

Transgender in India: Wither Away or Fading

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Abstract

Transgender are human beings like us made up of with flesh and blood however then also there is a significant lack in understanding of these people as like other prime gender people male and female, they are facing lot of discrimination in the society as well as in the eyes of law. Transgender persons are most marginalised groups in Indian society due to their gender identity and gender expression and they face numerous barriers especially when accessing their health issues, housing, education, employment opportunities, immigration, law, and other opportunities or resources as we are enjoying. Transgender are one of the LGBT individuals they were easily not allowed in public places like restaurant, parks, railway station, bus stands etc., as one among us if allowed nobody want to talk with them, in total we can say they will treated as aliens I mean to say they were treated very badly by using abused words, in total they were ill treated. Transgender live at the margins of the society with very low status. They get their income performing at the ceremonies, begging and through sex work. Due to sex work they face lot of health problems like HIV/AIDS. We need some strong developments for eliminating this historical discrimination and exclusion towards these community people and ensuring that they are accepted by the society and make sure that they should also come to the mainstream and enjoy all rights how we are enjoying.

Keywords: Transgender; Issues; Rights; LGBT; Status; Discrimination.

Introduction

Transgender are the persons whose gender identity is rigidity in nature they are male at the time of birth and they start behaving like an opposite sex i.e., like female and vice versa. Transgender is generally described as an umbrella term for persons whose gender identity, gender expression or behaviour does not conform to their biological sex. Transgender may also takes in persons who do not identify with their sex assigned at birth, which include Hijras / Eunuchs who describe themselves as third gender and they do not identify as neither male or female [1]. They are

marginalised because of their gender identity. Transgender are neither male nor female. Transgender are the persons they are not completely male nor completely female they are othering the others. Transgender is a term used to describe the people who may act, feel, think, or as well as look different from the gender in which they were mainly born with i.e., a person born with male gender at the time of birth and later he start behaving like the opposite gender i.e., he starts behaving like female and this change a boy born as male and start behaving like a girl this will not accept by their family easily and the family members force them to live in a gender in which they born and this made the transgender discomfort to live in a gender in which they are not comfort and this made them discomfort

and the family rejects them and in almost all cases they are removed from their family just because of their behaviour and this is so ridiculous without any other option they join their community people and start living with them. The word transgender is used to include many groups of people who share one important "trait" that is a way of feeling or we can say away of behaving but may not be same in other ways.

Key Concepts

Some of these key concepts will help to understand the topic in detail. The word transgender is used to cover a wide variety of people, so it is called an umbrella term because it covers many groups. And they are -

Transsexual, gender dysphoria, transvestite persons, cross dresser, etc., now let us focus on that what are these terms and their meanings.

Transsexual Persons

Transsexual persons are those persons whose gender identity is different from their assigned sex. Sometimes, they choose to alter through medical intervention, including SRS (Sexual Reassignment Surgery) in order to make their bodies congruent with their gender identity and to live fully in their self identified gender. At the same time, there are other persons who choose to live and appear in their self identified gender but do not want to or do not have the financial means to undergo SRS. They are known as male to female or female to male transsexual persons [2].

Gender Dysphoria

Gender dysphoria refers to the distress that may be caused by the incongruence between one's experienced or expressed gender and sex assigned at birth [3]. The gender dysphoria is a condition in which the person due to the discomfort one's sex in which they born. Only in rare cases a transgender person may experience gender dysphoria and the persons who experiencing this gender dysphoria may need treatment at some point of their lives, and that may range up to the medical counselling for the surgical intervention.

Transvestite Persons

The transvestite persons are persons who choose to dress in clothing of the opposite gender and as mainly as a form of gender expression.

Cross dresser

The cross dresser are also one and the same as that of the persons of transvestite i.e., the cross dresser are also dress in a manner that in a opposite gender in which they born. The only mainly difference is that they are rare cases to undergo SRS surgery or medical intervention.

Gender queer

Is defined as "of, relating to, or being a person whose gender identity cannot be categorized as solely male or female".

Transgender definition according to the private bill introduced first time in the Rajya Sabha by Tiruchi Shiva in the year 2014, the bill it is still pending. When it pass or not but the definition according to the bill is that -

"Transgender person" means a person who is-

- A. Neither wholly female nor wholly male; or
- B. A combination of female or male; or
- C. Neither female nor male; and

Whose sense of gender does not match with the gender assigned to that person at the time of birth, and includes trans - men and trans - women, persons with intersex variations and gender - queers[4].

The transgender are one of the **LGBT** individuals. The term L stands for lesbian a definition by Webster dictionary the term lesbian is that "a woman who is sexually attracted to other women: a female homosexual". The term G stands for gay. The term gay according to the Oxford's dictionary is that "of a person, especially a man homosexual". That is a man sexually attracted towards the same sex that means a man attracts towards another man. The term B stands for bisexual a definition given by the Oxford's dictionary is that "a person who is sexually attracted to both the men and women". The term T stands for transgender the definition according to the Oxford's dictionary of transgender is that "denoting or relating to a person whose sense of personal identity and gender does not correspond with their birth sex". All these four category people are sexual minorities. The transgender are one of the LGBT individuals.

Historical Background of Transgender in India

The transgender people have very strong historical presence in our country. Transgender in India comprises with hijra, chakka, khoja, aravani,

eunuch and kinnar are some of the regional terms we often use to describe the transgender in India by using different names according to the region wise. In Vedic period the third gender or tritiya prakruti has been an integral part in the puranic literature. Lord Rama, in the epic Ramayana, was leaving for the kingdom for 14 years, turns around to his followers and asks all the 'men and women' to return to the city. Among his followers, the hijras alone do not feel bound by this direction and decide to stay with him. Impressed with their devotion, Rama sanctions them the power to confer blessings on people on auspicious occasions like child birth and marriage and at inaugural functions in which they dance and bless, it is believed set the stage for the custom of badhai in which hijras sing, dance and confer blessings [5]. If it is so they are the good luck bearer then why they are treated very ill by the society at large and they can bless the new born baby as blessed by the Lord Rama if it is so why they cannot adopt child and marry? And they can only bless child of others and not of their own. Hijras also played a very prominent role in the royal courts of the Islamic world or period especially in the Ottamen empires and the Mughal rule in the Medieval India [6]. In the royal courts of the Mughal rulers also they have some rights and they are mainly the take carers of the queens as a body guard especially when the kings were absent, it is mainly because of their third gender nature kings were keep them as a take carers of their queens in the Mughal period. This was continued without any interruption, But this was changed by the British rulers that they were treated very badly in this period. During the British rule, a legislation was enacted to supervise the deeds of Hijras/transgender community, called the Criminal Tribes Act, 1871, which deemed the entire community of Hijras persons as innately 'criminal' and addicted to the systematic commission of non - bailable offences [7].

The Transgender in India Withering Away or Fading

Transgender people in India face multiple problems. The transgender child when born or when the family come to know that their child is not one among the stereotype male or female they start neglecting that child and they treat that child very badly by their family members especially by their siblings and father. Revathi a transgender in her autobiography "An untold Story" written by Revathi published by the penguin publications. In this story

Revathi born as a male child but at the age of six years she started wearing her sisters clothes and like to play girls games with girls and wearing mothers saree, and as well as helping her mother in putting kolam, cleaning clothes, utensils etc., and their parents thought that he is kidding and they neglected and avoided his behaviour of doing female like walking, talking etc., by thinking that he is small and doing all this but this was continued by that child and after some days the parents and other family members came to know and started thinking that why he is behaving like a girl. And they started to scold him and warned him to don't do all these things, you are born as a boy and you have to be like a boy only and not to behave like a girl. This condition made him to discomfort and he think I am not going to stay in this society any more in this condition for long term because they are (i.e., parents and other family members) forcing me to became a boy but actually I am girl and I want to be like a girl and live like a girl. And finally she left her home and she not left home alone along with home she left her parents and siblings too and joined her community. It is not only a single transgender or hijra story, in almost all transgender the cases the situation will be same, because the negligence will start by their family members, siblings, neighbours, relatives, friends and the society will also neglect them and treats very badly. Due to this negligence there is a creation of an atmosphere that the transgender has to leave the home and society and made to join their group or community in which the hijras or transgender are leave together as a family. Transgender will not get jobs easily, even though if some of them are well educated then also they will not get job easily, if any jobs they get those jobs are very less least category jobs they get I mean to say that if few were educates they won't get proper job and nobody is ready to provide or give job for transgender people because of this they are unemployed, for survival without any option they opt begging and prostitution are became their main bread earning professions. You might have seen them in trains, on road or in traffic signals as beggars. The badhai that is what we have discussed in the Ramayana period they sanctioned this by god Rama that they are the bearer of good luck for the new born child and as well as for the newly wedded couple if their presence and wish brings good luck it was good for the child and for the newly wedded couple and this was a thought from the period of Ramayana. If their presence and wish brings good luck for the society then for self why they are not good luck bearer people? Why they are ostracized by the family, society and why they were not allowed

in public places like restaurants, parks, hospitals, in malls and as well as nobody want to become their friend and no one will invite them in their family functions as guest or host. Due to this huge discrimination by their family and society they were today become the one of the most marginalized community people in the present day. The transgender community people lacking behind in getting education because they are mainly not allowed to schools, if some transgender of their family support then they join school but in school they were sexually abused by the teachers and friends. This made them to drop their education.

Socio-Legal Discrimination against Transgender

Most hijras / transgender live at the margins of the society with very low status, the word 'hijra' used in a very derogatory manner. The transgender have very few rights and they are also not recognized by the law in a proper way this denies them right to fundamental rights to own property, and right to adoption and right to marry and right to claim some other formal documents like the driving license, and as well as the other identity documents. We have a well developed Legislature, Executive and an eminent Judiciary have not made their life any better.

Social Issues Transgender are marginalised, ostracized and ridiculed by the community at large. The transgender people face unbelievable challenges whether by the societal ignorance, societal injustices, limitations to full health access, or lack of legal protections. The transgender people are like every individual deserve to have their human rights protected and respected.

Legal Issues. The fundamental rights and directive principles have not made their life any better. The Constitution of India guarantees the right to equality (Art. 14 to 18), right to freedom (Art. 19 to 22), cultural and educational rights (Art. 29 to 31) as fundamental rights to all its citizens. But when it comes to the transgender issue or their matter there is a violation of all these Constitutional rights.

Right to Equality – Article 14 of the Constitution of India provides, Equality before law: “The state shall not deny to any person equality before law or the equal protection of the laws within the territory of India” [8]. But for transgender community people we may not see any equality before law because there is no any equality in front of law and one more important thing i.e., laws are there but they are not implemented, when we talk about transgender because there are neglected and marginalized because

of their gender identity and gender expression. All the laws and rights are enjoying by the prime genders of the society male and female genders.

Article 15 (1) provides, “The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them” [9]. But what we have to see there is a lot of discrimination towards transgenders by state for example the police torture and abusing these people by using filthy language and they are arrested by the police without any reason and one more important thing is that if they come to complaint, their complaint will not be registered by the police I mean to say FIRs almost never recorded this is one of the most common oppression. It is the duty of the state to promote, protect and fulfil the rights of all people. So the states are requisite to create and implement laws, and policies and programmes that facilitate transgender people and abolish discrimination and other forms of violence faced by the transgender people.

Article 16(2) states that no one person should be discriminate any other on the base of religion, race, caste, sex, residence but in actual what we have to see about transgender is that in every step of the life these community people are violated in gaining the benefit under this article. No one is easily provide or give an employment to them how much of them are qualified or have an talent then also they won't get jobs easily, and one is ready to give a house as a rent also and this we have seen recently in Mumbai they were sent out with their luggage from the rented house by the owner because of the reason that they were belongs to the third gender category, this unhuman nature was an example that they were how much violated under this article in every bit of life and this huge discrimination is because of their gender identity. This unhumane nature by the society and law shows that how much of these transgender category people are suffering by a very tough way.

Article 21 provides that, “No person shall be deprived of his life or personal liberty except according to procedure established by law” [10]. The article 21 states about the human dignity but for transgender community people there is a violation of this article they were don't have any dignity and respect in society, mainly they were not allowed to participate in the public places like restaurants, parks, hotels, malls and temples etc., I mean to say is that we are not allowing to be the one among us, if this is the situation then how they get their dignity. They were sexually and verbally abused lot in the society with the much hatredness in their life in every aspect of life. We may see a lot of disparity and the very

very less acceptance by the society towards transgender community people, the discrimination on the base of race, caste, religion, sex is prohibited under the provision of the Indian Constitution but the society or in reality we may see a rejection of transgender people in the society. This discrimination is mainly start from their own family itself. All the articles and laws are protecting only the prime genders of the society mainly the male and female genders only and the transgender people are neglected, ostracized, humiliated lot by the society and the has become the mute spectator towards these community people. But now the time has come to provide all the rights and respect what the transgender community people really deserves.

Conclusion

But for transgender people all these rights are not protecting them and it shows that these rights are mainly made for the prime genders of the society i.e., male and female and these rights are enjoyed by them only. For transgender people all these are rights are become like a dream. The transgender community is one such community out of the big pool of communities present in India. At present the LGBT community is to achieve the task of sensitizing people about them, making people understand that they are God's own creation. It is the duty of the

society and ours and as well the duty of the Government in protecting the rights and dignity of the transgender people in getting their rights. And create an atmosphere that they are one among us.

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