

Genuinely Oppressed Transgender Persons in India, the Transgender Persons Amendment Bill 2026, and the Hijra community

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Where does the Transgender Persons (Protection of Rights) Act Amendment bill No. 79/2026 come from? What is the ideology that leads to it?

A careful examination of the history and present of anti-trans currents in India and globally can reveal parts of the answer. A friend from the Center for Policy and Legal Research mentions that while it has mostly been a shock to both the known progressive voices in the community and the known rabble-rousers, in terms of timing and phrasing and action plan, the overall intent of the amendment has been clear to him ever since a throwaway statement made by the Indian Government's Solicitor-General Tushar Mehta. Tushar Mehta, a significant voice in arguing that the Shaheen Bagh peaceful protests against the Citizenship Amendment Act were divisive acts of sedition, had mentioned this in 2023 court proceedings about social justice, welfare, and reservations: the primary reason why the Government had not yet taken serious steps to implement the reservation mandated for transgender persons is the vague and overly broad definition, in the government's view, that the word "transgender person" has in the current legislative framework set up by the 2019 TG Bill.

What is the problem? In my opinion, it is that the Central Government recognises the subject-making power of juridical processes and outcomes[1]. There has been a particular legal history and legislative follow-up to the transgender question in India - who are the transgender people, how do they become legible subjects under law and the state machinery, and how do we govern/develop/control/empower this class of citizen? The act of a government body issuing an identity card is a significant act in a democratic setup like ours - one identity card, when issued, can lead to a cascade of potential name, gender changes in other documents, and a gradual modification of every aspect that makes a trans woman like me a 'male' under the law.

This is significant because to name something is to give it the consideration of being discussed as a community, a denomination, a stakeholder. This is also significant because one of the potential welfare benefits to which the TG identity card is connected is reserved seats in educational institutions, government postings, and competitive exams. On the surface this is comparable to the 'caste certificate' - a document that is uniquely difficult to procure and serves as the basis for availing welfare schemes as genuine recipients. This comparison leads to one of the legible reasons why this amendment exists: it is another proposed acid rain in the erosion of what reservations mean in our country. In fact, this can be seen as a successor to the efficient and rapid implementation of the 'Economically Weaker Sections (EWS)' reservation, a move meant primarily to weaken the intent of reservations and provide fuel to the argument that it is a poverty alleviation

scheme, and secondarily to bring dominant castes into the purview of reservations. The argument underpinning the EWS is the existence of a 'genuinely oppressed' class of people, those who are not in any scheduled or notified 'backward' class but can prove that their annual family income is below a particular threshold (egregiously a lower threshold than the limit for the 'creamy layer' of OBC reservations).

This argument carries on into the proposed Amendment: its officially stated intent is the perceived mismatch (no evidence provided) between the broad definition of a 'transgender person' under the 2019 TG Act and the existence of a smaller, genuinely oppressed subset of the transgender community. Arguments about who doesn't deserve reservations are a popular false flag in discussions like these, since caste is a fiercely contested system that is central to so many aspects of our everyday economic, social, family, and even personal lives. Most of these arguments are started by people who are ideologically invested but do not consider themselves as potential recipients of reservation. It is not that the upper caste opposer of reservations wants them for himself - what he wants is a cunning redrawing of boundaries so that only those he considers as genuinely oppressed are benefiting from them.

Thus there needs to be a narrative of a subset of the community to valorise as the most oppressed of the oppressed and it necessarily comes with the scapegoats (like the metaphorical iPhone-owning Dalit) who are undeservedly benefiting from the provisions of the TG Act. The chosen subsets for both of these ideological classes are significant: the communities chosen as 'genuinely oppressed' are the communities that have religio-cultural identities like Hijra, Kinnar, Jogti, and the intersex community (but only those people with intersex variations distinguishable at birth). The subtle sleight of hand at play here is that there is no accepted definition of a 'hijra': in fact most non-community people and cis people do not have any idea what makes a person a hijra. This has been the subject of much colonial and colonial-inspired ethnography and subject to the usual anthropological imperialism of understanding complex postcolonial subjects as "ancient third-gender communities," a discussion for another essay, but suffice it to say researchers balk at properly characterizing the hijra community out of respectful ignorance.

It is somewhat clear how one becomes transgender: at some point in life, a human being starts noticing a dissonance between the way they are treated as a gendered body and the way they would like to be treated. Gender is fundamental to how we move about the world, how we position ourselves in it, what kind of interactions we have with people, places, objects, and systems, and so eventually it becomes clear that there is an incongruence, that I do not want to be frisked by this security guard on this side of the metro station but by that security guard on that side, and this affects something as simple as which bathroom I use to something as profound as who gets to sign a consent for invasive surgery when I'm unconscious. Different people talk about this as being different levels of voluntary - in my personal experience, I thought it was a choice I made, but every day as I grow more comfortable in my transsexual body, I'm realising that it is a choice I'd been blocked from making and I should have had the courage to make this choice a lot earlier, because

my body has known for a long time even though my rational mind took time to catch up and recognise that in this world, a tranny is what I am. Others grow supremely uncomfortable having a particular puberty - school life becomes difficult, it is hard to repress and suppress your gender feelings, and you eventually either get harassed out of school or find yourself at the receiving end of corrective violence from your family, and this leads to a large number of transgender individuals leaving home with no safety net. Most of us take some kind of action to dissociate ourselves from being perceived in the gender we were assigned at birth, and look and act and be perceived otherwise.

It is not clear to the outside world how one becomes a hijra. I will say this much frankly - I am not an ethnographer and am not bound to such ethics. The hijras are predominantly transfeminine, androphilic, matriarchal, and follow syncretic (Hindu and Muslim) religious and cultural practices. Anybody can become a hijra by paying a certain amount of money to a 'guru,' an influential house (gharana) mother in the community. This payment of money is in return for her protection and entry into her house of transfeminine individuals. It also comes with an obligation to earn money - often either through begging or through sex work - and give your guru the entirety of your earnings from the day, in exchange for food, shelter, beatings, and most importantly, the chance to one day get approved for 'nirvanam' or bottom surgery or castration. There is a price set for you, and if you want to leave this bondage or join another gharana, you or your sponsor from the other gharana have to pay. This is enforced by gang violence and semi-organised crime. These are strictly and fiercely hierarchical systems - the head of a gharana is a nayak, and under her are a few gurus, and under each guru is her jamaat of essentially bonded individuals.

Why does this exist? Although I have made a serious effort not to romanticise what is very clearly familial abuse within found/chosen family, the reason such a system exists and thrives is because nobody wants to employ transgender individuals. Trans folks are severely ostracised in education, housing, and employment, and the hijra gharana is often the only choice for many trans people who have not been able to finish their education, or find a job, or keep one. It is a community formed by bloody circumstances and keep together by blood, desperation, and hierarchy. It is time we stopped romanticising it. I write this at the risk of being targeted by gharanas near me, but they already despise me for not wanting bottom surgery, and worse, being attracted to women. It was going to be a matter of time, but somebody has to write something counter to academia's romanticisation and the center's distortion and name it for what it is.

This much is very very clear: a government identity card is free for anyone to obtain if they can prove that they satisfy the criteria. A community identity is not free for anyone to obtain, and is very much a way to gatekeep whether or not you are allowed to hold this identity. The jamaat are, to drop any pretense of wokeness, intensely regressive, violent, and hierarchical. I write this in the knowledge that younger, bleeding-heart individuals may consider me heartless and ever-compromising activists and NGO representatives may consider me divisive. The topmost layer of nayaks is incredibly wealthy and politically powerful. Political power in this context means that their

assent is needed before welfare can trickle down to their chelas. And traditionally, they have been patriarchal, conservative, and violently opposed to transmasculinity, gender nonconformity, and any sexuality that doesn't center and worship men.

Trans men and transmasculine individuals are uniquely scapegoated in this amendment. It has long been "accepted knowledge" in trans activism circles that if you have to get anything done, you have to let go of and allow the extreme transphobia the jamaat has towards trans men. The 'invisibility' of trans men is often given much academic treatment, but this invisibility is not inevitable; it is manufactured hatred, it is the concerted power-grabbing effect of one trans community having been given certain recognitions and turning around and burning the bridge. Unless transmasculinity is proactively and wholesomely accounted for in any future definition of a transgender person, we cannot move forward.

Many people have written about what there is to be opposed in this amendment, and how to go about opposing it - these are very valuable resources and I'll be linking to them as I update this post. But having traveled with and been a part of hijra groups to a small extent, I know some aspects of hijra existence that have been done a brutal disservice by academic romanticisation. Now that a parliament bill has been proposed naming hijras as the real transgenders and the rest of us as self-mutilating freaks, it is time that we looked at a community whose violence seems inescapable. If it is a choice between letting go of my transmasculine brothers and saying the inconvenient truth about the jamaat despite knowing that cis people will use this to divide us further, I choose the latter. Push has come to shove. The jamaat must fight for the inclusion of our trans brothers, or where I morally stand is in the opposite side.

Addendum

It is not clear that this bill outright benefits the Hijra community, or even a set of its most powerful members that can be named. As it stands, the amendment has very devious double-bind: where it has reduced transgender identity to a few socio-religious communities, it also mentions "any person or child who has been by force, allurements, inducement, deceit or undue influence, either with or without consent, compelled to assume, adopt, or outwardly present a transgender identity, by mutilation, emasculation, castration, amputation, or any surgical, chemical, or hormonal procedure or otherwise." It leaves no provision for these procedures to be done voluntarily without inducement or deceit. In the clause meant for delineating punishments for crimes against transgender folks, also includes serious punishments including imprisonment for five to ten years for performing this coercion. As it stands, a coherent reading of this bill criminalizes every hijra guru and nayak.

While ideologically the figure of the hijra is used for moving the goalposts of trans identity, materially the hijra is criminalized for merely existing, and only children born intersex can be inducted into this community without someone falling foul of this law. In summary - only the hijra is the genuinely oppressed transgender person, and it is not possible to induct someone into the hijra community without performing a crime according to this bill. The attack is on self-perceived gender incongruence: this amendment inescapably mandates you to live life as your gender assigned at

birth, and anyone who helps you transition is seriously criminalized alongside the gravest crimes in this country.

Practically speaking, this leads to the question of how we oppose this bill and how the Jamaat might. This is a moment where transmasculine people, gender non-conforming people, unaffiliated trans women, and the hijras can come together to define and understand transgender identity in a way that isn't tied to religion and the jamaat.

The material conditions of an average hijra is a far cry from the opulence of the average nayak, and there is no convenient moment to bring this up, and thus this inconvenient existential threat is when I choose to speak about it.

[1]: Judith Butler talks about this when asking the question 'what is a woman?' and wondering how legislative and legal procedures answer this question.