

Test for Real Life? The Gender Transition Process in Sri Lanka

Kaushalya Ariyaratne

The earliest record of sex reassignment surgery in a Sri Lankan public hospital can be traced back to 2003. Even though there was no government procedure for sex reassignment and change of gender in birth certificates, the Registrar General's Department (RGD) had been facilitating the change of gender on birth certificates on a case-by-case basis since then. In 2015, with the refusal of the RGD to allow three transgender women to change their legal gender, they made a complaint to the Human Rights Commission of Sri Lanka (HRCSL). Acting on this complaint, the HRCSL initiated stakeholder consultations with several ministries and activists, and as a result, dedicated trans clinics, procedures, and the issuance of a Gender Recognition Certificate^[i] (GRC) were proposed and accepted by all authorities. It was also agreed that the RGD would facilitate amending the name and gender on birth certificates which enables the respective State authorities (i.e., Department of Registration of Persons, Immigration Department, and Department of Motor Traffic) to amend the personal details accordingly in official documents.

In 2016, the Ministry of Health (MoH) released two circulars – one detailing the criteria for awarding a GRC^[ii] and a second titled “Procedure to change the name and gender of transgender persons’ birth certificates.” The first authorises a doctor to refer a transgender person for hormone therapy and surgical care and certify that the individual has undergone one or both. In order to qualify to change the name and gender on the birth certificate, a person has to first approach a psychiatrist who works for a government hospital and attend regular clinics. After assessment by two psychiatrists over a period of time, a GRC is issued. Currently, there are nine government hospitals in Sri Lanka with dedicated transgender clinics. Once a person registers with the clinic, they are closely observed by a psychiatrist in order to facilitate the transition process, which may take between six months to two years.

These policy changes are both legally and politically significant. In this article, I analyse the process of sex reassignment surgeries in Sri Lanka, which are facilitated by the MoH, along with the process of obtaining a GRC. On the one hand, it is important to record the developments – especially in the medical, health, and legal sectors – that have resulted from emerging discourses on LGBTIQ+ communities in post-war Sri Lanka. On the other, it is also vital to read critically the impact of medical health interventions against a backdrop of many misconceptions and limited scholarly work on transgender communities in contemporary Sri Lanka.

Here I will discuss certain aspects of transgender subjectivities, bodies, and State interventions on gender identities, based on selected transgender persons’ testimonies who obtained a GRC, statements from selected doctors, and my own experience in the field. I will not attempt to generalise from knowledge of the gender recognition process, but rather highlight selected personal experiences of trans persons. The discussions with them were held not with a rigid questionnaire, but as informal, long conversations. For their confidentiality and safety, pseudonyms are used.

Challenges faced by individuals who undergo a gender transition process are not limited to the medical health sector. There are numerous obstacles at the level of the *Grama Niladhari* division, Divisional Secretariat, Registrar General's Department, Department of Immigration, and Department of Education, when they access these places to change their name and gender on official documents. There is a vast gap in the literature on these practical administrative challenges as well as legal repercussions after the transition process. For instance, the legal discourse on the consequences of marriage, childbirth, custody of children, property rights, and inheritance after a transition process remains largely absent in Sri Lanka and is beyond the scope of this article.

Who is a Transgender Person?

The term transgender is often used as an inclusive category for a wide range of identities, including transsexuals, transvestites, male and female impersonators, drag kings and queens, male-to-female (MTF) persons, female-to-male (FTM) persons, cross-dressers, gender benders, gender variants, gender nonconforming, and ambiguously gendered persons, as well as many more. The term 'gender queer' is also used as an umbrella term for persons who do not subscribe to conventional gender distinctions but identify with neither, both, or a combination of male and female genders. These identifications may or may not include medical health interventions in their bodies, followed by a legal documentation process.

As Stoller describes, "*gender identity* starts with the knowledge and awareness, whether conscious or unconscious, that one belongs to one sex and not the other...*gender role* is the overt behaviour one displays in society, the role which he (or she) plays, especially with other people" (1968: 9–10). Many people may have concerns and challenges in articulating their sense of self within the social interpellation of their gender and they may search for the significance of their lived gender experience, without challenging the gender classification that was assigned to them at birth. In Western medical history, terms such as 'gender dysphoria' or 'gender identity disorder' were used to describe a sense of unease that a person may have because of a mismatch between their biological sex and gender identity. Even though since 2012 it is no longer considered a mental illness, and the American Psychological Association (APA) has instead coined the term 'gender variance' (2009), sex/gender reassignment processes are usually handled by psychiatrists. Regardless, courts around the world continue to use the psycho-medical labels of 'gender identity disorder' and 'gender dysphoria' (Erni 2013: 140).

Within transgender communities, increasingly, transgender people are recognising the right of individuals to define their own gender, regardless of the law and medical procedures. Bornstein (1994) suggests: "One answer to the question "Who is a transsexual?" might well be "Anyone who admits it". A more political answer might be, "Anyone whose performance of gender calls into question the construct of gender itself.'" (1994: 121) Indeed, the prefix 'trans' is a useful reminder of the fluid nature of identities and bodies in the making (Erni 2013: 140).

Therefore, some persons may choose to realign their gender identity and sex through medical interventions (transsexual), or they may simply choose to perform their gender through behavioural patterns without any medical intervention.

Trans Identities in Sri Lanka

In the Sri Lankan context too, transgender communities are vibrant and heterogeneous. There are persons who undergo hormone treatments and/or sex re-assignment surgeries, and there are many individuals and/or communities who refuse medical health interventions in their bodies. Some of them present themselves as the opposite gender in certain spaces/occasions, while others may do it in their personal spaces or intimate relationships.

In their studies on the *nachchi* communities in Sri Lanka, Miller and Nichols (2012) and Ariyaratne (2020) examine the intersections of the gendered and sexual identities of trans people and observe that the perceptions of gender identity and sexuality function in complex and contradictory ways in Sri Lankan society.

In Sri Lanka, trans people have been subjected to discrimination and violence: one study revealed that 90% of police violence related to LGBTIQ persons in Sri Lanka is committed against transgender persons (Thangarajah 2013: 15); Tambiah (2003) discusses parental, communal, and cultural surveillance that is entangled with the law, to maintain gender stereotypes and suppress expressions of alternative sexuality; the Vagrancy Ordinance is frequently evoked and gay men, lesbians or transgender persons have been harassed, taken away for questioning, and detained (Nichols 2010); and 'cheating by impersonation' under the Penal Code is used against individuals, particularly transgender people, who have then faced prosecution (Palihawadana 2011).

In the context of violence, discrimination, and harassment against transgender communities in Sri Lanka, the 2016 policy change is significant. It opened doors for many people to undergo safe and accessible healthcare services, while a regulated procedure for legal documentation made it possible to have the life they aspired to. While it provided a sense of security and safety for transgender people, this policy change paved the way for other recommendations such as the IGP's^[iii] (Inspector General of Police) guidelines on matters when dealing with transgender persons (2022), and the HRC's guidelines for police officers to protect

transgender persons^[iv] (2023). However, it contains certain problematic approaches to implementation that will be the main focus of the rest of this article.

Implementation of the GRC in Sri Lanka

Despite the World Health Organisation having declassified Gender Dysphoria as a mental health issue, medical scholars have argued that this declassification is “controversial” (Malalgama 2017: 27) as it is always a psychiatrist who deals with such persons in Sri Lanka. In Sri Lanka, once a person consults a psychiatrist in order to obtain the GRC, it is the psychiatrist who makes the crucial decision on whether the person is allowed to obtain it or not. In this process, the psychiatrist’s discretionary power is unrestricted, and the most important decision of the life of the individual who is seeking to obtain the GRC depends on the psychiatrist’s acceptance.

For example, the Real Life Test (RLT) which is conducted by doctors is designed to assess how one would cope with his/her gender transition in ‘real’ life. The purpose of the RLT is to confirm that a transgender person can function successfully as a member of that gender in society and to confirm that they are sure that they want to live the same gender for the rest of their life. Therefore, the medical health sector in Sri Lanka still possesses a strong degree of discretionary power in determining the possibility of gender change among transgender communities. Many of these doctors subscribe to a binary understanding of gender (Ariyaratne 2021).

A doctor eligible to issue a GRC described the RLT as follows to me:

RLT is an assessment of how a *patient* lives in real life with his / her new identity. The full assessment may take up to two years. For example, if a woman comes to me wanting to change her identity into a man, my first advice is to start dressing as a man. Over time, she needs to change the way she dresses. After some time, I observe how he cuts his hair, what kind of denim or pants he wears, whether tattoos are male tattoos or feminine tattoos, whether he wears male deck shoes^[v], and whether he wears men’s jewellery. Not only that but when he comes to see me, I silently observe how he sits and how he holds his hands. For example, I can quickly recognise his sitting pattern – whether he sits with *his legs wide open like a boy* or if he is still *sitting with his legs closed like a girl*. (Interview with Psychiatrist in Colombo, 2020; emphasis added)

A trans woman that I interviewed recalled some of the questions asked by the doctors who assessed her “history” as follows:

I remember the doctor asked me what I like to do at home. At that time, I was a boy. Since my parents did not expect me to do so, I did not engage much in household chores, like cooking and cleaning. I remember explaining to the doctor that I like cooking and that at times I helped my mother cook at home. (Interview conducted in 2020)

Another trans woman confirmed that she remembers the doctor taking her “case history” and asking about the work that she does at home and outside, apart from the way she dressed and behaved, especially about cooking and taking care of her sister’s little daughter. She thinks that the doctor lent “great help” by identifying her “inner feelings as a woman” (Interview conducted in 2022; emphasis added by the author). Interestingly, a trans man recalled discussing his clothes, hairstyle, and shoes with the doctor. He had been asked whether he was feeling comfortable “appearing as a man in the society.” He noticed that his “male styles” (i.e. dress codes, hairstyles, tattoos) were closely observed by the doctor. (Interview conducted in 2019)

Based on a previous study on female-to-male transgender persons (trans men) in Sri Lanka (2021), I have argued how trans men are ‘accepted’ as citizens of the State based on the medical gaze on their bodies and the success of their performance of idealised male gender roles. Their lingering and principal goal is to become a ‘complete man’; created, built, framed, and maintained by the State, which necessitates able-bodied men to be ‘true citizens’. Elsewhere Ariyaratne and Ranketh (2023) have argued that trans persons’ self-perceptions about gender are in some way connected with their paid/unpaid work in public and private spheres. Doctors, through their assessment of case histories and RLTs, reproduce conventional norms of femininity and masculinity. Their upbringing reflects gendered practices and beliefs of the larger society, which has always expected girls to be disciplined and modest. Further, it reinforces the notion that gender is binary and not a spectrum. These prejudices are subtly expressed by medical and health practitioners in their practice.

Conclusion

In the context of social discipline and conformity, doctors have made it clear how the power-knowledge regime governs the bodies of transgender persons who consult them to obtain a GRC. Thus, the medical health sector and established scientific knowledge may contribute to endorsing self-perceptions of gender among transgender persons who undergo sex reassignment surgeries and gender change in Sri Lanka.

This new kind of disciplinary power no longer requires force; as a standard, gendered behaviours are expected from transgender people in obtaining a GRC.

In relation to trans men in Sri Lanka, I have argued elsewhere that in order to access the benefits afforded to a citizen by the State, it becomes necessary to comply with its institutions, making them an essential/ fixed category, which in turn contributes to how trans men place themselves, understand their stances, and navigate/negotiate their identities (Ariyaratne 2021). Therefore, the steps taken by the post-war Sri Lankan State to support the process of changing gender, in fact, facilitated citizens to place themselves in one of the normative gender binaries (i.e. male or female) by acquiring body conformity and gender-conforming names. Thus, a transgender person's political relationship with the nation is submerged in his/her recognition by the State bureaucracy, and citizenship in the nation is mediated by these authorities.

Framing gender identity as a binary classification and purposefully criminalising same-sex relationships are not random or unconscious acts of the State. They are done repeatedly in order to facilitate notions of heteronormative, monogamous family structures that support the nation-building project. However, we should not forget that, providing a place to stand within a 'safer category' of gender (i.e. transgender as opposed to same-sex) has encouraged many transgender people to come forward and be registered in the system.

Kaushalya Ariyaratne is a lawyer, researcher, and an academic. She is currently working as a Consultant to the Centre for the Study of Human Rights, Faculty of Law, University of Colombo, Sri Lanka.

Notes

[i] Ministry of Health, Nutrition, and Indigenous Medicine. (2016). "Issuing of Gender Recognition certificate for Transgender Community." Colombo: National STD/AIDS Control Programme. Available at <http://www.aidscontrol.gov.lk/images/circulars/Issuing-of-Gender-Recognition-certificate-for-TG-community-1.pdf>

[ii] <https://www.rgd.gov.lk/web/images/NO-06-2016.pdf>

[iii] *Times Online*. (2023). "IGP issues circular to police on dealing with transgender persons." (07 February). Available at <https://>

[sundaytimes.lk/online/news-online/IGP-issues-circular-to-police-on-dealing-with-transgender-persons/2-1140658](https://www.sundaytimes.lk/online/news-online/IGP-issues-circular-to-police-on-dealing-with-transgender-persons/2-1140658)

[iv] Human Rights Commission of Sri Lanka. (2023). *The Guideline for police officers to protect transgender persons*. Colombo: Human Rights Commission of Sri Lanka.

[v] Deck shoes (also known as boat shoes) are typically canvas or leather shoes with non-marking rubber soles. In Sri Lanka, deck shoes are mostly popular among men.

References

American Psychological Association. (2009). *Report on APA Task Force on Gender Identity and Gender Variance*. Washington DC: APA.

Ariyaratne, Kaushalya. (2020). "Kājal Thevaru Dēsin Helana Belum: Nirprabhu Dēshapaalana Prakaashanayak Lesa Sri Lankāve Jōgi Netum (Gaze of the Kājal Painted Eyes: Sri Lankan Jōgi Dance as a Subaltern Political Expression)." *Patitha*, 11: 13-37.

Ariyaratne, Kaushalya. (2021). "To Be or Not to be Seen? Paradoxes of Recognition among Trans Men in Sri Lanka." *Masculinities Journal of Culture and Society*, 15: 66-95.

Ariyaratne, Kaushalya and Thenu Ranketh. (2023) (in press). *Gendered Citizenship: Exploring the Dynamics of Gendered Labour and Unpaid Care Work Among Transgender Persons in Sri Lanka*. Colombo: Women and Media Collective and Social Scientists' Association.

Bornstein, Kate. (1994). *Gender Outlaw: On Men, Women and the Rest of Us*. New York: Routledge.

Erni, John N. (2013). "Legitimizing Transphobia: The Legal Disavowal of Transgender Rights in Prison." *Cultural Studies*, 27(1): 136-159.

Malalgama, A.S. (2017). "The Shifting Landscape of Gender Identity and Situation in Sri Lanka." *Sri Lanka Journal of Sexual Health and HIV Medicine*, 3: 45-50.

Miller, Jody and Andrea Nicols. (2012). "Identity, Sexuality and Commercial Sex among Sri Lankan *Nachchi*." *Sexualities*, 15(5/6): 554-569.

Nichols, Andrea. (2010). "Dance *Ponnaya* Dance." *Feminist Criminology*, 5(2): 195-222.

Paliawadana, N. (2011). "Woman Posing as Man Arrested." *The Island* (05 April). Available at <http://www.island.lk/index.php?page%20cat=article-details&page=article-details&code%20title=22479>

Stoller, Robert J. (1968). *Sex and Gender: The Development of Masculinity and Femininity*. London: Hogarth.

Tambiah, Yasmin. (2003). "Man-made laws and feminine feelings: A lesbian encounter with the law in Sri Lanka." *Lines Magazine*. Available at https://www.researchgate.net/publication/273382137_Man-made_laws_and_feminine_feelings_A_%27lesbian%27_encounter_with_the_law_in_Sri_Lanka

Thangarajah, Priya. (2013). *Strengthening of Legal Protection for LGBT in Sri Lanka: Road to Decriminalization*. Colombo: Equal Ground.