UNDERSTANDING EXPERIENCES OF TRANSGENDER PERSONS UNDER EXPANDING MILITARISM

A qualitative study based in Delhi and Lucknow, Uttar Pradesh

Supported by: Asia Pacific Transgender Network

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TABLE OF CONTENTS

Glossary:

- Aravani- the term used for hijras in Tamil Nadu.
- Dera- a household
- Girya- a masculine man who is in relationship with trans feminine person (used in Lucknow)
- Hijra- usually refers to people who are assigned male at birth, but transgress gender norms and as a community are engaged with several cultural forms.
- Kothi- usually used to refer to an effeminate person who has been assigned male at birth. It has been included under the transgender umbrella according to NALSA Judgment.
- Panti- usually refers to a masculine man who is in relationship with trans feminine persons
- Zenani- the urdu word for feminine. In the context of this research, it has been used as a self identity by some trans feminine persons

CHAPTER 1: BACKGROUND

Context of the Study

This report provides a glimpse into the increasing militaristic state control in India and the impact it has on transgender persons. It is based on qualitative research conducted in the cities of Delhi and Lucknow, Uttar Pradesh. Through this report, we have tried to highlight the specific impact of militaristic state control, manifested in the form of increase in police, paramilitary and civil police force; surveillance technologies and the use of sections from the Indian Penal Code (IPC) and Criminal Procedure Code (CrPC), on the transgender community.

1.1 Being Transgender in India

The transgender community in India is not a homogenous community. There are multitudes of identities on the basis of caste, religion, disability, ethnicity, sexuality, and economic status, among others. For the first time in 2011, Indian census included data regarding transgender persons living in India. Though it is likely that the numbers may be higher, the census shows that the total number of individuals, who identify with a gender other than the binary of male and female, is close to 4.88 lakh. In National Legal Services Authority (NALSA) v. Union of India, the Supreme Court of India recognised persons identifying as transgender as "third gender." The Transgender Persons (Protection of Rights) Act, 2019 which followed the NALSA Judgment further recognises rights of transgender persons. The Act, however, uses transgender and intersex interchangably and has drawn heavy criticism from sections of the community.

The socio-economic status of the community paints a grim picture. An analysis[1] of the 2011 census data shows the national literacy rate of those identifying as "other gender" is only 56.1%, and they are seen as working mostly in the unorganised sector- as household workers, agricultural labour and others. A 2017 study by the Kerala Development Society gives a picture of the current status of persons who identify as transgender in Delhi and in UP.[2] According to the study, 99% of the respondents faced some sort of social rejection on more than one occasion, and 96% were denied work opportunities. Only 15.4% and 16.6% of respondents had voter's ID card and Adhar card respectively, which reflected their transgender identity (lack of which effects their political participation as well as their ability to access welfare). The study also reported that transgender persons face various instances of human rights

violation, such as housing discrimination, lack of access to legal redress, and violence in education and access to public spaces.

This data shows a systemic bias in society which impacts access to education and employment and points to deep rooted structural discrimination. Lack of education and opportunities for stable employment further exacerbates marginalisation and make the community more susceptible to violence.

Moreover, anti beggary laws, such as the Bombay Prevention of Begging Act 1959; laws that criminalise solicitation for sex work, such as the Immoral Traffic (Prevention) Act 1956, (ITPA); and other laws that indirectly or directly criminalise the existence of transgender persons, such as Sec 36 A of the Karnataka Police Act 1963, Telangana Eunuchs Act 1919 and Criminal Tribes Act 1924, create tensions between the community and law enforcement. A report on the human rights violations against the transgender community by the People's Union for Civil Liberties, Karnataka detailed testimonies where police regularly abused their powers under laws such as ITPA and Section 377 of the Indian Penal Code (prior to its reading down) to harass, abuse and sexually violate transgender sex workers.

Narratives of transgender sex workers or those involved in begging are replete with instances of mental, physical and sexual violence by the police. A study by the National Institute of Epidemiology revealed that the biggest perpetuators of violence against the transgender community were police and law-enforcing authorities.[3] Hence, increased policing may often not be seen as a sign of protection, but rather, as a threat by the community.

1.2 Larger context of militaristic state control

As feminist scholars have indicated, militarism, going much beyond a preoccupation with just militaries, refers to "a complex package of ideas that, all together, foster military values in both military and civilian affairs"[4]. Militarism justifies the spread of military values and influences in cultural, economic and political affairs. Military values, such as the primacy given to use of force and violence to resolve differences, the creation of the category of the "enemy other" who needs to be constantly surveilled and monitored, naturalisation of hierarchies and strict obedience to command without having the space to raise questions or create accountability, permeate how civilian affairs are dealt with as well[5]. Thus, militaristic state control that this research focuses on, is not limited to the use of armies and paramilitaries, but also encompasses other law enforcing apparatus of the state, such as the police, who

are increasingly being vested with unbridled and overarching powers to use violence and force in the name of maintaining 'law and order'. It also extends to a constant state of surveillance by the state, which is deployed in the name of maintaining 'safety and security'. Lastly, militaristic state control is exerted not just as a physical control over people, but on ideas, speech and expression as well.

In India, this project of ever-expanding militarism has been ongoing for years. Laws such as the Armed Forces (Special Powers) Act 1958, and other laws such as the State Armed Police Forces (Extension of laws) Act, 1952 and Unlawful Activities (Prevention) Act (UAPA) 1967 (as amended in 2019) have created a culture of impunity and unbridled power in the hands of the state[6] and have legitimised the use of violence against those who are automatically construed as 'threats'. The past few years have witnessed an increase in budgets for the modernisation of the police force[7], with scant attention to the need for budgetary allocations to address the problem of under-staffing and dismal compensation that pervades the police force[8]. These funds are aimed at improving police infrastructure, weapons, mobility (bullet and mine proof vehicles), surveillance and communication systems[9]. For instance, the budget allocation for the Delhi Police from the central government for the year 2020-21 was 8,608.08 crores. This has increased to 8,644.12 crore for the year 2021-22 aimed at the "upgradation and expansion of communication and traffic infrastructure, procurement of vehicles, modernisation of equipment, and capacity building of the police force".[10] Similarly, Uttar Pradesh (U.P.) had put aside Rs 122 crore for police modernisation in 2020-21.[11] Increased militarization in the name of modernising police has been linked to an increase in police violence[12] and can be seen as a threat to democracy[13].

New police initiatives such as the U.P. government's "Anti-Romeo Squad", which were set up to "protect the honour of women" as a response to increasing cases of sexual harassment, have further curtailed liberty and equipped police to be more barbaric and intrusive. The squad is made up of plain clothed male and female police officers as well as police-sanctioned vigilante groups positioned at various public places. While their impact in tackling sexual harassment remains to be seen, these squads have

become infamous for targetting young men and consenting couples as well, and have been seen to hand out physical punishments, publicly shame people and enforce moral policing.

As a part of police modernisation, face recognition technology is one of the many surveillance technologies which is being used by the police. In 2015, the U.P. government installed 300 CCTV cameras under the traffic surveillance project and 9000 for street crime control in Lucknow[14]. Additionally, the U.P. government announced that under the "Mission Shakti Program"[15], artificial intelligence enabled cameras would be able to identify and take pictures of 'women in distress', which would be sent to the police. The same software, Trinetra, was also used during the protests against the Citizenship Amendment Act 2019, leading to the arrests of 1,100 protesters[16]. A Rs.571 crore project has been sanctioned by the government to install 4000 surveillance cameras in each of the 70 assembly constituencies in Delhi, besides the 4,388 CCTV cameras monitored by the Delhi Police. Besides this, under the community policing initiative called 'Nigehbaan' an additional 2.45 lakh cameras have been installed.[17] Similar to U.P., face recognition software has been used in the capital as well and was used to track protesters who had entered the Red Fort premises on republic day in 2021. This use of such A-I and face recognition software for surveillance to profile citizens has been heavily criticised by digital rights activists for violating right to privacy, as well as not being transparent in the way the data has been used.[18]

Besides CCTV surveillance, the biometric data based Aadhaar Card issued by the Unique Identification Authority of India (UIDAI) , while voluntary, has been made more and more essential to living everyday lives since 2016. Not only is there a fear of how the data collected through Aadhaar is being used by the government, but, UIDAI itself was investigating a major leak[19] in the Aadhaar card database wherein citizen's personal details were being sold. Further, in 2019, the Union government, in order to standardise vehicle documents, announced a common format of a Smart Card for Driving Licenses and Vehicle Registration Certificates (RCs) across all states and Union Territories, with provisions for a microchip, Quick Response (QR) code and Near Field Communication (NFC) technology. The QR code is where all vehicles are fitted with a Radio Frequency Identification (RFID) tag and it is linked to one's bank and by extension their Aadhaar[20], which would be yet another way of surveillance by the government or anyone else with access.

In the recent couple of years there has also been increasing policing of online spaces by the state. In 2018, there was talk about proposing an amendment to the existing Information Technology Act, 2000, in order to access and track "unlawful activities"[21]. In 2021 the Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules, 2021 came into force which introduced traceability and breaks end to end encryption of data shared on social media[22] as well as enforces censorship, as it will have emergency power to block over-the-top (OTT) platforms and news content without any hearing. Though a report by the BBC[23] revealed that most fake news is created by right-wing networks and is often pro-government, most individuals that were arrested over their media posts have been journalists[24] or activists speaking against government policies,[25] with some being charged under sedition laws. In fact there has been a rise in sedition charges with "96% of sedition cases filed against 405 Indians for criticising politicians and governments over the last decade [being] registered after 2014, with 149 accused of making "critical" and/or "derogatory" remarks against (Prime Minister) Modi, and 144 against Uttar Pradesh (UP) chief minister Yogi Adityanath."[26] According to The National Crime Records Bureau, there have been 5,922 cases under the UAPA out of which 132 have resulted in convictions between the years 2016-2019.[27]

1.3 State response to public protests and the Covid-19 Pandemic

Heavy deployment of paramilitary forces and military technology have normalised a militarized state over the last few years. During 2019 and 2020, there were several instances when additional paramilitary companies were deployed in Delhi and Uttar Pradesh. Reports indicate that around 4,000 paramilitary personnel, which include 16 companies of Rapid Action Force (RAF) and six companies each of Central Industrial Security Force (CISF), Indo-Tibetan Border Police Force (ITBPF), Sashastra Seema Bal (SSB) and Border Security Force (BSF) were sent to U.P. in November 2019, ahead of the Supreme Court's Ayodhya Verdict.[28] Later, in December 2019 as well, 3,500 personnel of central paramilitary forces, and 12,000 jawans of the U.P. Provincial Armed Constabulary (PAC) were deployed.[29]Delhi witnessed a similar increase in the deployment of paramilitary during the 2020 protests against the Citizenship Amendment Act, 2019. In February 2020, 70 companies of paramilitary forces - each comprising 100 soldiers were deployed in Northeast Delhi. Later in April 2020, 100 Central Armed Police Forces (CAPF) companies were deployed in Delhi to strengthen security during the ongoing lockdown in view of the COVID-19 pandemic.[30]

The Delhi police have defended the use of military tactics during the anti-CAA protests with former Director General of Police, Prakash Singh, stating that "the police have the right to control protestors with water cannons and tear gas"[31] and the militaristic response of the government to protesters has only increased. Through 2019 and early 2020, Section 144 of Criminal Procedure Code (CrPC) of 1973 (which renders public gatherings of 4 or more persons unlawful) was repeatedly invoked in several places in Karnataka, Uttar Pradesh and Delhi NCR, even leading to mobile and internet services being suspended, in order to curb protests and demonstrations.[32] In 2019 itself, Section 144 was invoked under 10 different instances across the country, thereby limiting and criminalising peaceful protests.[33] Reports indicate that Section 144 was imposed 276 times in Delhi between 2017-2020.[34] The section was again invoked in February in areas of north-east Delhi, during the pogrom targeting anti CAA protestors.[35]

There have also been systematic changes in the administration of police. In most cities, the police force is arranged at the district level, a 'dual system' of control exists, the Superintendent of Police (SP) has to work with the District Magistrate (DM) for supervising police administration. However, some states have replaced the dual system with the commissionerate system, wherein the Police Commissioner does not have to report to the DM[36]. This is done with the justification that it allows for faster decision-making to solve complex urban-centric issues. In recent times, several cities in U.P., including Lucknow, have restructured the police in order to allow them more autonomy. Another new introduction to policing in Lucknow are Pink Booths- a pilot project of about 100 booths across the city managed by female police officers, which is connected to the 1090 Women Powerline meant to help in the speedy redressal of complaints of violence against women. The project, supported by the Nirbhaya fund, also includes the installation of 1500 CCTV cameras connected to Integrated Smart Control Room (ISCR) for live monitoring.[37]

As a response to the global pandemic, on the 24th of March 2020, at 8pm, the Prime Minister of India abruptly announced that a 21 day nationwide lockdown would commence at 12am on the 25th of March.[38] The announcement was made with a few hours notice, and without much explanation as to what the lockdown entailed, or what essential services would be kept open during this time. Under the Epidemic Diseases Act, 1897, assembly is restricted to 5 or more persons in close quarters, and people were advised not to step out unless they were accessing "essential services." The police cannot arrest anyone for violating the lockdown and only issue a warning, however, under circumstances where the person becomes hostile, they can take action under Section 269 and 270 of the IPC.[39] However, in addition to prohibiting movement under the lockdown, some areas also invoked Section 144, the violation of which can result in arrest. It was during this time that videos on social media began to

surface depicting various instances of police brutality[40] against those who were seen as disobeying the order, most of whom were poor migrant workers.

Even after the lifting of the national lockdown, many states continued to impose Section 144 in certain areas. In November, the Lucknow district administration imposed the Section in the capital and several other areas considered as 'hotspots',[41] and in December it was imposed in Noida and Greater Noida as well.[42] Section 144 was also invoked in Uttar Pradesh for reasons besides the pandemic, such as during the Hathras gang rape incident, the Ayodhya Verdict and the farmers protest, the latter of which also triggered Section 144 in Delhi as well.

Besides the aforementioned forms of surveillance that were taking place, the state mandated the use of the Arogya Setu mobile application, touted as a tool by the government to control the spread of the pandemic, which also tracks one's GPS location. However, as pointed out in a letter to the Prime minister by the Internet Freedom Foundation (IFF)[43], along with 45 other organisations, the app has deviated from "international best practices for contact tracing apps and fails to comply with data protection standards" and has not been proven as a useful tool against the growing cases of COVID 19. Furthermore, the letter also stated that the concern remains that this app could be used as a permanent tool for surveillance as "it does not adhere to principles of minimisation, strict purpose limitation, transparency and accountability." Even though the government has not made it mandatory to install the app- local level governments and authorities have made it mandatory, and local bodies, such as Noida Authorities, have made the failure of installing the app a punishable offence under Section 188 of the Indian Penal Code .

CHAPTER 2: RESEARCH METHODOLOGY

Methodology:

A qualitative and exploratory research methodology has been used to conduct this research. Semi-structured interviews and Focus Group Discussions (FGD) have been used to capture the experience of transgender persons. The participants were initially identified through purposive sampling. An initial round of interviews and FGDs were conducted with transgender and gender non-conforming persons who are engaged with human rights activism. This was followed up with a snowball sampling method to interview transgender persons to capture their quotadian experiences of the police and security system. It is important to note that we have tried to center the narratives of the participants in this report, putting a strong emphasis on highlighting grounded experiences of transgender persons.

While we went in with a semi structured interview guide which led to the emergence of certain identified themes, the interviews and FGDs have been further analysed to trace emerging themes and patterns in the narratives. At the same time, there has been an effort to highlight narratives which are contradictory or seperate from the patterns that have emerged.

For the purpose of the study, we understand transgender persons as someone whoes gender identity does not align with the gender that was assigned to them at the time of their birth. Some of the participants in this research do not identify with the term 'transgender' itself but may use other labels for themselves, including trans man, trans woman, genderqueer, or indigenous identities like kothi, zenani, kinnar and hijra. We have tried to use local identities and terms that people and communities themselves use to identify and express their non-conformity to cis-gendered and heterosexual normativity.

2. 1 Sites

For this research we chose two locations, Delhi-NCR and Lucknow, Uttar Pradesh. This is primarily because the phenomenon of militarisation and its impact in regions which are not declared by the state as "disturbed regions", remains largely unexplored. While the specific impacts of militarisation on lives of transgender persons in "disturbed regions" is hardly spoken about, its spread to non "disturbed regions"

remains completely invisible. With this intention, we have looked at the National Capital of India, Delhi and Lucknow, the capital city of Uttar Pradesh, which are not usually seen as militarized areas.

We also chose Delhi and U.P. because the researchers are largely based in Delhi and had witnessed the situation of increasing policing in the Delhi-NCR region first hand. During the course of our research, we also found that according to the National Human Rights Commission (NHRC) statistics, maximum cases of human rights violations by police personnel were reported from U.P. (5,388), followed by Delhi (940) in the year 2020-2021.[44]

As noted earlier, state responses to citizen protests and the pandemic not only resulted in suppression of dissent, but also an increase in the militarisation of civilian areas, especially in the nation's capital, as well as in the neighbouring state of U.P. We have seen how both Delhi and Lucknow have seen an increase in surveillance and modernisation of police, supported by the large budget allocations for the same.

A report by the Hindustan Times[45], based on police data, reports that 12,652 demonstrations and protests took place in the nation's capital in 2019, the highest number in eight years. This data excluded the anti-CAA protests, which would have increased the number even further. To curb these, Section 144 has been invoked on several occasions. This was also followed by invocation of Section 144 during the pandemic and the resultant lockdown.

2.2 Sample

A total of 6 Focus Groups Discussions (FGD) and 16 interviews were conducted across Lucknow, Uttar Pradesh and Delhi. The details of the FGDs are provided in the table below.

Sl No.	Community	Location	No of Participants
1	MSM and Kothi community workers at the Drop in Center	Lucknow	9
2.	Trans men	Lucknow	5
3.	Homeless trans feminine persons engaged in informal sector work, including sex work	Lucknow	11
4	Trans feminine persons associated with Derras/Gharanas	Lucknow	5
5.	Middle class queer and trans persons	Lucknow	25
6.	Trans feminine persons associated with Derras, sex work and homeless trans persons	Delhi	15

In addition to the FGDs in Lucknow, we also conducted interviews with six human rights defenders or activists who identify as queer or gender non-conforming. Among these were activists who were actively engaged in organising the Pride March, HIV/AIDS interventions, as well as legal activism against gender based violence. We also conducted six interviews with human rights defenders or activists in Delhi who identified as trans or gender non-conforming. Along with this, interviews were conducted with four trans men based in Delhi.

2. 3. Ethical Concerns

This research has been conducted with a consciousness to mitigate any possible risks to the participants. Informed consent was taken from the participants before conducting the FGDs and interviews. These were either written or verbal, based on the comfort of the participants. Utmost care has been taken to maintain confidentiality and pseudonyms have been used to protect the identity of our participants. The interviews have not been uploaded in any online platform and the recordings are available only with the core group of researchers. Organizational links have been used to approach the community so that their resources may be used in case of any distress or discomfort experienced by the participants as a result of this research.

CHAPTER 3: DISCUSSION OF FINDINGS

The interviews and FGDs analysed alongside developments such as increased deployment of police and security forces, greater investment in increasing the surveillance apparatus and burgeoning use of legal and brute force in suppressing dissent, provide a clearer picture of the effect of increased militarism on the transgender community in Delhi and U.P., especially over the last few years.

Identity is an important thread across the data collected- how identity has been used against the trans community through violence and denial of dignity, how their identity as transgender is gathered and outed against their consent, how many have to censor their identities in public spaces due to fear or discrimination, and how their identity has made them more vulnerable during a global pandemic.

As noted before, due to the fraught relationship between the transgender community and law enforment agencies, the increase in number and militarisation of the police does not provide a sense of ease to those that do not confine to the gender binary. Further, other marginalised identities within the transgender community face even more scrunity and discrimnation by these same forces, whether it be on the basis of their religious identity, caste identity, political speech and expressions, or due to their livelihood. Participants have repeatedly spoken about the marked increase in police visibility, as well as surveillance in public spaces both offline and online. While the relationship between police and the transgender community has already been highlighted earlier, the experiences of the participants bring forth a sharp picture of the extent of distrust of the police within the community. Whether the participants have interactions with the police as a part of their activism, or as a sex worker- their identity as a transgender person significantly shapes their experience.

Increased surveillance through CCTV cameras, mobile applications and even vehicle licence plates have created a sense of unease within the community. This apprehension about data being collected through different technologies is not new or unfound. For trans persons who are non conforming and particularly vulnerable, when bodies and actions are datafied, the loss of control over what we share is potentially more harmful.[46] While on one hand the state authorities have breached data privacy in a number of instances in the name of security, on the other hand they have been completely negligent in

ensuring the privacy of transgender persons. The most blatant instance of this has been the leak of private data of transgender persons from the National Portal for Transgender Persons launched in November 2020, which was created to enable transgender persons to aquire identity certificates[47].

Many participants have also been politically active. Many were a part of the anti-CAA protests amongst other protests against government legislations, and they feel that it has put them under further scrutiny. In online spaces, as well as otherwise, they have faced threats due to their political stances. Hence, many participants have shared that they have decided to censor themselves and their ideologies out of fear.

In addition to the charged political atmosphere prevalent throughout 2020, there was also a global pandemic that was not only an issue of health but was also devastating to the economic situation of the transgender community. Covid relief measures dolled out by the government as well as private agencies mandated the submission of documents like the Aadhaar Card and bank details, among other information, to the supporting agencies. While activists have critiqued this on the grounds that many transgender persons do not have identity documents, there has been limited critique of the fact that there are mass data bases being generated both by state as well as private parties in the name of providing relief.

The findings of the study have been categorized into the following subtopics discussed in detail below:

1. Interactions with the Police
2. Surveillance
3. Experiences in accessing online spaces
4. Censorship
5. Specific experience during the national lockdown

3.1. Interactions with the Police :

Several of the participants shared negative experiences of everyday interactions with police in their narratives. These experiences varied according to the person's class, education and occupation, and ranged from insensitivity to discrimination and even sexual harassment. These interactions have been divided into 3 sub sections: i) Reluctance in filing formal complaints, ii) Sexual Harassment by police and iii) Psycological impact of excessive police presence

i) Reluctance in filing formal complaints :

Reporting a crime and filing a formal police complaint is the first step in the process of our justice system. Our participants shared that even if there is an attempt to report, there is a reluctance on the part of the police based on a person's gender expression or identity. They also shared their experiences of violence or atrocities faced by them in police stations. One of the participants shared:

> *"There was no problem two years ago because my hair was long. But after I cut my hair, I began to face problems. I continued to hide my identity from my family but everyone started asking me about my looks. Now, I feel happy that I am able to tell people around me that I am a trans man and I am proud of being a trans man. But now because of the way I look, the police see me differently and react differently because of my identity. In one case I went to the police to complain about a theft. He was initially helpful, but then he saw my identity card with my dead name. So I informed the police regarding my gender identity and when the police understood my identity he stopped receiving my calls and never helped me. Another time, I approached the police to get protection for my partner who was facing violence by her family. But the police refused to take my calls or help me in that case. Whenever I needed help, the police refused to help because of the way I look and dress."* (Sahil, working class trans man, Delhi).

> ***[The police] was initially helpful, but then he saw my identity card with my dead name... he stopped receiving my calls and never helped me.***

In another case, a trans woman shared,

> *"My friend and I went to the police station to file a complaint against three men who harassed us daily. The police said "It might be you people who [have] done something wrong" and refused to file a complaint. I insisted that we want to write a complaint. Then he asked us to give it in writing. I wrote a complaint and gave it to him. He saw that it was written in English and he started to ask me about my education and said "Sorry, you are educated. I misunderstood you because trans women like you come to us everyday for no reason".* (Jeevika, trans woman, Delhi).

This experience in particular shows that not only do the police have a stereotypical understanding of transgnder persons, but they also react to transgender persons coming from different socio-economical conditions differently, undermining the issues faced by trans persons who have comparitvely low levels of literacy skills. The police also often view the community with a lens of criminality. Given that the community has a high dropout rate from schools, there is a high chance of many trans persons having low literacy levels or not being able to speak in English.

Several participants also mentioned that they do not go to the police to file complaints because they know that it will not be helpful. As one of the participants, Dina, a trans woman sex worker from Delhi, shared *"Why will we go to the police? We know they will not help us and send us back by saying you're the one who has done something wrong."* Another participant, Reva, a zenani sex worker from Lucknow, shared that *"If a hijra who stays in a dera goes to the police station then that is different. But if we go to the police station for a complaint no one will entertain us. [This is] because if one Hijra gets into trouble the whole gharana will reach the police station and tali baja denge (clap and hurl abuses at the police station)"*. Another participant, Hima, a kinnar from Lucknow, shared that *"We know what to do if the policemen do anything to us. Hum tali baja denge aur nanga ho jayenge (we will clap and become naked in front of the police station)."*

In a society where a community, such as the hijra community, is routinely not taken seriously and have suffered social ostracization, many resort to extreme measures as seen in this example to be heard. Bodies that are otherwise seen as disposable are then used in a way that gives the oppressed power by disrupting a masculine space such as a police station. This is then seen by the community as a tool that would ensure their security. A single hijra may not have enough power to successfully navigate a hostile system, but strength in numbers often allows the group to stand steadfast in their demand for their rights to be respected. Given the experiences of the research participants, it is often the only way to access justice.

ii) Sexual harassment by the police:

Sexual Harassment has been defined under Section 354 (A) of the Indian Penal Code and the Sexual Harassment at the Workplace (Prevention, Prohibition and Redressal) Act, 2013 as 'such unwelcome sexually determined behaviour, whether directly or by implication, such as: physical contact and advances, a demand or request for sexual favours, sexually coloured remarks, showing pornography, and any other unwelcome physical, verbal or non-verbal conduct of sexual nature.' Another section that is important in this context is Section 376(2)(a) of the Penal Code, which speaks of custodial rape when

it is commited by a police officer in the premises of the police station to which he is appointed, or to any other station house, or on a woman in his custody.

The incidences described by the participants fit squarely into the definitions of the country's sexual harassment laws. One participant shared an incident of custodial and gang rape committed by the police,

> *"This incident happened four years ago. I was not doing anything wrong. I was wearing a saree and walking on the road. The police just picked me up. When I asked what happened, the police used abusive language. They did not take me to the police station. They took me to some other place and 4 'londo ne gand marwai' (four men anally raped me)."*(Nivi, sex worker, zenani, Lucknow)

Another participant from Uttar Pradesh shared that they were sexually abused and robbed by the police.

> *"This incident is before corona. I was coming from a wedding. I was at the wedding to entertain people by dancing. It was 3am at night. The police saw me on the road. They asked me what I was doing. I replied to them saying I had gone to a wedding to dance. Police held me and said 'gaandh marwane gayi hogi' (you must have gone to get ass-fucked) and beat me up. They took all my money which I earned by dancing at the wedding."* (Babita, sex worker and dancer, zenani, Lucknow).

Fatima, a trans woman from Delhi engaged in sex work, shared about her friend, a trans woman who was standing at a hotspot[48]. She explained that the police came, stopped the car and started to beat her with a stick and shoot a video. When she said *"you came and had sex with us but you haven't paid us,"* then the police stopped shooting the video. Similar experiences were shared by participants from Lucknow. One of the participant, Danish, a zenani sex worker from Lucknow, asserted that *"police just like to come and fuck us but they will not pay for it."*.

> ***the police stopped the auto and said to me "madam ji kabhi to humara bhi dhayan rakho"***

Another participant, Sunita, a trans woman sex worker from Delhi, shared that "*one day the police touched my chest to feel and figure out if it is real or not."* Faizal, a trans women engaged in sex work in Delhi, shared a similar experience of sexual harassment: "*Yesterday, I was sharing an auto with another person. The police stopped the auto and asked me where I was going. [...] the police stopped the auto*

and said to me "madam ji kabhi to humara bhi dhayan rakho" (Madam, take care of me sometimes)." These incidents indicate that police often casually make unsolicted sexual remarks to transgender persons and also verbally and physically abuse them.

Unsolicited touching of sexual organs has also been a common feature at government and public institutions. One of the participant shared their experience while visiting a government institution,

> *"When I would enter government institutions for let's say an interview or something [...] so when I entered the building they said "why are you walking like this? Do you have long hair or are you bald? Do a full scan of this person to see what they are." So that kind of situation has been there. At the railway station, during frisking there was touching of the genitals and everything. I would say this has been happening for quite some time, and is not a recent event that has sort of come up especially for trans persons"* (Joy, human rights defender, genderqueer, Delhi).

This incident shows not only how sexual harassment and violence by the police and at public institutions is normalised by the number of times it happens, but points to the constant violation of the dignity of the transgender community.

iii) Psychological impact of excessive police presence

Given the lack of respect and sensitivity of the police authorities towards the community, along with the ever present fear of violence, detrimental impact on the mental health of the community can be easily anticipated. This is further exacerbated by issues of identification, engaging in sex work, as well as the fear of being outed to their families. Those that do have identity cards or other documents in their dead name face a constant fear of being asked by the police to verify their identity and gender orientation. As one interviewee narrates,

> *"One night I was alone in the car. Police stopped me and asked for my ID. I showed them my ID. My ID was in my dead name. He got confused and said this is not your ID. I said it was mine. Then he started to check my car. In the car was my sister's bag, in which there were heels and dresses for the wedding we had gone to that morning. Police started asking me "Do you have a hobby of wearing these clothes and sandals?" I was scared of what to say. He started taking my photo. I said please don't take my photo. He started saying how anything can happen with people like you. He was not aware of trans men and I was scared. After that day I was very scared of the police. Now my ID is with my chosen name so now I don't face such issues. But there is fear because of this incident." (Sanket, trans man, Lucknow)*

Another participant, Siddharth, a trans man from Lucknow, shared that *"There is constant fear in my mind when I see police. I get scared. In my mind I will start thinking if they will ask me for my ID then it will be a problem, then they will start asking me questions."* These experiences show that there is anxiety because transgender people are constantly asked to show identification and their gender and names in their identity cards do not match their gender identity. It also shows that police are not sensitive towards transgender persons and do not have an understanding of the issues that transgender persons face, especially complications in getting changes made to identity cards.

Some statements show that there is fear of police due to their livelihood, as solicitng for sex work is a criminal offense under the Immoral Traffic (Prevention) Act (ITPA). *"We do sex work and that is our livelihood, if we see police then we feel fear"* (Disha, zenani, Lucknow). Another participant, Fatima, a trans woman sex worker from Delhi, shared that she does not *"have any problem with police presence but there is a problem of police misusing their power."* Similar experiences were shared by Lucknow participants. A kothi participant from Lucknow shared how the *"problem is that the police call our family and we are not out to them. So there is fear of police."* The experiences shows that the fear that the police will misuse their power, use violence or unilaterally out transgender persons is ever present and is a source of constant anxiety for transgender persons. Thus, the current legal framework that criminalises forms of livelihood that transgender people have, and vests unbriddled power in the hands of the police has detrimental impact on the psychological health of transgender persons.

Even if a transgender person is earning a livelihood through means that are not criminalised, it does not necessarily mean that they are exempted from police harassment. As one participant, Ramesh, a trans man from Lucknow, recounted *"One time a policeman randomly came to my clothing shop. Now my shop is shut down. They started asking me 'are you boy or girl,' I replied that if you want to buy clothes then buy it or please leave my shop because this is not a booth of ling tapasi (genital checking)."* This statement shows that harassment and threat of the police was linked to the identity of the person being transgender. This constant questioning of gender and fear of losing livelihood can also create a negative impact on the psychology of a person.

Several participants shared that increased police presence can give rise to feelings of insecurity and fear. One of the participants shared,

> *"You do experience insecurity with the police. At our General Post Office (GPO) at the Hazratganj four way intersection, there are now about 60 police officers deployed where there*

used to be only ten officers at a time. Who could comfortably roam around there?[...] Even if one doesn't feel scared, it's still an uncomfortable feeling to see so many police officers at one point. If you're sitting in a park with about fifty police officers deployed there, you'll notice more police officers than people, children or even flowers." (Vicky, genderqueer , Lucknow)

Explaining the larger framework that is being used to oppress the community, one of the participants pointed out how the very nature of policing in the name of securing law and order impacts marginalised communities.

> *"I think we should look at the police angle as to who the police are working for. Why do they work? Their work comes under the name of security, and law and order. Who are they protecting? It's not as if they're not securing. They're securing the hierarchy which is already established in society and because we as queer people are at the bottom of the hierarchy or other identities such as the oppressed castes or Muslim people, minorities basically are under surveillance. In a way it is to secure the hierarchy from us. The idea is that policing in itself, the term police, is anti-queer. It's not about sensitization for me. For me when I see police, I feel I'm under threat because by nature of things we are at the bottom of the hierarchy."* (Anish, queer, Lucknow).

This point was reinforced by another participant, *"Since we were talking about this idea of a psychological fear, [fear is experienced] not just as a queer person but also as a Muslim person. I was also detained during CAA-NRC and I feel more attacked. I don't know about other people but I think that there is indeed a sense of psychological fear, especially in areas with protest sites like the clock tower and GPO."* (Alfaz, queer, Lucknow).

At the same time experiences shared by a gay cis gendered man illustrates how a person of relative privilege can have a different equation with the police, which demonstrates the impact of intersectional identities affecting a person's experience with the police and other authorities.

> *"I don't exactly feel that the police is necessary but wherever this discussion is leading is good. What I feel is that I have never experienced this. The things that others are talking about, personally I, being a man, being from a class or caste that is not such a minority, I have never experienced such a thing [...] So people who have experienced that, their experiences, their everything is much more different than what I've experienced. So I think that needs to be acknowledged first and before we try to bring a change." (Aman, gay man, Lucknow).*

Looking at these experiences together clearly shows that the multiple minorities in the community have a difficult relationship with the police, particularly when it intersects with other axes of marginalisation on the basis of religion, caste, profession, or political background, besides their identity as a trans person. The experiences point to a historically fraught relationship with the police, that is replete with distrust, abuse, fear and detrimental impact on mental health. Thus, as police presence and policing is constantly being expanded in the name of 'protection' and 'security', experiences of transgender persons indicate that their interactions with the police, on the contrary, further expose them to abuse and violence. The thought of coming across a large group of police in various common spaces in the city creates a sense of fear and negatively impacts the mental health of trans persons. An ever expanding militarism as a method of governence, signified here be the increasing police presence, is thus a concerning development for transgender persons.

3.2 Surveillance

Earlier in this report, we had discussed a quantitative increase in the number of CCTV cameras in Delhi and Lucknow. Increase in CCTV cameras have special implications on the lives of transgender persons. Along with CCTV cameras, there are other technologies that have led to increased surveillance. Our participants too have expressed that surveillance, both online and physical, has increased in the past 2-3 years in Delhi and Uttar Pradesh in terms of CCTV cameras, increased number of police personnel, different technologies and app surveillance, face detection techniques and RTO rules for scanning barcode/ QR code on vehicles. These experiences with different forms of surveillance have been divided into four sub-sections: i) CCTVs, ii) Increase in police visibility, iii) Recording and face screening, iv) Surveillance on mobility

i) CCTV

As per participants' responses in Lucknow, traffic signals have increased at every small chowk (junction) and CCTV cameras are on every traffic signal. Most of the participants mentioned that CCTV cameras have increased in the past 2-3 years. Participants also highlighted the impact of increased presence of CCTV cameras on their lives. Since many transgender persons do sex work, cameras make their lives more difficult. Participants also observed an increase of CCTV cameras in 'hotspots'.

One participant narrated,

> *"2-3 years ago we were able to stand together for sex work, client would come choose/ pick one of us and go. But now we need to stand seperately for sex work. Before the camera, there was a sense of security because we stood together for clients but now there is no sense of security" (Abha, sex worker, trans woman, Lucknow).*

Another participant mentioned that,

> *"[t]he number of traffic signals has also increased in Lucknow. Earlier there were traffic signals at only two intersections. Now they've put them up at every intersection. This has happened in the last 3 months. And there are CCTV cameras at almost every intersection. They weren't there earlier. "*(Raees, human rights defender, genderqueer, Lucknow).

Participants also mentioned that there is an increase in the number of CCTV cameras in cruising spots. One participant said "*we can't even sit with another person in the park due to CCTV Camera.*" Another participant, Gopi, a kothi from Lucknow, also mentioned that, "*some of us don't have any place so cruising spots or the park is the only place for us. But now we are not able to hangout ." One* of the FGD participants in their late 40's (Nivi, kothi, Lucknow) mentioned that "*Our time was great, there were no CCTV cameras and we were easily able to meet girya but now the situation is different*". The other participants agreed with Nivi.

Devi, a kothi from Lucknow, noted that,

> *"With the increase in CCTV , if a kothi is standing with a girya then the police sees it on CCTV. If we are holding hands, or I am touching his hair or standing together for a long time, then the police would come to us and ask us to leave that place and ask for money."*

Another participant mentioned that,

> *"The justification the government gives is that there is a surge in crime rate, so it becomes easy to track crime through CCTV cameras., except what is its purpose, what is its objective only the government would know better. But yes, obviously, it has increased. I think cruising spots have closed down. The reason behind it is this surveillance itself. CCTV cameras can't be put up in parks as such but the number of police personnel has increased a lot." (Deep, human rights defender, queer, Lucknow)*

Participants from Delhi shared similar experiences regarding CCTV Cameras. Participants mentioned that cameras in Delhi have increased, mostly at traffic signals. Participants also mentioned that cameras have increased in posh upper class areas and colonies as well. For instance, Sahil, a trans man from Delhi shared that he works as "*a domestic help in a house where there are 6 cameras outside the house and in this lane [the lane outside] there are 3 cameras.*" (Sahil, trans man, Delhi).

ii) Increase in police visibility :

Our participants from Lucknow and Delhi mentioned that there is a visible increase in the number of police personnel in both cities, based on their experiential assessment. Given the problematic relations of the community with the police, there is an uneasiness in seeing constant police presence everywhere. Participant narratives of the impact of increased police presence is described below.

One participant from Lucknow (Nivi, kothi) said, "*Now police personnel have increased on small junctions and signals. 2 years ago this was not the case."* Another participants, Gita, a zenani sex worker, shared that *"police in Charbagh has increased after the protest of CAA and NRC, that was our main hotspot of sex work."* Similar instances of increased police presence was noted by Raes, a genderqueer human rights defender from Lucknow, as well.

> *"Around 10-12 police tents and two CRPF buses and cars are permanently stationed there [Clock Tower]. Since the lockdown was imposed and CAA-NRC protestors vacated the area, they started getting stationed there. They still haven't left. You cannot go to the clock tower." (Raees, human rights defender, genderqueer, Lucknow).*

Participants from Delhi also shared similar experiences. One of the participants, Kama, a trans woman sex worker from Delhi noted, *"I do my sex work near Jamia which is one of the hot spot areas. Now police have increased in those areas after the CAA and NRC protest."* Another participant, Satav, a trans man from Delhi shared that near his *"house there is a small market. There were no police in the market one year ago but now police are stationed there all the time."* These experiences show that police presence has increased in recent times. Several other participants also shared similar experiences of increasing police presence in the last few years. Many of these experiences also highlight increased police presence linked to expressions of dissent against government actions, wherein police presence has substantially increased in areas where there were more protest gatherings.

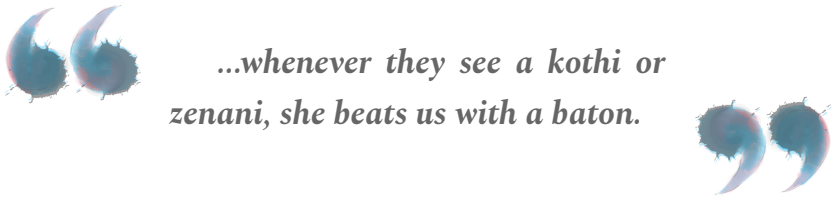
Another participant shared their experience as follows,

> *"Physical policing takes place in which they'll drive you away - 'What are you doing out so late at night? Why are you strolling here? Go back home.' So it is for everyone. But usually when people from the community would go to parks in the evening, they would be targeted by the police and driven away. Gradually, they went to parks less frequently. If you go there now, you'll see many police vans. Policing has increased a lot in the city, especially in public places."* (Deep, human rights defender, queer, Lucknow).

This shows that policing has increased in general and their presence is particularly visible and felt by transpersons in places such as public parks. This was echoed by other participants in the FGD, particularly the kothis, who mentioned that there is an increase in the number of police personnel in parks and cruising spots. Some of the participants , particularly trans sex workers, mentioned that police has increased in hot spot areas. They also mentioned difficulties in doing their work due to the constant presence of the police. Some of them mentioned that they give money to the police so that they can continue doing their work.

> *"In the last two years, it has increased significantly. Now there's a separate police commissionerate like in Mumbai. Earlier it wasn't like that in Lucknow. Only a year ago did this commissioner system start. Since then it has increased a lot. Every two kilometres, you will find police officers stationed for surveillance."* (Deep, human rights defender, queer, Lucknow).

Pink booths, which as mentioned earlier is a new initiative by the U.P. government meant for the "protection of women", is yet another mechanism through which police keep a surveillance on transgender persons. One of the participants who identified as kothi mentioned that *"Pink booths near Charbagh have women police and whenever they see a kothi or zenani, she beats us with a baton. Even if we are just standing or sitting in an area."* (Rima, Kothi, Lucknow).



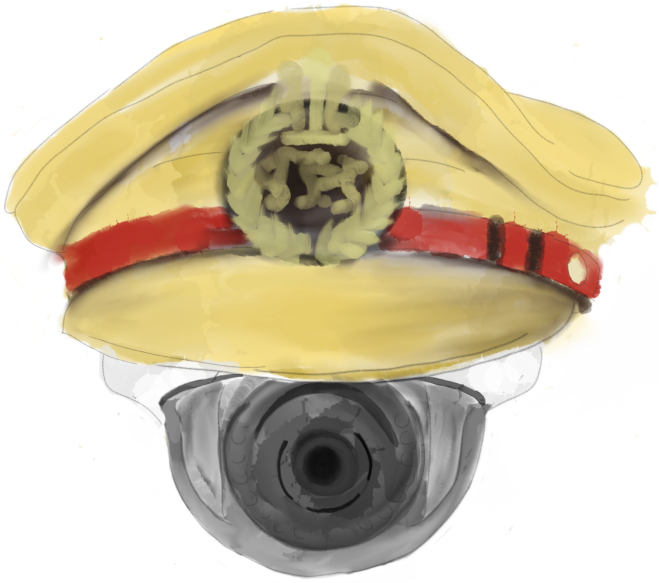
Participants also mentioned the 'Anti-Romeo Squad', finding that the police sanctioned vigilante group randomly beat up young men and women near colleges or parks.

They highlighted that sometimes they even stop brothers and sisters walking together on the road. One of the participants mentioned that,

> *"[the] Anti-Romeo Squad has now become the 'Love Jihad' law [a law that prevents marriage linked religious conversion]. That's where it started. Whether you're asking for protection or not, if they see you, you're gone (laughs). They would call up the family and shame them by saying 'look at what your son or daughter is doing (laughs). We're protecting your daughter's honour.' Holding hands, walking together or if they find people getting cozy with each other like under a tree, then you're gone. They would stand outside colleges to catch women and men leaving college. If they're going together, they follow them."* (Deep, human rights defender, queer, Lucknow).

Targeting young men or transgender persons for the way they look, or enforcing their own code of moral policing creates a feeling of not only fear towards the police but is also a way to control those who do not "fit" into a particular version of society. There is also a double standard at play where these set of rules are not applicable to everyone, depending on their position in societal hierarchies.

The police visibility in the past few years is particularly worrying because it points to a situation where an already brutalizing power has become more present and is equipped with more authority, without concomitant accountability. What we see, therefore, is a shift, especially with blurring lines between police and paramilitary, whereby the exception of militaristic policing is becoming the rule. The experiences shared by the participants also point to a growing nexus between police/state forces and groups exercising ideological dominance and power and thus, the separation between state and religious and majoritarian ideologies is blurring, putting trans people into a further vulnerable state and without any recourse. This nexus is also replicated in how surveillance plays out, with those opposing majoritarian ideologies being seen as 'threats', as 'suspicious', and therefore in need of constant monitoring.



iii) Recording and Face Screening :

Most of the participants mentioned that there is constant recording and screening by state through different technologies.

One of the participants from Lucknow shared an anecdote,

> *"There was an event. When we reached there, since it was a disputed property, someone complained to her brother or someone that she's called many people and is trying to seize the property. That person called the police. Police came and questioned us as to what we were doing there. We said we've been invited for dinner, [to which the police said] "Do you know no one can enter this house?" The police recorded everyone who came on their phone. So this is how it happens. No permission, no consent. Somebody made a complaint and the police just recorded everything. So this is their behaviour. It's become common for police to click photos and record videos without consent".* (Deep, human rights defender, queer, Lucknow)

Multiple participants from Lucknow mentioned that the CAA and NRC protests were being constantly recorded. Participants also mentioned that these recordings, along with information printed in newspapers and the information which was circulating on social media, was used by the police to track people and on the basis of this First Information Reports (FIRs) were registered as well. Participants from Delhi found that the police had recorded NRC and CAA protests as well. Participants from Lucknow also mentioned that the annual 'Pride march' gets recorded by the police. One of the participants said their experience as follows,

> *"I think they started recording in 2018. They don't record the closed events that are held. However, any public event we organise is recorded. For example, Pride, the Rainbow feast (bhandara) we organised was recorded."* (Deep, human rights defender, queer, Lucknow).

This shows that there is constant surveillance by police through video recording of public events. In addition to this, the government has also come up with new structural changes. As one of the participants noted,

> *"The Bureau for Police Research and Development (BPRD) has been tendered to actually create facial recognition software. We see there being a centralized database of supposed offenders. We see the modernization of police funds. The modernization of the police fund has largely been used to create infrastructure in terms of offices and housing for police officers and so on and so forth. Apart from that it has also gone into creating CCTV cameras and that has all been done under the garb of removing traffic violations etc. from the purview of policing, to free up that chunk of what the police are supposed to do and the traffic police can then be engaged in other things and resources can be diverted from there. Now what we're seeing is that, regarding policing and militarization, there is a focus on increasing technology's role and reducing the human aspects. (Seema, trans women, Human Rights Defender, Delhi)"*

iv) Surveillance on Mobility:

In a bid to move towards a more cashless mode of transaction, the government has been slowly creating a system of an electronic toll collection system that also creates a database of information that can be used to surveil any 'suspicious' vehicles.[49] At the same time, new rules that are being put in place by different transport regulation authorities, such as the requirement for having a QR code[50], further aids the process of data collection on a person's mobility. As one participant shared,

> *"New Rules of RTO come into force which mandate QR scan code. I was on my bike …[and] police started to ask me about QR code. My vehicle is registered before 2019 and so I said it is not mandatory for me, but still they asked for money and started to inquire about my gender identity."*(Ravi, trans man, Lucknow).

Another trans man also shared a similar experience regarding his father's car registration. Similarly, another trans man from Delhi shared that he works as a salesman and has a company vehicle and that QR code scanning has become a new routine these days. These experiences show that there is surveillance on one's mobility at all times. QR code along with Near Field Communication (NFC) technology ensures that the state has details of the vehicle and a record of every place the person is travelling to.

These fears around surveillance of one's movements are not unfounded as technology experts have shared similar concerns, "If the name/gender of the vehicle owner is available, this can be a significant risk for women who can be more easily tracked and targeted by violent men waiting near identified cars[51]." There is similar risk for transgender persons whose data is at stake not just in the hands of the state but also cyber criminals.

The rise in surveillance creates many pressing issues, especially for those who are from marginalised communities, given the use of surveillance in increasing control over bodies of individuals[52]. As data security experts have noted, "surveillance is about relations of power and domination" and that it "almost always reinscribes existing power equations - because it generally aims to control, even eliminate, those who 'deviate' from the norm."[53] This is particularly pressing for transgender persons for multiple reasons. Surveillance is often an instrument that aids in policing norms. Transgression of gender norms is viewed as deviance, and those who are seen as 'deviant' are criminalized and harassed by the state. Since colonial times transgender communities were seen as belonging to "criminal tribes", a practice that continues even today, with sections under the Karantaka Police Act, until recently, allowing the police to "maintain registers with names and addresses of trans persons who could be

'reasonably suspected' of 'undesirable activities'."[54] This historic association with deviance and criminality would also mean that transgender people would be disproportionately targetted, monitored and sought to be controlled through surevillance measures. Such surveillance, data collection and sharing also takes away the right to self-determination and control over information sharing that transgender people should have, especially in deciding who to share their gender identity with.

This expanded use of surveillance, data collection, and database generation, in the name of 'security', far from serving its ended purpose for most marginalized groups, enables and equips the state to monitor those who it views as "suspicious" on flimsy grounds (often linked to marginalised identities related to gender, sexuality, profession, political leaning, religion, caste, ethnicity, among others) , allows selective application of laws against such individuals, and is therefore discriminatory, arbitrary and violative of fundamental rights.[55]

3.3 Experiences in accessing online spaces:

In addition to the physical and more direct forms of surveillance that are taking place through CCTV cameras, increased police presence and data collection by the state, an insidious form of surveillance and control is also being enabled through monitoring online spaces, especially social media. Through surveillance and threats of violence, involving threats of complaints under penal laws, hate campaigns and trolling, critiques of government action are being regularly silenced. Not only is the state a participant to this, primarily by using or threatening to use trumped up penal charges against critical voices and taking down critical posts, but a new band of internet trolls, mostly Hindu nationalist sympathisers, have been known to target and harass those who post critical remarks against the government.

The creation of the category of "anti-national', used to delineate dissenting voices, and its regular reiteration both through the state apparatus as well as media houses, has become a way to silence and threaten anyone with critical views. Online groups, like the Hindu IT cell, are meticulous in creating

trending hashtags and trolling anyone who seems to be critical of hinduism or any government legislation. In many cases members of these groups are associated with the ruling party and are used to legitimise the policies and actions of the party.[56] The regular targeted trolling and hate messages, combined with the passage of laws that weaken end to end encryption, create a legitimate fear in the minds of users about their safety, leading to self-censorship in many instances. In the case of the trans community, censorship can also take the form of censoring their own identities in order to protect themselves from leaks.

These experiences of control over online speech and expression have been divided into 2 sub sections: i) Policing of online expressions by the government, and ii) Harassment by sympathisers of right wing fundamentalism. The latter has been included in this report owing to the patronage that many of them receive from the current disposition, both directly and indirectly, in the form of retweets, being followed by Ministers and state officials on Twitter, as well as impunity in making threats and statements that fall well within the purview of the Penal Code.

i) Policing of online expressions by the government :

Participants in Lucknow and Delhi mentioned instances of online policing by the government. One of the participants stated:

> *"The last few years, the one very obvious shift we have seen in the way that protests or any kind of dissent has been curbed, or when there have been attempts to curb any kind of dissent, is that it has gone into a different realm. There is silencing in the digital space. There is silencing of other sorts in terms of either police cases or intimidatory cases being filed against people who are vocal and turning some people into epitomes by creating a category of an 'anti-national' and so forth. But very similar tactics have actually been used by the state forever now and these are the very same tactics which have been used by simultaneous governments, both state and central, in terms of every civil movement and social and democratic movement that we have seen in this country."*(Seema, trans woman, human rights defender, Delhi).

As stated earlier in the report The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 are in violation to the right to privacy of individuals and will affect transgender persons more because they are marginalised and vulnerable. Participants also raised their anxiety and fear in accessing online spaces. One of the participants shared,

> *"The issue is that almost all social media are self-serving to the government with regards to providing data and information, and taking down posts. So there is an obvious lack of trust with this social media. Alternative channel should be thought about, where people can come and talk and discuss things and should envision what is to happen"* (Joy, human rights defender, genderqueer, Delhi).

Another participant from Lucknow shared,

> *"Police are a threat to the community. We are living in a country where we don't know when what will happen. Police can knock on your door anytime with a file having information of your phone calls, places you visited, your Facebook posts, Twitter, websites we search and what not. They will arrest you and then you will not be able to come out of jail because the judiciary is also not trustworthy."* (Aziz, human rights defender, queer, Lucknow).

Satish, a genderqueer trans masculine human rights defender from Delhi, pointed out the increasing reaches of the government in regulating social media spaces,

> *"I would say that we've been aware of the ways in which the government can use data for a while now. But I think our lives are open books. Everything is out there and we put it out in the public realm for the government to see what they want. But when the government starts doing things like file charge sheets against people simply because of their presence on some kind of WhatsApp groups, then receiving information that is not a secret, suddenly becomes information of a kind that is punished simply because of this kind of bizarre criminalization of any form of dissent, and when that form of dissent doesn't even include dissenting, it just includes being in contact with people who might dissent!"* (Satish, human rights defender, genderqueer, trans masculine, Delhi).

These experiences show constant online policing and attacks on freedom of speech. This also violates the right to privacy as the government is constantly able to access details of a person's online footprint at all times and across all mediums. This is particularly concerning given the charges that were filed against human rights defenders involved in the Bhima Koregaon protest, where different spying softwares, that are allegedly only sold to government agencies, were used to constantly track all communications[57] and malware seems to have been installed in the devices of the defendants, by which incriminating files were planted in their devices.[58] Others associated with the case have also been targeted through spyware softwares on WhatsApp.

ii) Harassment by sympathisers of right wing fundamentalism:

Some of the participants also mentioned that online trolls or threats do not really remain online but are also manifested in the offline world. One of the participants shared that,

> *"I was involved a lot during the CAA protest. I was trolled heavily by BJP IT-Cell and all their kinds and this wasn't really a big thing for me when it was happening, because I was like okay every day some or the other person gets trolled. But what I did not realize, which I realized when I visited a friend's wedding in Banaras, is that it has created a certain sort of image of me, which is right now there in the public. This can be dangerous because it doesn't really stop at trolling or making memes of you, but them organizing to beat me up as they found a common enemy, which I feel is a real fear, but obviously, that is not the reason one should not do politics, atleast for people who are queer because the very act of existence should be of politics"* (Kevin, activist, queer, Delhi).

Deep, from Lucknow shared a similar experience,

"I posted something on one facebook group. I was trolled and verbally abused a lot there. People took screenshots and posted it in many places, abusing me. I received a call that I've found your number and now we'll also find your house. Then I blocked that person. There was a poem, right? 'Hum kagaz nahi dikhayenge' (we will not show our papers) I had recited that and posted the video. So on that I was abused a lot. And the person who had called me, that person is from Lucknow itself. He called me up and then he WhatsApp-ed me" (Deep, human rights defender, queer, Lucknow).

Experiences such as these show that voices raised against government actions are subjected to brutal attacks and trolling, which is not only limited to online spaces, but transcends into fear for physical safety and well-being as well.

3.4 Censorship

Most of the participants mentioned that they often self-censor themselves in physical spaces, online spaces and even in closed spaces like family settings. This self censorship mainly takes place as a form of self preservation and a way to survive in a society that for the most part does not accept their identity. Many participants mentioned that they are self-censoring themselves online due to harassment they receive from pro-majoritarian trolls and the fear of the government filing criminal charges against any person who is critical of government legislations or policy. They also mentioned that their right to privacy and right to freedom of speech and expression is being violated in the process.

As Kevin notes:

> *"I also feel certain kinds of censorship on self because I cannot respond to every troll. After a point, trolling became so severe that [some news channels] had an entire coverage on me, [others had] a show running on me. Some of my slogans and speeches had become a really big thing so I had to consult a lawyer. While there was not much to find in the speech, but again, if you look at the speeches made by activists [who have been charged under criminal provisions of sedition or Unlawful Activities (Prevention) Act] there have not been many speeches which can be considered as seditious behavior." (Kevin, activist, queer, Delhi).*

Another participant who faced targeted trolling due to their queer and muslim identity shared,

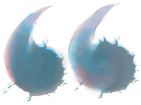
> *"There's this person of RSS [Rashtriya Swayamsevak Sangh] who's very much proud to be a RSS person. So he took a screenshot of a post where when Modi had given his 'atma nirbhar' (self-reliance) speech, and I had written atma nirbhar means masturbation (laughs). So I posted something like that and he took a screenshot and posted something like "bharat chhodke chale jao" (leave India) etc. and I am Muslim. At that time my posts were public. That day I realised that a public profile is not a good idea, so I censored everything. So right now either it's only friends or it's friends of friends. There are no public posts. Since then my profile is locked"* (Raees, human rights defender, genderqueer, Lucknow).

Some of the narratives of self- censorship were mostly because of their ideology or political stand,

> *"if you write something [….] it can go anywhere and then you don't know what will happen. So then discussion in that space becomes extremely limited because you wouldn't want to discuss things outside the space. So even online you are restricting yourself with regards to things and even in international groups you have right wing queer persons from India as well. You become surprised that a different image of India is being pitched internationally in some spaces."* (Joy, human right defender, genderqueer, Delhi).

Another participant shared that if a person from a marginalized community has to survive then self preservation is the key. She said,

> *"I'm literally not on any social media. I have no perspectives on social media. I have no opinions on social media. I just use it to amplify voices that I feel are important. I use it to a certain extent to talk about something that can't be easily disputed. I try to keep myself as factual and as less opinion oriented on social media as possible so that I can have discussion on that, to just be like, well this is the data and this is government data and this is our data. I think any person who wants to survive this has to self-censor. There's just no other option. I think most people have realized this. Honestly I think that is one of the reasons I can see a lot of digital activism also being taken up by certain kind of privileged people because others have realized that self-preservation in times of crisis is important because this crisis has been everlasting for Dalit-Bahujans. This crisis has been everlasting for trans people. Specifically trans people who come from socio-economic backgrounds that are marginalized either by caste or class and region. One kind of unanimous understanding that we have is that self-preservation is key.* (Seema, trans woman, human rights defender, Delhi).



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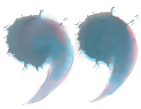

There is constant fear of surveillance and these kinds of conversations also affect the mental health of persons. Studies[59] have shown that the fear of being watched has an adverse effect on the freedom of expression, and often leads to the silencing of minority voices and political participation, which is a threat to democracy. Thus, what we see is that a culture of surveillance supported by violent clamping

down on critical views, is often preventing people from exercising their right to expressions of disagreement and dissent. Further constantly being aware of surveillance may lead to anxiety and depression.

3.5 Specific experiences during the national lockdown:

With Covid-19 becoming a pandemic of global proportions, an abrupt national lockdown was declared by the central government in March 2020. In the name of enforcing the lockdown, heavy police deployment was seen across the country, and the police were given a "freehand" to use all necessary measures to enforce the lockdown in many states[60]. Reports abound of people being brutally beaten and assaulted by the police under the guise of lockdown enforcement[61]. In fact, a study by Commonwealth Human Rights Initiative, found at least 12 instances of death from police excesses, within a few months of the lockdown being declared[62]. This comes in the backdrop of similar overreaches and extreme brutality by the police, where they have been accused of entering college campuses, brutally beating students and damaging libraries housed in public universities.[63]

The experiences shared by the research participants attest to the harassment and violence they faced in the hands of the police, all in the name of enforcing the lockdown.

> *"During Lockdown, I slept in an open area only because I didn't have a house to go to. One day I was sleeping. The police beat me with a baton and said this is not a place to sleep. Where will I go? There was no work, no food and shelter. I had no option."* (Debika, homeless, zenani, Lucknow)

Police excesses during lockdown were further exacerbated based on other facets of one's identity, especially political leaning. Sharib, a working class trans man from Lucknow, for instance, felt that he was specifically targeted by the police owing to his participation in the protests against CAA and NRC earlier in the year. He notes:

> *"During the lockdown I was distributing rations with the help of local leaders. Police stopped my scooty and asked for papers of the vehicle. It was not mine, it belonged to an advocate. There was a sticker on the scooty. I showed him the papers but also challenged him as to why he was asking for the papers from me. I was doing my work helping poor people with ration. I think the police did this because I was at Clock Tower in protest of CAA and NRC, and my photo was in a newspaper." (Sharib, working class trans man, Lucknow).*

This one again raises fear of how data is being gathered, maintained and used by state forces, especially as it enables profiling of people. Fear of data collection and surveillance was further compounded by the use of government developed mobile application, Aarogya Sethu, being linked to the delivery of basic services.

> *"I don't feel safe. I was feeling surveilled. I had to uninstall the Arogya Setu app in 2 days. Because the phone's bluetooth is on, the phone knows my location, my Aadhaar number and phone number. It also can hear my voice to catch keywords and shows us specific advertisements based on it. I was feeling unsafe"* (Satav, trans man, Delhi).

The app allows access to continuous location information, personal information and health data without providing any clarification on how the data is being used, secured or maintained. This has led even cyber law experts to be cautious of the possibilities of the app becoming "a perfect tool for monitoring and surveillance in the absence of checks and balances."[64] However, the mobile application has not been the only way in which data was gathered during the lockdown. Research participants also attested to the practice of police taking photographs of people without their consent, further adding to the fear of personal information and surveillance data being built up against people, without them having any knowledge or say in how such data will be stored and used.

> *"Here during COVID if you don't wear a mask, the police will come and click your photo. And then they'll fine you. [...] So this is how it is. It is an invasion of privacy, you're clicking photographs without permission. Now what are they doing with those photos and data? Because all of those are government phones. Where is this data going? What type of technology is built into the phones? No idea."* (Deep, human rights defender, queer, Lucknow).

Participant experiences point not just to these forms of extreme policing in the guise of maintaining 'law and order', but also highlight how even mundane everyday tasks became difficult due to police harassment. Routine tasks, such as accessing medicare and being able to earn a living, became increasingly difficult as many faced harassment/feared violence at the hands of the police in carrying

out these tasks. For instance, even access to basic healthcare became difficult with police harassing those who were forced to step out to buy medications. One participant shared,

> *"I went outside to buy hormone medicines. When I was returning home, the police caught me and started to verbally abuse me. I was afraid that they would beat me because they have lathi (baton/stick). I told them that I went to the chemist but they didn't believe me, I showed them the medicine and then they left me."*(Jaya, sex worker, trans woman, Delhi).

Another participant, Joy, a genderqueer human rights defender from Delhi, shared similar experiences of brushes with the police while trying to access medication for their mental health condition. In their interaction, the police officer refused to believe that Joy had a bipolar condition, stating that he knows *"how people look when they have depression"* and to them Joy did not appear to have depression. These instances not only highlight the extreme policing that was ongoing during the lockdown, but, once again reinforce the lack of understanding that police have towards issues faced by queer people. As Joy notes, *"[a] number of gender non conforming persons do fall into anxiety and depression and do fall into mental health conditions because of the social situation and this police is going to be the judge of whether it is valid enough for you to buy the medication for your mental health? How will this then affect the long term mental health process."*

As evident globally, the pandemic has resulted in many people losing access to any form of livelihood, especially those working in the unorganised sector or engaged as daily labourers. As noted earlier, transgender persons in India continue to have limited access to employment opportunities, constricting their access to income and savings. This precarious situation was further worsened by the pandemic and those engaged in sex work were particularly hit. Not only were the government relief measures inadequate[65], but participants reported that even as they tried to earn a livelihood through alternate means available to them, they faced further hardship in the form of police harassment. Kavya, a trans woman sex worker and dancer from Lucknow, notes one such incident,

> *"I went outside my house to bring some grass from the field to feed my goat. The police saw me and ran towards me to beat me with a baton and I went back home. That day my goat was hungry for the whole day. There was no girya/ client at that time, how could I eat two square meals if my goat also couldn't get food"*(Kavya, sex worker ,trans woman, Lucknow).

Thus, the experiences of the participants indicate that a period that was already challenging and difficult was made worse by insensitivity of the police. Yet again, armed with increased powers and no accountability, all in the guise of enforcing 'law and order', the police continued to be a increasingly violent presence in the lives of transgender persons.

CONCLUSION: RE-IMAGINING SECURITY

What we have seen from the experiences of transgender persons is that an increasing shift towards militarism, signified by increasing police presence, expansion of policing powers without concomitant accountability, heightened surveillance, and violent repression of dissent, either directly or indirectly, has left the transgender community further marginalised and vulnerable. This is further exacerbated on account of intersecting forms of marginalisation based on class, religion, caste, region, ethnicity, profession, among others.

Much of the aforementioned strategies of militarism by the state have been undertaken in the name of providing "security" for the nation-state and its citizens. Mechanisms like increase in police personnel, the pink booth, CCTV cameras and facial recognition technology in particular are rolled out in the name of 'protecting' women and 'providing safety and security' for women, but as we have seen, are often a cover for expanding surveillance apparatus of the state.

As Chitra, a feminist lawyer working with a women's human rights organisation in Lucknow, notes,

"Now public spaces don't feel safe. I mean not like they were very safe for women or trans people or the homosexual community. And now with this surveillance they just feel a lot more unsafe. I don't believe that it has provided any kind of sense of security. I am sitting with a friend and a third person will come and judge whether I am safe or not?" ...This is an undeniable fact that there has been this excessive and very rapid increase in this highly protectionist sort of approach where people's agency, especially those from marginalised genders [...], has seen just complete stripping- slowly and very meticulously."

In this final section, we breakdown this myth of militarism as necessary for the 'security' of the nation-state, and highlight how transgender persons are excluded from this imagination of 'security'

and in fact, criminalised, discriminated and abused through this narrow conceptualisation of 'security'. Finally we highlight what "security" for trans persons looks like, which is far removed and contrary to this approach of expanding militaristic control.

For long, feminist security studies has questioned the simplistic understanding of 'national security' and asserted that "secuity would mean nothing if it is built on other's insecurity."[66] Feminist security studies has sought to centre questions of power, structures and gender hierarchy that are imminent in how security is conceptualised and threats to it handled. Instead of a narrow understanding of security, they have highlighted the need for social and economic justice within how security is understood. The security they talk of focusses on security of wants, security of rights, and security of an empowered society,[67] going much beyond a military configuration of society.

Taking this idea forward, in 1994, United Nation's Human Development Report noted that the understanding of security, with a preoccupation on border control, is too narrow and there is a need to account for the security of people's lives. The report identified seven specific elements that comprise human security: economic security, food security, health security, environmental security, personal security, community security and political security. The concept of human security, therefore, is much broader and encompasses freedom from want and fear, and is linked to the development and realisation of human rights. Moreover, critical security scholars and activists have repeatedly exposed how the very conception of "threat" that lies at the heart of security discourses, is racialized and gendered. In recent times, the Black Lives Matter movement has once again regurgitated these questions, where activists have highlighted how an ethno-nationalist racialised understanding of safety and security, directly contravenes the right to liberty and security of marginalised communities. The movement has reiterated the need to focus on enhancing access to educational and employment opportunities, health and social services and tackling institutional and systemic racism as the core of our understanding on 'security', rather than the continued use of carceral and protectionist approaches.

A critical feminist understanding of security, allows us to unpack how ideas of 'security' and 'threat' have been shaped and to reimagine what security entails in relation to transgender persons. As this report has noted, transgender people have historically been seen through the lens of criminalisation and seen as "threats", threat to the gendered ordering on which the nation-state derives its life sustenance. To neutralise this "threat" transgender people have ben repeatedly surveiled, monitored and violently forced into conformity. Thus, what we have is a situation where transgender people have been policed, surveilled and treated violently, all in the name of builidng the nation-state's security, which in reality is built on the backs of transgender people living a life of insecurity themselves.

The state of transgender persons in India and their access to education, livelihood, rights and justice, paint a grim picture. Instead of correcting historical marginalization and inequities and ensuring that transgender persons, especially those further marginalised on the basis of caste, religion, class, ethnicity, (dis)ability, region, and other systemic oppressions, have access to opportunities and can exercise agency, autonomy and self-determination, the state has been invested in passing laws which further oppress transgender persons. For instance, the Transgender Persons (Protection of Rights) Act was passed without taking into account numerous amendments recommended by trangender activists and sent a message to the transgender community that their perspective was not important to the determination of their own rights or even identity. Further, the Act also does not provide sufficient protection from violence or opportunities for empowerment, nor does it allow for 'self determination' of gender, which goes against several international standards and best practices of gender determination.

Given this background, the transgender persons who participated in this research rejected the idea of 'security' that is presently rooted in a narrow communialised, casteist and sexualised understanding. Instead they provide a range of ways in how security must be understood. They shared ideas of security as:

- Not having to feel like an outsider in one's country and not having to be constantly afraid of the police. (Satav, trans man, activist, Delhi)
- Having the assurance that violence against them would be treated in the same way as against someone in "highest sort of positions" and that it would be investigated and addressed. (Joy, human rights defender, genderqueer, Delhi)
- Not being limited to CCTV cameras and gated societies that reinforce racialized ideas of who needs to be secured against whom. (Judit, human rights defender, non-binary, Delhi)
- Shifting the perspective of security from having CCTV cameras that enable surveillance, to making public spaces safer for people through infrastructural investments in building better roads and having better lighting. (Deep, human rights defender, queer, Lucknow)
- Having access to helplines specifically for transgender people that are sensitive to the issues that the community faces. (Abhishikta, sex worker, trans woman, Delhi)
- Being free from constant surveillance and judgment. "Everyday we are raped by people's eyes, they don't need to touch us. We don't feel secure. Security means we don't have to fear anyone." (Fatima, sex worker, trans woman, Delhi)
- A promise of economic stability and economic equality as well as a commitment to ensure that one lives in a violence free space. (Satish, human rights defender, genderqueer, transmasculine, Delhi).

What we have through these articulations is a much broader, holistic, and inclusive understanding of the concept. It is this holistic idea of 'security' that we call upon the state to ensure, and in doing so, put an urgent stop to an ever expanding militarism project that violates that rights, dignity, autonomy and liberty of transgender persons and other marginlaised communities.

Thus, we call upon the state to:

1. Reimagine security in ways that centre a human rights and human security perspective, with special focus on how current discourses on "security" oppress, marginalise and brutalise communities based on their gender, sexuality, caste, religion, class, political beliefs, region, ethnicity, and claims to self-determination.
2. Refrain from mandating the use of services that regularly collect data from people, without them being aware of how the data is being stored, monitored, used and shared.
3. Expedite the process of having in place a comprehensive privacy law, based on recommendations of civil society groups and human rights activists.
4. Include a compulsory module on transgender responsive policing as a part of the curriculum in police, administrative and military training. The module must pay specific attention to the intersectionalities of class, religion, caste, ethnicity, (dis)ability in shaping policing practices. Such a module must be designed and administered in consultation with activists and organisations working to advance the rights of women, transgender persons and other marginalised communities.
5. Decriminalise and refrain from further criminalising activities through which many transgender persons earn their livelihood, including restrictive laws around sex work and begging. The presence of these laws invariably vests immense powers in the hands of the police and perpetuate violence and harassment against transgender persons.
6. Ensure robust accountability mechanisms for excesses by state forces and ensure that these mechanisms are accessible, functional, and bring perpetrators to justice. Draconian laws such as the Armed Forces Special Powers Act, in particular, must be repealed.
7. Protect the democratic right to protest, express disagreements and claim accountability from the state. The state must halt in its ever-expanding project of creating expansive laws that violate the basic tenets of human rights, such as the Unlawful Activities (Prevention) Act and its amendments, and severely curtail freedom of speech and expression. All political prisoners must be released for exercising their democratic rights to speech, expression and assembly.
8. Conduct specific studies on the impact of natural disasters and global pandemic on marginalised groups, including transgender communities.
9. Ensure reservations in order to encourage and promote access to education, employment and representative politics for transgender persons.
10. Draft an anti discrimination law that covers transgender persons, and provides for strict action against atrocities and sexual violence by law enforcement officials.

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