

## Travelling from Ethico Religious to Socio Legal Aspects: "I Know I'm Transgender Because My Brain Knows It's Female, But My Body Disagrees"

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### Abstract

Regardless of where a person lives, globalisation and westernisation have profoundly altered society and way of life. All around the world, there is a transition between cultural and traditional practises. People find themselves embracing new cultures, outlooks, and ways of life that are also supported and encouraged by society. Nowadays, it's commonplace to see people getting tattoos, colouring their hair, working out, and even living together. Today's culture is prepared to tolerate such societal shifts. Additionally, we can see in our daily lives that some persons try to change their gender identity and present themselves as the opposite gender. While those from wealthy backgrounds have comfortable lifestyles, those from less fortunate backgrounds frequently encounter difficulties in their day-to-day activities. Particularly in India, a group of people can sometimes be seen aggressively pleading for money at traffic lights by shouting, clapping, and bellowing. They curse those who refuse to pay them money while blessing those who do. These are the transgender individuals, also known as hijras, who are dressed in traditional Indian sarees. Transgender people are the weaker members of society because they were born with genetic makeup and physical characteristics that mixed masculine and female traits.

**Keywords:** Transgender, Healthcare, Stigma, Gender affirmation, Youth, Race

### Introduction

According to Stryker (2006), the phrase "transgender" is one that has gained popularity in recent years and denotes "a movement away from initially assigned gender position." and "transgenders" are people who do not conform to the gender expectations set by society. "The difference between a dominant or common construction of gender and a marginalised or infrequent one" (Stryker, 2006) is what distinguishes "gender" from "transgender."

The terms "Aravani" or "Aruvani" (Tamil), "Kojja" (Telugu), "Chhakka" (Kannada), "Menaka" (Cochin, Kerala), "Hijra," "Hijda," "Kothi or Koti," "Kinnar" (in Urdu and Hindi), "Khusra" (Punjabi), "Janka" or "Pavaiyya" The groups who associated with the aforementioned titles in different places assert that they are distinct from those who fall under the categories of "Transgender," "Third sex," or "Third gender," and deny that this is the case. There are more types of gender than just male and female, as evidenced by the presence of all these people. The word "transgender" was first used in the 1970s to refer to people whose gender identity, expression, or behaviour does not correspond to traditional gender norms linked with sex at birth. These people are classified as either

Male-To-Female (MTF) or Female-To-Male (FTM) depending on their gender. Along with people who want to be accepted for having a gender other than the one they were given at birth and even those who pursue surgical treatments to align their anatomies. Some people who identify as neither totally masculine nor fully female may think of themselves as falling "between" genders, not precisely belonging to one gender or the other. The phrase "transgender" is derived from the Latin word "Transgenre," which is a generic term used to describe a wide range of people, behaviours, and groups that have a tendency to deviate from socially prescribed gender roles. The condition of not having an identity that corresponds to one's "assigned sex" is known as transgender. Let's be clear: "Transgender" does not refer to any one particular type of sexual orientation. Any sexual orientation is acceptable, including heterosexual, gay, bisexual, pansexual, and asexual. The 1970s are when the term "Transgender" actually gained popularity. It discussed those who desired to live transgender lives without undergoing gender reassignment surgery. The phrase was broadened to encompass everyone whose gender identity did not correspond to the gender given to them at birth in the 1980s. The term "transsexual" has its roots in the

mental health and medical fields. People who identify as transsexuals want to live their lives as members of the sex that is opposite from the one they were assigned at birth. They may change their gender. A medical gender reassignment therapy, which frequently entails hormone replacement therapy and/or sex reassignment surgery, may be used as part of the transition process. Those who have a constant conflict between their gender identity and their physical appearance are known as transsexuals. These people are described as having a "female soul in a man's body." The majority of them undergo hormone therapy and surgery to mimic more of a woman's body and features because they truly believe that they are women. It's interesting to note that transsexuals can find themselves attracted to both men and women or neither. The categories of transgender and transsexual people have a diverse range of gender identities and manifestations that are considered to be antithetical to the genders of male and female. These people include transvestites, drag queens, kings, cross-dressers, genderqueer people, etc. All transsexuals fall under the transgender category, despite some people objecting to this. Because they have genitalia or other physical traits, intersex people do not strictly fit the criteria of male or female. As a result, intersex individuals are not always transgender. The transgender people either assume their gender identity all the time or occasionally assume a role that is the reverse of their biological sex. Because they have distinct needs and concerns in society and are therefore expected to be referred to as a different group, transgender individuals are seen as a distinct group of people and are also referred to as third gender. Any person, whatever of age or sex, who identifies as transgender has physical features, personality traits, or behavioural patterns that diverge from what is "supposed" to be true for men and women. Since the beginning of human life as it is known now, transgender persons have existed in every culture, ethnicity, and social level. The existence of transgender people and their culture are not new, but the terminology used to describe the third gender and the technologies available to transsexual persons are. In a broad sense, those who defy expectations and standards are referred to be transgender. Transgenderism is a basic identity, presentation, and expression issue rather than a matter of clothing and surgery. Although they are incredibly unusual, some kids declare to be the opposite gender almost as soon as they can speak. Adolescents who complain about being in the incorrect body are also uncommon. Most transgender people just deviate from the typical gender stereotypes. They are forced to remain in a condition of denial and secrecy until internal pressure eventually compels them to reject social pressures like shame and guilt and make a choice about who they are. Deep depression, suicidal thoughts, as well as a sense of loss and not belonging, are unwelcome benefits of being transgendered.

### Definitions of Transgender

Sociologists Candace West and Don Zimmerman contend that gender is more of an outcome of relationships than a fixed, static component of identity that we bring into them (Radhakrishnan, 2013).

One of the Hijra once said, "Sex is what you are born with, gender is what you recognise, and sexuality is what you discover." A person's biological status is referred to as their sex, which is commonly classified as male, female, or intersex. Sex chromosomes, gonads, internal reproductive organs, and external genitalia are just a few biological sex indicators. (APA, 2013).

The biological traits of an individual are referred to as their sex. Today, most societies classify people as either male or female at birth-a classification that is often based on the genitalia they have (West and Fenstermaker, 1995). Contrarily, gender is a construct built on accepted societal norms of what it means to be a man or a woman (Unger and Crawford, 1993).

The attitudes, emotions, and actions that a particular culture links with a person's biological sex are referred to as their gender. Gender normative behaviour is defined as being consistent with cultural expectations; gender non-conformity is defined as behaviour that is seen as being inconsistent with these expectations (APA, 2012).

The sense of oneself as male, female, or another gender is referred to as gender identity (APA, 2011). The person may identify within the transgender spectrum when their identity and biological sex are not discovered to be compatible (APA, 2012; Gainor, 2000).

Different definitions of transgender people can be found in various literary works. This phrase was initially used by Virginia Prince to refer to those who were "transsexual and transvestite" in a hybrid form. Leslie Feinberg, a pioneer, is credited with giving the term transgender its current definition in his short but seminal essay "Transgender Liberation: A Movement Whose Time has Come" (Stryker, 2004). This, according to Stryker.

People who refuse to categorise themselves according to the men/women gender dichotomy are referred to as transgender (Beasley, 2005). Simply put, the term "transgender" refers to a variety of persons who live according to the gender that was given to them after birth rather as the one that is expected of them. These are the genders that go beyond the confines of the conventional notion of gender (Bettcher, 2009).

According to the United Nations Development Programme (2010), transgender women in Tamil Nadu are referred to as "Aravani." In Tamil Nadu, Hijras were referred to as "Aravani". The Department of Social Welfare board's Tamil Nadu Aravanigal Welfare Board identified Aravani as biological males who self-identify as women imprisoned in male bodies. Some Aravani activists want to be referred to and called "Thirunangai" rather than "Aravians" in conversations and on social media.

The term "transgender" refers to a wide range of identities, including cross-dressers (people who don't typically wear clothing associated with their gender) and transgender men and women. Transgender men and women are those who were assigned female at birth but identify more as men, while non-binary and genderqueer people are those whose gender identity is fluid or ambiguous or who may perceive themselves as both male and female.

According to Susan Stryker (1994), the term "transgender" refers to any identities or behaviours that cross, cut over, move between, or otherwise queer socially imposed sex or gender lines. The term "transgender" encompasses a wide range of non-European identities, such as the Native American berdache or the Indian Hijra, as well as transsexuality, lesbianism, homosexual drag, heterosexual transvestism, and butch.

Transgender is a general phrase that refers to gender identity disparities between an individual's assigned biological sex and their felt gender. This phrase refers to those who cannot be classified as either male or female because they do not fit within a binary sex framework. People who fall under this category of transgender may occasionally believe that they are the wrong gender, but this view may or may not be linked to a

desire for hormonal or surgical reassignment (Meier and Labuski, 2013).

### Historical Background of Transgender

Transgender people were prominent in Indian history, particularly in Hindu mythology and other religious scriptures. In the Ramayana, Lord Rama turned around his followers and pleaded with them to go back to the city after being exiled from the kingdom and imprisoned in the jungle for 14 years. The only transgender disciple who does not feel constrained by this direction opts to stick with him.

Rama was moved by their devotion and granted them the right to bless people on auspicious occasions like marriage and childbirth as well as at ceremonial gatherings, which is thought to have given rise to the practise of "Badhai" in which transgender people perform songs and dances and bestow blessings (Agoooramorthy and Hsu, 2014). In the Mahabharata, Aravan, the son of Arjuna and Nagakanya, agrees to be sacrificed to Goddess Kali in order to establish the Pandavas' success in the battle of Kurukshetra. Because of this, when asked what his last wish was, he said he wanted to spend his final night married.

Since no woman would agree to wed a man who was destined to die, Lord Krishna created an avatar of a stunning woman to wed him. Krishna is known as Mohini and is said to be a woman.

As Brihannala in the Mahabharata, Arjuna assumed this identity when in exile, when the Pandavas were forced to live a secret life for the final year of their vanavasa era. During this time, known as Aknyadhavasam, he underwent gender transition and adopted the name Brihannala (Hub Pages, 2013). There is a transgender deity in the Hindu religion. He or she is known as Ardhanarishvar, which is Sanskrit for "half-male, half-female god." In Hinduism, this hermaphrodite deity possesses a male and a female side. It is Lord Shiva and his wife Parvathi in an androgynous form (Rao, 2012). When journeying through a jungle, the Goddess of Hijras, also known as "Bahucharamata," was met by some dacoits who threatened to rape her. She sliced off her breasts and gave them to the thieves to stop them from getting too close to her. She was revered as the goddess of the earth after her death. Before the hijras begin the process of castration, Bahucharamata is given a coconut. The hijras think the castration can begin once the coconut is cut into two neat pieces. The hijras pray to this "mata" for protection during the castration procedure because they believe the Goddess will appear to them and command them to chop off their genitalia and serve her as her slaves. They also think that if they don't get castrated, their future children will be born without any sexual ability. Tamil Nadu's transgender women identify as Aravanis, or descendants of Aravan, and identify as such. According to the Koothandavar religion, after Aravansin's sacrifice the following morning, Krishna may be found lamenting like a widow before resuming his natural masculine form. According to Saxena (2011), Tamil Nadu's transgender women refer to themselves as Aravanis, or Aravan's wives. Literature from the Vedic and Puranic traditions has also included the ideas of "Tritiya Prakrti" and "Napunsaka." In the Rig Veda, the term "Tritiya Prakrti," which means third sex or third nature, is mentioned. Males who identify as other genders have existed in India for generations. The sexual behaviour of those with "third nature" was vividly portrayed in the ancient classic known as the Kama Sutra. The word "Napunsaka" stood for the lack of reproductive potential. The royal courts of the Islamic world, particularly those of the

Ottoman and Mughal dynasties in mediaeval India, also had a significant presence for transgender women (Taylor, 2013). A mention concerning transgender women was included in the oldest and most traditional work of literature in Tamil, "Tholkappiam." The second section of the book "Sol," which is Spanish for "word," contains information about transsexual women. Additionally, the author stated in one of the chapters that "people who surrendered their masculinity should not be mentioned as "man. The term "transgender" (Idaiyinam, neuter) was used to refer to them in this ancient Tamil grammar treatise. Thus, it is clear that transgender women existed even during the time of Tholkapiar, and numerous Tamil poets and authors started conversations regarding their body language, gender identities, and sexual orientations.

The term "pedu" (which roughly translates to "impotent") was used to refer to transsexual women after the Tholkapiar era. This can be found in Avvaiyar's poetry. The poetess perceived the gender change as a biological defect. "Thivaakara Nika'ndu," a Tamil grammar book, made note of transgender identity, body language, activities, and lifestyles. They are referred to as Ali by old poets like Thirumoolar in Thirumandiram and Namalwar in Thiruvaimozhi. No one, not a man, woman, or even a transgender person, could see or claim to be Him, "or never." To seekers, His shape may show, but it may also vanish. Great He is, our Lord, is all that we are able to say briefly (Thiruvaimozhi). Additionally, Illango Adigal refers to them as Ariya Pedigal in Silapathikaram.

The major notes of epics like "Silapathikaram," "Manimekalai," and "Seevaga Sinthamani" also make reference to transgender ladies. There was a description of 12 different styles of Madhavi dances in "Silapathikaram." Pedi koothu, which is Tamil for "impotence dance," was one of them (Priyababu, 2012).

In the Bible, the New Testament shows more ambiguity about transgender women than the Old Testament. This offers eunuchs (Greek eunochos, similar to that of a Hebrew sari), as shown in the narrative of an Ethiopian Eunuch's conversion, as suitable candidates for evangelism and baptism. Jesus stated in Matthew 19:12 that some people are incapable of marriage because they are born that way, and some people are incapable of marriage because they were created that way by others. As a result, some people are eunuchs from birth, while others have been made to be eunuchs by men, and still others have become eunuchs on their own (CARM). The Quran makes it clear that certain people are neither male nor female. The verses in verses 42:49-49:50 discuss several forms of gender and sexual orientation. The concept of "psychological sex" is mentioned in depth about transgender women in Jains texts (Michelraj, 2015).

### Causes of Transgenderism

Recent research has shown that a person's personality is more essential than the early-life nurturing they received for their transsexual condition. Evidence from science indicates that each person's fundamental gender sentiments and natural gender identity are determined by certain brain regions in the hypothalamus (the BSTc area). The lower brain centres and Central Nervous System (CNS) are where the "hard-wired" brain structures are located during the early prenatal stage of pregnancy. The sex hormones do not have the usual effect on the integration of the fetus's brain if something goes wrong in the earlier stages of pregnancy. In these situations, babies are born with a brain-sex (neurological sex) and an innate gender identity opposite that is expressed in both their genes and genitalia. These babies will be raised in the incorrect gender

for their brain-sex because they appear normal as infants. They experience severe gender dysphoria and emotional distress as adults since they were raised in the incorrect gender. The premise of early theories was that gender is taught behaviour. Because of the widespread perception that transgenderism is a lifestyle choice, the phrase has a negative societal connotation. Parental rejection, the absence of a father during childhood, having an emotionally distant father, peer pressure, perfectionism, media images, self-rejection, and low self-esteem are some of the psychological factors that have been linked to transgenderism. These factors may be exacerbated by a hostile response from society.

A far more detailed "two-type" hypothesis of transsexualism was put forth by some behaviourists in the late 1980s, and it has since "caught on" in psychiatric circles as "explaining the cause of transsexual mental illness." To explain male to female transsexualism, behaviourists intuited and

### **Subsequently Characterised two Categories of Sexual Urges**

- a) Extreme cases of "effeminate homosexuality."
- b) Compulsive instances of "autogynephilic auto sexuality."

A new phenomena that has emerged in recent years has also piqued the psychiatrist's interest. A significant number of extremely transvestite men realised that the physical changes made attainable by transsexual medical and surgical technologies can revitalise and increase their lonely sexual joys later in age. These people identify as masculine and want to live and engage in sexual activity with themselves while inhabiting a female body. These guys used to identify as "transsexuals" in public to provide a more socially acceptable justification for their physical gender alterations, but they are now known as "autogynephiles."

The period of time during which transsexual people start to alter their physical characteristics and gender identification is known as the gender transition. They urgently need assistance from family and friends since they are most vulnerable to discrimination during this time. However, many parents have unfavourable responses when their children come out as transgender. As a result of their guardians' frequent rejection, abuse, or neglect, these children prefer to live on the streets to endure unpleasant situations. Recent research on the developmental elements of transgender identities leads researchers to believe that trans people often go through a process of dissonance, investigation, and disclosures that, when successful, leads to identity resolution (Pardo, 2008).

### **International Laws for Transgender**

There are more than 75 nations, according to the International Lesbian, Gay, Bisexual, Trans and Intersex Association that have laws that make it illegal for LGBTI individuals to engage in sexual behaviour. Eight of them allow for the death sentence to be applied for same-sex relations, and five of them-Mauritania, Sudan, Iran, Saudi Arabia, and Yemen-actually do so. Despite not being mentioned in the civil code, the sixth state (Iraq) undoubtedly has judges and militias across the nation that execute people for engaging in same-sex sexual conduct. Furthermore, the death penalty for the behaviour is formally enforced in various Somalian and Nigerian provinces.

The death penalty is used in regions controlled by Daesh (Islamic State in Iraq and the Levant/Islamic State in Iraq and Syria) (Reisner *et al.*, 2013). Most of the African continent's nations that criminalise homosexual, bisexual, transgender, or

intersex behaviour are found regionally. The second-highest number of countries in the world that view this as a crime are found in the Middle East, closely followed by Asia. There is significant violence against transgender individuals throughout Europe, and European nations are enacting "Russia-style" laws that forbid the promotion of homosexuality. Afghanistan, Malaysia, Tonga, and Samoa are among the four Asian nations with laws that make it illegal to cross-dress. Transgender people's access to medical care and even the freedom to move about their own neighborhoods is restricted by the enforcement of these regulations (Godwin, 2010).

### **Transgender Population**

According to the 2011 Indian Census, there are 4.9 lakh transgender women living in India. About 28% of the population identified as belonging to the third gender lived in Uttar Pradesh, which was followed by 9% in Andhra Pradesh, 8% in each of Maharashtra and Bihar, over 6% in both Madhya Pradesh and West Bengal, well over 4% in Tamil Nadu, Karnataka, and Odisha, over 3% of all transgender women lived in Rajasthan, and 2% in Punjab (Raju and Beena, 2015).

The Indian states and union territories with the highest rates of acceptance of the LGBT community, according to a 2019 survey, include Uttar Pradesh (36% acceptance), Tamil Nadu (30%), and Delhi (30%). Mizoram (87% rejection of same-sex couples), Nagaland (63%), Jammu & Kashmir (63%) and Kerala (58%) were the states with the highest percentages. West Bengal (60%) and Assam (40%) are the states with the most uncertain 28 respondents, followed by Punjab (39%) and Tripura (37%). The Hindu group was the one with the highest acceptance of same-sex unions. Only 13% of Muslims and Christians and 22% of Hindus said they approved of same-sex unions. Muslim respondents had the second-highest level of opposition (50%) after Christians (70%).

### **Problems of Transgender in India after Independence**

The transgender community is dispersed throughout India, with the majority living in the western and northern regions, but some also reside in a few southern states (Nanda 1996; Krishna and Gupta 2002). Because there are more sources of income in western and northern India than in southern India, a greater proportion of the hijra population resides there. One of the key factors driving migration from southern India to other Indian states is a need for a livelihood. Hijras go from smaller towns to larger cities in pursuit of their identity and to get away from their families, according to UNDP (2010) and Kalra (2011). They are forced to leave the house, which results in their loss of access to the family's property and other rights. Due to a lack of support from their families, many hijras join the hijra community for security. According to Bhugra *et al.* (2011), a second reason in transgender people's movement is their means of subsistence. According to several studies (Nanda 1996; Mukherjee 2004; Reddy 2006; Toumey 2008; Kalra 2011; NACO 2011), transgender people typically work as beggars, prostitutes, and sex workers. Transgender people participate in ceremonies like marriage and childbirth. Because of their religious and cultural backgrounds, some think that transgender people have the ability to bless or curse (Barbara 1994; Lal 1999). The main cause of hijraphobia (transphobia) is this, and another factor contributing to stigma, discrimination, and denial of rights on numerous levels is the unclear sex or gender of a transgender person. Another issue is the change in name and gender on the credentials. Transgender people cannot enrol at colleges since

the sex listed on their birth certificate and other school/college paperwork does not match who they are. Due to the nature of their profession, transgender people also have to deal with physical and sexual abuse from the police and neighbourhood hoodlums and extortionists. Numerous instances of police harassment of transgender people go unreported because they are afraid their accusation would be dismissed as untrue (Puri 2008; UNDP 2010).

### Social Discrimination

In addition to bullying and family rejection of LGBT adolescents, overrepresentation in the criminal justice system, assault, and discrimination in the workplace, industry, and other settings are only a few examples of stigma and discrimination (Mallory, 2017). The difficulties that transgender persons face in many facets of life include a variety of types of discrimination, including barriers to employment, housing, and health care; susceptibility to hate crimes, bullying, and physical and sexual violence. Because transgender people commonly endure societal rejection and are generally visible, they face a high level of prejudice and hostility (Schembri, 2015). In small towns and villages, transgender status carries a stigma that leads to discrimination. The violation of transgender rights, criminality and violence committed against transgender people-often by hoodlums or extortionists-as well as the stigma and discrimination associated with transgender identification in mainstream society. The level of transgender rights abuses and violence against trans people is very high. Aravani / transgender identification already carries stigma, and transgender people experience more severe stigma and prejudice. Many transgender people have trouble using public restrooms and other amenities. Women won't let aravonis ride in the ladies' section of the train, and men don't like them either in the gents' section. However, women have become accustomed to seeing aravonis travelling in the ladies section over time and have gradually begun to tolerate their presence in the compartment. Homelessness, social isolation, a lack of educational opportunities, unemployment, the need to engage in sex work and other illegal means of subsistence, and substance abuse are just a few of the difficulties that transgender people may face as a result of discrimination and victimisation (Grossman and Augelli, 2006). By ruling that Section 377 of the Indian Penal Code is unconstitutional with respect to consensual homosexual intercourse between adults, the Supreme Court of India decriminalised homosexuality in 2018. In ancient Indian and customary customs, homosexuality was never prohibited or considered a crime, but it was while the British were in charge of the nation. LGBT persons in India have seen an increase in acceptance and tolerance over the past ten years, especially those who live in major cities. However, the majority of LGBT persons in India continue to live a secretive lifestyle out of fear of prejudice from their relatives, who may view homosexuality as a sin. The Indian Constitution's Article 15 prohibits discrimination on the basis of race, caste, gender, or place of birth.

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