



STOP ABUSING US; WE ARE ALSO CITIZENS OF INDIA: A STUDY ON TRANSGENDERS

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ABSTRACT

Sexuality is an issue that has created social divides. Sexual minorities have been oppressed in our society on the ground of them being deviant. Their existence has been listed as unnatural. Therefore, the issues related to the rights of sexual minorities also do not find place in the top agendas of the governments and of human rights movements. The issue is often lost in the complexities of problems that a society faces.

This article is centered on an assault to the liberty of certain classes of people; it is centered on the continued denial of equality, and the prolonged in difference and apathy of the society towards persons who have been marginalized because of their gender identity. India has approximately 700,000 transgender persons. These persons are usually rejected from their families and face varied forms of social exclusion. Being denied of proper education, health care and means to employment, they are most commonly forced into forms of ritualized begging.

INTRODUCTION

How often do we sit and question our gender or sexual identity? Is it always the same as the biological sex that we are born in? Can it be independent entity, irrespective of our biological sex? Most of us assume, for lack of further information that our overall sexuality that includes our sex, gender, sexual orientation and sexual behavior are all determined at some point through some ‘natural’ genetic intervention during our birth and there is nothing one can do about it. We are taught to believe in strict binaries of male and female and the separate social roles associated with both. Trans sexuality as a phenomenon has gained very little visibility or knowledge in our society – precisely why is it so easy for us to distance ourselves and laugh at it. Our society in fact contains one of the most visible transgender cultures in the world – the ‘Eunuch’ (Hijra) Community. Eunuchs might have an accepted place in Indian society, but it is a place pretty much at the bottom of the social heap – making them not just a sexual but also a highly deprived social minority.

They are thought to be carriers of AIDS, sex workers and criminals. Often they are subjected to public humiliation and embarrassment by the police every now and then. Though, they have been considered to have clairvoyance and the gift to grant a boon or a curse to people, with the times they have acquired an image of being an extortionist. When not given money they have been seen resorting to profanity and unacceptable behavior- the primary reason why masses never not give them cash when asked for. Due to the stigmatization and consequent banishment from society, the transgenders have a tough life. They do not enjoy the fundamental rights that a general male or female does. Due to their



neglected existence they have very few employment opportunities. They usually make a living out of performing in ceremonies like weddings, begging and sex work.

SOCIAL STATUS OF AN EUNUCH (HIJRA)

In Hinduism, the Hijra community (eunuchs) – neither born male nor female, but self-identified as female – are historically believed to have the power to grant wishes and cast spells, and are often present at weddings and births. A transgender presence within Hindu psyche stems back to the essential Hindu epic text, the Mahabharata, where the male Shikhandi (but born the female Shikhandini) was vital in securing the Pandavas's necessary victory over the Kaurava in the great war of Kurukshetra. Hijras trace their origins to myths in the Ramayana and the Mahabharata. Rama, while leaving for the forest upon being banished from 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 childbirth and marriage, and also at inaugural functions. This set the stage for the custom of badhai in which hijras sing, dance and confer blessings. But today, keeping in mind the pathetic condition of them one can say that this community actually needs the blessings of Lord Rama more than anyone so that at least they can subsist in the society with proper dignity, respect and most of the most important identity. There are hundreds of thousands of transgenders in India, say activists, but because they are not legally recognised, they are ostracised, discriminated against, abused and often forced into prostitution

Hijras (Eunuchs) in India have virtually no safe spaces, not even in their families, where they can be protected from prejudice and abuse. The Peoples' Union for Civil Liberties(K) Report on Human Rights Violations against the Transgender Community has documented the kind of prejudice that hijras face in Bangalore. The report shows that this prejudice is translated into violence, often of a brutal nature, in public spaces, police stations, prisons and even in their homes. The main factor behind the violence is that society is not able to come to terms with the fact that hijras do not conform to the accepted gender divisions. In addition to this, most hijras have a lower middle-class background, which makes them susceptible to harassment by the police. The discrimination based on their class and gender makes the hijra community one of the most disempowered groups in Indian society. The systematic violence that hijras face is reinforced by the institutions such as the family, media and the medical establishments and is given legitimacy by the legal system. The hijras face many sorts of state and societal harassments such as:

- Harassment by the police in public places
- Harassment at home
- Police entrapment
- Abuse/harassment at police stations
- Rape in jails



DAY-TO-DAY PROBLEMS FACED BY A TRANSGENDER

Transgender youth face several unique problems caused by the highly gendered societies in which we live-

- Lack of access to appropriate restroom facilities—Transgender people often lack safe access to public restrooms. They may be assaulted if they use the restroom that conforms to their gender identity or forced to use a restroom that does not conform to their gender identity.
- Lack of access to appropriate locker room facilities—Transgender people often have no safe access to locker room facilities that conform to their gender identity.
- Rigid dress codes that differ for males and females—wherever dress codes are enforced, they may create problems for transgender youth.
- Confidentiality—Transgender youth may have unsupportive families and may even face violence and/or ejection from their home if their gender identity or gender expression is disclosed to the family.
- Lack of role models; lack of accurate information—Transgender youth often feel alone in the world. There are very few programs for youth employ transgender people; few libraries offer information about biological sex and gender, gender identity, or being transgender.
- Deliberately incorrect and disrespectful use of names and pronouns—When a transgender youth identifies as a particular gender (irrespective of biological sex), it is respectful to the youth's human dignity to use the name chosen and the pronouns appropriate to that particular gender. To injure intentionally disrespectful names and other pronouns is being deliberately used by the society.

JUDICIAL RECOGNITION OF TRANSGENDERS: A LANDMARK RULING

"Recognition of transgenders as a third gender is not a social or medical issue but a human rights issue," the Supreme Court's two-judge bench said in its ruling. "Transgenders are also citizens of India. The spirit of the constitution is to provide equal opportunity to every citizen to grow and attain their potential, irrespective of caste, religion or gender." A Public Interest Litigation that alleged that the transgenders have been deprived of many of their fundamental rights which others enjoy as citizens. The PIL has also sought reservation for transgenders in educational institutions and job opportunities in public and private sectors.

"The transgenders are deprived of social and cultural participation, are shunned by family and society, have only restricted access to education, health services and public spaces and have restricted rights as citizens such as right to marry, to contest elections, to vote, employment and livelihood opportunities and various human rights such as voting, obtaining passport, driving licence, ration card, identity card etc. "The transgenders are treated as legal non-entity in violation of Articles 14, 15, 16 and 21 of the Constitution,"

The Supreme Court finally acknowledged a **Third Gender** that is neither male nor female in a landmark judgment that asks the government to make sure that transgenders get job quotas and facilities including a voter card, passport and driving licence. The Centre was asked to treat transgenders as "socially and economically backward", to enable them to get



reservations in jobs and education."Transgenders are also citizens of India. It is the right of every human being to choose their gender. The spirit of the Constitution is to provide equal opportunity to every citizen to grow and attain their potential, irrespective of caste, religion or gender," the court said. By recognising them as third gender, this court is not only upholding the rule of law but also advancing justice to the class that has so far been deprived of its legitimate natural and constitutional rights,"

The court, however, clarified its verdict pertained only to eunuchs and not other sections of the society such as gays, lesbians and bisexuals, who are also considered under the umbrella term, transgender.

IT'S TIME TO BRING THEM IN THE FRONT

So far, the lack of legal recognition has important consequences in getting government ration shop card, passport, and bank accounts. The Tamil Nadu government, in particular has taken up positive measures for changing transgender people's birth name and sex in official gazette and official identity documents either after realizing their gender identity or undergoing sex transition surgeries. Notably, Tamil Nadu state government through its Transgender Welfare Board constituted a district level screening committee in each district to certify and provide an identity card which specifies name, address etc. This effort is touted to be the first in India and even in the whole Asia-pacific region. After its inception in 2008, the board is projected to address a variety of concerns of transgender people that includes education, income generation and other social security measures. Transsexuals were granted with their right to vote only in 1994. Also, the election commission now recognizes the gender under the 'others' category only after a transgender was elected as a Mayor in Katni, Madhya Pradesh which had to be nullified due to gender issues. There are various NGOs which have been working for the upliftment of transgenders. Some of them provide professional training to financially empower them. But these small steps will become effective only when people have more open-minded approach towards them. Till the time they are looked down upon and the 'third sex' does not come at par with the remaining two sexes, transgenders will continue to live a life full of ignorance, negligence and hushed voices around them wherever they go.

REFERENCES

1. Paisley Currah, Richard M. Juang, and Shannon Price Minter, (2006). Transgender Rights. University of Minnesota Press
2. Sr. Mary Elizabeth, (1990). Legal Aspects of Transsexualism. Educational Resources Publication
3. <http://socialjustice.nic.in/pdf/introduction.pdf>
4. <http://timesofindia.indiatimes.com/topic/transgender-issues/news/>