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Gender bending, gender testing: reflections on the Pinki Pramanik case

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The arrest and subsequent humiliation of Indian athlete and international medal winner Pinki Pramanik has violated her right to privacy, bodily integrity, and basic human dignity. It has also raised important and often sidelined questions about gender, sports and the way the world is organised. Twenty-six-year-old Pramanik was accused by her live-in partner of repeated rape and torture, and of being a man. She was arrested on June 14, 2012. She was not granted bail for 26 days, which she spent in a male cell in a West Bengal jail, and she had to undergo three gender determination tests at different state hospitals, because the necessary facilities were not available at a single hospital. An MMS clip, showing her in the nude while undergoing one of the tests, was leaked online and went viral. The district and sessions judge, while granting Pramanik bail on July 11, held that she was physically incapable of rape, and that the petitioner who alleged rape had been in a consensual live-in relationship with Pramanik for nearly three years. Pramanik was suspended from her job as a ticket collector with the Eastern railways; the suspension was revoked after her bail and she has now rejoined work. While speaking to the media, she alleged that, in police custody, gender tests were forcibly carried out on her after drugging her and tying her hands and feet.

In November 2012, the West Bengal police submitted a chargesheet before the district court in which, citing medical reports, they alleged that Pramanik is indeed male, and charged with rape. Later, Dr BN Kahali, who headed the medical investigation into Pramanik's gender, clarified that Pramanik suffered from a "disorder of sexual development", and could best be described as a male pseudo-hermaphrodite, which is to say that Pramanik is not female, but "cannot be termed a male". Pramanik has responded by saying she feels "like a joker in a circus", and is being driven by the police to think of suicide. According to the latest media reports (also in November 2012) Pramanik planned to file a defamation case against the police and the public prosecutor, and publicly asked West Bengal Chief Minister Mamata Bannerjee, and the union sports ministry, to intervene in her case.

Pramanik's ordeal and its media coverage have had ripple effects, voyeurism aside. There are two charges leveled against Pramanik, connected in some ways, and not in crucial other ways, which should not be conflated. One is the question of whether Pramanik raped and tortured her partner, and the second is the question of whether she is a man. Both questions may befuddle. But her absolution from one does not necessarily imply absolution from the other. And yet, in the media, only one question was standing in for all the charges against Pramanik, as though her femaleness, if proven, would subsume within it any possibility of sexual assault, and mental or physical torture, *particularly against another woman*. This betrays the easy and utterly homogenised idea in the public imagination that only two gender identities, with only one kind of (hetero)sexual relationship between them, are possible and legitimate. And this kind of polarised media representation—symptomatic of the larger gender politics that erases plurality, and disallows more considered and nuanced discussions—did not end here. The more Pramanik's humiliation at the hands of legal and medical authorities outraged us, the more the space to consider the other, unrelated question of whether Pramanik was guilty of sexually assaulting her partner shrank, and became impossible to address. In our liberal imagination that follows the agent/victim binary, Pramanik had become, and not wrongly so, the victim.

Rape is defined too narrowly in India; and, in that it is understood as the forceful penetration of the vagina by the penis, Pramanik could not have raped another woman if she has female genitalia. Yet, it is a well documented fact that like any other intimate relationship, same sex relationships do not enjoy immunity from power-play, violence and sexual assault. Hence the following considerations emerge: sexual assault needs to be understood and redefined as an experience of subjugation and violation that can occur through many routes, and not just the penile-vaginal route in a heterosexual setting. Also, same sex relationships carry the same potential for abuse as any other intimate relationship. Consent for sex is required even in a consensual relationship and no matter how many "yeses" preceded it, a "no" is always a "no". If sexual assault has taken place in a relationship between two women, it merits scrutiny, even though due process may have to differ for certain reasons.

For a while now, including in the wake of the recent Delhi gang rape case that has drawn widespread attention and outrage, women's groups and queer groups have been lobbying for the definition of "perpetrator" in the proposed sexual assault law to be made gender-specific to men, even as the definition of "victim" remains gender neutral, and may include women, men, trans and inter sex persons. This effectively means that female same-sex sexual assault does not get an equal footing as other forms of sexual assault. This position may seem curious or contradictory, but emanates from considered reflection, and from some hard truths about what it means to be two women in a sexual relationship in India today. In a deeply patriarchal society where heterosexuality is the rule, lesbians occupy a uniquely disempowered position; they face rejection, violence, and marginalisation on account of their gender, sexuality, and possibly caste, class, religious and other identities, often to the point where they choose to keep their sexual identity/relationship invisible, or even commit suicide with their partners. In such an environment, female same-sex relationships need to be handled with a special measure of sensitivity. In particular, in order to avoid misuse of a gender-neutral sexual assault law by families that want to break up such couples, women's and queer groups prefer that female same-sex sexual assault be covered in different forms under different laws, as it is now, rather than be brought under the ambit of a new sexual assault law.

A case like Pramanik's, however "statistically improbable", raises important questions for the above position. We need more debate around how to conceptually and practically resolve the question of sexual assault in female same-sex, intersex, trans etc. relationships, in a way that does not disavow sexual agency and/or culpability, that can come out of a culture of invisibilisation, and talk positively about sexual possibilities, but also not lose sight of the criminalisation and marginalisation that those possibilities have to contend with. This is a complex conversation, and must be the subject of other discussions, beyond this one.

Let us now return to the second question, of whether Pinki Pramanik is a man. This is perhaps the more revealing question, one that has over-determined the course of this case.

If Pinki Pramanik says she is a woman, has lived as one and identifies herself as one, then that should be enough. Sadly, it is not. As sexuality rights activist Gautam Bhan (1) points out, we as a society allow "bodies thought to be different or of lesser value (at times marked by sexual or gender difference but equally with caste or religion) to be publicly stripped, examined, probed, debated, paraded, marked and judged". In a recent article in *The Telegraph*, Bhaswati Chakravorty (2) calls attention to a much-circulated photograph of Pramanik, being led by two policemen as she tries to look away from the cameras that are capturing her plight. The picture shows that even as the jury is out on the complicated question of Pinki's "real" gender, the assumption that she is male has already been made, and has led to her deplorable manhandling by the police. More importantly, as Chakravorty notes, the picture "commemorates a violation that defines women's experience of public existence"; it captures one policemen's hand clutching Pinki's breast, and her "instant, anxious, embarrassed struggle to pull it away, (and) the simultaneous struggle to keep the humiliation from showing". The picture is both "chilling" and "familiar", in that it holds a mirror to our society. It is far too easy for women's bodies to be scrutinised for sexiness, objectified for sex, and violated sexually. Questions about Pramanik's "manliness" have raised the all too familiar and charged spectre of gender and sports. Is it, as Pramanik claims, testosterone injections that have made her so 'manly', deepening her voice and increasing her hair growth? Maybe, maybe not. But a deep voice and excess hair growth are clearly considered gender benders, even though the long queues of women at clinics

offering laser treatment for hair removal suggest that they may be more womanly than is let on. Nonetheless, testosterone continues to be thought of as marking a bright line between male and female, especially in sport.

Sporting events in the past have resorted to chromosome tests, and even to parading women naked in front of an expert panel, to determine their gender. Today medical officials at sporting events attempt to regulate the hormone levels of female athletes because women who produce an unusually high level of male hormones -- allowing them to put on more muscle mass and to recover faster -- are seen as having an unfair advantage. There were female athletes at the Olympics this year -- including South African Caster Semenya, who hit the headlines three years earlier when she was suspected of being a man -- who were competing after having undergone hormone therapy to make them less masculine (3). British weightlifter Zoe Smith may be breaking records, but she appears to have failed a gender test of a different kind. After appearing on a TV documentary, her muscular physique prompted online comments on her "unfeminine" body. Some bloggers also said she was "probably lesbian". It is not surprising to see the kind of assumptions being made about gender here: that it *naturally* and *normally* comes in one of two categories: male or female; and that there is, or should *naturally* and *normally* be, a direct and linear relationship between gender and sexual desire. In other words: A biological woman should be womanly. Womanly women like men. Unwomanly women aren't real women, and so they probably like women, not men.

If natural means "occurring in nature", then no body is unnatural. If what is unnatural is inherently bad or wrong, then life as we know it needs a major overhaul- no technology, no roads, and no sliced bread. If normal means "the norm", or the average, majority standard, then let us push further and ask: why organise sports around sex categories and not some other norm, like height? After all, a taller-than-average person with longer-than-average legs has a naturally-occurring advantage over most other and more "normal" people. Yes, sports need certain categories and standards around which to organise; but it is perhaps time we questioned the prevailing standards and tried to evolve fairer ones. In a *New York Times* article, Professor Rebecca Jordan-Young and researcher Katrina Karkazis (4) assert that sex segregation is simply one means to achieve fairness in sport, and not the ultimate goal. Ensuring gender equity through access and opportunity is just as important; as is the need to address gender discrimination in sports. For example, men have 40 more events in the Olympics than women do, and this needs to change. Closer to home, news reports of blatant gender discrimination and sexual harassment in sports have little impact, whether it is about women boxers being ordered to serve tea to visitors at the National Institute of Sports, or tennis star Sania Mirza and ace shuttler Jwala Gutta crying foul about being treated like second class citizens of India's sporting community (5).What conditions and variables are privileged when ensuring equality of opportunity in sports is telling. Sports federations do not seem to lose sleep over such allegations, but obsess about women's performances that are supposedly too good to be true.As Canadian sports policy adviser Bruce Kidd says, "It's still the old patriarchal fear, or doubt, that women can do outstanding athletic performances. If they do, they can't be real women. It's that clear, it's that prejudicial. Personal household and national income is far more relevant to performance than hormonal makeup. The countries with the highest GDP produce the most gold medals. The richer the athlete, the higher the likelihood of a winner. We don't require this kind of radical equality for other factors that make a difference, so why should we single out this one?" (3)

To answer Kidd's question, gender is singled out because male/female is one of the most important axes around which the world is ordered. Sex or gender is thought of as a binary, and is determined on the basis of the following criteria: genitals, gonads, chromosomes and hormones. Usually, sex is assigned as male or female at birth depending on the first alone, and the other factors do not get assessed at all; unless necessitated later in life, such as by competitive sports. But how internally stable are these criteria? If the newborn has visible genital "ambiguity", wherein for example the clitoris is larger or the penis isn't fully formed, an intersex classification may be applied. This is conveniently boxed (because we love boxes!) as a third-gender category. But if we look closer, there may be some "intersex" in all of us. You may be female with undescended testes, or have both male and female reproductive organs. You may have atypical chromosomal variations beyond either XX or XY, which happen to be so common that, for over 10 years now, the Olympic Games have stopped testing chromosomes to determine gender. Finally, you may be female with excessive male hormone or Polycystic Ovary Syndrome (a real buzzword in gynaecologists' clinics these days). Scientists are thus coming to the conclusion, as professor and author Nivedita Menon (6) reminds us, that these categories of sex identity are not necessarily linked. A body with female genitals will not necessarily have preponderantly female chromosomes and female hormones. Maleness and femaleness -- including the all-important ability to reproduce, for women -- are not even stable features over a lifetime. In fact, Menon points out that "the rigid division of bodies into 'male only' and 'female only' occurred at a particular moment and place in human history -- at the inception of the constellation of features that we term "modernity", inaugurated in Europe around the 16th century and universalised through colonialism. Even in Europe, it was only from the 17th century that hermaphrodites were forced to choose one established gender and stay with it, the punishment for failing to do so being death."

Biology is not a neat assembly of objective facts, but a process of meaning making that is also social and political, and serves to disempower certain groups at certain times through certain concepts, such as race and gender. Clearly, the problem with the male/female binary, like all binaries, is that it obscures the similarity between, and the difference within, each of these supposedly stable and different categories.This is why feminists argue that the sex/gender binary does not map on neatly to other binaries like nature/culture and biology/society, and that sex is *always already* gender. We have to stop thinking of

and operationalising gender as two categories when it is more a spectrum. And anyway, as typical definitions of male and female go, gender is a test that we could all well fail. It is tested not only through the supposedly unmediated and neutral biological markers discussed above, but also through social markers and criteria, and through every other criterion that may be both biological and social, or neither. In short, anything and everything becomes a gender test of its own. The young careerist who doesn't think she needs to marry soon or at all; the married careerist who is under pressure to have children before it's too late; the young bride who has been trying but cannot conceive; the young bride who has just had a baby girl; the mother of two who works outside and inside the home, balancing work, guilt and more work; the lesbian woman, the sex-working woman, the disabled woman who is not supposed to be sexual, the short and dark-skinned woman who cannot find an arranged marriage match, the tall and fair-skinned woman who is wondering if she should use fairness cream for her "intimate" parts, the woman in short, tight clothes, the woman in unattractive, baggy clothes… the list goes on. You can never be woman enough. There will always be a gender test you could fail. And this is equally true for men.

This is why it shouldn't matter what the results of Pramanik's gender tests are. What needs our attention is the complicated and inconclusive nature of gender testing as a whole, its ethical difficulties around questions of consent and privacy, the rights of athletes in particular and all people in general to self-identification and inclusion, and broader issues of gender justice. The medical profession is guilty of re/producing one universal truth (read lie) about sex. It is time that this is reversed in our courses and discourses, and in our professing and practices; and it is time that the distance between the social and natural sciences is bridged so that no question is seen as one of medical "facts" alone, bereft of politics and justice.

And finally, drawing inspiration from the gender benders everywhere and especially in sports, let us conclude with these lines from Zoe Smith's blog (7), in response to online critics who were calling her unfeminine, muscular and big. Smith writes "… we don't lift weights in order to look hot, especially for the likes of men like that. What makes them think that we even WANT them to find us attractive? If you do, thanks very much, we're flattered. But if you don't, why do you really need to voice this opinion in the first place, and what makes you think we actually give a toss that you, personally, do not find us attractive? What do you want us to do? Shall we stop weightlifting, amend our diet in order to completely get rid of our 'manly' muscles, and become housewives in the sheer hope that one day you will look more favourably upon us and we might actually have a shot with you?! Cause you are clearly the kindest, most attractive type of man to grace the earth with your presence. Oh but wait, you aren't. This may be shocking to you, but we actually would rather be attractive to people who *aren't* closed-minded and ignorant. Crazy, eh?! We, as any women with an ounce of self-confidence would, prefer our men to be confident enough in themselves to not feel emasculated by the fact that we aren't weak and feeble."

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