

BEYOND THE PRIDE PARADE: AN INTERSECTIONAL FEMINIST PERSPECTIVE ON SOGIESC FUTURES IN SOUTH ASIA^[1]





DR CHAMINDRA WEERAWARDHANA

is a researcher, intersectional feminist educator, writer, gender justice activist, and political analyst with a background in conflict studies, comparative politics and feminist IR. She is the author of 'Decolonising Peacebuilding: Managing Conflict from Northern Ireland to Sri Lanka and Beyond'. Her writing has appeared in international peer-reviewed publications and media outlets in several countries. An alumna of Université de Tours and Queen's University Belfast, she is a Research Affiliate at the Centre for Gender, Feminisms and Sexualities at University College Dublin. Her second monograph, *Trans Politics, Parenting and Family: Decolonial Perspectives*, will be published in Turtle Island 2021. She currently serves as the Secretary to the Regional Steering Committee of the Asia-Pacific Transgender Network.

[1] SOGIESC refers to sexual orientation, gender identity, gender expression and sex characteristics.

ABSTRACT

In the second decade of the 21st century several countries in South Asia witnessed considerable progress in LGBT+ rights. This was achieved in legal developments, increased visibility, and stronger acknowledgement of LGBT+ people and communities in public life. A number of structural realities continue to impede progress. This short essay highlights three such issues, (a) shortfalls in a holistic understanding of the problems, (b) challenges in building feminist movements with a consistent approach on LGBT+ rights, and (c) the challenge in connecting LGBT+ rights to other rights, equality and justice issues in SAARC countries.

These issues are vital for the future of LGBT+ rights in the region as they are directly connected to the consolidation of the rights of different demographics of the LGBT+, the formulation and development of more inclusive and feminist jurisprudence, and developing consistent, and intersectionally-inclusive approaches to fundamental rights at the national and regional (SAARC) level.

This analysis is developed from the standpoint of my praxis as a Sri Lankan non-cis and queer woman and intersectional feminist internationalist who is committed to locally grounded rights advocacy that is interested in robust international. partnerships. The South Asian region has known extremely divisive ethno-national and ethno-religious conflict, violence, and division. Holistically advocating for citizens' rights is a key mechanism through which we could envisage a more peaceful next century.

INTRODUCTION: DECONSTRUCTING A COMPLEX BODY OF RIGHTS?

The sector of LGBT+ rights advocacy in South Asia is considerably vibrant. Until recently it was a fringe issue, shrouded in a conceit that LGBTQI+ rights are a set of issues foreign to the sociocultural traditions of the region. While the monumentally erroneous nature of such assumptions has been widely exposed, LGBT+ rights continue to be given low importance by regional governments. LGBT+ activism also tends to be perceived separately from activist and advocacy priorities such as 'women's rights', 'gender equality' and the rights of ethnic, religious and sociocultural minorities. As an intersectional feminist activist whose activism especially includes the specific area of trans rights, and as someone with a post-doctoral level of specialisation in the study of politics of deeply divided places and international relations, I often experience an inclination among many institutions, funding bodies and individuals to perceive me only as a 'trans rights activist'. This is the result of an inclination to see issues of governance, conflict resolution, foreign policy, defence policy or any other area of expertise as the exclusive confine of heteronormative and cisnormative people.[2] While these challenges exist across the world, they are especially so in the South Asian region as they impose glass ceilings on the advancement of LGBT+ people, blocking us from consolidating our potential. I will focus on three major challenges that help reinforce the 'fringe' positionality of LGBT+ rights advocacy. This dialogue is deemed essential

[2] The term 'cisgender' or 'cis' refers to people whose gender identity is not in conflict with their gender assigned at birth. The term 'transgender' generally refers to people whose gender assigned at birth does not correspond to their true gender identity. In this essay, 'cisnormative' implies individuals, systems and structures that have cisgender people, lifestyles and viewpoints at the centre, with pride of place for the cis male-cis female gender binary. 'Non-cisnormative' people include not only transgender people, but also indigenous non-cis gender peoples, non-binary people and gender-non-conforming people.

because the existing forms of limited, if not restrictive, understanding/s of what it means to be an LGBT+ rights activist and what it means to advocate for LGBT+ rights, are such that they prevent policymaking platforms, legislatures, judiciaries and supranational bodies from making sense of a vital idea – that the body of rights that ‘LGBT+ rights’ encompasses is inextricably connected to many policy areas.

I. The LGBT+ abbreviation: Making Sense of a Broad Scope

L	G	B	T	T	Q	Q	I	A	A	P
Lesbian	Gay	Bisexual	Trans-gender	Transexual	Queer	Question-ing	Intersex	Ally	Asexual	Pansexual
A woman who is primarily attracted to women.	A man who is primarily attracted to men; sometimes a broad term for individuals primarily attracted to the same sex.	An individual attracted to people of their own and opposite gender.	A person whose gender identity differs from their assigned sex at birth.	An outdated term that originated in the medical and psychological communities for people who have permanently changed their gender identity through surgery and hormones.	An umbrella term to be more inclusive of the many identities and variations that make up the LGBTQ+ community.	The process of exploring and discovering one's own sexual orientation, gender identity and/or gender expression.	An individual whose sexual anatomy or chromosomes do not fit with the traditional markers of "female" and "male."	Typically a non-queer person who supports and advocates for the queer community; an individual within the LGBTQ+ community can be an ally for another member that identifies differently than them.	An individual who generally does not feel sexual desire or attraction to any group of people. It is not the same as celibacy and has many sub-groups.	A person who experiences sexual, romantic, physical and/or spiritual attraction to members of all gender identities/expressions, not just people who fit into the standard gender binary.

The abbreviation ‘LGBT+’ is one that keeps getting lengthier for all the right reasons. From an activist standpoint it is crucial to admit that the lengthier it gets the better because of the opportunity this ever-growing abbreviation offers to put at the centre people, lived experiences, rights, challenges and stories that have been marginalised. In some cases the abbreviation includes

elements that are specific to certain countries. In the northern territories of Turtle Island, Canada as we know it, '2S' is often actively used in the abbreviation to denote two-spirited indigenous people and all other gender-plural indigenous peoples of the land. Most often we see a tendency of grouping LGBTQI+ rights into one set of rights. This routinely results in a great deal of misunderstandings, misreading and confusion. Hence the worth of the United Nations terminology: Sexual Orientation, Gender Identity/Expression and Sex Characteristics [SOGIESC]. It helps us zoom in on the different issues and rights concerns involved. British colonisers' aversion to non-heteronormative sexualities has been institutionalised in the penal codes of the majority of countries in the SAARC region. As legal experts have repeatedly argued the existing 19th century laws are marked by substantial inadequacies, issues of interpretation, and provisions that can be deployed to infringe upon the fundamental rights of non-heteronormative citizens.[3] In challenging these legal restrictions, and bringing forth anti-discrimination legislation that protects the rights of citizens, there is a clear need for stronger sensitisation of the public and policymaking lobbies on what it means to engage in meaningful legislative innovation in this area.

Gender identity/expression-related rights issues are often conflated with sexual orientation-related rights concerns. When it comes to the former the focus is largely on gender recognition legislation that does not pathologise non-cisnormative citizens and anti-discrimination provisions that make it illegal to discriminate against a citizen on grounds of their gender

[3] In the case of Sri Lanka Articles 355 and 365A of the Penal Code are extremely vague and ambiguous in terms of interpretation. For an expert explanation see 32:02 of this televised interview: <https://www.youtube.com/watch?v=CKHfbdfmpdo>.

identity/expression.[4] Besides these two issues there is also the necessity of legal reforms, awareness-raising initiatives and rights campaigns on issues such as the reproductive rights of non-cis people. Trans people have a long history (herstory) of being summarily deprived of their reproductive rights. Compulsory sterilisation was a prerequisite for gender-affirmation in many western countries until recently, a legal restriction described as 'state-sanctioned transphobia'.[5] Denmark did away with this requirement only in 2014.[6] Sweden scrapped its forced sterilisation law only in 2012, and Norway followed suit in 2016.[7] Compulsory sterilisation of trans people is still in force in Finland.[8] While there are no explicit legal restrictions in place in the SAARC region the stigma associated with trans identities and social conservatisms make it extremely challenging for a trans person to avail of their reproductive rights. The fact that this topic seldom makes it to the table in trans rights activist spheres is exemplary of a bigger problem – of trans people being conceptualised only within a narrowly defined understanding of gender identity. Even when reproductive rights are raised

[4] A recent legislative innovation on this front in the South Asian region is the Transgender Persons (Protection of Rights) Act of May 2018 ratified by the parliament of Pakistan. For an analytical reading of the Act's pros and cons, see Redding 2019. Full text of the Act is available at: http://www.na.gov.pk/uploads/documents/1526547582_234.pdf. Gender identity-related post-2007 legislative developments in Nepal are widely documented (Bochenek and Knight 2012, Young 2016). In Sri Lanka the Gender Recognition Circular of 2015 has had a strongly positive effect on trans rights, despite being unratified as a law of parliament.

Full Circular: <http://www.aidscontrol.gov.lk/images/pdfs/circulars/Issuing-of-Gender-Recognition-certificate-for-TG-community-1.pdf>. All of these legislative developments in the region, however, carry many shortcomings and inconsistencies and are marked by highly cis-normative and restrictive approaches to jurisprudence. The work of deconstructing existing legal provisions and developing inclusive trans-competent laws are tasks yet to be accomplished.

[5] Amnesty International. 2014. The State Decides Who I Am: Lack of Recognition for Transgender People. Index No: EUR 01/001/2014. https://www.es.amnesty.org/uploads/media/The_state_decide_who_i_am_Febrero_2014.pdf

[6] Saner, Emine. 2014. Europe's terrible trans rights record: will Denmark's new law spark change? The Guardian, 1st September. <https://www.theguardian.com/society/shortcuts/2014/sep/01/europe-terrible-trans-rights-record-denmark-new-law>

[7] Hartline, France Rose. 2019. Examining Trans Narratives in the Wake of Norway's Gender Recognition Law, a/b: Auto/Biography Studies, 34:1, 67-87, DOI: 10.1080/08989575.2019.1542822.

[8] Sweden drops law forcing sterilisation of trans people'. Centre for Reproductive Rights, 29 February 2012. <http://www.reproductiverights.org/press-room/sweden-drops-law-forcing-sterilization-of-trans-people>; See, for example, Bill to change Finland's transgender sterilisation requirement comes up short, YLE, 7 October 2017, https://yle.fi/uutiset/osasto/news/bill_to_change_finlands_transgender_sterilization_requirement_comes_up_short/9871492.

in LGBTQI+ activist circles, the general tendency is to drift towards biopolitics and cisnormativity.[9]

To drive home the point, take the sphere of LGBTQ rights or rights that concern sexual orientation. Very often terms such as 'gay men' and 'lesbian women' exclusively imply cisgender gay men and cisgender lesbian women. From a gender politics perspective, the term 'bisexual' verges on the problematic if it is interpreted as reinforcing the gender binary.[10] There is a strong tendency to interpret trans people's sexualities from a heavily cisnormative standpoint. To follow this flawed assumption a trans woman is widely considered to be sexually attracted to men – which imperatively means cis men. Similarly a trans man is seen as being attracted to women – meaning, cis women. Trans people's sexualities are subjected to categorical erasure, even in supposedly inclusive and affirming LGBTQI+ activist spaces. In the South Asian region there is very little dialogue on trans people who are non-heteronormative, and on the importance of including non-het trans people in rights campaigns that centre on sexual orientation issues. What we often see is tokenism, where heteronormative trans people are often called to platforms advocating for sexual orientation-related rights. Acknowledging the presence of non-heteronormative trans people is crucial for engaging in meaningful LGBTQI+ rights advocacy in the South Asian region.

[9] It is not uncommon for LGBTQI+ rights related specialist publications specific to South Asia to include terminology such as 'reproductive healthcare needs of lesbians and transgender men' (UNDP 2014 50). The extremely problematic nature of such appellations is seldom taken up in South Asian LGBTQI+ activist circles. In this specific case, the underlying implication of including transgender men and 'lesbians' together is a) a view of trans men as 'woman-lite', and b) even more appallingly, 'lesbian' as a sexual orientation exclusively restricted to cisgender women. Convolutions of this type make it extremely challenging to develop policy that specifically focuses on the precise needs, requirements and concerns of trans men when it comes to them availing their reproductive rights. Trans women are often categorically left out of conversations on reproductive rights.

[10] Several Bisexual rights activists have contributed to expand popular definitions of the term 'bisexual'. In today's queer feminist circles, it is often used as implying "attracted romantically and/or sexually to people of more than one sex and/or gender, not necessarily at the same time, in the same way, or to the same degree" (Brabow 2018).

A key area of rights that receive scant attention involves sex characteristics. There is very little knowledge on intersex rights issues in the South Asian context. As the western world has witnessed increased intersex visibility, and intersex people strongly affirming their agency, similar developments are yet to be substantively witnessed in the South Asian region.[11] Advocacy priorities include raising awareness on intersex issues in the medical sector in an effort to promote reforms that focus on the agency of intersex people based on self-determination – thereby prohibiting non-consensual surgical interventions on intersex babies and minors. A considerable part of the responsibility of supporting the development of inclusive, modern and self-determination-based intersex movements falls upon legal experts working in the area of SOGIESC rights in the South Asian region.



[11] Intersex advocates of intersex rights generate cutting-edge knowledge of intersex issues. See Pidgeon (@pidgeon) and Mx Anunnaki Ray Marquez (@anunnakyray).

II. Feminist Movements and LGBTQI+ Rights: From Barriers to Bridges?

In terms of advocating for gender and social justice, feminist movements are of vital importance. In many parts of the world they have been the catalysts of innovation in terms of the promotion of equality and justice. In equal measure feminist movements (especially in the global South) also tend to be heavily cisnormative, ableist, and focused on theoretical perspectives and activist praxes that share more in common with white feminism.[12] Throughout South Asia there is a clear need to centre women at marginalised intersections in feminist work. Building feminist movements



Photo Credit: History of Feminism

[12] In this essay, 'white feminism' is used to refer to the brand of feminism that centres white (mostly upper middle and upper class) cis womanhood, with next to no considerations of the multiple forms of marginalisation non-cis-white women undergo. It is also a form of feminism that strongly revolves around the cis male-cis female gender binary. Most white feminist circles categorically reject trans women, and adopt an uptight and defensive attitude when their lack of intersectional inclusion is called out. For a critical perspective on the functional dynamics of white feminism see Cargle 2018 and Meltzer 2019.

that fully recognise the agency of Dalit women, trans women, indigenous women, disabled women, and women at many other multiple intersections is an absolute priority if inclusive gender and social justice are to be envisaged. Reflecting on ways in which feminist work in the South Asian region can be made well and truly inclusive of non-cis and non-het peoples, the most incisive comparative insights can be gleaned from Black feminist discourses developed in Turtle Island.

The very term intersectionality is part of the wealth of knowledge created by black feminists in Turtle Island. While Professor Kimberlé Crenshaw, a legal expert, is credited for coining the term 'intersectionality', the principle it encompasses – of black women living and experiencing multiple intersections of identity between race, class, gender, workplace marginalisation, pay discrimination and more, is one that has long-standing historical ('herstorical') antecedents in Black feminist work.[13] The idea of black women working above and beyond their differences to challenge systemic forms of marginalisation – identifying and working towards dismantling oppressive structures – has been central to the work of all leading black feminist thinkers. Black cis lesbian feminist Audre Lorde's words "I am not free while any other woman is unfree even if her shackles are very different from my own", strongly encompass the fundamental Black feminist principle of women working together to challenge multiple forms of marginalisation, erasure and discrimination.[14] In Black feminist circles of Turtle Island, cis and trans women, and indeed non-heteronormative black women, have a long herstory of solidifying sisterhoods, working together,

[13] Crenshaw, Kimberlé. 1989. Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. University of Chicago Legal Forum, issue 01, 1989, pp. 139-167.

[14] Lorde, Audre. 2017 [1984]. *The Master's Tools Will Never Dismantle the Master's House* (Kindle edition). New York: Penguin; Weerawardhana, Chamindra. 2020. "Erasure at the 'Tipping Point'? Transfeminist Politics and Challenges for Representation: From Turtle Island to the Global South/s.", in: Fiona MacDonald and Alexandra Dobrowolsky [Eds] *Turbulent Times: Transformational Possibilities? Gender and Politics Today and Tomorrow*. Toronto: University of Toronto Press, pp. 304-325.

taking care of and advocating for each other. From Angela Davis to Robyn Maynard, black cis women who campaign against police brutality and the extremely biased incarceration system in the USA have systematically prioritised fighting for the rights of black trans women.[15]

Other western feminist movements have been deeply divisive on many issues failing to sustainably include trans women, indigenous [cis and trans] women, working class [cis and trans] women, disabled women and women from other diverse backgrounds. The ongoing crisis in white feminist movements that are trans-exclusionary reactionary exemplifies the exclusiveness that has been in-built to white feminism. In the South Asian region, feminist movements have strong foundations in colonial history. Many feminist collectives can be described as urban, English-speaking, very highly cisnormative, and far from intersectional in their understanding of feminist advocacy. Delivering a lecture at University College Dublin in 2018, I described this form of South Asian feminism as ‘Loretto Convent feminism’, implying the elitist nature of such circles, mostly composed of educated, upper-middle and upperclass cis women who, in the majority of cases, are past pupils of gender-segregated mission schools created under British rule which, in the majority, continue to function along heavily Victorian conservatisms. To draw from personal experience, these circles may uphold terms such as ‘intersectionality’ and ‘inclusivity’ to suit their agendas with no meaningful commitment to such principles.[16] In many South Asian feminist circles, trans women are unwelcome. Peculiarly some feminist circles do include trans men in their work. This can be explained in their inclination to deny trans people any semblance of agency viewing trans women as ‘man-lite’ and

[15] Maynard, Robyn. 2017. Policing Black Lives. Halifax: Fernwood Publishing; Weerawardhana, Chamindra. 2020. pp 311-314

[16] Weerawardhana, Chamindra. 2018. Power to the People: On Transfeminist Solidarities beyond the Ivory Tower. Guest lecture delivered at University College Dublin, 6 March 2018: <https://soundcloud.com/real-smart-media/chamindra-weerawardhana-power-to-the-people-on-transfeminist-solidarities-beyond-the-ivory-tower>

trans men as 'woman-lite', with an exclusive focus on someone's gender assigned at birth. This kind of biopolitics results in a toxic context making it extremely challenging for intersectional feminist solidarities in the South Asian region.

In most cases, South Asian cis feminists share a great deal in common with white feminist circles in the west. When their exclusionary practices are called out, reactions include voicing a feminist-saviour complex, defensive postures, and an inclination to perceive their critics (especially non-cisnormative women) as arrogant, and as people hindering the feminist cause. It is not inaccurate to note that in South Asia, developing truly inclusive intersectional feminist movements is harder than challenging white feminist circles in the west. The situation is not all bleak as positive changes have also been in motion for quite some time with younger generations of feminist activists advocating for meaningful change. Nonetheless, it remains quite challenging for trans women (especially non-heteronormative trans women) and intersex women, irrespective of their sexuality, to claim space in feminist circles. Challenging these functional dynamics, if not developing trans feminist and queer feminist discourses in South Asia, and making the region's feminist movements well and truly intersectional are tremendous challenges that have been taken up by a younger generation of intersectional feminist activists. Strengthening feminist movements by enhancing better education and knowledge sharing on intersectionality, women-of-colour feminist thought, trans feminist thought, and indigenous feminist perspectives from Turtle Island to the Pacific Islands are of vital importance. Strong and truly inclusive feminist movements possess tremendous potential to challenge institutionalised forms of discrimination and push for positive legislative and policy changes.

III. No longer at the fringes: SOGIESC Front and Centre

The development of stronger and intersectionally-empowered trans and queer-led feminist movements has a strong effect in positively impacting policy. The power of intersectional feminist activism as a vector for global movement-building is best exemplified in Black feminist innovations such as the global Black Lives Matter movement.[17]

This point is of crucial importance to the third and final section of the present discussion. The sphere of LGBTQI+ rights advocacy, as noted earlier in this essay, is often easily relegated to the fringes. If someone's activist work focuses on any aspect of LGBTQI+ or SOGIESC work, they are seen only as a specialist in that specific area of rights. As non-het and non-cis people, activists and allies, it is crucial that we challenge these assumptions to move towards holistically consolidating the rights of non-cis and non-het citizens. In the case of Sri Lanka's ethnonational contentions those who advocate for a durable political settlement to the political concerns of ethnonational minorities, justice for relatives of missing persons (who, in most cases, went missing during the civil war years), and those who advocate for inter-religious coexistence are almost always cisgender and heteronormative. The handful of activists who are non-cis and non-het tend to avoid, consciously or otherwise, clearly articulating the overlaps between SOGIESC rights and conflict transformation, reconciliation and transitional justice-related work. Certain political parties may on occasion voice their support to LGBTQI+ rights come an election their electoral lists are replete with cis and het people. Similar trends can be observed in India and all other countries in South Asia. In challenging such practices, the most promising approach is that of 'grounding' LGBTQI+ rights in the broader contexts of human rights

[17] Khan-Cullors, Patrisse, and Asha Bandele, 2018. *When They Call You a Terrorist: A Black Lives Matter Memoir*. Edinburgh: Cannongate Books.

advocacy, and in the socio-political and economic realities of one's local context. The keyword here is the Black feminist concept of intersectionality. If an intersectionality-informed approach to LGBTQI+ rights advocacy is pursued, it facilitates the task of identifying links and overlaps between LGBTQI+ rights and other specific areas of rights. When it comes to what is termed 'women's rights' for example there is a clear need to highlight the rights and agency of non-heteronormative cisgender women, non-cisnormative women (of all sexual orientations), indigenous women, women from multiple ethnonational minority backgrounds, and many more diverse intersections. An activist and advocacy praxis of this nature facilitates the development of a holistic and consistent rights discourse where rights advocacy is kept sharp, wide-ranging, and most importantly, critical. It also enables rights activists to reach out to a larger cross-section of people.

Intersectionality-inclusive rights advocacy facilitates the task of zooming in on issues that often go unmentioned and unattended. If such an approach were to be applied to the area of women's health it would lead to a rounded and cohesive conversation on reproductive violence and how discriminatory practices affect women from diverse backgrounds with varying levels of adversity. Engaging in processes of unlearning to include trans women-specific healthcare issues under the broader 'women's health' umbrella would further facilitate the task of zooming in on the importance of developing healthcare principles, policies and practices along a logic of self-determination, consent and bodily autonomy. This enables a stronger and sharper focus on issues such as the performance of non-consensual surgical interventions on underprivileged cis women, reproductive rights-related restrictions that adversely target queer cis women, malign forms of inconsistent attention to women's health policy that adversely affect both



cis and trans women, and continuing shortcomings in a bodily-autonomy and personal-choice focused approach to medical care, to name but a few.

In terms of jurisprudence, an intersectionality-inclusive focus would facilitate the development of legal innovations based on a holistic and incisive understanding of rights issues. LGBTQI+ rights, or for that matter any other rights concern, is not a monolith. Challenging ethno-religious contentions in the South Asian region, promoting inclusive gender justice, avoiding tendencies to 'other' gender, sexual, indigenous, ethnonational and other minorities, are all best achieved by an approach to law reform that conceptualises the work as a constant 'process' that imperatively requires many [un]learning curves. In South Asia today, there is a clear need to challenge archaic notions such as the understanding of LGBTQI+ rights as an area of rights that has next to no bearing on many other rights issues, and the conceptualising of 'women's rights' exclusively around cisgender and mostly able-bodied women. In LGBTQI+ rights work there is a clear need to constructively address the relative erasure of people from socioeconomically underprivileged backgrounds and lower echelons of draconian caste strictures, indigenous peoples, and people from ethnic and religious communities that have suffered systemic marginalisation.

CONCLUDING REMARKS: PURSUING THE ROAD LESS TRAVELLED

This essay attempts a transversal reading of what it means to engage in LGBTQI+ rights work in South Asia as the third decade of the 21st century unfolds with a devastating pandemic. This reflection began with a discussion of several basic yet often side-lined realities that underpin the 'LGBTQI+' abbreviation, which at times prevent rights activists from clearly conceptualising our rights advocacy priorities. It moved to the necessity of feminist movements adopting a consistent focus on LGBTQI+ rights based on an outlook influenced and inspired by the Black feminist legacy of intersectional advocacy. This led to a discussion of the importance of bringing SOGIESC to the centre of human rights work in South Asia, pushing for intersectionality-informed, inclusive and meaningful change in the ways in which we look at policy issues, develop strategies and mobilise policymaking bodies of our respective countries. Despite considerable progress made over the last decade, the sector of LGBTQI+ rights in South Asia continues to be marked by major problems and challenges. From the routine dehumanisation of trans people in the English language press that uses 'transgender' as a noun (something that often goes unnoticed and ignored due to the lack of a consistent approach of acknowledging, documenting and supporting indigenous traditions of SOGIESC in the region), and a heavily cisnormative understanding of 'women's rights', the issues at hand are extremely divisive and problematic.

A critical perspective on SOGIESC work, especially if it were to be armed with a concept such as the Black feminist focus on intersectionality, cannot be developed in the absence of a 'decolonial' focus – one that strongly challenges the cisnormative and gender-segregated Victorian educational

structures we continue to embrace so dearly, the continuity of colonial forms of oppression such as the routine dehumanisation of indigenous non-cis people, and in terms of broader issues of governance, our relentless focus on national and territorial borders originally drawn to serve colonialist interests. No meaningful SOGIESC rights can be consolidated in the long-term without critically addressing such systemic issues and taking steps to transform, if not dismantle, systems such as gender-segregated primary and secondary education that no longer serve their purpose. Hence the need for a decolonial form of intersectionally informed, and intersectional feminist, advocacy for SOGIESC rights in South Asia.



As indigenous people across the world teach us, decolonising involves challenging, changing and dismantling systems in place, to give way for more equitable and just systems and policies. To many rights activists this work can indeed be unsettling, and can turn out to be more uncomfortable than a narrowly-defined focus on LGBTQI+ rights. Jurists in South Asia working in what I may term critical SOGIESC rights work – pursuing the kind of approaches outlined in this essay – would strongly benefit from partnerships with their counterparts in other parts of the world specialising in indigenous rights, racial justice and environmental justice issues.[18]

Strengthening human rights jurisprudence in South Asia in the third decade of the 21st century calls for a commitment to feminist and decolonial priorities, ‘locally grounded’ yet essentially global approaches, productive exchanges and knowledge-sharing with progressive movements for racial, gender and indigenous justice elsewhere, and an acute understanding of challenging and dismantling highly cisnormative and heteronormative structures and strictures in our region, in spheres local, national, regional, personal, public and political.

[18] Developments in indigenous law with special relevance to South Asia include work accomplished by indigenous legal professionals who are also members of the LGBTQI+ community. One example is the body of work of Advocate Natalie Coates (Ngāti Awa and Ngāti Hine whakapapa) whose jurisprudence has contributed to the building of locally-rooted and international approaches to the practice of indigenous law (see Matata-Sipu 2018).

BIBLIOGRAPHY

Amnesty International. 2014. The State Decides Who I Am: Lack of Recognition for Transgender People. Index No: EUR 01/001/2014:

https://www.es.amnesty.org/uploads/media/The_state_decide_who_I_am_Febrero_2014.pdf

Bochenek, M. and K. Knight, 2012. Establishing a Third Gender Category in Nepal: Process and Prognosis. *Emory International Law Review*, 26:1, 11-41.

Brabow, C. 2018. "Bisexual" doesn't mean what you think it means, *Refinery29*, 2 February: <https://www.refinery29.com/en-us/bisexual-definition-gender-binary>.

Cargle, R.E. 2018. When feminism is white supremacy in heels. *Bazaar*, 16 August: <https://www.harpersbazaar.com/culture/politics/a22717725/what-is-toxic-white-feminism/>.

Crenshaw, Kimberlé. 1989. Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, issue 01, 1989, pp. 139-167

Hartline, France Rose. 2019. Examining Trans Narratives in the Wake of Norway's Gender Recognition Law, *a/b: Auto/Biography Studies*, 34:1, 67-87, DOI: 10.1080/08989575.2019.1542822.

Khan-Cullors, Patrisse, and Asha Bandele, 2018. *When They Call You a Terrorist: A Black Lives Matter Memoir*. Edinburgh: Cannongate Books.

Lorde, Audre. 2017 [1984]. *The Master's Tools Will Never Dismantle the Master's House* (Kindle edition). New York: Penguin.

Matata-Sipu, Q. 2018. The Māori lawyer fighting for indigenous rights all over the world. *The Spinoff*, 27 August: <https://thespinoff.co.nz/atea/27-08-2018/the-maori-lawyer-fighting-for-indigenous-rights-all-over-the-world/>

Maynard, Robyn. 2017. *Policing Black Lives*. Halifax: Fernwood Publishing.

Meltzer, M. 2019. I refuse to listen to white women cry. *The Washington Post Magazine*, 11th September: <https://www.washingtonpost.com/news/magazine/wp/2019/09/11/feature/how-activist-rachel-cargle-built-a-business-by-calling-out-racial-injustices-within-feminism/>

Saner, Emine. 2014. Europe's terrible trans rights record: will Denmark's new law spark change? *The Guardian*, 1st September. <https://www.theguardian.com/society/shortcuts/2014/sep/01/europe-terrible-trans-rights-record-denmark-new-law>

UNDP. 2014. *Being LGBT in Asia: Nepal Country Report*. shorturl.at/jENV6

Weerawardhana, Chamindra. 2018. *Power to the People: On Transfeminist Solidarities beyond the Ivory Tower*. Guest lecture delivered at University College Dublin, 6 March 2018: <https://soundcloud.com/real-smart-media/chamindra-weerawardhana-power-to-the-people-on-transfeminist-solidarities-beyond-the-ivory-tower>

Weerawardhana, Chamindra. 2020. "Erasure at the 'Tipping Point'? Transfeminist Politics and Challenges for Representation: From Turtle Island to the Global South/s.", in, Fiona MacDonald and Alexandra Dobrowolsky [Eds] *Turbulent Times: Transformational Possibilities? Gender and Politics Today and Tomorrow*. Toronto: University of Toronto Press, pp. 304-325.

Young, H. 2016. Trans rights: Meet the face of Nepal's progressive third gender movement. The Guardian, 12 February: <https://www.theguardian.com/global-development-professionals-network/2016/feb/12/trans-rights-meet-the-face-of-nepals-progressive-third-gender-movement>.