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“Gender and Sexual Minorities Identity Terms” Academic Discourse in Nepal Over Time

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“Gender and Sexual Minorities Identity Terms” Academic Discourse in Nepal Over Time

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Nepal and Remote

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Abstract

The last 20 years in Nepal has seen drastic changes in the rights and recognition of Gender and Sexual Minorities. Little research has been done on GSM in Nepal and the majority of this research focuses solely on discrimination faced by GSM using western identity terms and categories. These identity terms conflict with a Nepal specific understand of self. Even fewer research has been done on academic discourse on GSM in Nepal. There is a need to understand how academics talk about Nepal's GSM and how this has changed over time. Terms and their respective constructed identities say a lot about the actors and goals of academic research and its ability to sculpt language and lives.

In this research I will look at terms used for GSM in Nepal over the last twenty years and how these terms and subjects have changed over time. I will use theories of essentialism to explore how categories and the meanings behind them change over time. I will then contrast academic understanding of identity with on the ground experiences and identities of GSM in Nepal.

Key Words: third gender, gender and sexual minorities, academic discourse

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Table of Contents

Introduction	1
<i>Definition of Terms</i>	2
<i>Language Choices</i>	2
Methods	3
<i>Ethics</i>	4
Theoretical Foundations	5
Findings	9
<i>2001-2007</i>	10
<i>2007-2012</i>	15
<i>2012-2020</i>	18
Analysis	24
<i>Essentialism in Literature</i>	24
<i>Essentialism as Strategic</i>	26
<i>Constructions</i>	28
<i>Current Connections</i>	29
<i>AFAB Erasure</i>	30
<i>Language Choices</i>	30
Conclusion	31
Work Cited	33

Introduction

Nepal, in 2007, recognized a third gender category in the supreme court case *Pant and Others v. Government of Nepal*. This court case legalized homosexuality and reversed 250 of conservative Hindu policy. This court case, as well as the rapid development of Nepal's movement for Gender and Sexual Minorities or GSM makes Nepal the subject of academic discussion. In addition, its decades of development intervention and discourses create a focus by western writers (Mahato 2017: 19). Nepal has rapidly urbanized and witnessed swift societal change in the last thirty years, including a violent insurgency, toppling of a 250-year-old monarchical regime, and the institution of constitutional democracy (Boyce and Coyle: 2015, 13). Academic articles frequently present this court case as well as a history of gender variance in religious texts as an explanation for the GSM movement in Nepal. There is however, a disconnect between academic literature that praises Nepal's movements and the on the ground experiences of violence and discrimination faced by GSM. Many of the legal victories haven't translated into protections for GSM (Boyce and Coyle, 2015: 3-7). Reading this literature raised questions for me about who GSM are in academic discourse and how they have changed over time. In this paper I will seek to answer the question: how have terms for GSM in Nepal changed over the last twenty years.

My objective with this study is to examine how the use of terms constructs GSM in Nepal. For example, what is the term third gender used to mean and who does it exclude? Who gets to be third gender and how are they represented? I then connect these terms in literature to identity terms of GSM on the ground to examine how they differ. Finally, I will discuss how the use of terms can be both reductive and overly simplistic and help GSM gain rights and recognition. I will examine the usefulness of terms and categories in academic discourse.

I will examine academic literature because literature has power. The terms used in literature sculpt and change definitions of terms and identities. Academic literature has the power to direct funding, draw attention, construct narratives and influence policy. For example, the term third gender migrated from an anthropological one in the 1980s to describe gender variance to a legal one. How this term changes and who it refers to are crucial to understanding how policies and governments enforce them. It is important to understand who and how academic literature describes GSM in Nepal.

Definition of Terms

- Third-gender: Multiple definitions: used as an umbrella term for gender variance and GSM in early work on GSM in Nepal, an individual non-binary trans identity, or a individual binary trans identity.
- GSM: Gender and Sexual Minorities: people who experience gender and or sex in non-normative ways.
- SOGI: Sexual orientation Gender Identity: refers to the issue or advocacy for the intersection of sexual and gender identities.
- LGBTQI: Lesbian, Gay, Bisexual, Transgender, Queer, Intersex: a western umbrella term for GSM
- *Meti*: Nepali word for people assigned male at birth who present and or identify as feminine and take a receptive role in sex.
- *Ta*: Nepali word for men, usually masculine, who take the penetrator role in sex.
- AFAB: people assigned female at birth
- AMAB: people assigned male at birth
- Trans-masculine: People assigned female at birth but who present or identify as masculine
- Trans-feminine: People assigned male at birth but who present or identify as feminine
- MSM: men who have sex with men

Language

I will critique scholars use of different identity categories and so I will now explain mine. I am choosing to use Gender and Sexual Minorities or GSM as an umbrella category to refer to

people within Nepal who fall outside of a straight, heteronormative way of being. For the sake of this paper I include people with non-normative behaviors and gender presentations under this umbrella who might not identify as a GSM. Much of the early literature I will be examining looks at GSM behavior such as sex work and Men who have Sex with Men (MSM). The concept of a gay or queer identity in 2001, when I begin my analysis, does not have quite the same meaning. To ensure that my analysis can address all periods of discourse I am expanding my definition in this way. I am also using GSM as a term because it is more Nepal specific and speaks to the unique political history of Nepal and the grouping of people of different identities under the umbrella third gender. In addition, I will be using assigned female at birth or AFAB and assigned male at birth or AMAB instead of physiologically or biologically male and female because I wish to validate gender variant experiences of gender and not continue to label as physically a gender. I will also use trans-masculine and trans-feminine to describe gender variant people of a variety of self-identifications but who share similar expressions.

Methods:

In this paper I will analyze the terms used in academic discourse around GSM in Nepal to describe the subjects of the articles written. I will look specifically at who is being interviewed or is the subject of the article examination and who is left out by literature. I will also examine what GSM are described as doing within the literature, whether they are viewed as victims, activists, or in the context of sexual behaviors. To do this work, I will use theories of essentialism and strategic essentialism by Chandra Mohanty and Gayatri Chakravorty Spivak and these theories applications to studies of gender variance.

I will look at how language changes over time and what it leaves out using three periods. My periods are 2001-2007, or the founding of BDS and the beginning of research on GSM in

Nepal to the Supreme court case in 2007. My next period is 2007-2012, or a period of discourse around the supreme court case and international law. My final period is 2012-2020, or a period of discourse around identity and inclusion. Within these periods, I will examine when and in what contexts essentialism is reductive and or strategic. I will do this in an effort to root my examination of discourse in a Nepal specific context instead of examining discourse more generally. I want to contextualize my analysis in Nepal's unique political context and not ignore the connections between political changes and quirks of Nepal such as the role of the Supreme court, recent constitution, or implementation struggles. All of these factors materially influence Nepali GSM and the context within which they exist. An examination of academic discourse without its specific context misses this.

Ethics and limitations:

I believe an important part of academic work is to position oneself as the author. Many academics don't elaborate on why they are writing or their positionality in doing that writing. I want to do so in this methods section in an effort to do what Mohanty recommends and think critically about who I am in the context of this work. I am conducting this research first because I was studying in Nepal and had the unique opportunity to speak to and hear from GSM in Nepal. I was originally planning on conducting field work in Nepal before the COVID-19 pandemic after which I was no longer able to continue my studies in Nepal. Because I was unable to do field work, I turned my attention to sources I could access remotely and over the internet, being academic discourse. It is more important to conduct research that centers the voices on GSM in Nepal instead of simply creating more academic discourse about the topic, but I am currently unable to do so. I will instead attempt to lay a theoretical groundwork for other who are able to interview people in Nepal to do so.

Personally, I am conducting this research because as a queer and trans person I think it is important to understand how academic discourse categorizes and view GSM. Academic discourse holds power, it is what is used to study and explain phenomenon and people and has impacts on policy. I am also a western and white researcher and I do fall into the traps outlines by Mohanty of relying on other academic work instead of seeking to understand the specificities of GSM in Nepal. This is something I am unable to avoid because of the current global pandemic. This is a limitation of my project that is unavoidable. I am still attempting this project because I believe it is important to understand the narratives and implications of academic discourse and critique the work it presents.

Theoretical Foundations

I began this study with inspiration from Patrick Sonnenberg's ISP written in 2018. In this ISP, Sonnenberg interviewed GSM in Nepal to understand their lived realities. One key takeaway from his study was the variety of terms, definitions, and discourses around identity terms for people in Nepal. For example, he found many definitions of third gender and way of identifying with it. Some participants used third gender to gain visibility, while others didn't use it because they preferred binary trans identities or to use transgender for non-binary identities. Another key insight was the use of kinship terms by GSM. When asked about gender or identity, especially participants that didn't speak English had difficulty answering the question. But when asked if they identified as *dai/didi/bhai/bahini* (brother or sister) participants used these kinship terms as gender identifiers (Sonnenberg, 2018: 34-50). It is important to keep this work in mind moving forward. On the ground, definitions and interpretations of identity term shift and can mean different things to different people. The way these terms are used does enforce certain

meanings. While authors may use identity terms, those terms have very different meanings to different Nepali people and should never be viewed as static.

I wish to begin this work by exploring the concept of essentialism. This paper will deal with categories used by academic papers to describe people and the implications and meanings of such categories. It is important to think first about what categories do. Chandra Mohanty, in her work in 1988, began a conversation about essentialism of third world women in western academic literature. Mohanty describes how western academics presume the category of woman to exist in the countries they write about. For scholars that speak of women generally, “women as an already constituted, coherent group with identical interests and desires, regardless of class, ethnic, or racial location, or contradictions.” Scholars, instead of seeking to discover the material specificities of women and their suffering essentialize their experience as a monolithic one. This work relies on the category of “woman” to combine experiences and positions of powerlessness (Mohanty, 2003: 21-23).

Although essentialism is damaging and often inaccurate for the people it seeks to describe, groups can employ strategic essentialism as outlined by Gayatri Chakravorty Spivak (Ashcroft and Griffiths, 1998: 79). Strategic essentialism is when a group uses a term to represent itself to gain power and recognition. For example, the term third gender ignores the specificities and individual experiences of transgender people, but in Nepal is used to increase visibility and give legal recognition, even if it creates an essentialized version of what it means to be third gender. Throughout this paper I will weigh the benefits and consequences of essentializing categories as they are used by various actors. It is important to keep in mind different interpretations of essentialism and the different meaning it has when used by western academics, government officials, newspapers, and GSM themselves.

This paper will also deal heavily with the concepts of third gender and third sex. First, I will explore the origins of the concept third gender and then some of its consequences. I will use the work of Towle and Morgan to do so. Third gender as a concept was introduced by anthropologists M Kay Martin and Barbara Voorhies in 1975 to draw attention to gender categories and expressions in non-western societies that did not match a binary system of understanding. The sex-gender distinction is crucial here and allows for arguments that de-link biological characteristics and gender expression and identity. Anthropologists in the 1980s and 1990s used third gender as a term to describe non-male/female coded behaviors and expressions in non-western societies. They used cultural comparison to disrupt a medical and moral understanding of gender in the United States. This term opened up possibilities for non-binary gender expressions and created an ideological framework for gender variance in academia (Towle and Morgan, 2002: 471-474).

Anthropologists though, “are complicit in creating the very categories they seek to understand and deconstruct.” (Towle and Morgan, 2002: 474) Anthropologists sought to use third gender as a rhetorical device to denote multiple thirds or new gender expansive spaces. But this cross-cultural examination falls into anthropological tropes that look for “erotic” or “exotic” displays of gender variance in non-western societies and then to label those societies as more accepting or tolerant of gender variation. Third gender along with its more modern replacement transgender, “is a uniquely western concept produced by a society just beginning to grapple with the theoretical, social, political, and personal consequences of non-dichotomous gender variability” (Morgan and Towle, 2002: 476). Transgender and third gender are concepts from a western society where gender and sex have been delinked to draw similarities between gays and lesbians and heterosexuals to advocate for legal protections. De-linking gender and sex or

emphasizes gays and lesbians as men and women who only differ from heterosexuals in their love and sex lives. This creates the need for a new category to describe gender variance as separate, even though they often overlap (Morgan and Towle, 2002: 473). Applying this notion of gender thirdness to other cultures creates conflicts.

Third gender, as it is applied to non-western societies, often places gender variant people in a primordial location to a shared experience. Articles, when describing gender variance, often have a few sentences at the beginning which describe an ancient gender variance. They then link this to a modern experience with no attention to the ways in which experiences and societies may have changed since the writing of religious texts and building of temples. Inherent in this location is the assumption of acceptance and tolerance in societies which is not always the case. Third gender also collapses different gender experiences into one essentialized third. Because third gender as a category is so vague, when it is applied to a society it attempts to encompass all gender variation even if different people have radically different experiences. It also often creates an equally rigid third category without critiquing categories one and two. This creates a third category that is simply an extension of a binary gender understanding with specific exceptions allow only. It also ignores cultural context and specificities that allow for gender variation (Morgan and Towle, 2002: 477-489). Third gender, when used by academics, creates an ill-defined, collapsed version of gender variance without cultural specificities and attention.

Lal Zimman and Kira Hall make a different argument in their article “Language, Embodiment and the ‘Third Sex’.” They argue that careful employment of the “third sex” as a term, as opposed to third gender, can refocus discourse onto the biological and draw attention to how sex and the body is a culturally constructed idea. Zimman and Hall describe how the body is a product of “linguistic practice” and its meaning is not derived from a prelinguistic existence.

They show how thirds can focus attention of anthropologists and academics on the body and the everyday lived experiences of gender variant people (Zimman and Hall, 2011: 166-170). Third sex, being explicitly biological, speaks directly to the biological and medical construction of gender and sex and can be useful to disrupt that paradigm.

Findings

For my findings I will review three periods of literature on GSM in Nepal and the common themes amongst them. I will begin with literature from 2001 to 2007, or the founding of BDS and GSM networks in Nepal to the Supreme Court case in 2007 that legalized homosexuality and created a third gender category in Nepal. I then will move onto literature between the Supreme Court case and the beginnings of constitutional formation in Nepal, from 2007 to 2012. I then will review literature from the last few years during and after the constitutional declaration. Through this literature I will review who these articles consider to be GSM and what those GSM are doing.

Each article I will review, almost without fail, will talk in depth about the violence and discrimination GSM face in Nepal. These articles are filled with interviews and in-depth descriptions about this discrimination and violence. I will not spend time in my paper reviewing these sections because I have chosen instead to focus on how these articles talk about GSM mainly because I am not able to speak directly to GSM in Nepal. This is not to discount or diminish the very real violence people face and I wish to acknowledge and hold space for that violence here.

2001-2007

My research begins with the founding of the Blue Diamond Society (BDS) in 2001 as an men's health HIV/AIDS organization because homosexuality was still illegal. I have chosen this start point because researchers utilize BDS networks beginning in 2001 and on to interview GSM in Nepal. BDS becomes a crucial organization for conducting research. Especially before the supreme court case in 2007, *metis* and trans-feminine people faced violence from police and others on a regular basis (Himalayan times, 2003). BDS's mission is not simply health based, but also to protect *metis* in particular from violence and discrimination. They increasingly pivoted to a more political agenda. In the wake of a petition to suspend BDS in 2004, state violence only increased and in August 39 BDS members were arrested for protesting, drawing international attention (BBC, 2004). BDS partnered with other organizations demanding rights and recognition and increasingly took on a political stance to protect vulnerable *metis* and others.

This was also a time of political upheaval in Nepal. A Maoist insurgency begun in 1996 was approaching the capitol. The Maoist insurgency worked to topple the 250 years of absolute Hindu monarchy that had ruled Nepal. A failure of multiparty democracy in the 1990s and rampant inequality created the conditions for a violent uprising. The Maoists in the early 1990s were the first to include GSM in their political policies. The removal of the king created a window for liberal policy like the supreme court case I will touch on later (Matato, 2017: 16). This period in Nepal was one of violence and upheaval not just for GSM.

Literature from 2001 to 2007 falls into two basic categories, literature on HIV/AIDS in Nepal and ethnographic work conducted with networks developed by BDS. I chose to read four articles from this time and could not find others. Work by Tamang (2003) and Boyce (2002) looks at networks of MSM (men who have sex with men) in Kathmandu and HIV/AIDS.

Boyce's study, which is the first ethnographic work of its kind, is in partnership with Sunil Babu Pant of BDS and funded by Family Health International and focused explicitly on HIV/AIDS and sexual health, as this was a key source of international funding and support in Nepal (Boyce: 2002, 1). After multiparty democracy was established in 1990 in Nepal, although still in conjunction with a Hindu monarchy, the state employed neoliberal strategies to target specific populations for poverty alleviation. In this environment, NGOs flourished, and international funding poured into Nepal to combat HIV/AIDS spread with a focus on health and women's health in particular (Pigg, 2003: 98-100). But there is surprisingly not much overlap between articles that talk about HIV/AIDS work in Nepal and work on MSM.

Boyce begins a conversation specifically about MSM in Nepal by conducting an ethnography. He chronicles the overlap between MSM and heterosexual society. Boyce shows that MSM in Nepal should not be thought of as a target population or separate from the general population but that MSM are often married or also have sex with women. He documents cruising sites within Nepal and describes widespread, frequent MSM in the anonymity of urban space. Boyce uses the terms *meti* and *ta* to describe the roles taken by MSM during sex. He uses the umbrella term MSM to talk about the widespread activity and Nepali specific words to talk about roles during intercourse. As for what MSM in this paper are doing, the paper focuses almost entirely on sex, safe sex, HIV knowledge, and sex work (Boyce, 2002: 5-18). This focus on sex makes sense in the context of the early 2000s. Much of the focus was on HIV/AIDS and that was where international NGO funding could be found.

Tamang builds on Boyce's work by exploring theoretically why MSM in Nepal are so widespread and overlapping with the heterosexual population. She begins by drawing a distinction between those in Nepal who self-identify as gay, or as she calls them, the "Thamel

Gays,” and those in the BDS crowd. Tamang cites Jeffery Weeks to describe how gay as an identity is a recent development, it only occurs when meaning is attached to sexual acts, not to the acts themselves. Thamel Gays were men who spoke English, often middle or upper class, and had worked or studied abroad. People in BDS were more likely to not speak English and used Nepali GSM terms such as *meti*, *dohoris* and *ta* to describe themselves and the members of their group. Tamang uses MSM as an umbrella term here to encompass those who explicitly identify as gay or *meti* and those who take part in MSM. Tamang, drawing on early scholarship, theorizes the widespread nature of MSM in Kathmandu and South Asia is due in part to increasingly modern, urban public spaces which function as cruising sites like New Road. In addition, men who take the penetrator role as opposed to the penetrate are not seen as having their masculinity diminished. Instead, due to a lack of availability of women in sex work or price of *metis* and a comparatively heavy-handed monitoring of women’s sexual lives, having sex with men is not viewed as an identity but rather an act. She advocates for an understanding of male to male as a sexual behavior rather than identity (Tamang, 2003: 233-247). For Tamang GSM in Nepal are not so much part of an identity group, apart from a select group of Thamel Gays. Rather they exist in sexual networks as part of an urban fabric of space. She resists the application of categories like gay, transgender, and heterosexual to Nepal because of its unique cultural history. But she does allude to the ways in which hyper visible GSM, mainly *metis*, are organizing with BDS not only for health support but also for political power.

As for what GSM are depicted as doing in Tamang’s work, they are mainly described as having sex and also facing violence and discrimination. Tamang chooses to detail sexual networks and locations for sex of both the BDS and Thamel Gays crowd to support her hypothesis that MSM exist less as an identity category and more as an act. But she does describe how BDS is

funded by international men's health organizations that often turn a blind eye to the violence, especially at the hands of police, faced by members of BDS. Members of BDS who wanted to expand the mission from being focused explicitly on men's health faced a "lack of concern" from donors and push back from Thamel Gays at the increasingly political pivot (Tamang, 2003: 233). Here we can see the beginning of identity formation for political advocacy. Strategic essentialism becomes important here. BDS groups MSM into a recognizable, fixed category that can be addressed in newspaper articles and governmental documents. Although this identity does obscure the nuance of sexual networks and widespread male on male sexual behavior, it does recognize and seek to protect the most hyper visible group, being *metis*, from violence.

The next two articles focus explicitly on Gender and HIV/AIDs but do not spend much time talking about MSM or GSM in Nepal. First in an article about HIV/AIDs, gender, and a social history of sexual risk Stacy Leigh Pigg describes how HIV/AIDs outreach programs have characterized sexual risk. The only explicit mention of MSM in this article is about an early HIV pamphlet that describes "homosexual and bisexual men" in other countries are at risk of HIV, but that in Nepal drug users and people who travel abroad for work (Pigg, 2003: 102). Later work on advocacy focused on women and sex workers but made no mention of *metis* or male sex workers of any kind. NGOs who funded HIV/AIDs outreach chose instead of focus on women and safe sex instead of MSM, with the image of the trafficked Nepali woman being the prime focus of HIV advocacy. Pigg also addresses issues in translating a medical emphasis on HIV/AIDs from international NGOs into Nepali. Although she does not specifically mention MSM, Pigg's article about sexual risk when put in context with ethnographic work reveals how discourse of MSM can be hidden in conversations about sexual risk. She talks frequently about women who are

chaste but men who contract HIV and then give it to their wives (Pigg, 2003: 113). The question then, is where are men contracting HIV? Pigg does not choose to elaborate on this.

In an article about Gender and HIV/AIDs in Nepal, Shirsha Amatya addresses MSM as a forced, conceive behavior that puts its participants at risk for HIV. Amatya does talk briefly about MSM but characterizes the GSM population as predominately male. She claims that some participate willingly but that large portions of the MSM population are force into MSM relationships. She emphasizes forced conditions of MSM, particularly in prisons, to describe how MSM are at high risk of contracting HIV because they have multiple partners. For Amatya, GSM sex in Nepal is MSM, although sometimes consensual, is rare and often forced. She paints MSM as villains or part of a fringe population and that MSM only occurs in dire situations like forced sex or in prisons. She does describe other populations at risk of HIV/AIDs that overlap with Tamang and Boyce's descriptions of people and locations for MSM. For example, she describes how army and police officials are at risk and Boyce identifies army and police officials as a population that frequently takes part in MSM either consensually or through rape and assault. She also identifies migrant workers, sex workers, day laborers, service industry workers, and transportation works all as at risk for HIV/AIDs (Amatya, 2005: 145-149). Both Boyce and Tamang identify these populations as part of MSM sexual networks. This suggests that although HIV/AIDs discourse in Nepal has chosen to pivot away from MSM and focus on women and health generally, male on male sex is still taking place whether academic articles on HIV/AIDs identify it or not. Much of the international and NGO attention is focused on women's health which reflects in educational materials and strategies outlined by both Pigg and Amatya, but this does not mean that MSM relationships aren't happening frequently and consensually. This also

puts MSM at increased risk for HIV because they lack resources an attention until the founding of BDS.

In summary, this period is characterized by the use of the term MSM as an umbrella to describe those who take part in male sex behaviors but may not identify as gay due to the widespread frequency of MSM relationships. HIV/AIDs work describe GSM as MSM and usually as a risk behavior and infrequent. Ethnographic work uses terms like *meti* and *ta* to describe MSM relationships and illuminates the frequency with which they take place, counter to HIV/AIDs work. In this period, GSM are exclusively seen as MSM and not yet as an identify group but rather a risk group. While GNOs focused on women's health they only talk about straight women and there is not mention of women as GSM. They are described as having frequent sex and facing discrimination in ethnographic work, while they are described as predators and uncommon in HIV/AIDs work.

2007-2012

Literature from 2007 to around 2012 mainly focuses on Nepal's supreme court case which created the category of third gender, legalized homosexuality, and advocated for the legalization of same sex marriage. Each of these points has faced a bumpy road to implementation, but I will touch on that in the next section. In 2007, the King of Nepal was removed in large part due to a decade long violent insurgency lead by Maoists in the rural areas of Nepal. This insurgency displaced 50-70,000 people, many of who moved into Kathmandu, but also ended 250 years of conservative Hindu monarchist rule (Wilson, 2011: 254). Articles that write about the supreme court case neglect to mention this radical change in government that created an opening for liberal policies like this supreme court case to take place.

In 2004, when 39 members of BDS were imprisoned and held without charges in Kathmandu for 25 days, news media referred to them under a variety of name. Western outlets such as the BBC used “gays and transsexuals” while they were called *metis* and AIDS activists by international organizations such as Amnesty international and UNAIDs and the Nazis foundation referred to them as *metis* and feminized men using the pronoun his (Bochenek, 2012: 22). While local literature and newspaper articles before 2007 refer to BDS members as *meti* this changes after the Supreme court case to third gender.

Two articles from this time, by Bochenek and Knight in 2012 and one by Moscati and Phuyal in 2008 focus on the Supreme court case and the legal decision. Bochenek and Knight argue that because of the lack of precedent in Nepal, The Supreme court case *Pant and Others v. Government of Nepal* draws heavily on international law and transgender court cases from around the world. Its argument emphasizes how third gender people are not mentally ill, rather that homosexuality and gender variance are “natural” and normal. This then entitles GSM legal rights as citizens of Nepal. This decision is written in English and the defendant, Pant and other organizations such as Mitini advocate for the recognition of “third gender” people explicitly (Bochenek, 2012: 13-19). Third gender as a term is stated both to be people who have a “self-feeling” different to that of their assigned sex by the court and articles, but also by the court and Pant as people assigned male at birth such as *metis*. The court focuses on expanding the gender binary by emphasizing gender variance as natural, but it also relies on a framework of gender frequent in international law that separate sex and gender, but that is not necessarily the same as *meti* which has a sexual as well as gendered connotation (*Pant v Nepal*, 2007: 271-276.) Bochenek argues for an understanding of the term third gender that focuses not on definitions but on how state actors, with the force of law, enforce and use that term. So rather than focusing on

understanding what third gender specifically is defined as in court decisions, he chooses to focus on its implementation which is rather more telling. I will move to a deeper discussion of implementation in the next section.

While the Supreme court is giving rights to activists and petitioners, it is still unclear who those people really are. Work by Pravat on conceptions of social injustice argues that after 2006, Nepal society shifted to an emphasis on differences and inclusivity rather than sameness common in the 1990s (Pravat, 2011: 49). An earlier work on the Supreme Court case by Moscatti and Phuyyal uses the term LGBTQI to talk about those who presented the case to the supreme court. This article emphasizes the discrimination GSM face and the medical and biological framework used by the Supreme Court to naturalize and include GSM in the population of people in need of protection (Moscatti, 2008: 291-297). Like the Bochenek article, this article looks at the case from a legal and international law perspective. Because of the need to draw on international law and other court cases, the Supreme court uses a framework of sex and gender separation inherent in terms like third gender and transgender that does not always align with identity terms in Nepali like *meti*.

An outlier in this period of literature is a study on HIV risk and *metis* by Eric Wilson and Sunil Babu Pant in 2011. This article specifically uses the term *meti* to describe a high-risk population. This article describes reasons why *metis* are at high risk for HIV because of migration, sex work, and abuse by law enforcement. This article also situates *meti* as a term in Hindu religion mentioning the religious, economic, and political context that leads to the specific discrimination and risk experienced by *metis* (Wilson, 2011: 253-261). The use of the term *meti* demands more explanation for western audiences, but in that also adds context, both of GSM and

Nepal more broadly, to the discussion of HIV/AIDs and GSM that is missing from earlier work on HIV/AIDs. This is the last article that talks specifically about *metis*.

2012-2020

In 2012 literature on GSM in Nepal shifts to using the term LGBTQ which before 2012 is rarely used to describe GSM. This period of literature is characterized by discourses of identity and inclusion. Literature looks at the discrimination GSM face in society, often in contrast to the legal advancements made in the Supreme court. There are numerous limitations to the full implementation of the supreme court case. One is the patchwork of bureaucracy that currently operates Nepal's local government. Local government officials will turn applicants away for a variety of reasons, or only give third gender recognition to new citizenship applicants. There is also disagreement between the supreme court case written in 2007 and the criminal code written in the 1990s, which still makes "unnatural sex" illegal. This leads to a patchwork of implementation (Aljazeera, 2014). Many people have chosen not to get a third gender ID marker because of desires to work or travel abroad and concerns about border crossings (Boyce and Coyle, 2015: 32). In addition, the third gender category was only implemented in 2013 or later, depending on the sources consulted (Mahato, 2017: 19). In 2019 there was a proposed bill to require signed proof of sex change from a doctor to gain a third gender ID marker (Kathmandu Post, 2019). While great strides have been made to protect GSM in Nepal, there are still major problems with implementation. Much of the research in this period focuses on the discrimination and legal barriers faced by GSM in Nepal even after efforts to gain legal protection.

Terms like third gender or LGBT are used without specific definitions or cultural context and it is often unclear who specifically is included in studies. These terms are often used as static

identifiers instead of the socially constructed, ever shifting labels they really are. In addition, much of the literature that looks for people who identify with terms like LGBTQ misses' people who don't self-identify with those terms. In these articles GSM are viewed as victims of discrimination almost exclusively.

Before I examine literature of this period, I want to briefly use an article by Bal Krishna Sharma and Prem Phyak on Neo-liberalism and English in Nepal to add context. It is important to consider the larger context around English as a language in Nepal as authors use English identity terms. In this article Sharma and Phyak argue that Nepal has a neo-liberal economy in which English has increasingly become the working language of government offices, NGOs, and other businesses. This system of free market values privileges middle class people who have access to English learning (Sharma and Phyak, 2017: 1-3). Researchers often look for people who identify with English identity terms. Patrick Sonnenberg's ISP research shows that even people who don't speak English sometimes use English identity terms. It is important however to think about access to English language learning as an issue that intersects with class and what identities and expressions are being privileged in research.

Work by Sonal Singh in 2012 documents the human rights abuses among GSM in Nepal. Singh uses the term "gender and sexual minorities" to refer to the study population. He recruits men who have sex with men, transgender people, and third gender people in Kathmandu for his study. Reading a study of transgender and third gender people could include people who were assigned female or male at birth. However, Singh uses BDS to recruit subjects (Singh, 2012: 1-2). BDS only works with people who are AMAB, thus in this article third gender and transgender people are only those assigned male at birth and trans masculine people are not included in the study. The terms Singh uses do not necessarily make this clear. In this article third gender people

are those who are AMAB and erases the experiences of third gender people assigned female at birth or AFAB by not even mentioning their exclusion from the study. The work does seek to document the discrimination and violence faced by those who are hyper visible, being trans-feminine people in Nepal.

Work by Sadixya Bista in 2012 uses the term LGBTQI to describe discrimination in the context of the supreme court case. The study interviews people who identify as LGBT and does mention the difficulty of finding people to interview in the methods (Bista, 2012: 42-43). But because it looks for people who identify with western identity terms it misses GSM who use other ID terms like kinship terms and those who have non-normative experiences but don't self ID as GSM. Like Singh, this work looks to describe discrimination to an audience unfamiliar with Nepal to raise visibility of GSM in Nepal and the violence they face. It does excluded populations with its use of identity terms and erases alternative understandings of gender and sexual identity present in Nepal by using and thus enforcing a western understanding of GSM identity.

Gyanu Chhetri writes about perceptions of third gender people in Nepal and looks at how familial exclusion effects other parts of life. This article shows that although third gender people have legal recognition, they often face discrimination and difficulty obtaining third gender recognition. In this article, third gender is used to describe intersex people, binary trans people, and those who ID as neither male nor female. This article uses intersex people and the term third sex to naturalize gender variance, it makes an effort to draw a similarity between intersex and trans experiences. This is not always helpful thought because it leads to claims like, "his brain was the sex of a girls," to refer to trans women (Chhetri, 2017: 106). These claims, although they attempt to disrupt gender binaries, actually enforce them by claiming that someone's body and

brain can be of a different sex. This article does make an effort to connect historized descriptions of gender variance, something missing from a lot of other literature that uses ancient or religious gender variant experiences to explain modern gender variance (Chhetri, 2017: 97-101). But because third gender is such a vague term and is used so vaguely here it groups wildly different experiences into the same frame of analysis. Intersex people and transgender people deserve to have their experiences represented as more than just umbrella identities. If the term third gender is to be used it needs to be defined within specific context.

Sean Dickson and Steve Sanders look at constitution discourse on GSM in South Asia. They use the term SOGI and not LGBTQ to describe the unique South Asia context. This article makes the argument that constitutional decisions in South Asia that emphasize difference and inclusion rather than sameness. In the United States and many western countries, legal recognition for lesbians and gays came before gender variant people. These movements emphasized the sameness between lesbians and straight people to gain recognition. But in South Asia, constitutions recognized gender variance often before or simultaneously as it recognizes sexual minorities. Dickson and Sanders argue that this shows a discourse of inclusion and an emphasis on diversity instead of enforcing sameness (Dickson and Sanders, 2014: 316-346). This is complicated by difficulty actually implementing these decisions. However, the examples cited in this article are all about the recognition of trans-feminine people. In this article, although SOGI is used as an umbrella term, in application is it used to describe trans-feminine people almost exclusively.

One exception to this literature is an article from 2017 by Roshan Mahato that describes the history of the GSM movement for rights and recognition in Nepal. Although there are flaws in this history, like is focus on BDS and Pant almost exclusively, it does show GSM as activists

and change makers. It provides the first unified history of GSM in Nepal. This history does use LGBTQ as a term for specifically describing the subjects of its history although the article is titled the history of “gender and sexual minorities” in Nepal. Mahato does though, expand on its definition and word choice by putting the terms in the context of Nepal’s unique linguistic history. He includes the move from the term third gender as an umbrella term to unify gender and sexual minorities to new words like LGBTQ. By putting his terms in context and showing their change over time, Mahato disrupts the idea of categories. (Mahato, 2017: 9-13). Mahato’s work show GSM as activists and change makers, not just victims of discrimination and describes category change over time in his definition.

Daniel Coyle and Paul Boyce in their 2015 article provide an example for what a contextual understanding of GSM in Nepal looks like in literature. One unique argument of this paper is that GSM in Nepal experience economic opportunity as well as marginalization. For example, familial isolation may mean that GSM do not have to support an extended family and have more ability to move. It also opens avenues like work in NGOs. This is of course coupled with economic marginalization and discrimination, but it paints GSM not solely as victims, but rather people with agency and the ability to make decisions. Boyce and Coyle put changes in the livelihoods of GSM in the context of larger changes in Nepali society and history. They also talk extensively about migration, which has largely been ignored in literature since the ethnographic work in the early 2000s. They also contextualize the emergence of GSM spaces and identities with the emergence of individualism in Nepal and changes to family structures. This article presents a version of GSM that are not simply victims by documenting their strategies for survival as well as the discrimination they face (Boyce and Coyle, 2015: 3-19). By including

specific details about Nepali history and politics, it creates a deeper understanding of GSM for the reader.

For this article, Coyle and Boyce specifically define what GSM means. They use sexual and gender minorities as a term, but define this term as “sexual and gender minority people are understood to be individuals with same-sex sexualities and/or gender experiences ... at odds with heteronormativity but which may or may not necessarily be linked to claims to overtly same-sex sexual identities.” (Coyle and Boyce, 2015: 9). This definition is rooted in behaviors and experiences rather than identity and groups people based on their positionality rather than using terms. They argue that the use of terms like LGBT reinforce a western bio-medical framework of understanding sex and gender (Boyce and Coyle, 2015: 33). Pigg in her work on HIV/AIDs shows the difficulty of translating western bio-medical and sexual concepts into Nepali (Pigg, 2003: 113). In addition to difficulty in translation, the western bio-medical framework of gender is harmful to gender variant people and should not be re-enforced by those who want to disrupt the gender binary.

Boyce and Coyle also critique the use of Nepali or Hindi identity terms in western research. They argue that research changes the meaning of the words it uses. *Meti*, like any other category, when used in research can create its own meaning. Because of its common use in HIV/AIDs discourse *meti* is often associated with high risk sexual activity and seen as crude by some GSM or only used with friends (Gerstein, 2018: 28). Like all categories and terms, Nepali categories are socially constructed and shift in meaning and are affected by western research and intervention. Boyce and Coyle argue that “sexual subject categories are constructed through social interventions and do not simply exist in the world untouched or unmodulated by development discourse and practice.” (Boyce and Coyle, 2015: 34). These terms don't exist separate from

research. The use of categories attempts to fix a deeply personal and ever shifting understanding of identity and then can even alter the understanding and use of identity terms. Boyce and Coyle instead argue for the use of umbrella terms like GSM or SOGI that look to encompass people who do and don't self-ID as a GSM.

Analysis

Essentialism in Literature

Mohanty argues that western feminists use of the term woman to refer to the third world assumes this category exists and is salient across time, class, caste, race, and location when it often is not. This category subsumes all experiences and specific oppressions into one category (Mohanty, 2003: 23-23). Morgan and Towel argue a similar phenomenon happens with the use of the term third gender when applied to gender variance in non-western societies (Morgan and Towel, 2002: 477-484). Here, categorization by western scholars ignores specific linguistic, cultural, and political context that shapes identity and life experiences of GSM in Nepal.

I saw this phenomenon in many of the articles I reviewed especially work in the last seven years. Use of terms like LGBTQ or third gender by researchers assumes the presence of those categories in Nepal, which work by Patrick Sonnenberg disputes. Sonnenberg emphasizes the importance of kinship terms over a western understanding of gender and sex and separate identity categories (Sonnenberg, 2018: 34-50). None of the research reviewed touched on kinship terms for self-identification. It instead assumes that these categories are salient and relegates that discussion to a few sentences in methods. These terms as separate gender and sex identity in ways that do not map onto Nepali term and identities pre-2007. In addition, these articles write about GSM as victims of discrimination exclusively. It is, of course, important to discuss

discrimination and raise awareness of the violence faced by GSM. However, context, location, and caste all effect violence, something rarely touched on by research. Research and literature that continues to paint GSM as victims ignores the ways in which GSM support each other and advocate for themselves. The lives of GSM are difficult but not impossible and there are positive experiences and life paths for GSM available in Nepal as shown by both Sonnenberg and Boyce and Coyle. Research that ignores these facets of experience neglects the complexities of life in Nepal for GSM.

Another way in which essentialism can be reductive is the use of the term third gender. I will expand later on how third gender can be strategic, but it is useful to problematize the term. Sonnenberg's work shows no real consensus on what third gender or *tesro lingi* means as a concept. Some participants identified third gender someone other than male or female. Some participants didn't like the term because of its stigmatization by government, while others like the term to raise visibility. Some participants expressed frustration with the term as they felt pressured to identify with it even as they identified as a binary gender (Sonnenberg, 2018: 46). In Nepal third gender has been used to refer to trans people but also as an umbrella term for GSM more widely. The term, in research, is used most often without definition of expansion and authors assume it holds a stable definition when using it as a specific category. This though, often means that third gender is used to refer to people assigned male at birth or AMAB people exclusively through the use of the BDS to find participants. Authors will use third gender as their participant label but will not interview trans-masculine people because they use BDS networks. This erases third gender people AFAB do exist and deserve recognition. In general, Mitini Nepal which advocates for people AFAB receives less funding and attention and is not mentioned in any of the research I reviewed. This systematically erases the experiences of people AFAB.

Morgan and Towel show how third gender as a term collapses unique gender variant experiences, and in this research, it privileges AMAB people while ignoring other versions of gender variance. Third gender as a term is used in a way that is often unclear and in practice most often means people AMAB but doesn't explicitly say so.

Essentialism can apply to Nepali words as well. Boyce and Coyle argue that researchers use of Nepali words can change the meaning of those words over time, especially for a word like *meti*. They point out that language in Nepal does not exist separately from or untouched by development discourses (Boyce and Coyle, 2015: 34). Nepali words like *meti* are common in ethnographic research in the early 2000s. But research changes in field and focus. In the early 2000s, research was ethnographic, but from the supreme court case on focused on international law and legal recognition using English words. This change in focus and audience changes the words used to describe subjects and also shifts the focus away from MSM exclusively. This argument is a good reminder that simply looking for Nepali specific words does not solve the problem of essentialism. Nepali words in research can serve the same rigid function and definition, especially outside of ethnographic works whose whole purpose is to explore context and specificity.

Essentialism as Strategic

Essentialism though can be used to protect hyper visible people and provide recognition to vulnerable groups. In the early 2000s, ethnographic work emphasized how MSM relationships occurred frequently and often between people who didn't identify as a GSM. This research used the umbrella term MSM to incorporate people who do and don't identify but take part in MSM relationships and are at risk for HIV/AIDs spread. There is a movement away from this term and to identify specific terms during and after the supreme court case. While having identity specific

terms ignores the nuance of MSM relationships in Nepal, it does bring visibility to those who are the victims of the most severe violence, being trans-feminine people. Trans-feminine people often cannot pass as straight and because of their outward difference are the victims of violence and much higher rates. Identity terms like third gender give visibility to trans-feminine people. Boyce and Coyle in their definition include people who don't self ID as GSM for the purpose of inclusive research, but others who chose to focus on trans-feminine people explicitly like Chhetri do draw attention to those who are at most risk of violence. Specific categories do exclude people who don't self ID as GSM which can be problematic in Nepal's unique context, it does give voice and visibility to those who need protection the most.

Research into the third gender as a term also provides an example of strategic essentialism. To gain recognition in front of the courts, gender variant people organized by BDS, Mitini and Parichaya Nepal used the term third gender to unify themselves. While this term does not express the nuances of gender variance experienced by people, it does unify them into a recognizable group. The supreme court case itself is written in English and draws on international law and precedent from English speaking countries for the case due to a lack of precedent in Nepal. Because the court case uses English court cases to write the law it uses English terms like third gender and transgender to describe the people it seeks to intervene for. Here, essentialism helps GSM in Nepal gain rights and recognition under a legal framework that demands categories and fixed identities. While this is not necessarily the case on the ground, these categories do give people the option to self-identify on legal documents and other protections, as well as visibility in the eyes of the public. Mahato also describes the change to western terms to advocate for rights and recognition in Nepal and internationally (Mahato, 2017: 9-13). There is a difference between the supreme court and literature. Academics do not have to

stick to strict categories when trying to accurately describe the lives of GSM in Nepal. Literature thrives in specificity and it is academically negligent to use terms without defining them and situating them in context.

Construction

Not only does who GSM are change over time, what they are described as doing changes as well. In the early 2000s, literature describes GSM as those who participated in sexual behaviors that often put them at risk of HIV/AIDs. Here, to be a GSM meant to take part in sex and be at risk. Because funding and attention for research during this time was driven by international NGO attention, the HIV/AIDs focus makes sense in context (Boyce and Tamang: 2002 and 2003). Between 2007 and 2012, GSM shift to being part of a legal discourse, something they are excluded from in the early 2000s in part because homosexuality was still illegal. GSM inclusion in a discussion of law is new to literature as focus moves from ethnographic case studies to legal ones. Here, GSM are people who fall into the categories outlined by the court, being homosexuals and third gender people. This shifts the focus of discrimination and violence to legal distinctions (Bochenek and Moscati, 2008 and 2012). In recent years, literature has focused on GSM inclusion in society at large. Literature chronicles how different sectors of oppression intersect and try to paint a picture of GSM in society at large, instead of just as part of a sexual network. GSM here are those who identify with identity terms, which both simplifies their experiences, while also giving visibility. One exception to this is Boyce and Coyle who work to describe GSM survival strategies and life paths instead of simply the violence they face (Boyce and Coyle: 2015). The terms used for GSM change over time as do the topics of literature and what GSM are described as doing.

Current Connections

Currently, activists in Nepal are negotiating identity terms in English and Nepali. Many Nepali words for GSM are seen as slurs by some and there is a lack of affirming terms in Nepali (Sonnenberg, 2018: 6). Activists at the Queer Youth Group have worked to translate identities like trans-woman, queer, or cisgender into Nepali and Tamang to give some language for Nepali people to talk about their identity without using western words explicitly (Queer Youth Group, 2019). They have also suggested moving away from the term LGBTQ to acronyms like MOGAI: (say ‘muggy’) stands for Marginalized Orientations (sexual and romantic), Gender Alignments (identity and expressions) and Intersex variations (Queer Youth Group, 2020). The Queer Youth Group even discourages the use of the term GSM because it paints queer people as and their sexual and gender expression as a minority or outlier group. They have also advocate for a move away from third gender or others to more inclusive terms like trans man or non-binary that don’t label gender-variant people and their identities as “other” (Queer Youth Group, 2020). These negotiations are happening right now and activists and working to change language around GSM in Nepal, something that is not reflected in the literature. Activists and GSM work to support each other and create spaces for GSM to exist and be celebrated. There is no exploration, outside of Sonnenberg’s ISP, to see how people are renegotiating their identity to raise their visibility and describe themselves. Identity terms are precisely that, used to identify one’s self, and their use in research will always clash with how people chose to use them, especially when they are used in another language. I have not seen literature on Nepal examine this or think critically about it and it is needed to move forward with literature about GSM.

AFAB Erasure

Another theme I want to touch on is the erasure of GSM who were AFAB. I use AFAB to incorporate a range of identities from lesbians, bisexuals, and trans-masculine people. Mitini Nepal which advocates for this group does not receive nearly the funding or recognition that BDS has. Its networks are rarely used for study unlike BDS and thus its populations are often excluded from academic literature. Often even when literature addresses third gender people, it speaks about trans-feminine people most frequently. Although trans-feminine people are hypervisibility and in need of protection, this does not mean that AFAB people are not victims of discrimination and violence. Their stories are rarely heard or emphasized in literature. This is a larger blind spot of literature around queer people in general and much of the existing research focuses on AMAB people. Ethnographic research by Tamang provides some insight. The strict control of women's sexualities and close contact between men allows for more homo-erotic relationships and an emphasis on male sexuality. In generally society is seen through the lens of male sexuality and desire and rarely privileges or shows female sexual desire. This continues to be a problem in academic literature and that needs to be addressed.

Language on Transgender people

One final theme I want to touch on is the hurtful language often used by researchers to write about transgender people. Many researches use words to describe trans people as biologically or physically one sex and with a brain or self-feeling of another. By continuing to assign people's bodies genders we perpetuate a sex-gender binary that is harmful to trans people and the source of much of their oppression. It is important to think critically about terms used and why. I would encourage more inclusive language that situations society as the problem rather than trans people themselves. Phrases like assigned female or male at birth, while

problematic, place the problem with the gender-sex and society at large binary rather than on transgender peoples biological or physical presence.

Conclusion

In this essay I have used theories of essentialism and their application to third gender studies to examine how identity categories are used in literature on GSM in Nepal. I described the unique history of the term third gender and the gender/sex separation. I examined literature on GSM in Nepal in three periods and found shifts in language used, activities described, and what makes someone a GSM. In the early 2000s, GSM were people, mostly MSM, that took part in sexual behaviors that put them at risk. After the supreme court case in 2007, GSM were third gender people, and third gender was used to describe GSM as a whole. Later, discourse used western terms like LGBT to describe violence and discrimination faced by GSM. These changes not only shift in words used, but in who they include and what purpose they serve. Categories can be both reductive and erases experiences and give rights and recognition to GSM.

Looking forward, I am left with a few questions for further research. First, how can literature advocate for the people it represents if it cannot situate them in a unique political and linguistic context? Research often seeks to describe the experiences of marginalized people in Nepal to those unfamiliar with the Nepali context and who have access to resources and wealth. But this research neglects the specificities that make a category like third gender possible and problematic, like the difficulty in obtaining a third gender ID card. I also have questions about how identity terms, particularly their current renegotiation by activists, operate in modern discourse? How much of work by activists is visible to other GSM and society at large? How do GSM without access to English or the internet negotiate their identity? And finally, how does this negotiation of identity take place for those who speak other languages within Nepal. Further

research should look to examine identity terms in Nepal while also describe the ways in which Nepali GSM support each other through networks.

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