



PROBLEMS OF TRANSGENDER IN INDIA: A STUDY FROM SOCIAL EXCLUSION TO SOCIAL INCLUSION

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ABSTRACT

Transgender community in India is an important part of society. Even, law can't deny their existence. We live in 21st century where human rights are assured and preserved for human beings except the third gender i.e., Transgender. Despite all constitutional guarantees, the Transgender are even denied to have their basic rights like Right to Dignity, Personal Liberty, Education, Freedom of expression etc. The present research paper deals with the problems, Transgender face in a developing country like India. The study also covers how the presence of Transgender is excluded from the society and what the law and order is doing to convert that social exclusion into social inclusion.

Keywords: Transgender, Problems, Rights, Social exclusion, Social Inclusion.

1.1 INTRODUCTION

The third gender known better as transgender have existed in every culture, race, class and religion since the inception of human life has been recorded and analyzed. The transgender are individuals of any age or sex whose personality, appearance, attitude, behavior or personal characteristics differ from stereotypes. It means they differ in identity of about how men and women are supposed to be. They are also part and parcel of social order and have equal right in everything and in every resource that is available to all over the world.

The third gender i.e., “Transgender” signifies those individuals who are different in their biological constructions. They are different for the stereotype gender roles. Their gender makes them different and compelled to face discrimination in society. Despite of all the constitutional rights, they are denied to have their basic rights like Right to Personal Liberty, Freedom of

Expression, and Right to Education, Empowerment, and Right against discrimination, exploitation and violence etc.

The present paper deals with the Transgender community, their problems including social exclusion and how the exclusion is getting changed into inclusion due to law and order.

2.1 REVIEW OF LITERATURE

V.S. Shinu Asmy and Dr. P. Nagaraj in their study titled “Preliminary problems faced in educating the third gender community” stated that the problems in their life starts from home. They often feel aggression and denial from their family members including their parents. They also stated that the Transgender community face discrimination and high level of stigma in almost every walk of their life.

According to the report of UNDP titled “Hijras/Transgender women in India: HIV, human rights and social exclusion”, it can be seen that the Transgender community in India are exposed to health related issues STI and HIV due to poor sanitation conditions and lack of education. The social exclusion of this community is another major problem. The report also recommended that the community necessitate a variety of solutions and actions.

Viji Athreye in his article “The life of Transgender in India” highlighted the landmark decision of 2014 of Supreme Court stating how Supreme Court has guaranteed the constitutional rights for Transgenders. The author also mentioned the names of many Transgender who are working hard to socially include their category in society.

3. 1 COMMUNITY OF TRANSGENDER IN INDIA

As per the Census of 2011, the total population of Transgender in India is 4.88 lakh. There are various types of transgender communities in India. The most prominent of these communities are known as Kothi (Represent themselves as male), Hijras (Biological males but reject masculine identity), Aravanis (Woman wrapped in male body), Jogappa (Serve as servant of Goddess Renukha Devi), Shiv-shaktis (Males but have feminine gender expressions).

The Transgender indeed are integral part of community but most neglected and denied one also. It is a biological phenomenon which brings changes in human body. In India, they indeed can be found and seen in each and every place as the most neglected one. When the child take birth in any Hindu family, they are called to give blessings to the child and even at the time of marriages,

they are invited to bless the newly couple. Except these situations, they are treated as sin and curse to the society.

4.1 PROBLEMS OF TRANSGENDERS

The Transgender fall under the category of LGBT group (Lesbian, Gay, Bisexual and Transgender). They belong to the marginalized group of the society which faces legal, social, cultural and economic difficulties.

1. The problems faced by the Transgender community in India includes -
2. **Discrimination:** Discrimination is the major problem of Transgender. They are discriminated in terms of education, employment, entertainment, justice etc.
3. **Disrespect:** They are disrespected in each and every aspect of life except in few cases like after the birth of a child for their blessings or to bless the newly wedded couple.
4. **Downtrodden:** These people are treated badly or oppressed by people in power. They are prone to struggle for social justice because of their identity as Transgender.
5. **Child Nabbing:** This community always searches for those babies/ infants/ children who are born with this feature of Transgender. Once they come to know, they try to nab the child from their parents.
6. **Prostitution:** They are forced to enter the profession of prostitutions by their community, friends or relatives. Even, in some cases, it is seen that their parents are involved in it.
7. **Forced to leave parental home:** Once their identity is identified, they are forced and pressurize to leave the parental home by the society as they can't be a part and parcel of normal community and class.
8. **Unwanted attention:** People give unwanted attention to the Transgender in public. They try to create the scene by insulting, punishing, abusing or cursing them.
9. **Rejection of entry:** They are rejected to get enter in religious places, public places like hotels, restaurants, theaters, parks etc.
10. **Rape and verbal and physical abuse:** This is the most common people Transgender people face. They are prone to face rape followed by physical and verbal abuse.
11. **Lack of educational facilities:** Like normal people, they are not entitled to take education in schools and colleges. Even in terms of education, they are treated differently.

12. STI and HIV/AIDS problems: The term ‘MSM’ stands for Men who have sex with Men. Because of this, Transgender are likely to have problems like STI and HIV/AIDS. Most of the Transgender belongs to lower socioeconomic status and have low literacy level. It seeks to have improper health care.

13. Human trafficking: Transgender belongs to the most neglected group. That’s why, they are prone to face the problem of human trafficking also.

14. Social Exclusion: The major problem in the whole process is that they are socially excluded from the society. They are excluded from participating in social, cultural and economic life. In brief, they are excluded from –

- Economy, employment and livelihood opportunities
- Excluded from society and family
- Lack of protection from violence
- Restricted access to education, health care and personal care
- Limited access to public spaces
- Limited access to collectivization
- Rights of Citizenship
- Excluded from decision-making
- Lack of social security

5.1 A JOURNEY FROM SOCIAL EXCLUSION TO INCLUSION

The journey of Transgender in a country like India is very struggling and sad. Though, apart from facing all problems, they are creating their own way and law and order are helping them in developing their community. The following points highlights the struggling journey of Transgender to become an inclusion part of India -

5.1.1 CONSTITUTIONAL PROVISIONS

India is a country where we have well-established framework of Fundamental Rights embedded in the constitution. From the point of view of Transgender, just like other two genders, they are entitled to the four important provisions of Fundamental Rights. Their Fundamental Rights are –

- 1. Article 14** – Which states that the State shall not deny any person equality before the law or the equal protection of laws within the territories of the State.
- 2. Article 15** – The State shall not discriminate against any citizen on the grounds of race, caste, religion, sex, place of birth or any of them.

3. Article 19 – All citizens shall have rights of –

- Freedom of speech and expression;
- Freedom of assemble peaceably and without arms;
- Freedom to reside and settle in any part of the territory of India;
- Freedom to practice any profession or to carry on any occupation, trade or business

4. Article 21 – Right to his life or personal liberty.

5.1.2 12th FIVE YEAR PLAN AND TRANSGENDER

The Twelfth Five Year Plan (2012-2017) Proposed empowerment of the Third Gender by providing them education, housing, access to healthcare services, employment, skill development and financial assistance. In addition to this, it is also proposed that separate column must be incorporated in all government and non-government records for the third gender. It will enable the number of Transgender in India. The Ministry of Social Justice and Empowerment along with Ministry of Statistics and Programme Implementation will map their Socio- economic status to create a better environment for them by improving their living standards.

5.1.3 LEGAL PROVISIONS

To include Transgender socially and economically in society, the following efforts are ensured through legal procedure at State, National and Supreme level. In detail, they are as follows -

1. AT STATE LEVEL

At State level, the States of Tamil Nadu and Karnataka have implemented the most progressive and developmental policies for the Transgender in India. As per the recommendations of C.S. Dwarkanath Backward Classes Commission of 2010, the Transgender must be included in the category of Backward Class to enjoy government benefits. Recently, the State of Tamil Nadu appointed its first Transgender Police Officer Prithika Yashini to ensure employment to the third gender. In Tamil Nadu, due to the constant efforts of Transgender community leaders and activists, Tamil Nadu Transgender Welfare Board was formed to protect the ends and rights of Transgender including housing, employment education etc.

2. AT NATIONAL LEVEL

The report of Peoples' Union for Civil Liberties (PUCL) recommends that "Civil rights under law such as the right to get a passport, ration card, make a will, inherit property and adopting children must be available to all regardless of change in their gender.

3. SUPREME COURT JUDGEMENT

The Supreme Court has directed Central and State Governments to grant legal recognition of gender identity whether it is a male, female or third gender. Apart from this, they are also directed to legally recognize for people who are transitioning within male/female binary. Proper health and sanitary facilities to Transgender must be ensured by Centre and State. They are asked to provide various welfare schemes to treat the community as socially and economically backward classes.

5.1.4 TRANSGENDER COMMUNITY AND HIGHER EDUCATIONAL INSTITUTIONS

On 29th October 2014, the University Grant Commission (UGC) issued a circular to all the Vice Chancellors of the Universities requesting them to include a column for Transgender Community in all applications forms. The circular also includes the directions related to the affirmatives actions taken by the Universities to ensure that the Transgender students gets acclimatized without facing humiliation, fear, stigma or shame. The circulars also included the clauses like creation of Transgender friendly infrastructure, organization of sensitization programmes and research activities should be encouraged on them to bring the new issues and their solutions.

For the MBA Maharashtra Common Entrance Test - 2017, Out of 363413 applicants, 9000 applicants belongs to other gender means Third Gender. The column of **others** other than male and female were incorporated in the form specifically.

5.1.5 RIGHTS OF TRANSGENDER PERSONS BILL, 2014

On 24th April 2016, a private member's bill entitled "The Rights of Transgender Persons Bills, 2014" was passed by the Rajya Sabha and introduced in the Lok Sabha. The Bill deals with the different aspects like Social inclusion of Transgender, their rights and entitlements, financial and legal aids, education and skill development and prevention of abuse, violence and exploitation of Transgender.

6.1 NEED FOR REFORMS

There is an urgent need to reform the third gender community of India. Reforms are required to ensure that the third gender of India is properly justified and is able to live their life freely. The following suggestions would like to suggest for their betterment –

1. Inclusive approach for Transgender must be planned and adopted by the Government and Society. Though, policies have been framed but are poorly implemented.
2. Focused approach should be there to provide a protective shields to their problems.
3. Legal and the law enforcement systems need to be empowered and sensitized on the issues of Transgender community.
4. Criminal and disciplinary action must be taken against the people who commits violence against Transgender.
5. Strict action must be taken against parents who neglect, abuse or leave their child because of their biological difference.
6. Provision of free legal aid must be ensured for the Transgender community at ground level.
7. School and colleges need to play a supportive and encouraging role in providing education and value-system to Transgender.
8. Provision of social entitlement must be ensured.
9. Establishment of helpline for career planning and guidance, career opportunities and online placement system must be empowered.
10. Liberal credit facilities and financial assistance must be ensured to start up their career as an entrepreneur or businessman.
11. Separate policies related to health care must be framed and communicated in all private and public hospitals and clinics.
12. Awareness programmes must be organized at mass level to outreach public and this community.
13. A comprehensive sex-education program should be incorporated in school curriculum and college syllabus to aware students at ground level.

7.1 CONCLUSION

Transgender in India belongs to LGBT category which stands for Lesbian, Gay, Bisexual and Transgender. Transgender is a biological change which make people to behave differently

from the stereotypes of males and females. Because of this biological change, they are excluded from society. They face discrimination, different treatment, and undue attention in their each and every phase of life.

Law and order are trying very hard to socially include the third gender in society. Tamil Nadu Aravanigal Welfare Board is a landmark initiative by Tamil Nadu government in this field. There is an urgent need to transform and include this community as a part and parcel of society.

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