Decolonising gender in India

What if a birth certificate had more options than just male or female? And what if a medical provider could only declare a sex assigned at birth and was required to leave the gender blank, to be decided by the individual later? This revolutionary concept, which will soon be introduced in India, represents a crucially important step forward in expanding rigid notions around gender and sexuality that were first introduced during British colonial rule.

Colonialism introduced a binary purview to gender along with notions of perversion and criminality towards gender diverse populations. In 1864, homosexuality was made a criminal offence through Section 377 of India's Penal Code. In contrast, studies indicate that beliefs and social mores before colonisation were far more accepting. For instance, people who identified within the Hijra community were considered esteemed figures as a part of the Sultanate.[1] Similarly, numerous depictions and sculptures in ancient temples, including the Khajuraho temples in Madhya Pradesh, point to a celebration of gender and sexual diversity.

These stigmatising notions around gender have since been cemented into law and become a part of Indian cultural norms. As a result, sexual and gender minorities have experienced systemic discrimination and marginalisation, receiving minimal support at educational, medical, social, and policy levels. Although literature and research surrounding LGBTQIA+ youth and individuals in India is sparse, one study reported that the suicide rate for transgender individuals in India was 31%, and 50% who attempted suicide before the age of 20 years felt depressed most to all of the time compared with only 12% of heterosexual youth, and were two-folds more likely to feel suicidal.[2]

It has taken over a century to undo parts of colonial legislation, requiring political action by numerous actors. In 2014, the landmark judgment National Legal Services Authority versus Union of India and Others recognised transgender individuals legally as a third gender.[3] Subsequently, in 2018, advocacy by organisations such as the Indian Naz Foundation enabled the repeal of Section 377.[4] In spite of several positive steps, the 2016 Transgender Bill did not allow individuals the right to self-identify without medical expertise,[5] and the 2019 Transgender Persons Protection Rights Act made the abuse of a transgender person punishable with jail time of only 6 months to 2 years, a stark contrast to the abuse of a cisgender female, which could result in jail time of 10 years or longer.[6] To mitigate these regressions, the Protection Rights Rules were passed in 2020 but have proven to be difficult to implement given discrepancies between prior laws, rules, and acts.[7]

Considering the numerous steps to be taken, many grassroot organisations have advocated for change. The Association for Transgender Health in India (ATHI) is one such organisation that has been at the frontline of health policy reform. A revolutionary concept, introduced by ATHI, is a new birth certificate, which will be incorporated into India's delivery rooms (appendix). This birth certificate will ensure that providers do not assume a person's gender at birth, encouraging conversations around gender that span the life cycle between parents and guardians, gender and sexual minorities, and providers. ATHI has been further working with the Government of India to develop culturally-relevant guidelines for transgender health through the Indian Standards of Care and to create India's first Centre of Excellence at All India Institute of Medical Sciences, which will provide comprehensive clinical education and support for LGBTQIA+ health.

Since July, 2021, ATHI in collaboration with medical students of Querencia Student Group at Lady Hardinge Medical College in New Delhi, the World Professional Association for Transgender Health, and physicians of the WHO Collaborating Centre for Adolescent Health at Kalawati Saran Children's Hospital in New Delhi have been urging medical professionals to provide gender affirmative care and improve medical education through a series of webinars. As of October, 2021, the Tamil Nadu Government has additionally worked to eliminate queerphobic language from medical education.

However, medical settings are only the first of many places in which India must build up support for gender diverse youth and individuals. In school settings, LGBTQIA+ youth often face bullying, sexual harassment, and social exclusion with over one-third of students discontinuing school, skipping classes, and reporting lowered academic performance.[8] School-based organisations, such as the Adolescent Health Champions, are working to train a cadre of teen gender and health

peer educators who work to deconstruct gender norms, speak about diversity, and the importance of community acceptance in primary and secondary schools. However, awareness and widespread information is far from prevalent in the national school syllabus.

To truly decolonise gender, the Indian subcontinent must reclaim its roots, accept the gender diversity that once was celebrated, and take responsibility for the way modern day society continues to perpetuate harmful colonial notions. Decolonising gender will require a collective movement, led by all genders while centering LGBTQIA+ voices at the educational, health care, and legislative levels.

We declare no competing interests

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