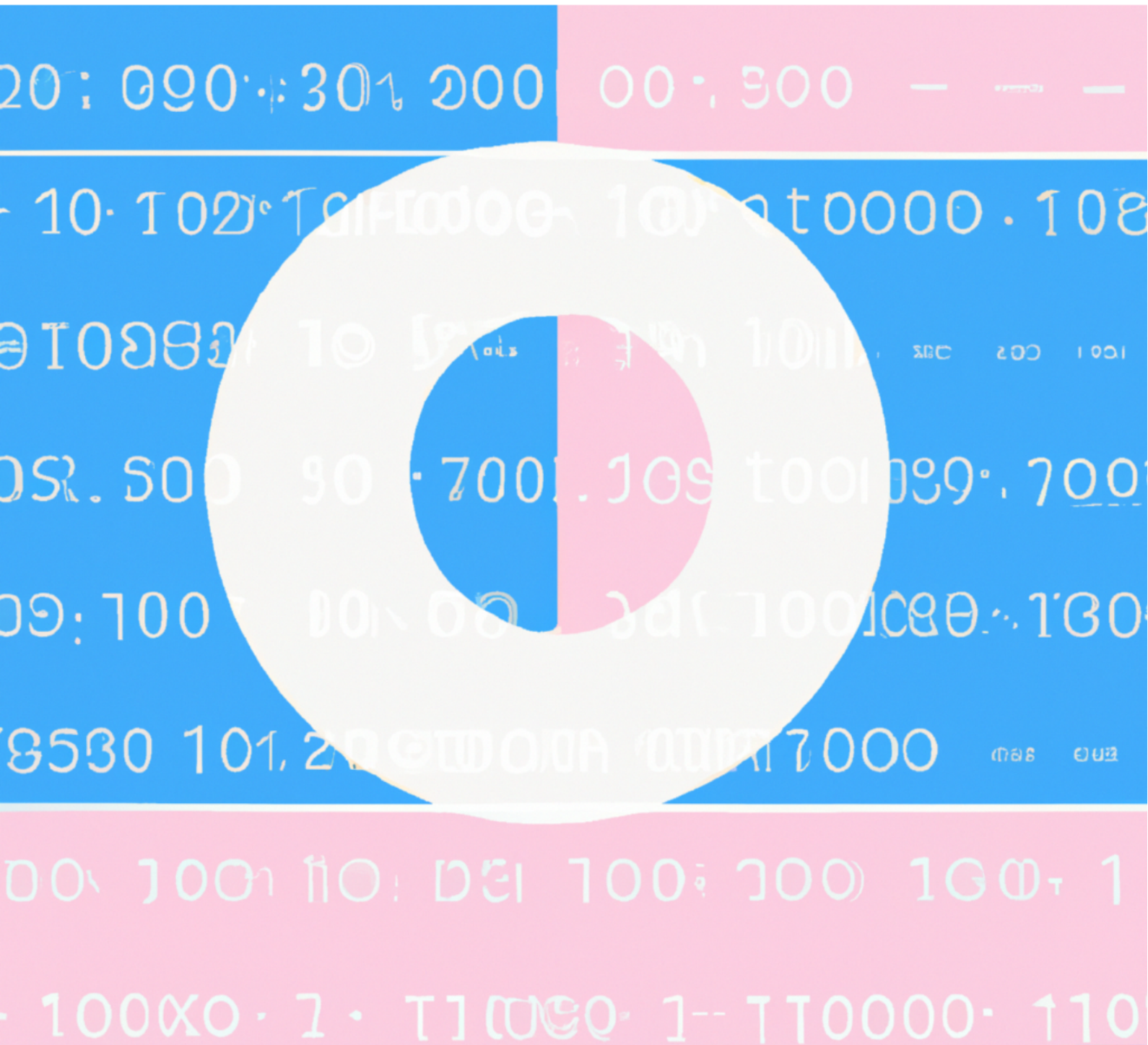# Gendering of Development Data in India: Post-Trans Act 2019

#4 Right to Life Vs. Right to Privacy

Author: **Brindaalakshmi.K**

Note

This is the fourth part of a report titled Gendering Development Data: Post-Trans Act 2019 authored by Brindaalakshmi.K for the Association for Progressive Communications supported by the Our Voices, Our Futures Project.

Please read the full report here:
https://genderit.org/articles/gendering-development-data-india-post-trans-act-2019

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1. Introduction

Professor Philip Alston, UN Special Rapporteur on extreme poverty and human rights, writes in his October 2019 report to the UN General Assembly:

> "[T]he digital welfare state is either already a reality or is emerging in many countries across the globe. In these states, systems of social protection and assistance are increasingly driven by digital data and technologies that are used to automate, predict, identify, surveil, detect, target and punish… [A]s humankind moves, perhaps inexorably, towards the digital welfare future it needs to alter course significantly and rapidly to avoid stumbling zombie-like into a digital welfare dystopia."[1]

Transgender persons have been targeted, surveilled, and punished long before the emergence of the present day 'digital welfare state'. Although the Trans Act recognises the right of transgender persons to affirm their rights, accessing these rights means consenting to the state's breach of an individual's right to privacy by demanding intrusive disclosure of their transgender identity with a two-step medical verification process. As seen in earlier parts of this report, the state does not take into consideration the violence endured by transgender persons for the sake of entering different data systems in the name of rights. Instead, it places the onus on vulnerable population groups to prove their existence as individuals and consequently, as a population group to be considered for a budget allocation, and a 'probable' access to welfare benefits.[2] Regressing from the promise of human rights, the state has shifted the responsibility onto the individual, excusing itself from fulfilling the promise of Constitutional rights to its people. Article 3[3] of the Universal Declaration of Human Rights (UDHR) states, "Everyone has the right to life, liberty and security of person." The Supreme Court of India recognised the right to life of transgender persons under Article 21 of the Indian Constitution by referring extensively to the UDHR in the NALSA vs Union of India verdict.[4]

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[1] Office of the High Commissioner, Human Rights, United Nations. (2019, October 17). World stumbling zombie-like into a digital welfare dystopia, warns UN human rights expert. Retrieved from https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25156

[2] Brindaalakshmi K (2021, May 15). Is digital colonisation redefining the understanding of agency, bodily autonomy and being human. TARSHI. Retrieved from:https://www.tarshi.net/inplainspeak/is-digital-colonisation-redefining-the-understanding-of-agency-bodily-autonomy-and-being-human/

[3] Article 3, Universal Declaration of Human Rights. Retrieved from: http://www.claiminghumanrights.org/udhr_article_3.html#at4

[4] Supreme Court of India. (2014, April 15). National Legal Services Authority Versus Union of India and others. Writ Petition (Civil) No. 400 of 2012 with Writ Petition (Civil) No. 604 of 2013. Indian Kanoon. Retrieved from https://indiankanoon.org/doc/193543132/

Article 12 of the Universal Declaration of Human Rights (UDHR) states:[5]

"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

The Supreme Court of India in its verdict, Puttaswamy Vs. Union of India,[6] recognised the right to privacy as a fundamental right of every individual that is enshrined in the Constitution of India. However, the Transgender Persons (Protection of Rights) Act 2019 (henceforth Trans Act) does not explicitly address individual right to privacy of transgender persons. Evidently, India's digital welfare state is changing the meaning of human rights, what encompasses a right, and the extent to which the state would stoop to violate its people in the name of 'digital transformation' as described by Professor Philip Alston.[7]

Part 3 of this report looked at transgender as a gender (data) category in law and policy, the resultant challenges with procuring and using identification documents in one's chosen name and gender, possibilities and challenges with the understanding and inclusion of transgender data category in public and private data systems to make meaningful decisions for transgender persons as a population group. This part of the report will look at understanding how privacy plays out in the lives of transgender persons and the constant play-off between access to services and individual privacy owing to the security challenges that individuals face at different service access points with or without an identification document, thereby impacting the ability of transgender persons to enter data systems. This part of the report will also focus on the impact of data colonisation and data sovereignty on the access to services for transgender persons especially with the introduction of Artificial Intelligence (AI) for decision making.

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[5]Universal Declaration of Human Rights. United Nations. Retrieved from:
https://www.un.org/en/about-us/universal-declaration-of-human-rights

[6]Supreme Court of India(2018, Sept 26). Justice K.S.Puttaswamy(Retd) vs Union Of India on 26 September, 2018, Writ Petition (Civil) No. 494 of 2012 & connected matters. Indian Kanoon. Retrieved from:
https://indiankanoon.org/doc/127517806/

[7] Office of the High Commissioner, Human Rights, United Nations. (2019, October 17). Pg 3, World stumbling zombie-like into a digital welfare dystopia, warns UN human rights expert. Retrieved from
https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25156

2. Digitisation of access to services: Possibilities and challenges

According to a 2021 report by Dutch cybersecurity company, SurfShark, data of around 86.63 million Indian internet users were breached in 2021, a 351.6% increase from the 19.18 million users whose data was breached in 2020.[8] This surge in the number of data breaches also means disclosure of sensitive information including gender identity. Names and gender histories of several individuals who changed their identity documents using the National Portal for Transgender Persons were available using a simple Google search. This breach of privacy on the national portal led to grave consequences, note respondents. This searchability of the data, Mridul[9] explains occurred due to the lack of a robots dot txt file on the National Portal for Transgender Persons. "All search engines have crawlers. If a website's robots dot txt file specifies that a specific section is not to be indexed then that data will not be indexed by search engines. This issue was fixed after several of these instances were reported to the National Portal for Transgender Persons," he adds. Amritananda Chakravorty,[10] another respondent of this study, had issued a legal notice on behalf of a client to fix this issue, which then was fixed for the client.

Accessing the legal system to claim their rights has led to breach of privacy, especially for transgender rights activists who file public interest litigations (PIL). "What I have faced in all my PILs is that the high court (website) displays the name of the petitioner, their dead name,[11] their self-identified name, their Aadhar number along with the full postal address, their bank account number and PAN number. I have people dropping at my home seeking sexual favours. I have people who call me flashing their member and this is not limited to me. There are other Dalit rights

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[8] Business Today Desk(2021, Dec 15).India ranks third in global data breaches in 2021: Report. Business Today.Retrieved from:https://www.businesstoday.in/latest/trends/story/india-ranks-third-in-global-data-breaches-in-2021-report-315750-2021-12-15

[9] Mridul is a trans masculine technology professional. He is a full stack developer who works on developing technology solutions with a special focus on end-user privacy and accessibility. He is a queer feminist trans* activist and has been associated with a few LBT collectives in Mumbai. He has also conducted digital privacy workshops with members of the queer community in different parts of the country.

[10] Amritananda Chakravorty is a lawyer based in New Delhi, India, with extensive experience in LGBTI rights litigation and advocacy. As part of Lawyers Collective, Ms. Chakravorty has been involved in several landmark cases, including challenging the mandatory death penalty for drug offences, removal of the anti-sodomy law, recognition of transgender persons, commutation of death sentences, and challenging the beef ban. Presently, she is handling many strategic cases, including challenging the termination of a transgender woman from the Indian Navy, medical negligence, discrimination in employment, challenging educational bye-laws that exclude trans persons, discrimination in access to insurance, and seeking reservation for transgender persons in public employment.

[11] Dead name is the given name assigned to a transgender person at birth based on their assigned gender at birth, which they have chosen to stop using at a later point in their life.

women activists and other minority women who have filed PIL — all of them are facing these issues," shares Vyjayanti.[12]

Many transgender persons in India continue to be on the wrong side of the digital divide with limited access to a smart device and a sufficient level of awareness to navigate one. Their level of awareness is largely on a 'need-to-know' basis and even among those who are more educated, the awareness about digital security remains low, observe respondents. Along with literacy and digital literacy, English knowledge is necessary to navigate online spaces. This is often a struggle for most transgender persons who use smartphones. Perpetuating data colonialism, products of the big tech companies are most used amongst transgender persons owing to their ease of use, note respondents. Individuals primarily communicate using voice notes on different messaging platforms.

> A lot of transgender people do not have smartphones. The small section that does own smartphones uses mostly WhatsApp as they can send voice messages and not have to text to communicate - Vyjayanti[13]

Even the surge in digitisation during the pandemic has only led to bare minimum understanding of using a smart phone among transgender persons: primarily to receive money. With almost no access to a bank account due to lack of a proof of address, most find payment apps quite useful for survival during dire times. If using payment apps (like Google Pay or Paytm) means faster access to money, they don't seem to care about data sharing for the sake of their survival, observe respondents of this study.

The legal reiteration of the individual right to privacy is significantly more important for transgender persons who face high levels of violations and violence that go beyond the scope of data privacy. Lack of accessible options to report such issues and lack of response to complaints filed are commonly observed among social media platforms.[14]

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[12] Vyjayanti Vasanta Mogli's preferred name is Vyjayanti and pronouns are she, her and her's. She is a transgender human rights and RTI activist precipitating Public Interest Litigation (PIL) in the High Courts and the Supreme Court. She has volunteered pro bono with human rights law & social policy think tanks viz. Alternative Law Forum (ALF), Centre for Law & Policy Research (CLPR), Human Rights Law Network (HRLN) inter alia.

[13] Brindaalakshmi K.(2020, June). Gendering of Development Data in India: Beyond the Binary #4, Digital Services and Data Challenges, Pg 5. Centre for Internet & Society India. Retrieved from: https://cis-india.org/raw/files/brindaalakshmi-k-gendering-of-development-data-in-india-beyond-the-binary-4

[14] Web Foundation (2020, Nov 25). The impact of online gender-based violence on women in public life. Web Foundation. Retrieved from: https://webfoundation.org/2020/11/the-impact-of-online-gender-based-violence-on-women-in-public-life/

"In one instance, an old acquaintance of a transgender person was insistent about meeting them though they refused several times. Following the refusal, the acquaintance began sharing old photographs of them and their phone number on his timeline calling them a sex worker. A complaint to the Facebook redressal mechanism got no response. Eventually they were advised to file a complaint with the cyber-crime cell of Kolkata police. Their first reaction was reluctance due to the police harassment that they would face. We suggested that they file an online complaint, which seemed more silly to them because there is abuse and harassment and the online solution doesn't work, be it Facebook or the police, nobody helped." - Pawan Dhall[15]

Online spaces, on one hand, give transgender persons the chance to express themselves in a manner which might not be possible in their day-to-day life. If a transgender person is not out about their gender identity, they can exist online using multiple profiles to protect their privacy, notes Debjyoti Ghosh[16]. However, these platforms have trolls who are transphobic and abusive towards individuals who are out about their gender identity. Abusers often refuse to take no for an answer. Former partners and friends target them by leaking their images, phone numbers and other personal details, adds Ghosh.

Not all service providers include gender options for transgender persons. Moneycontrol, a financial portal observes a lack of gender options and the continued use of binary gendered salutations — Mr. or Ms, among several health insurance providers.[17] Speaking to Moneycontrol, Sajja Praveen Chowdary, Head-Term Insurance, PolicyBazaar.com has said that 'while gender under the policy remains "Third Gender", the premiums of the policy will be decided considering the proposer as a male'. Similarly, the 10 leading financial brokers do not include a gender option for transgender persons to trade although PAN (Permanent Account Number) now includes an additional gender option.[18] In 2015, the Reserve Bank of India directed all banks to include a third gender option in

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[15] Pawan Dhall is a Kolkata-based queer activist, archivist, researcher and writer. He was a founding member of Counsel Club, Kolkata (1993-2002), among India's earliest queer support groups, and edited its house journal 'Pravartak'. He worked with SAATHII from 2002-14 on universal access to health and social justice. He is now associated with Varta Trust as Founding Trustee.

[16] Debjyoti Ghosh (he/him) is an Indian human rights lawyer and academic, currently based at the Centre for Asian Studies in Africa, affiliated with the Department of Sociology, University of Pretoria, South Africa. His area of work includes HIV, queer health, with a particular focus on access in India, Brazil and South Africa, and is expanding into studying decriminalisation of same-sex sexual behaviour in Southern Africa.

[17]Dharamsi, Khyati (2021, Sept 21).Can a third gender open a bank account, buy an insurance policy, invest? Not easy, even 3 years after SC's order. Money Control. Retrieved from:https://www.moneycontrol.com/news/business/personal-finance/lgbtq-and-money-matters-is-access-to-financial-services-for-the-queer-crowd-any-better-3-years-after-scs-order-7438071.html

[18] Ibid

forms[19]. However, not all banks have introduced an additional gender option. Not all bank application forms, such as with Bank of Baroda[20] and Indian Bank,[21] include an additional gender category. Besides, not all banks with an additional gender category have uniformity in the terminology used across applications that match the transgender category prescribed by Trans Act. One example would be the application form to procure a debit card with Bank of Baroda. It does not include an additional gender option whereas the credit card application form includes TG (transgender) as an additional gender category[22]. Such inconsistencies affect the economic access of transgender persons.

The use of social media accounts to access different private sector services like e-commerce websites, travel websites, and many other kinds of apps and other services have become a necessity, especially due to the COVID pandemic, leaving a data trail of all their activities. Transgender or not, most people are unaware of their data footprint, notes Pawan Dhall.

> "Among transgender persons, only individuals who attend the one-off cyber security trainings organised for trans persons are aware of data sharing, data breaches, and the need to protect one's devices and data to protect themselves from data privacy threats and violations. Most people still don't understand what exactly they are giving away every time they send out an email, or perhaps if they like something on social media or accessing a commercial website." - Pawan Dhall

Although different online and offline services procure the consent of individuals, the language used for the 'Terms & Conditions' continues to remain inaccessible to users, observe respondents of this study. Even with the required identity documents, transgender persons continue to face challenges when accessing essential commercial services due to lack of awareness. Further, conglomerate ownership of social media apps such as Instagram, WhatsApp, and Facebook allows for data sharing across these platforms.[23]

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[19] Reserve Bank of India (2015, Apr 30). Rights of Transgender Persons - Changes in Bank Forms / Applications etc. RBI/2014-15/583 DCBR.BPD (PCB/RCB) Cir. No.33/12.05.001/2014-15. Reserve Bank of India. Retrieved from: https://rbidocs.rbi.org.in/rdocs/notification/PDFs/PCBRCB3004201590EDA10EA5A0410B964C6094DF97254A.PDF

[20] Application form for Bank of Baroda International Debit Card. Bank of Baroda. As on September 1, 2023. Retrieved from: https://www.bankofbaroda.in/-/media/project/bob/countrywebsites/india/content/download-forms/personal/more-services/revised-debit-cum-atm-card-form-10-18.pdf

[21] Application for Credit Card. Indian Bank. As on September 1, 2023. Retrieved from: https://www.indianbank.in/wp-content/uploads/2018/04/credit_global_appln.pdf

[22] Bank of Baroda Credit Card Application Form. Bank of Baroda. As on September 1, 2023. Retrieved from: https://www.bankofbaroda.in/-/media/project/bob/countrywebsites/india/content/download-forms/personal/more-services/revised-credit-card-application-form-10-18.pdf

[23] O'Flaherty, Kate (2021, Jul 07). All the data WhatsApp and Instagram send to Facebook. Wired. Retrieved from:

"If you save a WhatsApp number on your phone, friend suggestions pop up on Facebook. So there is little to no freedom left within those spheres. On one hand, we are giving up a lot of privacy in order to enter into this virtual world where we think we have certain things that are private. There is also the handing over of privacy and power to these platforms and this has privatised power and privacy." — Debjyoti Ghosh

Among transgender persons with disabilities, there is a fear of using apps like WhatsApp due to the harassment and abuse that they may face. There have been instances of WhatsApp users who screenshot profile pictures of trans persons to harass them. This creates an inherent fear in using these apps. Transgender persons with disabilities are often at the receiving end of abusive and violent comments when their images are shared on social media platforms.

"When we post a photo, people publicly comment things like 'Are you female or a male'," — Kiran Nayak B.[24]

Cases of cyber harassment and bullying faced by sex workers increased when they moved their work online during the COVID pandemic. Respondents of this study observe a pattern amongst clients recording their video calls and threatening to release them online. Clients have often taken their service and absconded without making a payment. Instances of data breaches, catfishing, extortion, and violence are also quite common on dating apps like Grindr. The lack of accountability from dating and social media apps and the lack of support from the police to tackle these issues continue to be serious challenges for transgender persons. It is worth noting that sex work was decriminalised by the Supreme Court of India in May 2022.[25]

"One of my clients, who is trans, began talking to someone on Grindr and met up with them. They naturally assumed that it would be safe to meet and there would be an understanding that everything would be consensual. However, during the meeting, they found out that they were lied to and ambushed. Several people showed up and my client was sexually and physically assaulted. Shocked by what had transpired, they approached the police, but

https://www.wired.co.uk/article/whatsapp-instagram-facebook-data

[24] Kiran Nayak B is a disability, equity and gender equality activist. Kiran is a passionate, industrious and a competent disabled transman keen to enhance skills as a disability, gender and sexuality rights activist. Kiran is currently the General Secretary of Society for Transmen Action & Rights (STAR) and the General Secretary of Vikalachethanara Samasthe (CBO of Persons with disabilities) in Chikkaballapura, Karnataka.

[25]Chowdhury, Kavita (2022, Jun 13). India's Supreme Court Recognizes Sex Work as a Profession
The Diplomat. Retrieved from:
https://thediplomat.com/2022/06/indias-supreme-court-recognizes-sex-work-as-a-profession/

instead of acting steadfastly, the police refused to act, dismissing them by saying that it was bound to happen to them."- Oindrila Sen[26]

3. Play-off between Access to State Welfare and Right to Privacy

Privacy is among the most violated rights of transgender persons. The role of privacy as an integral part of accessing the right to life and liberty has been acknowledged by several verdicts pronounced by the Supreme Court of India. Puttaswamy vs Union of India[27] recognised the right to bodily autonomy and right to privacy of individuals by citing the NALSA vs Union of India verdict.[28] The violation of the right to privacy and, consequently, the liberty of transgender persons can be traced back to the colonial state viewing them through the lens of surveillance using the Criminal Tribes Act 1871.[29] Although these communities were declared 'denotified' in 1952,[30] the practice of systemic transgender surveillance continued with laws such as the Telangana Eunuchs Act[31] and Karnataka Police Act 1963.[32] Decolonisation of transgender bodies began only as recently as 2014 with the NALSA verdict.

Globally, legitimate pathologising of transgender bodies continued until 2018, when the World Health Organisation[33] replaced the term 'gender identity disorder' with 'gender incongruence,' and declassified it as a mental health condition. Instead, gender incongruence has been added under

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[26] Oindrila Sen is a practising advocate in the Supreme Court of India, the High Court of Delhi as well as various District Courts and Tribunals. She has worked as a Law Researcher with Hon'ble (Retd.) Justice Dr. S. Muralidhar at the High Court of Delhi, and as a Law Officer with Human Rights Law Network, Delhi. She has worked on cases pertaining to gender, labour, housing, and rights of persons with disabilities.

[27] See footnote 6

[28] See footnote 4

[29]Criminal Tribes Act 1871 (Act No. 27 of 1871). Bare Acts Live. Retrieved from: http://www.bareactslive.com/ACA/act3164.htm

[30] Singh, Ram Shanker (2021, Aug 31).C riminalisation and Political Mobilisation of Nomadic Tribes in Uttar Pradesh.EPW Engage. Retrieved from: https://www.epw.in/engage/article/criminalisation-and-political-mobilisation-nomadic

[31] Kannabiran, Kalpana (2017, Sept 28).It's time to scrap the Eunuchs Act. The Hindu. Retrieved from:https://www.thehindu.com/opinion/op-ed/its-time-to-scrap-the-eunuchs-act/article19763976.ece

[32] Prakash, Rakesh (2016, Jul 15).Karnataka govt deletes 'eunuchs' from police records. Times of India. Retrieved from: https://timesofindia.indiatimes.com/city/bengaluru/Karnataka-govt-deletes-eunuchs-from-police-records/articleshow/53230231.cms

[33] World Health Organisation (2018, Jun 18). WHO releases new International Classification of Diseases (ICD 11).World Health Organisation. Retrieved from: who.int/news/item/18-06-2018-who-releases-new-international-classification-of-diseases-(icd-11)

sexual health in the 11th edition of the International Statistical Classification of Diseases (ICD 11).[34] State mechanisms such as the Trans Act 2019, however, have been attempting to surveil and correct the behaviour of transgender persons to fit them into the gender binary by mandating a medical certificate to procure identity documents and thereby access state welfare. Intersex infants are often subject to non-consensual surgeries to anatomically fit into the sex binary, note respondents. Going against the fundamental right to bodily autonomy, dignity, privacy, and health, the Trans Act demands a double procedure to self-identify one's gender. This is one of the primary grounds on which the constitutional validity of this law has been challenged by transgender persons in the Supreme Court, notes Amritananda Chakravorty.

> "Intersex gender mutilation and infant foeticide of intersex infants is very common and education is at a minimum for most people who are transitioning during puberty." - Intersex rights activist

> "There is no such thing as privacy [for transgender and intersex persons]. Many of us lack protection or the ability to defend our privacy. We frequently endure harassment from both family and society. Not only do we face discrimination, but many people also face harassment and abuse. Our privacy is so inadequately protected." - Mx. Vinodhan[35]

Evidently, certain bodies are treated differently from the rest. As seen in other parts of this report, living with a disability and/or being born into the Dalit caste community present more layers of discrimination for transgender and intersex persons.

> "The matter of trans-certification also comes under the purview of privacy. Why should I go to a magistrate to seek a certification? Cisgender persons don't go to magistrates to get their gender approved. So why should I? This needs to be discussed while talking about rights." — Sowmya[36]

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[34] Gender incongruence and transgender health in the ICD. World Health Organisation. Retrieved from: https://www.who.int/standards/classifications/frequently-asked-questions/gender-incongruence-and-transgender-health-in-the-icd

[35] Mx. Vinodhan is based in Coimbatore. They are a poet, writer, and social activist who studied Applied psychology, Masters in Human Genetics and an activist for issues of persons with intersex variations, persons with disability and dalit community. Vinodhan is a co-founder of Intersex Human Rights India (IHRI), a CREA and UN Mechanism Fellow for 2022_23 and 3rd Intersex Asia fellow Member of Intersex Asia, they were a lead of VOIS INDIA collective group for South indian Dalit Disability, intersex,Queer moment, they have been a part of one of the LGBTIQA+ policy drafting committee constituted by the Government of Tamil Nadu.

[36] Sowmya is a passionate individual and she is always loud & clear regarding her gender identity. She had two decades of experience working with LGBTQ communities. She started her career working as a field worker and now working at policy making level. Right now working with the Network of Transgender Persons as Project Director. She effectively demonstrates her skills in empowering communities and providing them technical expertise to help them advocate for equal rights across the country with community based Organisations.

Forced disclosure of an individual's transgender status exposes them to severe discrimination. Individuals may also find it triggering to openly identify themselves as transgender and persons identifying within the binary may not be comfortable disclosing their transgender identity, note respondents.

> "People have to interact with these systems by trusting the government, because generally, the awareness levels with regard to privacy rights is very limited within everyday people. And when it comes to complex systems, which are related to governance, I think this goes even further down because these systems are so complex." - Prashant[37]

Individuals identifying within the gender binary, both trans men and trans women, prefer a binary gender marker on their identity documents. However, non-disclosure of their transgender status is a privilege that is afforded only by individuals who are not dependent on state welfare. In order to access any state welfare programme that targets transgender persons, all — including those who changed their identity documents prior to the enactment of the Trans Act — are expected to register themselves on the National Portal for Transgender Persons[38] and procure a transgender certificate. Even for those not dependent on state-welfare, accessing all kinds of public and private sector services like banking, healthcare, education, and employment is dependent on valid government-issued identification documents. Changing the name and gender on one's identification documents, as discussed in Part 2 of this report, poses several challenges. Provisions of the Trans Act have not accounted for the need to protect the privacy of transgender persons. Instead, the state violates the right to privacy in lieu of providing them with state welfare.

> "The abuse, repeated visits to the police station, arranging documentation to file before the Magistrate's office, in some cases being misunderstood and misled by psychologists, being bullied and made fun of, poked at, and questioned, all are blatant violations of the fundamental rights and privacy of trans persons. This is apart from the existing struggles they face such as physical violence, difficulties around transitioning (if they chose to do so), issues regarding documentation, and name and gender change; privacy doesn't seem to be an option available to trans persons." - Oindrila Sen

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[37] Prashant is currently working with Intersex Asia (a Taiwan-based regional intersex organisation) as the Research and UN Advocacy Officer. His academic work focuses on citizenship, transitional justice and SOGIESC issues.

[38]National Portal for Transgender Persons. Ministry of Social Justice and Empowerment. Retrieved from: https://www.transgender.dosje.gov.in/

Gender-based violence against transgender persons is common, up to and including being murdered due to their gender identity. These cases often remain underreported and unresolved.[39] The instances of domestic violence increased with the onset of the COVID pandemic and the global lockdowns when many transgender persons were forced to return to living with their natal families. Owing to their gender identity, many of them were pressurised to undergo conversion therapy, deal with marriage pressures, forced marriage, corrective rape, and other forms of brutality by their families, note respondents.

While accessing different services, individuals with valid documents are subject to transphobic behaviour if they do not socially pass as the gender mentioned on their documents. The inability to pass gives rise to suspicion, mistrust, and often violence. The stigma associated with being transgender makes disclosure of one's gender identity a serious privacy concern. This experience tends to be different for trans men and trans women, and those who are cis-passing or living in stealth. "There are many safety concerns for trans men whose history, including assigned gender, is publicly known, those in the process of name and gender change, or those who are visibly gender non-conforming. Such individuals are possibly more likely to get harassed or violated than trans men who pass as (cis) men and live in stealth, changing gender markers in all certificates in the gender 'male', often beginning life afresh in a new place where people do not know their history of gender incongruence," explains Dr.L.Ramakrishnan.[40] Demanding that trans individuals disclose their gender identity in order to access state welfare or any service violates their right to privacy, life, and liberty.

As observed in the part on '*Recording of gender on identity documents*' in the study, *Gendering of Development Data in India: Beyond the Binary,*[41] the gender category available on application forms may be insufficient to self-identify one's gender. Some respondents of the previous study noted a need for more than three gender categories, while others suggested the disclosure of gender wherever necessary like while accessing healthcare.

[39] Shaikh, Aqsa (2020, Feb 05). The Price That Transgender Folk Pay To Accept And Assert Their Identity. Youth Ki Awaaz. Retrieved from:
https://www.youthkiawaaz.com/2020/02/violence-against-transgender-persons-the-truth-we-dont-want-to-talk-about-but-we-must/

[40] Dr. L. Ramakrishnan is an integrative biologist by training, and has been associated with the public health NGO SAATHII for the past 20 years. He works towards inclusive healthcare, justice and social protection for marginalised communities such as LGBTIQA+ communities and those vulnerable to HIV. He has advocated successfully for LGBTIQ inclusion in state policies, and was part of the team consulted by the Madras High Court in the Sushma and Seema vs. Commissioner of Police landmark orders of 2021.

[41] Brindaalakshmi K.(2020, June). Gendering of Development Data in India: Beyond the Binary 3, Identity Documents and Access to Welfare. Pg 3. Centre for Internet Society India. Retrieved from:
https://cis-india.org/raw/brindaalakshmi-k-gendering-development-data-india

"I don't think gender and sex should be on any identification document at all, in the same way caste should not be a compulsory part of an ID. ID (any identification document) should have somebody's name and face. That's enough. I think the simplest decision is to have no gender on any ID document. Caste certificates to access certain services or benefits verify your caste; similarly you could have a gender certificate or gender specific ID to identify your gender if you want to access gender specific services or benefits. That is the simplest solution and also the solution that breaks the idea of gender determinism. Once the transgender movement breaks mainstream notions of gender, gendered labour and associated things, I don't think we should be pushing to make gender relevant when it's not relevant." - Bittu Karthik[42]

Intersex persons,[43] however, demand different columns to mark gender and sex characteristics on birth certificates. This provision, they say, should be available on all birth certificates to be used either at birth for infants who are known to be intersex at birth or to be used by others whenever the condition is later discovered in their life. Such a provision in the birth certificate would aid individuals with both changing documents as well as manoeuvring through other socio-legal aspects of their life.

"Intersex people need overall legal protection. They need to be given the equal status that the constitution has given to male and female. So in short, I would say that they need to recognize that there is also a third category of sex identity that is intersex and they can identify in any of the genders that exist." - Dit Thoudam[44]

However, a provision to self-identify in specific instances may not be sufficient to address the privacy concerns of transgender and intersex persons. Self-disclosure of their gender identity to doctors and other health professionals has also often resulted in harassment for transgender and intersex persons.[45] Thus, transgender and intersex persons are constantly expected to navigate a tightrope that oscillates between surveillance and recognition by the state and other service

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[42] ibid pg 5

[43] This includes 11 respondents who participated in the focus group discussions of the intersex rights in India research that I'm doing for Intersex Asia in 2023

[44] Dit Thoudam (He/They), is founder of The Intersex and Trans Collective (TITC), a support group based in Manipur, India. Dit is also the fellowship coordinator of Intersex Asia and a board member of Youth LEAD Asia Pacific.

[45] Salian, P. (2018, August 12). 'How can you be raped?' Doctor's words to transgender in India an example of the 'transphobia' that stops many getting health care. South China Morning Post. Retrieved from https://www.scmp.com/lifestyle/health-wellness/article/2159156/how-can-you-be-raped-doctors-words-transgender-india

providers, and it continues to remain a compromise of their right to privacy in order to access services and rights.

4. Data Colonisation vs Data Sovereignty: Impact on access to services for transgender persons

In the paper, *What is data justice? The case for connecting digital rights and freedoms globally*,[46] Linnet Taylor points to the "range of interacting characteristics – race, ethnicity, religion, gender, location, nationality, socio-economic status – determine how individuals become administrative and legal subjects through their data and, consequently, how those data can be used to act upon them by policymakers, commercial firms and both in combination. In turn, the possibility of being identified as a target of surveillance multiplies depending on the number of categories of interest one belongs to."

Accessing any welfare or service in a 'digital welfare state' means being present in different (digital) datasets by using an identification document or by sharing personal data as 'administrative and legal subjects'. As seen in Part 3 of this report, exclusive policies map specific bodies to specific welfare programmes using an individual's identity documents, leading to an entanglement of bodies and data by reducing bodies to data. In a similar manner, the Indian State expects transgender persons to turn their gender into (biometric) data by procuring a certificate of identity identifying them as transgender in order to access their fundamental rights and access services. The inability to do so has meant exclusion, both before and after the passing of the Trans Act 2019.

A 2018 article in The Conversation,[47] details the new and sophisticated methods that are built into smartphones, making it easier for companies to track and monitor user behaviour and collect personal information regarding a person's "location, internet search history, communications, social media activity, finances, and biometric data such as fingerprints or facial features." This data then can then be used to infer personal information about an individual's "background, religion or beliefs, political views, sexual orientation and gender identity, social connections, or health," thus building profiles of individuals. Data colonialism is a useful concept to understand this amassing

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[46] Taylor, L. (2017). What is data justice? The case for connecting digital rights and freedoms globally. Big Data & Society, 4(2). https://doi.org/10.1177/2053951717736335

[47]Ng, Vivian. Kent, Catherine (2018, Feb 07). Smartphone data tracking is more than creepy – here's why you should be worried. The Conversation. Retrieved from:
https://theconversation.com/smartphone-data-tracking-is-more-than-creepy-heres-why-you-should-be-worried-91110

of data as modern forms of hegemony and control by big tech companies. As pointed by Nick Couldry and Ulises A. Mejias (2019),[48] data colonialism normalises exploitation of human beings through data, just as historic colonisation appropriated territories and their resources for profit. The discrimination and challenges in procuring government-issued identification documents impacts the ability of transgender persons to access private sector services and be counted by private data systems. While being seen is essential to access different services, as seen so far, being visible presents its own set of privacy challenges for transgender persons.

In an attempt to counter the data colonialism of big tech companies,[49] the Government of India has been propagating the notion of data sovereignty and data as a public good[50] — making it available (including personal data of individuals) in the public sphere, to deliver social good. Kovacs, A and Ranganathan, N.[51] argue that, "…portrayal of data as a resource and economic value at the expense of other considerations, and the centrality of the notion of ownership (rather than say dignity, freedom, and/or integrity) are all legal constructs that further enable the structural perpetuation of data colonialism of the Indian people, however now by Indian entities." While the expectation is for individuals to turn themselves into data, not all service providers —including the Indian State— provide an option for transgender persons to enter data systems and consequently, datasets in their self-identified name and gender. The characteristic of perpetuating the legacy of colonialism extends to the data, specifically gender data of transgender persons — who were historically silenced and whose enumeration as a gender (data) category was enacted as a surveillance measure. The inability to prove or validate the existence of any individual has resulted in a steady trend of bureaucratic erasure and even starvation deaths.[52] This could mean civil death for both individuals from marginalised identities and collectively these population groups. The tendency to write off a population group due to lack of data or undercounting of the group concerned reiterates the need to move away from the practice of insisting on data to make welfare decisions for

[48] Couldry, N., & Mejias, U. A. (2019). Data Colonialism: Rethinking Big Data's Relation to the Contemporary Subject. *Television & New Media*, *20*(4), 336–349. https://doi.org/10.1177/1527476418796632

[49] Kovacs, A., Ranganathan, N. (2019). Data sovereignty, of whom? Limits and suitability of sovereignty frameworks for data in India. Data Governance Network Working Paper 03.

[50] Ministry of Finance, Government of India (2019). India Union Budget 2019-20 Chap 4, Vol 1, Data "Of the People, By the People, For the People. Government of India. Retrieved from: https://www.indiabudget.gov.in/budget2019-20/economicsurvey/doc/vol1chapter/echap04_vol1.pdf

[51] See footnote 26

[52] Global Network for the Right to Food and Nutrition (2021, Mar 20). Activists welcome India Supreme Court's move to quiz gov't on voided ration cards linked to starvation deaths. Global Network for the Right to Food and Nutrition. Retrieved from:https://www.righttofoodandnutrition.org/activists-welcome-india-supreme-courts-move-quiz-govt-voided-ration-cards-linked-starvation-deaths

marginalised groups. Instead, the focus of the state should be to adhere to human rights standards to offer welfare to all.

The idea of 'data as a public good' has enabled linking an individual's Aadhaar number to different functional identity documents such as Voter ID,[53] ration card,[54] and PAN,[55] as well as services like bank,[56] LPG gas connection,[57] and electricity bill,[58] among others, enabling a 360 degree profiling of an individual.[59] The Aadhaar-seeded database will be the National Social Registry, a "single, searchable Aadhaar-seeded database or 'multiple harmonised and integrated databases' that use Aadhaar numbers to integrate religion, caste, income, property, education, marital status, employment, disability, and family-tree data of every single citizen."[60] In the guise of updating Socio-Economic Caste Census (SECCs), the National Social Registry has been created as a single searchable database. Section 7 of the Digital Personal Data Protection Act 2023 allows data fiduciaries (different entities) to process the personal data of an individual, without their express consent, as suggested by Section 4(1)(b).[61] Owing to the complications in the document changing

[53] Khaira, Rachna. Sethi, Aman Sethi (2018, Dec 7). UIDAI's Voter ID-Aadhaar Linking Plans May Have Cost Millions Their Vote. HuffPost. Retrieved from:
https://www.huffpost.com/archive/in/entry/election-commission-uidai-plan-to-link-aadhaar-to-voter-ids-may-have-robbed-millions-of-their-vote_in_5c128de4e4b0e15b460af0ba

[54] Dutta, Siraj (2019, Feb 08). Refusing to Learn From Tragedy, Jharkhand Demands Aadhaar for Rations. The Wire. Retrieved from:
https://thewire.in/government/refusing-to-learn-from-experience-jharkhand-makes-aadhaar-mandatory-for-ration

[55] FE Online (2017, Jul 05). Who is exempt from PAN card Aadhaar card linking. Financial Express. Retrieved from:
https://www.financialexpress.com/money/aadhaar-card-pan-card-linking-find-out-who-are-exempted/750596/

[56] HT Correspondent (2018, Apr 21). RBI makes Aadhaar linking of bank accounts mandatory. Hindustan Times. Retrieved from:
https://www.hindustantimes.com/business-news/aadhaar-linking-must-for-bank-accounts-under-kyc-norms-rbi/story-JhczK2rNezZfrtOf13ezpL.html

[57] 6 Documents that must be linked to your Aadhaar. IndiaTimes. Retrieved from:
https://economictimes.indiatimes.com/6-documents-that-must-be-linked-with-your-aadhar-card/tomorrowmakersshow/70240225.cms

[58]The Hindu Bureau (2022, Oct 14). Govt. issues G.O. mandating linking of Aadhaar number with electricity connections. The Hindu. Retrieved from:
)https://www.thehindu.com/news/cities/chennai/govt-issues-go-mandating-linking-of-aadhaar-number-with-electricity-connections/article66006337.ece

[59]Jain, Anushka (2021, Nov 19) Standing Committee On IT Is Taking A Closer Look At The UIDAI's Security And Surveillance Possibilities. Medianama. Retrieved from:
https://www.medianama.com/2021/11/223-it-committee-summons-uidai-privacy-concerns/

[60] Shrivastava, Kumar Sambhav (2020, Mar 16).EXCLUSIVE: Documents Show Modi Govt Building 360 Degree Database To Track Every Indian. Huffpost. Retrieved from:
https://www.huffpost.com/archive/in/entry/aadhaar-national-social-registry-database-modi_in_5e6f4d3cc5b6dda30fcd3462

[61]Chakraborty, Soumyabrata(2023, Aug 28). India's Data Protection Act Is More About the Processing of Personal Data Than it Is About Privacy. Jurist. Retrieved from:
https://www.jurist.org/commentary/2023/08/indias-data-protection-act-is-more-about-the-processing-of-personal-data-than-it-is-about-privacy/

process introduced by the Trans Act, many transgender persons continue to exist with different gender and name on different identification documents. As seen so far in this report and my previous study,[62] by digitally linking data from disconnected datasets collected for specific purposes where individuals may exist in different names and genders, data becomes a problem to be solved for a structurally silenced community like the transgender and intersex communities. This allows for individuals to be mapped across different data systems. Large volumes of data collected using Aadhaar from administrative and legal subjects, social media, and other digital sources can be used to map different population groups, be it by global big tech companies, other private players, or even the state, as described by Linnet Taylor.[63]

Profiling can make transgender persons appear fraudulent for not disclosing their transgender status, especially for individuals who want to leave behind their old identity with their given name and assigned gender at birth, note respondents. Further, government officials expect individuals to pass as a certain gender while registering the name and gender change on different documents.
The need for gender-affirming medical procedures for transgender persons to enter datasets results in a form of authentication failure, one more added to the types of errors with a digital identification system[64] using biometrics.[65] This makes it harder for individuals to establish sovereignty over their personal data. Privacy issues also arise when their identity is disclosed to family members without their consent. Hence linking social media accounts and the data thus collected remains to be a serious concern among transgender persons, note respondents. "I know people who changed their IDs to transgender and have faced challenges. Issuing ration cards requires a verification visit by a district official. Thus their identity was disclosed to the person's native family and they were then subjected to physical and emotional violence. They were ultimately left with no choice but to return their Trans ID card," shares Dr.L.Ramakrishnan.

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[62]Brindaalakshmi. K (2020, June 29).Gendering of Development Data in India: Beyond the Binary. Centre for Internet & Society India. Retrieved from: https://cis-india.org/raw/brindaalakshmi-k-gendering-development-data-india

[63] Taylor, L. (2017). What is data justice? The case for connecting digital rights and freedoms globally. Big Data & Society, 4(2). https://doi.org/10.1177/2053951717736335

[64] What are Error Codes. Unique Identification Authority of India. Retrieved from: https://uidai.gov.in/en/305-faqs/aadhaar-online-services/aadhaar-authentication-history/10779-what-are-error-codes.html

[65] Biometrics may be defined as "any automatically measurable, robust and distinctive physical characteristic or personal trait that can be used to identify an individual or verify the claimed identity of an individual" - Alan Gelb and Julia Clark(2013, Jan). Identification for Development: The Biometrics Revolution. Page 8. Centre for Global Development Retrieved from https://www.cgdev.org/sites/default/files/1426862_file_Biometric_ID_for_Development.pdf

With the introduction of the Ayushman Bharat Digital Mission (Formerly: National Digital Health Mission or NDHM)[66], the Government of India is moving towards providing healthcare services to individuals using a health information exchange interlinking different digital public goods.[67]

> "NDHM has been designed to operate effectively with and leverage India's extant digital public goods, such as Aadhaar, Jan Dhan Bank Accounts, and Mobile (JAM), UPI, eSign, Digilocker, etc. These are horizontal usage goods that form the foundational layer in digital health services and enable functionalities on almost any digital platform."[68]

Different data systems, including healthcare, are being interlinked to automate decision making[69] using Artificial Intelligence (AI). International bodies such as the World Health Organisation,[70] and UNAIDS[71] have established standards, emphasising the need for national legislation to address the privacy concerns related to digitising healthcare. On the contrary, the global development agenda with the Sustainable Development Goals (SDGs) and Human Development Index continues to exclude transgender persons from the discourse on privacy related to digitising healthcare. This erasure is a result of the emphasis to record gender in the binary by the SDGs. SDG 5 on gender "aims to achieve gender equality and empower all women and girls". Using the explicit mention of women and girls as target, SDGs limit the understanding of gender, and "its capacity to encompass meaning related to gender identities beyond the biological assigned binary gender is thus suppressed."[72] The combined effect of erasure due to binary gendered language within larger development discourse along with a new personal data protection statute in India that allows non-consensual data processing for legitimate uses[73] thus amplifies the existing access and privacy vulnerabilities of transgender persons.

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[66]Ayushman Bharat Health Mission. National Health Authority. Retrieved from: https://ndhm.gov.in/

[67]National Health Authority (2021, Mar). Consultation paper on Unified Health Interface. Pg 10. Ministry of Health and Family Welfare. Retrieved from: https://abdm.gov.in:8081/uploads/UHI_Consultation_Paper_60a9201c1d.pdf

[68] Ibid

[69] The Legal, Institutional and Technical Architecture of ADMS in India. AI Observatory. Retrieved from: https://ai-observatory.in/context

[70]World Health Organisation(2012). Legal Frameworks for eHealth: based on the findings of the second global survey on eHealth (Global Observatory for eHealth Series, v.5). World Health Organisation. Retrieved from: https://iris.who.int/bitstream/handle/10665/44807/9789241503143_eng.pdf?sequence=1

[71] UNAIDS(2014, Jun). Considerations and Guidance for Countries Adopting National Health Identifiers. UNAIDS. Retrieved from: https://www.unaids.org/sites/default/files/media_asset/JC2640_nationalhealthidentifiers_en.pdf

[72] Katherine Wyers. 2022. Leaving No-One Behind? A Research Agenda for Queer Issues in ICT4D. Freedom and Social Inclusion in a Connected World, pages 533-552.

[73] See footnote 56

In 2016, ProPublica found the Northpointe-owned popular risk-assessment tool used within the US criminal justice system to be biassed against Black people. Black defenders were 77% more likely to be pegged at higher risk of being repeat offenders while white defendants were mislabeled as being at low risk. A disproportionately high number of those locked up in the US are Black.[74] Similarly, the National Crime Records Bureau data on Indian prisons show that Dalits and Tribals (earlier criminalised under the Criminal Tribes Act 1871) continue to be jailed in disproportionately high numbers.[75] Such predictive analytics are likely to disproportionately impact communities such as transgender persons and Dalit persons who also have a history of criminalisation. As mentioned in Part 3, owing to the application of Artificial Intelligence and its algorithms within a black box, the impact of interlinking sensitive information, for example, HIV status, Hormone Replacement Therapy (HRT), and transgender identity on the access to essential services like healthcare and insurance is unclear. Additionally, there is lack of clarity about the interplay between a person's disability status and gender identity while accessing any service owing to data misrepresentation. Most importantly, the access to information on safely sharing their data is not readily available or understood by most transgender persons. Some transgender persons believe that their data may not be profitable to anyone to push for advertising or marketing due to their low purchasing power, note respondents.

5. Discussion

The tug-of-war between India's data sovereignty and data colonialism has led to the digital welfare state regulating the digital industry and the big data generated from its users —prioritising data privacy over the right to privacy of individuals. The requirement of traceability introduced in the Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules, 2021 has the power to further individual surveillance violating an individual's privacy.[76] This provision holds the power to decrypt information to trace the originator of any information, even on end-to-end encrypted messaging platforms like Signal and WhatsApp that deploy encryption for user security and privacy.[77] This can have a disproportionate impact on transgender persons, especially those who are not out to their family about their gender identity.

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[74]Angwin, Julia. Larson,Jeff. Mattu,Surya. Kirchner,Lauran (2016, May). Machine Bias.ProPublica. Retrieved from: https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing

[75] Jaganathan, G(2022, Sept 05).'Dalits, tribals in prison disproportionate to their population'. DT Next. Retrieved from: https://www.dtnext.in/tamilnadu/2022/09/05/dalits-tribals-in-prison-disproportionate-to-their-population

[76] Jain, A. Mukhopadhyay, D. Sing, T. Bapat, K. Gupta, A (2021, Feb 25). Latest Draft Intermediary Rules: Fixing big tech, by breaking our digital rights?. Internet Freedom Foundation. Retrieved from: https://internetfreedom.in/latest-draft-intermediary-rules-fixing-big-tech-by-breaking-our-digital-rights/

[77]ibid.

> "[t]he reality is that governments have certainly not regulated the tech industry as if human rights were at stake, and the technology sector remains virtually a human rights-free zone."
> — Professor Philip Alston[78]

Efforts to enumerate transgender persons for the purpose of welfare administration was made as recent as 2011, in comparison to the long history of state surveillance meted out to them. Policing of transgender bodies by demanding medical certification as a legal requirement within the Trans Act legitimises state surveillance of trans and intersex bodies, turning their gender into another form of biometrics to be verified, which perpetuates systemic gender-based violence against transgender and intersex persons. Furthermore, digitisation of the identity document changing process comes with the expectation of one's ability to digitise one's self into data without due consideration of the violations involved. By enacting a law with such violating provisions, the Indian State seems to have absolved itself of all its privacy violations against its own people. This goes beyond the ambit of the need for 'data as evidence' to allocate welfare budgets. It extends to the state defining the kind of human bodies that will be allowed to enter the system as valid data to then be considered eligible to access 'human' rights. The state-sanctioned mandatory medical certification to validate one's existence is reshaping the understanding of agency, bodily autonomy, consent, privacy, and right to privacy for transgender persons.

> "Perhaps the central question raised by the concept of data justice set out here is how to balance and integrate the need to be seen and represented appropriately with the needs for autonomy and integrity. What are the implications of letting people opt out of data collection? Should people, for example, be able to opt out of commercial databases if those databases are likely to be used by the state to supplement or replace administrative or survey data? What are good governance principles for the use of big data in a democratic context, and who should be responsible for determining them?" — Taylor L[79]

The above mentioned approach is one that is neither adopted by private service providers nor the digital welfare state. As Nick Couldry and Ulises Mejias[80] point out, "rejecting data colonialism

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[78] Office of the High Commissioner, Human Rights, United Nations. (2019, October 17). Report of the Special rapporteur on extreme poverty and human rights Pg 12 Pt.35

[79] Taylor, L. (2017). What is data justice? The case for connecting digital rights and freedoms globally. Big Data & Society, 4(2). https://doi.org/10.1177/2053951717736335

[80] Couldry, Nick and Mejias, Ulises (2018) Data colonialism: rethinking big data's relation to the contemporary subject. Television and New Media. ISSN 1527-4764 (In Press)

does not mean rejecting data collection and its use in all forms. It does mean a form of resource appropriation and accompanying social order that most contemporary data practices represent." The current approach highlights the data-related and rights-related concerns of transgender persons, a marginalised population group. Transgender persons are expected to undergo the emotional labour of proving their humanity to be seen as eligible for valid existence and consequently, rights and services. The use of artificial intelligence to administer welfare and other services reduces human beings to their ability to turn themselves into data as understood by digital systems, instead of the other way around. Owing to the reductive nature of AI systems, there is an urgent need to reimagine ways in which historically silenced population groups can be present and seen within AI systems without experiencing privacy breaches, bias, or other violations. As seen in Part 3 of this study, targeted policies demand the proof of the specific identity to administer programmes for specific population groups. Although these policies do not account for multiple marginalisations such as gender identity, caste, or disability status, among others faced by an individual, AI systems likely take into consideration those very identities, some of which are historically marginalised, to determine their eligibility for specific services changing the ambit and understanding of rights. The inability to be present in different datasets can lead to erasure. Further, as argued by Ricaurte[81], "data-centric rationality should be understood as an expression of the coloniality of power manifested as the violent imposition of ways of being, thinking, and feeling that leads to the expulsion of human beings from the social order, denies the existence of alternative worlds and epistemologies, and threatens life on Earth." In a world that is blurring lines of privacy for the sake of automation and 'probable' welfare administration, there is an urgent need to reimagine the tenets of non-discrimination as described in the Universal Declaration of Human Rights for a community that has a history of being criminalised, othered, undercounted and erased in India and around the world.

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[81] Ricaurte, P. (2019). Data Epistemologies, The Coloniality of Power, and Resistance. *Television & New Media*, *20*(4), 350–365. https://doi.org/10.1177/1527476419831640