

DUALIST MODERNITY AND THE LGBTQ: CHANGING THE SOCIAL IMAGINATION FOR INCLUSIVE SOCIETY

Ms. Samiksha Anil Farakate
Assistant Professor
Dept. of political Science
Vivekanand College, Kolhapur

Abstract: In India, the scraping of Article 377 of the Indian Penal Code and the current discourse risen with the petitions for recognitions of same-sex marriages are a case in point. While the rights approach is essential to secure the dignity and rights of sexual identities, understanding the structure of our perception of sexual identity that is rooted in modernist discourse is also fundamental to overcoming the structures of belief that breed an exclusionary society. The singular, homogenous, unidirectional understanding of the world needs to give way to plural, heterogeneous worldview that respects difference and does not just patronize it. The nuances of knowledge about sex and gender that is available to us needs to become part of our public consciousness.

Key words: Sexuality, Gender, LGBTQ, Modernity, Social Consciousness

Introduction: Sexuality as identification and as categorization in society has become a settled aspect of our understanding of the world. The same is presumed and used in the discourse to secure the rights of sexualities and gender that are disadvantaged on account of falling out of 'the norm' of male-female and heterosexual characterization of society. This paper problematizes our approach to the goal of achieving equal and inclusive society while sticking to the categorization that is part of the politics of inequality and exclusion. This paper summarises the theoretical contributions of feminism in defining sex and gender. It takes a review of the nature of our approach to and attempts for creating a gender just society and points to the contradiction in it. In the conclusion, it underlines the importance of making a deep radical change in our understanding of the bodies, gender and sexuality for the the goal of an equal and inclusive society.

Gender and sexuality – conceptual contributions of feminism:

Feminism has deepened our understanding about sexuality and gender and the relation between the two and has given us a peek into the social politics behind the constructs that we use. There are no universally acceptable conceptions of these terms within feminism - they differ according to ideological strands within it and the conceptions incorporate the knowledge derived from biology and neurology as well. The distinction between sex and biological identity and gender as sets of cultural norms and the further assertion that

femininities-masculinities are unconnected from bodies *countered the hierarchy between sexes based on biology*; it also opened the window for comprehending the naturalness of the plurality of sexes and intermixing and fluidity of gender behaviours also. That femininities-masculinities are only cultural stereotypes has been countered by some radical feminists. Non-gendered 'human'ness amounts to conforming to the universality of maleness.

Anne Fausto-Sterling (cited in Menon 2008:227) has defined sex as 'a vast, infinitely malleable continuum'. Not just 'gender' but 'sex' is also a construct that aligns with politics of knowledge aimed at categorization and control. Hence scholars like Catherine A. MacKinnon (1983) does not accept the distinction between sex and gender. She states that 'sexuality is gendered as gender is sexualised' (1983:635). 'Male-female' distinction manifest dominance and submission and hence homosexuality and other sexualities fall out of the norm.

Masculinity as measurement of prowess (of individuals and civilizations alike) banked on and hence emphasized the male-female distinction. It got sewn in the project of Colonization as the colonised were 'derogated' as 'effeminate'; Nationalisms (of a certain kind) played along into these divide. Judith Butler (cited in Menon 2008:230) says that 'gender' produces the category of 'biological sex'. Thus, everyone is forced to identify as 'male' or 'female' or 'masculine' or 'feminine' or be termed atypical. Language pushes reality into categories and we use the same as part of our policies and laws. Biomedical feminist scientists object to the limited anatomical, hormonal and chromosomal definition of sex. Society shapes conceptions of sex differences and hence they are plastic.

In his essay "Modernity and Gender – a Critique of Modernization Theory", Youba Luintel (2014), reviews Tarique Banuri's ideas on 'cultural maps' and 'knowledge hierarchy' for its implications for the concept of Gender. Modernity postulates 'dualist existence of reality' Luintel (2014). It has been identified to have 'individualist' ontology, 'instrumentalist' cosmology and 'positivist' epistemology. Banuri establishes the relation between this dualist approach and masculinity. Though Banuri distinguishes the traditional from modernist approach. He does not dichotomize the two, but portrays a tension and exchange. Luintel (2014) identifies the modernist approach with masculinity which looks at women (as part of the whole 'people') with instrumentalist viewpoint whereas femininity is identified with relational and personal way of looking at life.

The category of 'gender' is a construct that was imposed as a category of differentiation among people – as Nivedita Menon (2007) cites scholarship on the subject to demonstrate, it was neither ahistorical nor universal.

The proposition of the paper: Peter Hart Barinson (2016) in his essay “The Social Imagination of Homosexuality and the Rise of Same-sex Marriage in the United States” ascribes the recent increase in same-sex marriages in the United States to the changing ‘social imagination’ of sexuality among American. He defines social imagination as ‘a collective process of cultural meaning making whose product (the social imagery) provides the cultural basis for implicit schemes, categories, and prototypes which individuals use in future cognition and action.’ The same process at the level of ‘cognition’ needs to take place in countries like India afflicted by distortion through the colonial past, for the real possibility of inclusion of LGBTQI and other genders to arise.

The nuanced understanding and discourse around ‘gender’ has remained confined to academic circles. The aim of gender-just society first took the form of ‘‘women’ empowerment programmes’ and ‘‘women’ studies centre’ – which firm up the categorical divisions rather than piercing them. The government policies portrayed as being for the uplifting of women or benefit of women take the shape of minimal material assistance in livelihood and to some extent in health and education. The laws incriminating sexual violence and violence against women (and again only ‘women’) are manifestations of State-delivered justice - which make women ‘recipients’ of it in the absence of wide dissemination and acceptance of norms that teach to respect women and their bodies. As a result, the availability of justice in theory and practice to the aggrieved women depends on the social, political context and particularity of the case. The constitution gives a cursory treatment to equality among sexes (Kaviraj 2010) compared to the scale of the issue, and leaves out the question of varied sexual identities and justice to them in the power structure of patriarchy. The legal and policy approach to gender justice thus is based on the modernist conceptualization and *perpetuates the crude dichotomy between sexes*. This approach leaves out the perceptions, worldview and power structures on the ground. The division between policy and norms remains wide and largely unaddressed. In this scenario, the question of the rights of the LGBTQ remains all the more superficially and hesitantly addressed.

This article proposes that along with the rights and the protective laws, creation of an equal and just society that address the disparity between people, calls for a fundamental change in the worldview. Our understanding of the concept of gender needs to become more nuanced and one that is not distanced from the living patterns and behaviours as they exist on ground. This theoretical and conceptual intervention in our public discourse on ‘gender’ will go a long way in addressing the grave realities faced by the LGBTQ and women as it goes to the fundamentals of our understanding of the world. It will also bridge the possible gap

between the subtleties of reality and past of us as a non-Western society and the frameworks that we operate through as our common ‘common sense’ – the gap mediated by our experience of colonialism.

The dualist approach of modernity has been well documented and commented upon (Menon). The identification and division of bodies as male and female and two exclusive entities rose with the historical phase and conceptual framework that we came to call modernity (Menon). The conceptions got introduced and were, to various degrees, were internalised by the colonised societies. This internalisation is deep and wide and surficial. This author observes that the lived reality in the village spaces relatively thinly penetrated by the modernist discourse bear the signs of more organic and personal relating to the variance and ‘non-conformity’ in sexual identity characteristics. Sex organs and desire that lies outside/beyond this typification between two ‘opposite sexes’ was criminalised. This understanding has been being perpetuated through law as well as creative works. Behind this assumption lies a particular notion of ‘self’ – one which is identified with the body of that self.

Conclusions: Three petitions in Delhi High Court have sought the recognition of same-sex marriage in India under three separate Marriage Acts. In its response to given to the high Court on these three pleas, the Central Government has opined that only the marriage between ‘biological’ man and ‘biological’ woman which produces offspring can be considered valid in Indian culture. It officially holds the marriage between other sexualities as a ‘Western’ idea. The petitioners have pointed out that the old Hindu scriptures mention ‘more than 60 genders’ and there is no evidence of these prohibiting the marriage amongst those (Hindustan Times, 26 February 2021). This backs the argument that politics of the time impose assumptions/conceptions of the history and historical believes/understandings. From the positivist point of view, in the interest of knowledge, we need to free ourselves of these influences and impositions and know the past for what it is

We need to understand the ‘historicity’ of the assumptions that we know as ‘common sense’. This will help us be aware of our thought process and help us, as a society, to deal with the prejudices that persist behind and also despite the right-giving legal frameworks. Understanding the historicity and choosing to let go of the acquired prejudices will not readily disrupt the power structures that they actualise through and in turn sustain and propagate. The change in perception and the expected resultant change in the situation and actual rights of the LGBTQ will not happen only as an instrument of law. The instrument of law deployed to bring reforms indeed helps the discourse of ‘acceptance’, ‘tolerance’ and

acknowledging ('giving') rights. Though the rights secure bare minimum and more importantly, formal, protection against discrimination and violence, they also ensure 'eternality' and 'residuality' of the agency that is state and sustains (also deepens) the duality between 'law' and 'life'.

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