explicitly recognizes that interpersonal forms of violence take place within the context of structural conditions including poverty, racism, sexism, homophobia, ableism, and other systemic forms of violence (Bierria et al., 2011; Coker, 2002; Generation FIVE, 2007).

7. India & Domestic Violence

Inderpal Grewal (2005) has observed that within global feminism dominated by US liberal feminists, the hegemonic understanding of domestic violence was a ‘cultural’ rather than a socio-economic issue affecting different groups of women differently or, as Narayan puts it, of third world/ immigrant women suffering ‘death by culture’ (Narayan 1997, p. 84), who required saving from the patriarchal violence of their everyday lives (Grewal 2005). Not only does this “cultural” approach elide violence against women in the West, this logic unintentionally validates the purveyors of gender orthodoxies that claim to speak for the Indian culture. Furthermore, Indian scholars have pointed out that cultural explanations of domestic violence transform economic motivations that drive dowry or inheritance related violence into culturally-grounded pathologies and overlook the legal and social structures that authorizes such violence. A critical structural analysis reveals that there are two features of the Indian legal framework regarding domestic violence that are the most salient to experiences of transgender gender women, namely: its implicit heteronormativity and its emphasis on the carceral.

Campaigns against domestic violence has been a galvanizing issue for Indian feminists since the 1980s and, yet, it remains a persistent plague (Kalokhe, et. al. 2017). Much of the scholarly work done on domestic violence in the Indian context focuses on the family and dowry, including the law (see Agnes, 2011; Cherukuri et al., 2009; Ghosh and Choudhuri, 2011; Subramaniam et al., 2009; Visaria, 2000; Vindya 2000). Research shows that the persistence of domestic violence is not only due to the administrative barriers and lack of police cooperation (2012) that women face, but also due to the limits of the legal recourses available them.

While the Indian the government has enacted several laws since the country's independence to address issues related to gender violence in a society dominated by patriarchal values and practices, these laws have been found to be grossly inadequate in protecting women (Ghosh 2013). Most evident making of the Rape Law in India in 2013, which for the first time expanded the definition of rape to criminalize "forced penetration" but excluded this in the case of marital partnerships. The recently passed Transgender Protection Act set lighter sentences for violent crimes committed against transgender women than cis-gender women. This discrepancy points to the Indian state's embedded heteronormativity. It demonstrates the state's tacit understanding by the state that transgender women are not "real" women and therefore, do not merit the same level of protection.

Furthermore, while feminists have pushed to link domestic violence against women to structural oppression, the remedies that have been co-opted and by the state have failed to address the heteropatriarchal basis of Indian law and have been largely relied on carceral technologies. The governance of the law works through the courts by invoking protection and regulation. These gender orthodoxies were also partially reflected in the feminist movement itself, which till recently has been unreflexively heteronormative (Madhok 2010). The

assumption of heteronormativity retained a strong grip over the passage of the PWDVA 2005 too. This failure to challenge normative gender relations and depoliticizes or neutralizes issues of structural inequality that sustain domestic violence (Coker 2004; Richie 2012). Women's legal status in India is still essentially relational (daughter, wife and mother of father, husband, and son). All laws focusing on domestic violence, related or unrelated to dowry, apply only to members of the family²¹, giving little recourse to those in non-normative relationships. In the case of unmarried women, the state views the patrilineal family as the self-evident safe space, undermining adult women's self-determination (Dutta 2016). As Dutta argues "the state as the moral regulator continuously attempts to redraw the boundaries of intimacy within the home, even when this is dangerous and violent." Recent analyses of India's Supreme Court judgments draw attention to the 'collective' nature of violence, that is the role of extended family. Yet, These judgments of the Supreme Court fail to recognize the abused woman as an individual, and assume that the marital family will afford protection (Dutta 2016).

The Protection of Women from Domestic Violence Act (PWDVA or Domestic Violence Act), enacted in 2005, was a result of nearly a quarter century of legislative/political activism and analysis of prejudicial practices of the state and its agencies, including the judiciary. In the 1980s, and as Flavia Agnes (1997) has pointed out, while there were a slew of legal reform measures undertaken by the federal state – mostly in response to the pressure mounted by feminist organizations who mobilized against state atrocities, rights violations and gender

21 The first legislation to ban dowry, not the associated violence, is the Dowry Prohibition Act 1961. Section 2 of this law defines dowry as 'property or valuable security given or agreed to be given either directly or indirectly ... at or before or any time after the marriage in connection with the marriage of the said parties' (Dowry Prohibition Act 1961).

prejudicial legal judgments. As Lawyers Collective (2012) argues, “The Act was an innovation over the conventional understanding of domestic violence as it did not limit the protection against violence solely to marital relationships. It introduced the concept of domestic relationship which included all relationships based on consanguinity, marriage, adoption and even relationships which were in the nature of marriage” (p. xiii). This Act also expanded the definition of domestic violence to include sexual, emotional and economic abuse. However, fell short of delivering gender justice as they were informed by prevailing normative gender constructs and moralities.

The PWDVA as it currently stands positions the state as but a neutral bystander with no responsibility for welfare provisioning or accountability in the event of increased vulnerability and violation of rights within shared households. For instance, in not provisioning domestic shelters – one of the ways in which state responsibility for the injured citizen is registered – or indeed ensuring separate budgetary allocation for the Act, the PWDVA marks a sharp departure from feminist programs and policy demands that accompanied demands for legal intervention into domestic violence, which insisted that the state not only recognize domestic violence but also provide welfare provisioning to the victims of domestic violence.

In failing to extend public provisioning to victims of domestic violence, the PWDVA reflects the prevailing neoliberal political sensibility that emphasizes self-sufficiency and private striving enabled through a participation in market relations. A significant condition of neoliberal post-coloniality is a reliance on ‘legal instruments ... to accomplish order, civility and justice’ (Comaroff 2005, 133) and the deployment of the formal language of rights to bolster the self-reliant, entrepreneurial subjects, independent of state welfarism (Madhok and Rai 2012; Wilson

2007). For transgender women, who often cannot return to their natal families for support due to threat of violence, are left without any recourse when faced with intimate partner abuse.

METHODS

This research is primarily based on eighteen months of participant observation with two transgender women's rights organizations in Kolkata, India. I also participated in the planning meetings for the LGBTQ+ Community Parliament, a coalition of over forty transgender rights organizations, as a notetaker. At this Community Parliament, leaders from LGBTQ organizations gathered to develop a bill of LGBTQ rights to present to the government through a democratic and intersectionally-minded process. I was invited to and attended two Queer Cafes, which are spaces for the LGBTQ community and its allies to come together in a way that is not directly related to professional activism. At these events, friends share their poetry, dance, and music, as well as support each other financially by buying art, crafts, and jewelry. Additionally, I regularly attended meetings in non-profit offices, government offices, and the homes of transgender activists. To further triangulate my research, I conducted in-depth interviews with 32 transgender women, employing a snowball sampling method. These interviewees ranged in age from 23 to over 70, and none of them had undergone gender confirmation surgery. Most were taking some form of hormone therapy, but only one had access to a doctor on a regular basis. Importantly, as I am a native Bengali speaker, I conducted all of the fieldwork in Bengali. I took notes in both English and Bengali and transcribed and translated them myself.

My identity as a *savarna* (caste-privileged Hindu), cis-gender woman with middle-class status and an advanced education meant that many of the transgender women initially regarded me with caution. My long-time connection with transgender women in a sex workers' union gave

me an entrée into the world of transgender rights activism. After I had attended several open meetings and public events on transgender issues, activists began to accept me as an ally.

Both while I worked on the field and analyzed my data, I bore Julie Serrano's caution in mind that if cisgender scholars truly believe that transgender people "can add new perspectives to existing dialogues about gender, then they should stop reinterpreting our experiences and instead support transsexual and intersex intellectual endeavors...And they should finally acknowledge the fact that they have no legitimate claim to use transsexual and intersex identities, struggles, and histories for their own purposes...[N]on-intersex, cissexual artists and academics should put their pens down, open up their minds, and simply listen to what we have to say about our own lives" (Serano 2017, p. 34).

FINDINGS

In the following section, I present narratives of violence of transgender women that indicates that the criminal-legal system undermines their agency and self-determination, while also treating them as deviants.

6. Legal Violence

Patterns of state-supported gendered violence in the Global South can be traced back to colonialism. British law criminalized Hijras under the Criminal Tribes Act of 1871, later subtitled "An Act for the Registration of Criminal Tribes and Eunuchs," and through Penal Code 377, which banned non-heterosexual intercourse. The Hijras' history of negotiating, resisting, and subverting the state's efforts to control them tells us that their gender performances and practices have been politically shaped and far from static. However, while criminalization of trans communities came with British colonialism, pre-colonial Indian society was not free from transphobia. Dalit trans activist and artist Living Smile Vidya talks describes transphobia as a

type of Brahminism (Caste-based Hinduism), wherein the hijra is an untouchable subject (Semmlar 2014).

Even though, in 2014, the Supreme Court granted legal recognition to transgender people, the regressive Transgender Protection Act of 2019, undermines the purported goals of recognizing the freedom and dignity of trans people. Transgender Protection Act of 2019 not only undermines the self-determination of transgender people by giving the authority to it government officials to decide whether someone is viewed as transgender person, it reinforced patriarchy in the name of protection. First of all, the act imposes a biological definition of sex/gender that runs counter to the explicit intent of the Supreme Court ruling. Secondly, the act sets lighter sentences for crimes committed against transgender women than cis-gender women. This discrepancy reveals the state's tacit understanding that transgender women are not "real" women and therefore do not merit the same level of protection. Finally, the act violates the freedom and self-determination of transgender people, as it states that a transgender person will be placed in a rehabilitation center if a family member cannot care for him or her. Thereby, the state will push transgender people to remain with their biological families, in spite of the fact that family is often the site of violence for queer folks. Moreover, forcing transgender folks to enter a "rehabilitation home," which amounts to carceral protectionism.

Even though the decriminalization of homosexuality in 2018 was a welcome and essential step taken by the Supreme Court in 2018, it is important to note that very few people were ever prosecuted under the Article 377. In contrast, the state regularly criminalizes hijra and other transgender communities under various other laws such as the Indian penal code's section 268 which deals with public nuisance, Section 320, which is often used falsely against hijras for

voluntarily undergoing gender confirmation intervention and the Immoral Trafficking Prevention Act, which criminalizes organized begging and sex work—all of which, remain in effect.

7. Extended Family/Community Violence

The law is both designed and implemented in ways that demonstrate that upholding the sanctity of the heteronormative family takes primacy over the well-being of transgender women. Most of the transgender women I interviewed were forced to leave their homes after suffering years of abuse while growing up. To illustrate, Reya's story reveals how the discrimination and harassment that transgender people and ciswomen women face when trying to live on their own outside of their natal families and/or marital families makes them vulnerable to domestic violence. Reya told me that she had stayed at home till she was nineteen years old because she did not want to abandon her mother who was also facing abuse from her father. But she decided to finally leave when her father, in a fit of rage after finding Reya's make-up collection, dragged her down a stair-case from by her hair, bumping her head against the cement wall several times. She shared that it was at that moment that she realized that she might die if she stayed. She said,

“I have left my natal home multiple times. I joined the Hijra house, but it was never for me. You know me. Do I seem like someone who can live by rigid rules and constantly bow down to someone? [laughter]...so I left. My friend (another transgender woman who left the Hijra community) and I tried to rent a flat together. But no one would rent to us. If we go to the authorities, what will they authorities say? They will tell us to go back to our homes or tell us to join the Hijra clan.” The lack of housing options means that transgender women find themselves

trapped having to choose between two abusive and hierarchical institutions, the heteronormative family and the Hijra family.

Many of the interviewees shared with me that violence within Hijra community is also rampant and the police rarely intervene in these cases as such violence is viewed as part of the Hijra culture. This kind of legal neglect of violence of within the Hijra community or against

However, even after Reya left, she continued to stay in touch with her family indirectly and send them money that she earned from sex work. “In his death-bed, my father asked to see me and we both cried. He told me that if he didn’t beat me to stop me from dressing the as I did, the boys in the neighborhood would come after me and kill me...or worse. He told me that he was trying to protect me. Some scars will never heal, but I am grateful we had the chance to say goodbye.” Like many of my interviewees, Reya also shared that she worried that if she stayed at home and eventually won the approval of both her parents, her parents would be disowned and pushed out of the joint family household that she shared with their extended family, including grandparents and uncles and aunts. This narrative suggests that, while legal intervention may have stopped the immediate violence, in the absence of psychological support, particularly in the context of a larger transphobic society, will not go far enough to reduce everyday violence.

Trina’s story crystalizes how the medical and legal institutions collude with the family to police gender norms and undermine the self-determination of transgender women. I was introduced to Trina by a transgender rights organization approached me to help write up a police report on her behalf. She narrated her story to me over the phone. Trina had regularly faced violence at home and in the neighborhood most of her life. However, once she started working as a make-up artist in Tollywood (Bengali film industry) and began to make an earning that improved her family’s lifestyle, the violence, particularly from her father, ceased. So, she was

shocked when one night her parents, with the help of young men from the neighborhood, drugged her and put her in a cab to take her to a psych facility in the hopes of making her “a normal boy.” She said that her parents convinced the doctors there that she had been taking drugs. Initially, she was admitted into the men’s ward. In fact, over the week that I was speaking to her, she was sharing a room with three other men. After a week of texting every day, as her texts and calls to me became less and less regular, I began to suspect that she was having second thoughts about filing the police report. She eventually shared that one of the officials had set her up in her own room where she felt safer and had agreed to help her convince her doctors to leave in exchange for sex. Ultimately, Trina decided not to file the report against her family because she feared that further investigation would expose herself and the hospital official, whom she viewed as an ally, to scrutiny, if not criminal charges. Once again, Trina’s experiences demonstrate the dilemmas of appealing to criminal-legal system that treats transgender women as both infantile and deviant.

8. Intimate Partner Violence

As intersectional feminists have noted, the criminal-legal system that constructs a dichotomy of good and bad victim, invariably fails to protect the most vulnerable groups as they are also the most criminalized. Given that non-normative sex was criminalized until 2019, transgender women had very little legal recourse when faced with intimate partner violence. However, even with the decriminalization of homosexuality, many transgender women continue to face criminalization due to their engagement with sex work and histories of drug abuse.

Purba, an elderly transgender woman, oral history revealed the long-term consequences of domestic violence and precarity that follows. I met at her friend’s house where she was

staying after being evicted from an assisted living home after the manager discovered her HIV positive status. Purba, now in her late 70s, had lost her parents at a young age, but because, to her parents she was their only male child, they left her with a large property and significant wealth. Because the larger society viewed her as a man of means, albeit, effeminate, she was able to live on her own terms for a much of her life. In her interview, she reminisced about the lavish and inclusive parties she threw and how she had opened up her house to the queer community in Norther Kolkata. She was in her forties when her partner, a cisman moved in with her. Officially, she was his landlord. She supported him economically for years in spite of regular physical and emotional abuse. Eventually, her partner robbed her of her home and threatened to tell the police that she had raped him and purposely infect him with HIV. Since then, Purba has been living with friends and at homeless shelters.

When I asked Purba if she police intervention could have helped her, she responded:

“What good is the police? Look at how much the law has protected you women. Just look at how at the sister I am living with right now. Her husband was a drunk and beat her up. She did all the right things. Went to the police, filed reports. She has three children she is raising all by herself. What did she get for her troubles? They cops picked up the husband and released him in a couple of days. She left her husband’s home and moved into this tiny apartment with her kids. Can she live in peace now? No. The cops come by constantly and harass her to go back to her husband. They say the neighbors are complaining about her. They suspect she’s a prostitute. Until we, women and kotis, can live on our own in peace, what good are jails?”

Purba’s account highlight that societal prejudices against ciswomen and transgender people living on their own is a major barrier to leaving abusive.

Aparna Banerjee, a member of the Transgender Development Board, remarked in her interview with me that domestic trafficking, including sex trafficking, is a common experience

among transgender women. However, she pointed out that the police deem transgender women who may engage in consensual sex work as unworthy victims. As Aparna put it, “We are sexual deviants. Always. How can [the cops] imagine us being victimized?” Confirming Aparna’s claim three of transgender women I interviewed shared experiences that can be classified as trafficking. All of them were lured into crossing state borders with the promise of gender confirmation surgery by cismen with whom they were romantically involved. For example, Ranjani, who is a transgender woman who works part-time at an HIV prevention organization in Kolkata and also she earns her living through dancing at wedding ceremonies (londa dance), shared a harrowing story of escaping a situation that she classified as trafficking. During the winters, she travels to Northern India to dance at weddings for grooms. There, she says, romance and violence are ever present in equal measure. She described one particularly harrowing experience when a groom who became her *parikh* and promised to pay for her gender confirmation surgery in Thailand if she stayed with him and performed sexual favors. Initially, she agreed, but after spending a week in a tiny room where he had put her up, she started to become suspicious that he would not follow through with his promise. When she tried to leave, he became violent and locked her in her room. He had beaten her so badly, she had passed out and when she regained consciousness, she found herself on the back of a pick-up truck with armed men she did not know. They drove deeper into the rural area and eventually threw her out of the on the side of the road. She walked for a day and a half before she reached a bus station. She told me that she never went to the police to report the incident because not only would the police believe that a transgender woman could be violated, they would criminalize her for being a londa dancer because it often involves sex work. Ranjani’s story demonstrates that the lack of access to health

care makes transwomen particularly vulnerable to trafficking, while the construction of ideal trafficking victim erases the experiences of violence that transgender women face.

On February 18, 2016, I attended a workshop on intimate partner violence at the offices of a transgender rights organization with eleven transgender/Koti people. This workshop mostly an open-ended discussion and participants were encouraged to speak about their experiences. There was a consensus in the group that most transgender women experience sexual, physical and emotional violence in their intimate relationships. While discussing the reason why they believe transgender women are more likely to tolerate intimate partner violence, one answer frequently came up: “This is how we prove that we have a woman’s heart.” Many of the transgender sex workers economically support their “parikh” (cismale romantic partner). Another trope that was repeated often at this workshop was idea that violence is how men show their love. The idea that one must “prove” their femininity by enduring violence from their partners and that men show passion through violence demonstrates how internalized patriarchy operates to make the victim complicit in the violence. In this vein, violence is used to police gender norms even within the community. Significantly, it is also important to recognize that the narrative that “we all go through this violence” acts as mechanism for social cohesion and community building. How violence and community-building and gender-making are intertwined was evident when an upper class college-educated transgender woman claimed at this meeting that she does not quite feel like she does belongs to the community because she has not gone through the same level of violence that most of the others there have, Raima, transgender activist in her 40s strongly pushes back. Raima asserts, “My trauma does not define me. It does not define my gender identity and it doesn’t define yours.” By making this intervention to assert that her trauma does not define one’s gender identity, Raima opens up alternative vision for violence-free future.

DISCUSSION

The kind of mundane violence that the transgender women in Kolkata describe shows how violence is domesticated—it is as Veena Das names, a “descent into the ordinary” (Das 2004, p.7). Intimate partner violence, in particular, is not only enabled by the state through minimizing violence against transgender people and criminalizing them, but it is also enabled by community. As Das (2004) observed, the community has the ability “to make substantial acts of violence and acts of moral solidarity” (Das 2004). Domestic violence had been normalized, especially for transgender people, for long. However, as the LGBTQ movements have been gaining steam and winning recognition of their individual rights, the question of whether the criminal legal system can be the solution to end violence has become more urgent. The criminalization of homosexuality (all non-heteronormative sexual behavior) had been a major barrier for transgender people in option in seeking legal remedy. However, my research shows that decriminalizing homosexuality does not necessarily make the legal code more favorable to victims. The question of whether the criminal-legal system can be a solution to domestic and intimate partner violence has been become newly urgent since the decriminalization homosexuality.

India’s legal recognition of transgender identity would suggest that transgender people would have new protections against violence under the law. However, the legal code remains entrenched in hetero-patriarchy and continues to codify the devaluation of transgender lives. Moreover, the individual rights-based framework of the criminal-legal approach to violence does little provide resources to enable transgender women to leave violent situations and live on their own. Not only is the self-determination of transgender survivors of violence undermined, but

many aspects of their lives that are the direct or indirect result of violence, including engagement with sex work and drug abuse are criminalized. In the absence of re and measures such a legal recognition seem to little more than coopting or ‘pink-washing’ of status apparatus.

REFERENCES

- Agnes, F. (1997). State and Politics in India. *Economic and Political Weekly*, 521-65.
- Arnold, G., & Ake, J. (2013). Reframing the narrative of the battered women's movement. *Violence Against Women*, 19(5), 557-578.
- Anderson, K. L. (2010). Conflict, power, and violence in families. *Journal of Marriage and Family*, 72(3), 726-742.
- Arroyo, K., Lundahl, B., Butters, R., Vanderloo, M., & Wood, D. S. (2017). Short-term interventions for survivors of intimate partner violence: A systematic review and meta-analysis. *Trauma, Violence, & Abuse*, 18(2), 155-171.
- Bernstein, E. (2005). Militarized humanitarianism meets carceral feminism: The politics of sex, rights, and freedom in contemporary antitrafficking campaigns. *Signs*, 36(1), 45-71.
- Bernstein, E. (2012). Carceral politics as gender justice? The "traffic in women" and neoliberal circuits of crime, sex, and rights. *Theoretical Sociology*, 41, 233-259.
- Bierria, A., Kim, M. E., & Rojas, C. (2011). Introduction. Community accountability: Emerging movements to transform violence. *Social Justice*, 37(4), 1-11.
- Bumiller, K. (2008). *In an abusive state: How neoliberalism appropriated the feminist movement against sexual violence*. Durham, NC: Duke University Press.
- Brown, W. (1992). Finding the Man in the State. *Feminist studies*, 18(1), 7-34.
- Cherukuri, S., Britton, D. M., & Subramaniam, M. (2009). Between life and death: Women in an Indian state prison. *Feminist Criminology*, 4(3), 252-274.
- Coker, D. (2006). Restorative justice, Navajo peacemaking and domestic violence. *Theoretical Criminology*, 10(1), 67-85.

Collective, L. (2012). Staying Alive: Fifth Monitoring and Evaluation Report on the Protection of Women from Domestic Violence Act, 2005.

Comaroff, J. (2007). Beyond bare life: AIDS,(bio) politics, and the neoliberal order. *Public Culture*, 19(1), 197-219.

Das, V. (2006). *Life and Words: Violence and the Descent into the Ordinary*. Univ of California Press.

Datta, A. (2016). The intimate city: violence, gender and ordinary life in Delhi slums. *Urban Geography*, 37(3), 323-342.

Ghosh, B. (2013). How does the legal framework protect victims of dowry and domestic violence in India? A critical review. *Aggression and violent behavior*, 18(4), 409-416.

Goodmark, L. (2013). Transgender people, intimate partner abuse, and the legal system. *Harv. CR-CLL Rev.*, 48, 51.

Grewal, I. (2005). *Transnational America: feminisms, diasporas, neoliberalisms*. Duke University Press.

Herzing, R., & Ontiveros, I. (2011). Building an international movement to abolish the prison industrial complex. *Criminal Justice Matters*, 84(1), 42-44.

Hines, S. (2010). Sexing gender; gendering sex: Towards an intersectional analysis of transgender. In *Theorizing intersectionality and sexuality* (pp. 140-162). Palgrave Macmillan, London.

Hirschel, J. D., HUTCHISON III, I. W., & Dean, C. W. (1992). The failure of arrest to deter spouse abuse. *Journal of research in crime and delinquency*, 29(1), 7-33.

Hume, M. (2009). Researching the gendered silences of violence in El Salvador. *IDS bulletin*, 40(3), 78-85.

- INCITE! Women of Color Against Violence. (2006). *The INCITE! anthology*. Cambridge, MA: South End Press.
- Kalokhe, A., del Rio, C., Dunkle, K., Stephenson, R., Metheny, N., Paranjape, A., & Sahay, S. (2016). Domestic violence against women in India: A systematic review of a decade of quantitative studies. *Global public health*.
- Konradi, A. (2007). *Taking the stand: Rape survivors and the prosecution of rapists*. Greenwood Publishing Group.
- Kubany, E. S., Hill, E. E., Owens, J. A., Iannce-Spencer, C., McCaig, M. A., Tremayne, K. J., & Williams, P. L. (2004). Cognitive trauma therapy for battered women with PTSD (CTT-BW). *Journal of consulting and clinical psychology*, 72(1), 3.
- Loseke, D. R. (2005). Through a sociological lens. *Current controversies on family violence*, 35-47.
- Lombardi, E. (2009). Varieties of transgender/transsexual lives and their relationship with transphobia. *Journal of homosexuality*, 56(8), 977-992.
- Madhok, S., & Rai, S. M. (2012). Agency, injury, and transgressive politics in neoliberal times. *Signs: Journal of Women in Culture and Society*, 37(3), 645-669.
- Maxwell, C. D., Garner, J. H., & Fagan, J. A. (2002). The preventive effects of arrest on intimate partner violence: Research, policy and theory. *Criminology & Public Policy*, 2(1), 51-80.
- Menjívar, C., & Lakhani, S. M. (2016). Transformative effects of immigration law: Immigrants' personal and social metamorphoses through regularization. *American Journal of Sociology*, 121(6), 1818-1855.
- Morrison, A. M. (2003). Queering Domestic Violence to Straighten Out Criminal Law: What Might Happen When Queer Theory and Practice Meet Criminal Law's Conventional Responses to Domestic Violence. *S. Cal. Rev. L. & Women's Stud.*, 13, 81.

- Narayan, U. (1997). *Dislocating cultures: Third world feminism and the politics of knowledge*. Routledge.
- Richie, B. E. (2000). A Black feminist reflection on the antiviolence movement. *Signs: Journal of Women in Culture and Society*, 25(4), 1133-1137.
- Schechter, S., & Ganley, A. (1995). Understanding domestic violence. *Domestic violence: A national curriculum for family preservation practitioners*.
- Seelman, K. L. (2015). Unequal treatment of transgender individuals in domestic violence and rape crisis programs. *Journal of Social Service Research*, 41(3), 307-325.
- Semmalar, G.I. (2014). Unpacking Solidarities of the Oppressed: Notes on Trans Struggles in India. *WSQ: Women's Studies Quarterly* 42(3), 286-291
- Sokoloff, N. J., & Dupont, I. (2005). Domestic violence at the intersections of race, class, and gender: Challenges and contributions to understanding violence against marginalized women in diverse communities. *Violence against women*, 11(1), 38-64.
- Wesely, J. K., Allison, M. T., & Schneider, I. E. (2000, March). The lived body experience of domestic violence survivors: An interrogation of female identity. In *Women's Studies International Forum* (Vol. 23, No. 2, pp. 211-222). Pergamon.
- Sokoloff, N. J. (Ed.). (2005). *Domestic violence at the margins: Readings on race, class, gender, and culture*. New Brunswick, NJ: Rutgers University Press.
- Smith, N., & Stanley, E. A. (Eds.). (2011). *Captive genders: Trans embodiment and the prison industrial complex*. Oakland, CA: AK Press.
- Spade, D. (2011). *Normal life: Administrative violence, critical trans politics, and the limits of law*. Brooklyn, NY: South End Press.
- Subramaniam, M., & Krishnan, P. (2016). Stranded between the law, family, and society: Women in domestic violence and rulings of India's Supreme Court. *Current Sociology*, 64(4), 603-619.

Trabold, N., McMahon, J., Alsobrooks, S., Whitney, S., & Mittal, M. (2020). A systematic review of intimate partner violence interventions: state of the field and implications for practitioners. *Trauma, Violence, & Abuse, 21*(2), 311-325.

Walby, S. (1990). *Theorizing patriarchy*. Basil Blackwell.

Weis, L., Fine, M., Proweller, A., Bertram, C., & Marusza, J. (1998). "I've Slept in Clothes Long Enough": Excavating the Sounds of Domestic Violence Among Women in the White Working Class. *The Urban Review, 30*(1), 1-27.

Conclusion

My dissertation, *Biopolitics of the Third Gender Category in India*, uses 18 months of ethnographic data to investigate how transgender women sex workers in West Bengal negotiate claims to state resources following the Indian Supreme Court's ruling of a "Third Gender" category in 2014. Significantly, the implementation of this non-binary gender category occurred while "homosexual acts" remained criminalized by the Indian state; for transgender women—especially those who are sex workers. This produced a paradox in which state visibility around gender identity could also expose them to criminalization, depending on how local state actors perceived the legitimacy of transgender women's claims to womanhood. On the surface, legal recognition of the Third Gender category seems to be steps towards greater inclusivity and gender equity; however, there is currently little research that explores the impact of such legal recognition on the lives of people who identify as gender non-binary. My scholarship addresses this gap by demonstrating that people who fall into the Third Gender category do not necessarily interpret legal recognition as an unambiguous good. Across empirical chapters on state surveillance, sex work, and the family, I reveal how cultural and social structures shape the ways which people interpret, contest and expand this new category.

The dissertation's introduction historically contextualizes non-binary gender identities as central figures within the Indian and South Asian cultural imagination. In Chapter 2, "Queering Like a State: Third Gender, Governance, and Legibility," I develop the concept of *gender calculus* to argue that street-level bureaucrats draw on local constructions of gender to police

trans women's access to the Third Gender legal category. I show how local state actors "calculate" the legitimacy of trans women's claims to Third Gender by constructing markers of non-binary legibility and threatening non-legible subjects with criminalization. In Chapter 3, "Carceral Gender Regimes," I investigate how the intersections between class, caste, and gender render transgender women sex workers simultaneously culturally invisible and criminally hypervisible. I argue that the Third Gender category reveals the carceral tensions between the lived experience of gender and its codification into the law. In Chapter 4, "Queering Domestic Violence," I document how the criminal-legal system is an inappropriate tool for securing justice, safety, and healing.

The theoretical implications of my research are catalyzed by the premise that much of the sociology of gender in the United States takes the experiences from the West as its point of reference, thereby, erasing and Orientalizing knowledge produced in and about the Global South. My research intervenes into the sociology of gender by centering the experiences of non-Western transgender people. To this end, it analyzes how the legal and social categories of transgender and third gender continue to be contested, expanded, and shaped by the politics of social location. In order to interrogate the meanings and limits of the legal constructions of the third gender category in India, I situate this research at the intersections of sociological theories of law and sexuality—particularly those that bear on transgender experiences—and governmentality. I show how the state co-opts liberatory projects of legibility and visibility into opportunities for surveillance and criminalization.

My research is also driven by significant epistemological concerns. While the field of sociology acknowledges that the sexed body and gender roles are social constructs, it generally

regards gender identity as internal, even if the performance of gender is socially negotiated. The view that gender identity is a continuum that is influenced by how society constructs gender, but is likely hardwired into brain at birth,” does not adequately address the ways in which the embodied transgender subjectivities may be the effect of regulating, normative mechanisms of power (Rudacille 2005, p.292). As Brubaker (2016) suggests, in a modern world in which categories once understood as “distinctively stable, rigorously categorical, legal embodied, and reliably decodable” are increasingly open to choice and change (131). Yet, this progressivist view of modernity fails to capture the reality that opportunities for such choices and whose choice is deemed legible to the state remains unequally distributed. This gap partly stems from that fact that much of sociology of gender and sexuality takes the Western political subject as its referent.

My future research further extends into the fields of race, gender and criminology of the Global South. Specifically, I will explore the racialized criminalization and detention of Muslim migrants in India. In doing so, I will attend to the ways that sexuality is critical to the race-making project by investigating how Muslims are constructed as sexual predators and demographic threats to the nation. For this project, I will conduct in-depth interviews with Bengali Muslim migrants in eastern and northern India. Building on my current research and networks, I will investigate how legal recognition of Third Gender identity across South Asia impacts the experience. es of transgender migrants. Through this project, I will theorize how race and racialization travel across nations and how race-making projects interact with caste, religion, sexuality.

My scholarship represents the forefront of studies on gender and sexuality, social movements, and governance and criminology in the Global South. To this end, I attend to the ways states often co-opt emancipatory projects and encode ideologies of social control and violence into policies with justice goals. This dissertation centers the lived realities and voices of marginalized, while also critically examining the gaze of the state and majoritarian populace that produces certain communities as deviant and polices who can claim the mantle of national belonging. Such inquiry reflects the discipline's core mission: to uncover how inequalities shape lived experience, suffering and resistance.

Finally, I write these words now, in June of 2020, in the aftermath of multiple disasters: first a pandemic, a migration crisis precipitated by a mismanaged country-wide lockdown and most recently, by the most severe cyclone to hit the land in 200 years. Yet, in the face of hunger and homelessness, transgender sex workers and activists have continued to find new ways to forge community, such as creating Community Kitchens and setting-up mutual aid networks. As the pandemic exacerbates extant inequalities and the government attempts to retain power by sowing division, these activists on the ground offer an alternative vision for a new politics to emerge by making common cause with other some of the most vulnerable people in the country, including Muslims, Dalits and migrant laborers.