Name- Samiksha Bharti
Email id: samikshabharati3@gmail.com
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POLITICS OF (IN) VISIBILITY: EXPERIENCING AND CONTESTING COLONIAL IMPACT ON THE HIJRA COMMUNITY

"If transgender people are the third gender, then who comprises the first gender?"

A common sight of the Indian bazaars is the *hijras,* the 'eunuch' of Indian English. Through the process of colonization, the British created a history of the *hijras.* But behind the English correspondence, lies a vernacular, social, and psychosexual source for the *hijras.*

If one traces the early years of the making of the Empire, it will be evident that the expansion of Europe was not only a matter of 'Christianity and commerce', but also a matter of copulation and concubinage. British historian Ronald Hyam outlines the concept of 'sexual energy' as a factor behind the imperial expansion. The British, in fact, were more interested in a 'discourse of sex' as a scientific problem than in its practice as a pleasurable art. French philosopher Michel Foucault rightly argued that the original feature of Western culture is the specification of notions of 'perversity', and the creation of corrective psychiatric mechanisms, which stigmatizes a variety of sexual practices, notably 'homosexuality'. However, in the East, gender and sexuality focused on the question of what it meant to undo restrictive normative conceptions of gendered and sexual life. There are two main contexts in which gender plays a defining role in the lives of people. First, it is to determine the identity of living beings, and second, is to outline the rules of grammar. The term 'transgender' has received increased attention in the political discourse of several countries in the West in recent years. **Transgender and gender non-conforming** people (or **Trans** people, in short), have many different ways of understanding gender identity- a sense of being male, female, both, or neither. In the context of India, this term is, however, seldom used in literary texts. Several instances testify to this argument, whereby from the 3rd century BCE onwards, the idea connecting biological and grammatical gender in Sanskrit has been that of the '*linga*' (means Shiva's phallus), comprising of three categories: *stri-linga* for feminine words, *pu-linga* for masculine words, and *napunshaka-linga* for neuter words. However, the handbooks of grammar found it hard to limit themselves to the three cases of masculine, feminine, and neuter. For instance, these three gendered categories were augmented in Jain texts from the 5th century CE along with a fourth case that offers two versions of the neuter gender. One is the masculine napunsaka (or *purusha-napunsaka*) for those men who occupy the penetrative position during intercourse. And the other is the *feminine napunsaka* describes those men who are receptive partners in sexual intercourse. This expansion of the neuter accords also with the taxonomy laid down in the *Kamasutra,* written by Vatsyayana (around 2nd -3rd century BCE), in which people of 'the third nature' are described as being either masculine or feminine. What is interesting about this proliferation of terms attached to the neuter gender is that the neuter is often understood as an absence of characteristics rather than a profusion

of them (Menon, 2018). A lack rather than an excess. They were celebrated in sacred Hindu texts like *Mahabharata*[1] and *Ramayana*[2].

Arjuna in Virat Sabha by **Nandalal Bose**

Watercolour on paper, Bengal, India, ca. 1905

A group of ladies watch a eunuch dance. This painting is of scene from the Sansrkrit epic the *Mahabharata.* Here, the Pandava brothers and their wife Draupadi had to remain in disguise for one year under the conditions of their exile. Arjuna, disguised as a eunuch, became music and dance master to the court ladies. He is shown here in women's clothing demonstrating a dance movement.

The coming of the Mughals marked a change in the perception of the third gender. The Mughal courts in the Indian subcontinent understood 'hijra' etymologically as a term describing the Prophet Muhammad's flight from Mecca to Medina in 622 AD. The Islamic calendar—the *Hijri*—begins from this date in 622, and the subsequent years are denoted by the appendage of an H for *hijra* or AH for anno hegirae in Latin. This association with a flight from persecution has historically marked *hijras* as a noble people, seeking sanctuary and freedom from barbarism, and standing steadfast in the face of ruthless political pressure. *Hijras* were people who fled persecution—whether of royal whims, religious sects, or the draconian orders of gender (Menon, 2018). Therefore, the view of *Hijras* as an alternative gender category is supported by linguistic evidence (Nanda, 1999). The most widely used English translation of the word *hijra* is either *eunuch* or *hermaphrodite* (intersexed). In North Indian regions a linguistic distinction was made between "born *hijras*" (hermaphrodite) and "made *hijras*" (eunuchs), the term *hijras* as it is currently used

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[1] The story of *Shikhandi,* who was half man-half woman, was the cause of death of most powerful warrior of the time, a boon that no one else was able to achieve). In the Tamil version of the *Mahabharata* Arjuna's son Aravan offers himself as a sacrifice to goddess Kali to ensure victory for the Pandavas. He asks for a boon to be married before his death. However, no woman wanted to marry him, fearing the inevitable doom of widowhood. Lord Krishna appears as Mohini and marries Aravana for a night. The Koovagam festival is celebrated by modern *Hijras* who identify with the transgendered Krishna.

[2] When Lord Rama returned from exile, he found a group of *hijras* outside the gate of Ayodhya. They replied, "You told the men who followed you to return home. You told the women who followed you to return home. You had no instructions for us, who are neither men nor women." Moved by their devoutness, Ram took them by hand and led them into the city.

collapses both of these categories (Ibid). Nevertheless, the term 'eunuch'[3] was regularly mentioned in the context of the organization of imperial affairs of the Mughal Empire. The harems of the Sultan like most settled Islamic courts were generally segregated. The institution of eunuchs was fundamental to the functioning of these segregated households (Bano, 1999). French traveler Francois Bernier wrote, in *Travels in the Mogul Empire, 1656-68,* that the eunuchs were the most trusted servants of the Mughal Empire. Because of their unique gender, they were allowed to travel freely between the *mardana* (the men's side) and the *zenana* (the women's side). Scholar Ruby Lal demonstrates the role of eunuchs as "imperial servants" and an essential part of the bureaucracy of Emperor Akbar's empire.

Many eunuchs in the service of the sacred harem, close to the sacred person of the emperor and the Mughal women, were both "servants" and "officers" of the Empire. (Lal, 2018)

Khwaja-sarai (eunuch slaves), particularly in the Awadh province in the 18th century, was part of the courtly culture and administrative governance. Hence, eunuchs began to be called *Khwajas* and *nazirs*, or both euphemisms attached to their names. Scholar Indrani Chatterjee highlights the concept of "monastic governmentality"[4], a discipleship relationship between *khwaja-sarai* teachers (*guru)* and *khwaja-sarai* disciples (*chela*). Akbar, for instance, took strict action against enslavement, releasing his slaves (in 1582), and calling them *chelas* (Bano, 1999)*.* We can trace these kinship networks in present times in the form of guru-chela relations among the *Hijras* affiliated to various *gharana* or hijra houses in urban cities of New Delhi, Mumbai, Hyderabad, or Kolkata. Scholar Zia Jaffrey in her work, "The Invisibles: A Tale of the Eunuchs of India" (1996) argues about the invisible history of the eunuch; observed in the journals of the Mughal period, but whose origins and mythologies are strangely absent.

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[3] Shane Gannon argues that by early 1800s, eunuch was the dominant term Britain used for *Hijras*, gradually replacing 'hermaphrodite'.

[4] "Student-disciples" submitted to the "legal-moral disciplinary practices" of "teachers-governors" as in case Jain or Buddhist Tantric monks who adhered to such teaching lineage.

Senior Wives playing Chaupar in the Court Zenana with Eunuchs (Lucknow, c. 1790); 18 x 10.5 cm; James Ivory Collection.

However, things began changing since the beginning of British colonial rule in the late eighteenth century. The *hijras were* perceived as deviation at odds with the laws of British Victorian morality. The project of elimination was formalized under the Criminal Tribes Act (CTA) of 1871. While the much-studied Part I of the CTA targeted the 'criminal tribes' -groups that were apparently hereditary criminals by caste occupation – the under-examined second part of the law targeted so-called 'eunuchs'. Under the CTA, *Hijras* would find their gender embodiment, domestic arrangements, and livelihoods scrutinized and policed in new ways (Hinchy, 2019). The anti-*Hijra* campaign was a provincial project since Part II of the CTA was enforced specifically in the North West Frontier Province. Scholars like Laura Ann Stoler[5] also highlight how prostitution and concubinage were accepted by the early British Empire as a 'necessary evil' to prevent "carnal relations between men and men." The British administrators viewed *hijras* as failed men who were physically effeminate, incapacitated of strenuous labor, and lacked the capacity for moral upliftment. British writer and artist, James Forbes describe the 'hermaphrodites' as ones who "wear the habit of female and the turban of a man[6].   An explanation for this British attitude can be understood through the concept of the **medical modality of power**. In the early years of the making of the Empire, some European physicians tried to understand *hijra's* embodiment. Forbes in the late 18th century met a group of physicians who subjected the 'hermaphrodites' to a physical examination. It is beyond doubt that physicians had long been central to the construction of colonial knowledge, as a result of their constant interaction with the mass. This medical modality of power extended beyond the body itself to encompass sexuality, custom, or religion. By the late eighteenth century, there was an intricate relationship between European medicine and colonial power, and by the 1850s, the *hijras* became part of colonial medical knowledge of Indian sexual practices. The physicians described the *hijras* as emblematic of Indian sexual 'perversity'. Hence, throughout the nineteenth and twentieth centuries, British colonialism marginalized monastic governmentality, replacing it with corporate

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5 Stoler, Carnal Knowledge and Imperial Power, 2

6 Forbes, *Oriental Memoirs,* vol. 1, 359

and parliamentary institutions, codes, and constitutionalism. These transformations are important to understand as they marked the genesis of discursive colonization from which neither the colonizers nor the colonized recovered.

In postcolonial India, several historians and anthropologists began engaging in interdisciplinary studies of the contemporary *hijra* community. We can primarily analyze three positions of interactions between the postcolonial Indian state and the *hijra* community: first, as a **'criminal' community** that needs to be surveilled; as a '**third' gender** and separate category of legal personhood; and third, as a disadvantaged community entitled to **affirmative policy actions** by the state. Section 377 created a space for extralegal policing measures against people whom police consider sexually deviant, including *hijras*. The 'enforcement' of section 377 against Hijras took the form of so-called 'preventative' measures such as stopping *hijras* in the street, keeping Hijras under surveillance, arbitrarily arresting *hijras* on the pretence of a section 377 offence and raids of Hijras' houses. Nevertheless what makes the *hijras* distinct from other sexual or queer identities is that the ostracization of *hijras* goes beyond the infamous Section 377 in the Indian Penal Code[7]. For instance, in 2011, Karnataka included Section 36A to the Karnataka Police Act, 1963 titled – Section 36A Power to Regulate Eunuchs – which derived from the 1919 Hyderabad Eunuchs Act, was outlined along the 1871 CTA. This gave arbitrary power to the police commissioner to prohibit by any order any eunuch from doing any activity as stated in the order. Many *hijras* were arrested and evicted from their homes on account of accusations of extorting money and kidnapping children. While it is certainly difficult to outline a straight linear line between the colonial and postcolonial state in explaining the government programs of policing and categorizing the *hijra* community, what is evident is the continuance of certain attitudes of 'legacy' or 'inheritance' towards this community in present time. The process of construction and deconstruction of the 'self' in postcolonial India is ongoing and intimately related to the dilemmas of *hijra* identity.

Gender-blind state institutions produce gender-blind policies and practices. In recent years, there have been drastic changes in how the postcolonial Indian state has sought to present itself to its citizens. Visual representation is at the core of many theories of state power and governmentality. Scholar Michel Foucault, most notably, has shown how the birth of modern forms of education and welfare provision corresponds to the emergence of biopolitical governmentality. Biopower can be understood as the way in which biopolitics is put to work in society and seeks to regulate population as well as produce subjects (Lemke, 2019). Populations emerge when changes in working practices give rise to economic government and the discipline of political economy, and they get bounded by new exercises in mapping and measurement, including the production of censuses, surveys, and expeditions. For instance in the case of colonial India, along with the medical modality of power, the **enumerative modality of power** was also deployed by the imperial colonial powers, whereby the census represented a model of the Victorian encyclopaedia of knowledge. The beginning of the decennial census operation (primarily in 1881) marked the creation of social categories by which

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[7] Introduced in the year 1861 during colonial rule, the Act criminalized homosexuality.

India was governed for administrative purposes (Cohn, 1996). In these decennial censuses the *hijras* could only be registered as males or females; the option of 'third sex' was not provided to the census takers (Gannon, 2009). Indian censuses continued to not recognize the third gender, even after Independence, in the collection of data. It was only in 2011 that the Census included the data of transgender under the category of 'Others' under Gender with details related to their employment, literacy, and caste.

The summer of 2014 was a season of great euphoria for the third-gender community in India. The Honourable Supreme Court announced its remarkable verdict (popularly known as the NALSA judgement) which legally affirmed the rights and dignity of transgender persons based on the petition filed by the National Legal Services Authority (NALSA) of India. The inclusion of non-binary genders under the umbrella category 'third gender' immediately recognised their fundamental rights as citizens with equal access to opportunities for growth and better living. The word 'transgender' is used as an umbrella term that insists on representing 'anyone whose identity or behaviour falls outside of stereotypical gender norms'. However, its ability to truly represent a broad range of local and regional gender identities in the Global South is often questioned. Similarly, the year 2018 changed the way we look at gender, sex, and sexuality with the judgement of the Supreme Court in *Navtej Johar v. Union of India* (2018) holding that consensual sex was no longer criminalized. Justice Chandrachud recognised that Section. 377 had consigned a group of citizens to the margins and was destructive of their identities and held that lesbians, gay, bisexual, and transgender persons have the constitutional rights to full and equal citizenship and protection of all fundamental rights.

Today social interaction with the *hijras* occur when they come out in the streets dressed mostly as women with eyebrows drawn on and the *pallu* of the sari noticeably under the body to attract men and women for money. They clap loudly and utter a language which at once disgusts common people who get ready to pay them and get rid of them quickly. Therefore, the *hijra* community continue to be constructed as ungovernable people in discourses and practices of governance in India. The echoes between colonial and postcolonial regulation of the *hijra* community illustrate that modern Indian state is acutely concerned with non-normative forms of gender and sexuality that are not only viewed as immoral, but also ungovernable.

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