

Challenging the Universalism of the Concept of Transgender Identity in the Indian Context

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Article Detail:	Abstract
<p>Received on: 11 May 2025 Revised on: 05 Jun 2025 Accepted on: 11 Jun 2025 Published on: 15 Jun 2025</p> <p>©2025 The Author(s). Published by International Journal of English Language, Education and Literature Studies (IJEEL). This is an open access article under the CC BY license (https://creativecommons.org/licenses/by/4.0/).</p> <p>Keywords – Identity, Gender, Transgender, Hijras</p>	<p><i>Society often marginalizes non-normative forms of gender expression and identity, resulting in the exclusion of those who embody them and forcing them to live on the fringes. When it comes to sex and gender, Indian society acknowledges only two, whereas in Scriptures and Epics, three genders were socially accepted. From treating Hijras as royal ones to criminals, Indian history has seen it all. Being categorized under the 'third gender' has led to their identities being mixed with those of transgender individuals, resulting in a generalized narrative that fail to reflect their unique practices. After the NALSA vs Union of India (2014) Judgement, the visibility of third gender has increased in the society. But it deepens the problem for those who identify themselves as Hijras, as the judgement puts all those who defy gender norms under the category of transgenders. In India, culture defines one's identity. The hijra community has specific traditions and rituals that an individual must adhere in order to be recognized as a hijra. The research is an attempt to highlight hijra's unique culture, norms and rules, thereby distinguishing them from transgenders. The paper shall discuss the problematics of the term transgender vis-à-vis hijra.</i></p>

I. OBJECTIVES

The paper aims to study the various terminologies used by society to address transgender people in a heteronormative society, where they are often labelled as 'deviants' and 'moral abusers'. It will provide a detailed study on how they regained their lost identity, from fighting their inner demons to fighting in the court. They have suffered a lot, yet managed to survive and carve out a space for themselves in a society which has rejected and abandoned them. The paper will study Criminal Tribes Act (CTA) 1871, which was introduced by the British regime to eradicate eunuchs and *hijras* from the mainstream society, as British considered them a threat to morality. It will also delve into the NALSA vs Union judgement 2014 and how the use of term 'Transgender' is problematic in Indian society.

II. GENDER, SEX AND SEXUALITY

In South-Asian societies, a great emphasis is given to one's sex and gender. Moreover, according to one's biological sex, the society imposes a set of norms and codes, which determines one's gender. The society needs to understand the difference between these two terms: sex is biological and given to someone at the very time of their birth, whereas gender is a social construct, which is imposed by society and forces an individual to behave in a certain way. In patriarchal and hierarchical social structures, gender serves as a critical factor in an individual's life trajectory. Judith Butler, in her seminal text *Gender Trouble*, explains that gender is performative and it is attached to one's social behaviour, performance and practice.

Gender, sex and sexuality are intertwined but have different meanings and implications. Human sexuality is the sexual expression of an individual, which involves various aspects: biological, emotional, psychological, erotic, spiritual feelings and behaviours. It describes how and with whom we act on our erotic desires and can be categorised into sexual identity, sexual health and reproduction etc. It encompasses all aspects of sexual behaviour, including gender identity, orientation and activities. "Sexuality is analytically distinct from gender but intimately bound with it, like two lines on a graph that intersect" (Stryker 33).

In an academic discourse, 'sex' can denote multiple concepts, including biological classification and sexual activity, it can be used "...as a description of a kind of person, for the act of participating in intercourse, as a synonym for our genitals, as well as to describe biological differences in reproductive capacity" (Stryker 31-32). The classification of individuals by sex is generally stated through 'male' and 'female'.

Gender is a social construct, it can be called as "...set of cultural beliefs and practices about biological sex..." (Stryker 32). Therefore, one has the choice to choose one's gender according to one's sexual interests and having a particular type of interest makes one's sexual identity. Gender is fluid not universal and it is performed, created through repeated actions, habits and performances rather than rooted in biology. It refers to the socially constructed roles, expressions, and identities that a society considers suitable for individuals based on their perceived sex.

In India, Ardhanareeswara, the half-male and half-female form of Shiva, is worshipped. Why then would such a country abuse hijras? Revathi. (x)

Hundreds of stories are credited to *hijras* and their existence. Lord Rama blessed them with divine powers, as they waited for fourteen years for Lord Ram at the forest rim. In *Mahabharata*, the tale of *Shikhandi* also validates their existence and depicts how they were well accepted in society. Sangam literature acknowledges people who do not conform to established gender norms. For instance, it uses the word 'Pedi' to refer to transwomen. The love

between King Koperunchozhan and Pisuranthaiyar is a profound example of same sex love affair from the Sangam period, where it is to be believed that they died at same time in different places symbolizing their transcendental love for each other.

Hijras and British Regime

Hijras of South Asia have long enjoyed a divine rank, as Lord Rama bestowed them a status that was greater to any mortal and a history of enjoying a reputed place in the times of the Mughals. But, from 1865, under the British rule, they were forcefully removed from the society and considered bad influence on the heteronormative society. With the introduction of CTA 1871, the process got accelerated.

The CTA 1871 criminalized the *hijras* and any gender non-conforming individual by describing them as habitual criminals. Various pieces of colonial legislation in India during British rule were collectively called Criminal Tribes Act. The British colonial administration labeled *hijras* as a 'wandering people' (Hinchy 67), grouping them with other nomadic tribes. As they travel across India, in search of employment and to perform their ritual practices, thereby disturbing the political boundaries set up by the colonial regime.

There are records from police, where people who cross-dress for performances were also put behind the bars, claiming that they are not serving a good impression on the society. *Hijras* and Cross-dressers were seen as threats to colonial morals and social norms. Jessica Hinchy, in her book, *Governing Gender and Sexuality in Colonial India*, states that "For colonial commentators, *Hijras* were also a danger to good order and to 'public decency and morals'" (61). She also discusses that British labelled them as 'wanderers' or 'mendicant caste' because they use to travel short distance to collect *badhai* at the occasions of child birth, marriages and etc. They also used to visit their guru every year, so much of travel became a hindrance for census and British failed to collect taxes and control. *Hijra* mobility also became a big reason for their criminalization.

Quest for an Identity

The word *hijra* is an Urdu word derived from the Semitic Arabic root word *hijr* which means "leaving

one's tribe". In addition, "The word 'hij' refers to the soul, a holy soul. The body in which the holy soul resides is called *hijra*" (Laxmi 39). People who do not accept the established gender roles and norms are not entertained by the mainstream society. To have a sense of togetherness and belonging, they have set up their own culture, language, customs and rituals, which have helped them to endure the discrimination and marginalization. The formation of a counter-culture has been crucial for their survival and the establishment of their unique identity.

Albeit, society hasn't provided them any space within the mainstream, but definitely has given them various labels, like *kothi*, *shiv-sakhti*, *aravani*, *hijra*, etc, to stigmatize their sexuality. In Tamil Nadu, *hijras* are known as *Aravanis*, the wives of *Aravan*, and *Thiru-nangais*, as they all gather, in the village of *Koovagam*, to celebrate their womanhood and do *sollah shrianagar* and then on the last day (18th day) of the procession, they declare themselves as widows of *Aravan*, which is an authoritative way of ascertaining their womanhood. This story comes from the oral tradition of Tamil retelling of *Mahabharata*.

In North India, *hijras*, *Chakka*, *kothi*, etc, are some common names which are credited to anyone who discards the gender norms of heteronormative society. In Gujarat and Rajasthan, *Bahuchara Mata* is the divine power, which has a great significance in the life of a *hijra*. Devdutt Pattanaik puts, "The goddess on the rooster, Bahuchara-mata, is invoked in many hijra communities during hijra's castration ceremony which is termed 'nirvana'" (107).

However, once I joined Sangama I realized it was not my fault. It certainly was not my fault that I was thrown out of my family; it certainly was not my fault that I was forced to discontinue schooling. Then why are we subjected to such terrible violations and denied our basic rights as human beings?... (Revathi 50-51)

Revathi emphasizes that it is certainly not 'their' fault for being into odd jobs and sex work, since society has forced them to take up these to sustain themselves. Gender-diverse individuals are not accepted in society. They are abandoned by their

own families and the society, which forces them to live on the fringes. To make a living out of the rejection, they set up a society for their survival, which welcomes everyone who gets a rejection. Kallinkeel in his novel, *Rasaathi: The Other side of a Transgender*, describes a father abandoning his own son because of his choices, "From here onwards, this is your home and these people are your family. They will take care of you. Forget about us" (17).

They knocked the portals of court to claim their basic human rights after decades of suffering. Their journey is exhaustive and long but in 2014 they achieved a major milestone. The landmark judgment in the history of India came in April 2014 by Supreme Court of India which granted transgenders, an identity of third gender at educational institutions and classified them under 'Other Backward Classes'. The judgement is a milestone in the history of Transgender people as it affirms the right of individuals to self-identify their gender, recognizing transgender persons as a 'third gender' and provided them their long lost and deserved citizenship. The Court highlighted that discrimination based on gender identity or expression violates constitutional assurances of freedom, equality, and dignity. The status given by law, provided them a legal representation. However, in spite of the legal acknowledgement, the social recognition still remains a distant dream. Even after the judgement, Indian society is not, yet, ready to accept them just like any other normal human being. There is a stigma associated with their image. The government is taking various steps to uplift their social stature but all in vain, as the rigidity in people still persists and failed to consider the third gender a part of society because they are considered as a threat to morals, values and structure of the society.

The court has given them a legal identity, as it is a crucial part of one's existence. The moment a baby is born, an identity is given to the newborn according to one's sex, religion, caste and creed. One is identified by one's identity which verifies one's existence in the social world. Etymologically the word 'identity' is derived from the Latin root 'idem', meaning 'sameness and continuity'.

Identity is an umbrella term which describes an individual as a discrete and separate entity. It can be

broadly divided in two categories: given and self-proclaimed, the former is used to present oneself in the society and the latter is for one self. "Transgender people often find themselves oscillating between two identities—the one assigned at birth, and the one they affirm, which is frequently rejected by society. This societal non-acceptance contributes to their stigmatization and marginalization. To gain the lost identity, they have fought and are still fighting for their social acceptance in the 21st century. Though the law has given them space but socially it is still a fight in motion.

The case with transgender individuals is different, although they had a historical accepted identity, today they are fighting to reclaim it. Under British regime, they not only lost their independency but also their social and cultural identity. When an individual loses his own identity, he tries to attain that lost identity or construct a new one to sustain oneself in a society where having an identity is primary. The quest for a new identity is full of challenges and the process of construction is painful as well as grueling. It was British who criminalised *hijras*, and even after decades of independence, Indians are still ruled by a colonial mindset and are afraid to accept *hijras* into what is considered a 'cultured' society.

The judgement of NALSA vs Union 2014 acknowledges *Hijras* as Third gender, decriminalised them and ushered in the recognition of civil and political rights of the community. The court held that *hijra*, eunuchs, *aravanis* and *thirunangi*, *kothi*, *jogtas/jogappas*, *shivo-shakthis* etc. in addition to binary be treated as third gender. The judgement also included a discussion about Yogyakarta Principles: it is a document about human rights in the areas of sexual orientation and gender identity. Sakshi Parashar clearly mentions in her research paper that "there are other parts of the judgment where the term transgender is used generally and is not qualified with the usage of *hijra* or eunuchs, leading to the perception that the judgment focuses on transgenders in general" (115). There are paragraphs where the judgment clearly mentions that *hijra* is one of many categories which falls under the term transgender, but when one fully read the judgement, one can easily get confused by

the use of these terms interchangeably. Parashar also states '... continuous usage of 'hijra/transgender' makes one interpret the term transgender in a manner which limits its understanding to hijras, etc., and not the other gender variant identities'.

The term credited to *Hijras* is transgender, which is an umbrella term and the definition is under construction. The usage of the term in Indian context is very abstract, as one can be a *hijra* and transgender, both, but not every transgender is a *hijra*. Sakshi Parashar discusses, in her paper, that the term "includes a spectrum of people who transgress gender norms. It has been pointed out, that the term is only an attempt to consolidate and provide an identity to gender non-conforming people within the purview of state and legal recognition" (111). Transgender is a word of western origin and used informally for a person who defies heteronormative norms of gender and sexuality. Susan Stryker tries to define the term:

An umbrella term that refers to all identities or practices that cross over, cut across, move between, or otherwise queer socially constructed sex/gender binaries. The term includes, but is not limited to, transexuality, heterosexual transvestism, gay drag, butch lesbianism and such non-european identities as the Native American berdache or the Indian Hijra. (149)

Susan Stryker in her book *Transgender History*, discusses the recent usage of the term transgender and states "...the term *transgender* used to refer only to those who identify with a binary gender other than the one they were assigned at birth..." (37). The countless usage of the term doesn't go with the identity of Indian *hijras* and this is why the very usage of the term is problematic in Indian society, as it destructs the cultural identity of a *hijra*.

III. CONCLUSION

The word 'Transgender' has come to light in the past couple of decades of the 21st century, and its meanings and definitions are still under construction. The term encompasses all identities that reject the norms of heteronormative society. Whereas, *Hijra* community defines 'hijra' as a

cultural identity reserved for people who have undergone a traditional ceremony known as *reet*. Therefore, a *hijra* can be a transgender but not all transgenders are *hijras*. The term *hijra* is used for a male who has feminine traits or a female trapped into a male body, whereas transgender consists of both transman and transwoman.

The research establishes that there is an urgent need to define these terms and should not be used as synonyms. A lot of research is yet to be done to understand these terms. While going through the path-breaking judgement of NALSA 2014 and Transgender Bill of 2016, one can find the loopholes and how the terms are used synonymously, which *hijra* community finds derogatory and improper.

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