

Jipson V. Paul

HUMAN RIGHTS IN INDIA

Expanding the Horizon



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Human Rights in India: Expanding The Horizon

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Atrocities Faced by Transgenders and Their Rights in India

Uma C. Swadimath and Prasanna B. Joshi

Introduction

The transgender community in India, known as hijras, number up to a million people and occupy a different role in society. On the one hand, they are called upon to offer blessings during auspicious occasions like weddings and at births but most of the times they are ignored and dejected by the society. Human rights activists say the due to societal indifference attitude has prevented these transgenders from obtaining education, jobs, housing and medical care. Majority of them live in slums and in unhygienic conditions. Due to non-availability of basic facilities they resort to begging and indulge in unethical activities. A large population of the transgender community suffer from HIV Aids.

Efforts should be made amongst the educated members of the society that the transgenders should have all the benefits and not be deprived because of their gender. The Govt and various NGOs should come forward to protect the interests of the transgender community so that they can lead a reasonable life with dignity. The present paper makes an attempt to understand this community and the recent changes that have taken place in view of improving the transgender community.

Origin

Transgender is a general term applied to a variety of individuals and groups involving tendencies to vary from the usual gender roles. A transgender individual may have characteristics that are normally associated with a particular gender. The term transgender was popularized in 1970 and in the eighties this term became popular as a means of uniting all those whose gender identity did not mesh with their gender assigned at birth. A common symbol for the transgender community is the transgender pride flag, which was designed by Monica Helms and was first shown at a pride parade in Phoenix, Arizona US in 2000. The flag consists of 5 horizontal stripes, 2 light blue, 2 pink with a white stripe in the centre. The light blue is the traditional colour for baby boys, pink for girls and white which is in the middle implies for those who are transitioning, who feel have a neutral gender. The flag may fly in any direction, it symbolizes to find correctness in their lives. Transgender is an umbrella term for an individual's behaviour which includes transsexuals, cross-dressers, transvestite, drag

kings and drag queens.

In the culture of South Asia, transgenders known as hijras are physiological males who adopt feminine features. The word hijra in Urdu derived from the Arabic root 'hjr' which means 'leaving one's tribe' has been borrowed into Hindi which is translated into English as 'Eunuch or hermaphrodite'. In hindu context, these people belong to a special caste. One of the forms of Lord Shiva is a merging with Parvathi, where together they are Ardhanari, a God that is half Shiva and half Parvathi. Ardhanari is worshipped in North India has special significance as a patron of this community who identify with the gender ambiguity. The transgender people have a community of their own with a different language and tradition. They live in isolated communes called 'jamat' which follow a matriarchal family system.

Conditions of transgender in India

The transgenders in India are feared in a society because of a belief that they have the power to curse as they bear the stigma of being a transgender and a struggle to lead a normal life, they continue to live by begging. These transgenders have been deprived of basic social life for no fault of theirs, they have to undergo through a lot of hardship like begging as they are dejected by the society. There are around 14 lakhs eunuchs in India. There is an estimation that more than 25000 transgenders in Mumbai move from one place to another within and outside the city to earn money. In order to make a living some join as dancers in bars and others go for begging at the signals on roads and highways. They also resort to unethical activities and their lives are miserable and the conditions they live in are pathetic. 20% of transgenders living in Mumbai are infected with the HIV virus. They are seen in Mumbai local trains clap loudly and take money in exchange. They are deprived of basic facilities like education, job opportunities and proper housing facilities, moreover they are ignored by the society due to which they indulge in begging and anti-social activities. They indulge in these activities because of discrimination met to them by the society as the society does not consider them as human beings, even in the governmental hospitals they are denied proper medical treatment. They are looked down upon by the people in the society. They live in slums and their living conditions are not just miserable but pathetic. Though there has been a change in the outlook of people in the society but many do not accept them as members of the society. The transgenders are humiliated and due to lack of proper facilities, they indulge in illegal and unethical activities.

Atrocities met to transgender and misconception about them in India

This community has suffered from social stigma and harassment which is a violation of human rights. In September 2006 a transgender was waiting at a bus stop when 2 policemen came upto him, accused him of being a homosexual, took him to the police station, they beat him up with laathis and physically assaulted him. There was another humiliating incident in Bangalore where 5 transgenders were arrested and detained overnight in a police station. The police abused them and threatened to beat them if they protested. They were produced before a magistrate next day and falsely accused them of committing unethical acts. Again in October 2008 5 transgenders were arrested at a traffic signal, they were accused of extorting money from the public. Their arrests

led to more arrests and around 31 transgenders were illegally detained in the police station. These incidents are instances of violation of human rights, these people do not come forward to report such cases because they belong to a minority group and dejected by the society.

Due to this, these violations increase manifold and a high rate of HIV affected is prevalent in this community which is alarming for the society. This community is subject to discrimination not only on the grounds of HIV but they are singled out because they are viewed as a deviant section of section of the population. The family completely disowns their son or daughter. In one of the cases, a boy studying in a college was disowned by his parents. They stopped paying his college fees and forced him to discontinue his studies. Some of the transgenders undergo mental trauma when their families reject them and refuse to accept them.

If you ask people in India what they know about transgender gender people, most of them only answer that they have seen them begging near traffic signals and inside trains. Some start complaining about their 'bad' behavior.

This is the harsh reality for many transgender people in India. But the fact we often ignore or don't even realise is that directly or indirectly, we, as a society, are responsible for their condition. Being disowned by their own families and harsh treatments from other people in society leads to their so called 'bad' behavior. Lack of access to education and non-availability of jobs often forces them to take to begging and prostitution.

But still, amidst all these adversities, there are some transgender gender persons who are brave enough to make their way to the mainstream, achieve their goals and prove that transgender people are as capable and deserving as any other Indian, thus breaking the stereotype.

It takes a lot of strength for transgender people to come to terms with who they are. Many transgender people feel depressed when they are figuring out how to deal with gender misalignment or dysphoria. Trying to achieve their dreams in a country where people routinely mock and harass them makes their life even more difficult. Some people are polite enough and feel sympathy or pity towards transgender people but never do anything helpful for them. This ignorance and lack of understanding about transgender gender persons in Indian society needs to be changed as soon as possible, and it can only be done by spreading awareness among people and giving proper education and jobs to transgender people, along with laws protecting them from any kind of harassment.

Transgender people have always been a part of Indian culture, though they had to suffer a lot during colonial rule due to Victorian laws. After independence, while most Indians celebrated a life of dignity and equality, transgender people were left on the margins of society, along with other members of LGBT community.

As they were more visible, unlike other members of LGBT community, they were often mistreated and harassed, because of a deep rooted patriarchal mindset which was also influenced by the views of Britishers towards gender identity and norms.

Anybody questioning such norms was often ridiculed and labeled as inferior. Indian films too, instead of spreading awareness about their problems, often portrayed them just as caricatures, thus increasing social stigma and discrimination surrounding

them.

It was only in April, 2014 when transgender people got legal recognition by the Supreme Court, but still, there is a lot of work to be done in terms of social recognition, equality, dignity and social awareness. There's been a slow start towards achieving this aim after the NALSA (National Legal Service Authority v. Union of India) judgement.

When we look back in history, in Hindu mythology, there were transgender people who were called Kinnars. They were placed alongside Yakshas and Gandharvas. Also, we come across characters like Shikhandi, Ila, Mohini, etc, to name a few, playing important roles.

The Ardhanarishvara form of divine energy, created by merging Shiva and Parvati is worshiped in Hinduism. During Mughal rule in India, transgender people were given important posts of security and decision making. It's really sad that it took so long for transgender people to get their legal recognition in India.

The term transgender gender is an umbrella term which includes binary transgender men and women, non-binary people, genderqueer persons and gender non-conforming persons. To be simple, it refers to someone whose gender doesn't match with the gender that was assigned to them at birth. This feeling of misalignment causes what is called 'gender dysphoria'.

After the NALSA judgement which gave transgender people legal recognition, it was thought that transgender people would now be treated equal by society, and this would be followed by spreading awareness through all mass media sources. They would also be given education and employment opportunities, so that they could get a respectful position in society.

But the reality is that the Transgender gender Rights Bill 2014, which was passed in the Rajya Sabha, but was later deformed and introduced in the Lok Sabha by the present ruling Bharatiya Janata party (BJP) government in the year 2016 has not yet been passed. The attitude of political leaders toward transgender people has been that of hypocrisy. Politicians who use Indian citizens as vote banks feel uneasy to bring any significant positive change in society due to the fear of losing their votes. Thus, even when India is a democratic and so called inclusive country, the fate of minorities is left in the hands of the majority, which often creates more hurdles.

Due to the absence of any legal protection and the lack of nationwide social awareness, transgender people in India still suffer a lot of violence and harassment. Recently, a transgender woman, Sabi Giri, who had been posted as a sailor in the Indian Navy, was sacked from her job because of her transgender identity. This was done without considering a transgender person in other departments. India's first transgender woman principal Manabi Bandyopadhyay resigned from her job because her colleagues were non-cooperative. Shanavi Ponnusamy was refused a job in Air India due to her being transgender. Incidents like these are still happening, while the Transgender gender Rights Bill is still under process.

Amidst all this darkness, we also received some good news. India got its first transgender woman IPS officer – K Prithika Yashini. Joyita Mondal became a Lok Adalat (civil court) judge. Anjali Ameer became the first transgender actress to play a lead role and Nitasha Biswas was crowned as transgender queen, India. No doubt, their journeys must have been difficult. Their achievements have given adequate answers to people who thought transgender people are incapable. While the struggle for equality and

dignity is still going on, more awareness is needed in Indian society, so that the young generation of transgender people, who are yet to come out or are still questioning their gender identity don't have to suffer due to prejudices and ignorance towards transgender people.

Moving further, let's have a look at some of the common prejudices and myths popular in India regarding the transgender gender community, which directly or indirectly affect transgender gender people in a very negative way.

1. Every Transgender gender Person Is A Hijra

This is far from the truth. While those who are ignorant and insensitive often use Hijra as a derogatory term to mock and abuse effeminate boys and transgender gender individuals, what most people in India don't realise is that the hijra community is a socio-cultural community comprising of transgender gender people who may belong to India and even a few neighbouring countries. They have their own set of rules and customs, and only a transgender gender person who accepts to become a part of this community can only be called a Hijra. Thus, every transgender gender person is not a Hijra.

2. Transgender People are Incapable of Doing Significant Jobs

While many transgender people have been successful in breaking the prejudice surrounding them, in several parts of India, people still believe in stereotypes and refuse to give jobs to transgender people. Not only is a lot of awareness needed regarding this, but proper education and skills should be imparted to transgender people so that they can become a productive workforce. Many transgender people drop out of school/college because they suffer bullying and harassment. There is not only ignorance among students, but teachers as well. This can only be solved by awareness and sensitization of educational institutions regarding transgender gender issues. A well-educated transgender gender Indian is as capable and deserving to be posted on significant jobs as any other cisgender Indian.

3. Being the Parent of A Transgender gender Child is Shameful.

This is one of the most common prejudices present in society because of which people disown their own children to suffer alone in this world – it's heartbreaking!

Parents who see their children through the eyes of society often don't realise that to be progressive, a society needs to evolve and necessary changes need to be made with time as we learn new things. It is our responsibility to make it better, more inclusive and progressive by ushering in the necessary changes.

The views of society towards an individual, a group or a community starts from us, because we are a part of society. If we change our mindsets and become rational and understanding, sooner or later, the mindset of society as a whole becomes more rational, progressive and inclusive.

For example, a few decades back, due to some prejudices surrounding a girl child, girls were not seen as equal to boys, nor were they given higher education and opportunities. They were also forced to marry when they wanted to pursue higher studies and become independent by doing jobs. But as we all know, some parents

stood out and supported their girls to pursue higher studies and achieve their dreams.

Girls too proved themselves to be deserving – capable of working at higher posts and achieving every dream once told to be impossible for them. So, when society stood opposed to them, those parents stood by their children and set examples through their children, thus helping in creating a better and more equal society. Now, we know that the mindset of people towards a girl child has almost changed in urban areas and is changing gradually in rural areas.

The same applies to transgender gender children as well. If parents start understanding their transgender gender child, they would realise that there is nothing wrong with their child. The real problem is with the mindset of society, which needs to be changed. And for that, they should provide their transgender gender children with as much love, care and education like they would to any cisgender child, so that they can become independent and achieve their dreams. If this happened, then the prejudices surrounding transgender gender children today would take no time to leave Indian society.

4. Transgender gender Women Can Never Become Mothers

The Vicks advertisement – which featured transgender woman Gauri Sawant as a mother and showcased her relationship with her daughter – brought tears to the eyes of many. Still, most people in India argue that a transgender woman can't be considered a mother because they can't give birth to babies. In a country where one who gives love and takes care of a child is respected more than the one who gave birth to child, denying someone the respect to be called mother, just because they can't give birth to a child is totally inhumane.

One of the sacred texts in Hinduism too says that motherhood has nothing to do with

5. Being Transgender gender is A Choice and A Transgender gender Person Changes Sex to Date People of the Opposite Gender

No, it has already been proved in significant researches that being transgender gender is not a choice. It's because of ignorance or lack of awareness regarding transgender people in society that some people still think that being transgender gender is a choice. They are unaware of the psychological trauma a transgender gender person goes through every day.

Some people go to the extent of saying that transgender people change their sex to date people of other the other gender. In an era, when we can know about almost everything through search engines on the internet, people should try to know more about transgender people before commenting anything on the topic. Thinking that being transgender is a choice is pure ignorance. Not all transgender people undergo surgery but some do to get a better sense of alignment with their gender. Sex reassignment surgery helps them to feel free and be themselves. Also, what most people don't know is that gender and sexuality are independent of each other.

Transgender people in India have lived oppressed lives for a long time. It was only after a hard battle that they gained legal recognition. A battle which was mostly fought alone, because many didn't understand them. Many were unaware and some even

- a third gender to facilitate their admission to Govt. colleges.
 - Tamilnadu established India's first transgender social welfare board in 2008.
 - Indian community welfare organization works on special focus on prevention of HIV/AIDS. They organized a Miss India contest at Chennai for the transgender community. This resulted in discussions about social stigma, discrimination, ill treatment, quality of life and this event was a platform to showcase their talent and skills and also to address their issues. Around 120 transgenders participated in this contest, they were from different states namely, Tamilnadu, Pondicherry, Kerala, Andhra Pradesh, Karnataka, Madhya Pradesh, Uttar Pradesh and Manipur.
 - In Bangalore the former BJP minister Shobha Karandlaje attending a conference 'The Millennium Development Goals and transgenders' assured that a welfare board would be set up on the same lines as in Tamilnadu. She stressed on the need to introduce special health schemes. The former chairperson of the Karnataka state backward classes commission, C S Dwarakanth said that a report recommending reservation for the transgender community has been submitted to the Govt. A welcome initiative is undertaken by the life insurance company (LIC) to hire transgenders as agents.
 - A National Eunuch Commission should be set up to promote welfare of this community. The Govt. should initiate unrestricted admission to any educational institution and free education. With regard to this, Bangalore University is the first in the country to reserve a seat in post graduate courses for transgenders. This initiative is taken by the vice-chancellor of Bangalore University Prabhu Dev. Following the same, the Bangalore based National Law School of India University has plans to include 'others' in its application for admission from the next academic year according to vice-chancellor R Venkata Rao.
 - R Vasuki, state director of social welfare opined that this progressive move was an attempt to integrate them into the social mainstream. A project known as 'Butterflies project' was launched to enable transgenders to gradually become economically independent and lead a respectable life.
 - Transgenders have a reason to celebrate as they will be included in 2011 census in 'others' category after recommendations of Technical Advisory Committee(TAC) were accepted by the Govt. An NGO led by Huda had petitioned the prime minister's office on inclusion of transgenders as a different category. The Planning Commission has also recommended separate category for the transgenders in the unique identification authority of India project.
- People who express their gender differently encounter complex and unique challenges and stigma through out their personal and professional lives. A supportive and respectful work environment is critical for transgender people where they may be in the process of living consistently with gender identity. It is only through synergy of policy and grass roots activity with far reaching changes need to reduce vulnerability. The international guidelines on HIV/AIDS and Human rights opine that the states should implement and support services that will educate people affected by HIV about their rights, provide free legal services to enforce those rights, develop expertise on HIV related legal services and utilize means of protection in addition to the courts. As

transgenders are physically strong and healthy and do not have family commitments, the Govt. can think of employing them in defence. Given an opportunity and proper training to them, they can render their services effectively and safely guard our borders.

After fighting for equal rights in employment and voting, transgenders across the country are all set to take part in a talent hunt in Delhi on 21st February. This concept of talent hunt was introduced by one of the transgender members Laxmi Narayan Tripathi who is the founder of Asia Pacific Transgender Network and the only transgender representative of the UN's civil society task force on HIV/AIDS. India is perhaps the first country to have made a provision for transgenders in the unique identification authority of India project and other countries in the world may also follow.

Conclusion

Based on literature review it is well understood that transgender are the people whose identities fall outside the other gender norms. As it previously said, transgender are known by different names based on geographical region on which eunuch is one term referring to those people who undergoes emasculation process in order to become Hijras. However, in India transgender are mostly known by the term Hijras. Even after a long struggle till today Hijras undergoes multiple dimensional problem like social and cultural barriers apart from genetic factors due to which they live frustration and humiliation throughout their life which can indirectly bring a threat to some other issues and problem within the society. For a country like India where patriarchal society exists, it is indeed hard to accept the gender variants since it is considered as cruse and taboo in cultural norms. Many scholars has carried out numerous research on various dimension in order to understand and explain the problems faced by the Hijras and various views has been given in order to uplift and bring justice to them. In order to provide equality to Hijras, efforts has been made by several NGO and some state government within the country so as to empower and give equal their rights to them. Due to this, schemes like welfare schemes, Transgender policy etc has been introduced to protect them from exploitations, deprivations and social exclusions within the county. With this effort, few development and changes can be seen in sectors like film industry, corporate, private and some government jobs. However, many times most researchers fail to highlight the impact of relationship with regards to their identity, which can enhance a sense of security, belongings and confidence with the other groups (mass). In addition, which can be a positive factor for bringing peace within the society that can contributes towards living a solidarity and harmony life and if we could achieved than it would be one of the greatest achievement towards humankind where equality speaks for all.

Recommendation

Study on the Hijras is one of the most interesting areas for a researcher to conduct which does not only provide significant information but also at the same time understand the community as a whole, which can play a positive role in bringing changes not only in the Indian society but also in global scenario. Some suggestions, which can be carried out for further research, are as given below:

1. Scientific enquiry on the origin and history of Hijras identity.
2. More researches are needed to examine on the nature of relationship between them and the mainstream
3. Transitional shift of Hijras from masculinity to feminism.
4. Stress on health hazards and physiological problems.
5. Appropriate legal laws are needed to ensure their rights and justice.
6. Existing welfare schemes must be evaluated timely for effective results.
7. Scrutiny on Hijras is needed while making policy formulation and developmental programs.

Greater understanding and constant support for active participation of Hijras in the society. Hijras/Transgender women require understanding and support of the government, health care Professionals, general public as well as their family members. We need to understand and accept that humans are diverse. People have the right to be what they are and what they want to be. For transgender people, the same holds true.

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