Transgender Persons in India : Problems, Policies and Interventions

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Abstract

Transgender in India are called with different names and have been facing many problems. The major problems faced by the transgender community include social exclusion, discrimination, unemployment, lack of educational facilities, homelessness, lack of medical facilities like HIV care and hygiene, depression, etc. There is no correct data on the transgender population in India. However, of late efforts are on to collect data on these people. The interventions of the central and state governments to tackle the issues of the transgender persons are very limited. Central government has enacted the Transgender Persons (Protection of Rights) Act 2019 to protect the rights of transgender persons and their welfare. Further, research in this area is very sparse, as it is a sensitive area. Against this background, the present paper provides the profile of transgender persons in India and critically analyses the problems and interventions of the government and non-governmental agencies for transgender persons in India.

Key Words : Transgender persons, Hijras, Family Denial, Discrimination, NGOs

Introduction

Transgender persons are individuals of any age or sex whose appearance, personal characteristics, or behaviors differ from stereotypes about how men and women are 'supposed' to be. Transgender people have existed in every culture, race, and class since the story of human life has been recorded. According to Altilio, Terry; Otis-Green, Shirley (2011), gender

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identity or gender expression differs from their sex assigned at birth. Some transgender people who desire medical assistance to transition from one sex to another identify as transsexual (R Polly, J Nicole, 2011). The term 'transgender' is used as an umbrella term which includes people whose gender identity is the opposite of their assigned sex , it may include people who are not exclusively masculine or feminine (Bilodeau, Brent 2005). Sometimes they are referred as 'transvestites,' 'drag queens' or 'drag kings'; inter-sexed individuals; and men and women, regardless of sexual orientation, whose appearance or characteristics are perceived to be gender atypical. The term transgender may be defined very broadly to include cross-dressers (Reisner, et.al, 2014). Transgender people may be identified as heterosexual, homosexual, bisexual, asexual, or may decline to tag their sexual orientation. The term transgender is also distinguished from intersex, a term that describes people born with physical sex characteristics "that do not fit typical binary notions of male or female bodies". The opposite of transgender is cisgender, which describes persons whose gender identity or expression matches their assigned sex (Merriam-Webster dictionary, 2019).

Evolution of transgender terminology

The term transgender was coined by John F. Oliven, a psychiatrist of Columbia University in his 1965 reference work' Sexual Hygiene and Pathology', writing that the term which had previously been used, transsexualism, "is misleading; actually, 'transgenderism' is meant, because sexuality is not a major factor in primary transvestism (Oliven, John F. 1965)." Various transvestite, transsexual and transgender people later popularized with varying definitions. In December 1969, Virginia Prince started a national magazine for cross dressers. (Elkins, Richard; King, Dave, 2006). By the mid 1970s, both trans-gender and trans people were in use as umbrella terms and for the people who wanted to live cross-gender without sex reassignment surgery were used to refer as transgenderist (Stryker, S. 2004). Later transgenderist was abridged as TG in educational materials by 1976. The concept of a "transgender community" had developed by 1984, in which transgender was used as an umbrella term. Richard Elkins founded the "Trans-Gender Archive" at the University of Ulster in 1985(Elkins, Richard; King, Dave, 2006). The transgender has been defined in 1992 by the International Conference on Transgender Law and Employment Policy

as an expansive umbrella term including "transsexuals, transgenderists, cross dressers", and any person transitioning. Leslie Feinberg's pamphlet, "Transgender Liberation: A Movement Whose Time has Come", circulated in 1992, identified transgender as a term to unify all forms of gender nonconformity; in this way transgender has become synonymous with queer (Stryker, Susan, 2008). Between the mid-1990s and the early 2000s, the primary terms used under the transgender umbrella were "female to male" (FtM) for men who transitioned from female to male, and "male to female" (MtF) for women who transitioned from male to female. These terms have now been superseded by "trans man" and "trans woman", respectively, and the terms "trans-masculine" or "trans-feminine" are increasingly in use (Myers, Alex, 2018).

The causes of transgenderism are not entirely clear. Traditionally it was thought to be a psychiatric condition or ailment but now the evidences show that the origins are not in the brain alone and may have biological causes associated with the development of gender identity before birth. There are some diverse probable causes of gender differences. These include hormonal changes, exposure to progesterone or estrogenic drugs, chromosomal abnormalities, defects in normal human bonding and child rearing may be contributing factor to gender identity disorders.

Transgender People in India

The word transgender in India has been loosely associated with the hijras – a term predominantly used to describe people who are born physically male, but live as women, including dressing and socializing as female, and also go by the other transgender identities like – Shiv-shaktis,Jjogtas, Jogappas, Aradhis, Sakhi, etc. However, these socio-cultural groups are not the only transgender people, but there may be those who do not belong to any of the groups but are transgender persons individually. Transgender people are people who have a gender identity that is different from the one which is assigned to them by birth. The cultures of India include Transgenders as a third gender, referred to as Hijra. It includes pre-operative, post-operative and non- operative transsexual people who strongly identify with gender opposite to their biological sex (Chakrapani, et al; 2004). The word "Hijra" is Urdu, derived from the Arabic root "hjr" in its sense of "leaving one's tribe," and has been borrowed into Hindi. The Urdu and

Hindi word "Hijra" may alternately be romanized as hijira, hijda, hijada, hijara, hijrah. According to UNDP 'hijra' is an umbrella term for all sexual minorities. It states that "hijra cultures are India s answer to support systems for sexual minorities. Ancient Vedic texts referred to Transgenders as napumsaka to denote the lack of reproductive ability, and believed them to have the power to confer blessings on people on auspicious occasions.

Transgender population in India

The accurate data on the transgender population in India is not available. Indian Census has never recognized third gender i.e. Transgender while collecting census data for years. But in 2011, Transgender people are an officially recognized third gender in the country and consider themselves neither male nor female. Data of Transgenders were collected with details related to their employment, Literacy and Caste. As per the 2011 census, India recorded over 4.88 Lakhs people who identified as the third gender, most of whom came from the northern state of Uttar Pradesh followed by Andhra Pradesh, Maharashtra, Bihar, West Bengal etc. The literacy rate indicate that except Kerala, Mizoram and Daman Diu, the literacy rate among transgenders is below the national literacy rate of 74%. A sizable number of children (0-6 years), scheduled caste and scheduled tribe transgenders have also been reported in many states and union territories.

Table 1: Transgender population in India by caste and literacy rate

State / UT	Transgenders	Child(0-6)	SC	ST	Literacy %
Uttar Pradesh	137,465	18,734	26,404	639	55.80
Andhra Pradesh	43,769	4,082	6,226	3,225	53.33
Maharashtra	40,891	4,101	4,691	3,529	67.57
Bihar	40,827	5,971	6,295	506	44.35
West Bengal	30,349	2,376	6,474	1,474	58.83
Madhya Pradesh	29,597	3,409	4,361	5,260	53.01
Tamil Nadu	22,364	1,289	4,203	180	57.78
Orissa	20,332	2,125	3,236	4,553	54.35
Karnataka	20,266	1,771	3,275	1,324	58.82
Rajasthan	16,517	2,012	2,961	1,805	48.34

Jharkhand	13,463	1,593	1,499	3,735	47.58
Gujarat	11,544	1,028	664	1,238	62.82
Assam	11,374	1,348	774	1,223	53.69
Punjab	10,243	813	3,055	0	59.75
Haryana	8,422	1,107	1,456	0	62.11
Chhattisgarh	6,591	706	742	1,963	51.35
Uttarakhand	4,555	512	731	95	62.65
Delhi	4,213	311	490	0	62.99
Jammu and Kashmir	4,137	487	207	385	49.29
Kerala	3,902	295	337	51	84.61
Himachal Pradesh	2,051	154	433	118	62.10
Manipur	1,343	177	40	378	67.50
Tripura	833	66	172	181	71.19
Meghalaya	627	134	3	540	57.40
Arunachal Pradesh	495	64	0	311	52.20
Goa	398	34	9	33	73.90
Nagaland	398	63	0	335	70.75
Puducherry	252	16	40	0	60.59
Mizoram	166	26	1	146	87.14
Chandigarh	142	16	22	0	72.22
Sikkim	126	14	9	37	65.18
Daman and Diu	59	10	1	2	75.51
Andaman and Nicobar Islands	47	5	0	3	73.81
Dadra and Nagar Haveli	43	5	0	22	73.68
Lakshadweep	2	0	0	2	50.00
India	487,803	54,854	78,811	33,293	56.07

Source: https://www.census2011.co.in/transgender.php

In a survey conducted by the Social Justice Department of Kerala, it was estimated the presence of more than 25000 transgenders in Kerala but in the Census data it was only 3,902. In other states also more or less similar problems are found in the collection of accurate data of transgender population. The exact population of the transgender persons in India collected through Census of India could be definitely less, as it is difficult to ascertain the data because of social stigma associated with transgender community in India.

Problems of the Transgenders

In India transgender people face array of problems. The major problems that are being faced by the transgender community are of social exclusion - in social and cultural life, economy, discrimination, unemployment, lack of educational facilities, homelessness, lack of medical facilities like HIV care and hygiene, depression, hormone pill abuse, tobacco and alcohol abuse, and problems related to marriage and adoption.

Denial of the fundamental rights, discrimination and other problems faced by the transgender community have been articulated in two public interest litigation (PIL) petitions WP © No. 400 of 2012 & 604 of 2013 filed in Supreme Court of India and High Court of Mumbai. They are deprived of many of the rights and privileges which other persons enjoy as citizens of India; deprivation of social and cultural participation by family and society; restricted access to education, health services and public spaces, restricted rights available to citizens such as right to marry, right to contest elections, right to employment etc and thus the transgender community is treated as a legal non-entity in violation of Article 14, 15, 16 21 of the Indian Constitution.

Family denial

Most families do not accept if their male child starts behaving in ways that are considered feminine or inappropriate to the expected gender role. Consequently, family members may threaten, scold or even assault their son/sibling from behaving or dressing-up like a girl or woman. Some parents may outright disown and evict their own child for crossing the prescribed gender norms of the society and for not fulfilling the roles expected from a male child. Parents may provide several reasons for doing so: bringing

disgrace and shame to the family; diminished chances of their child getting married to a woman in the future and thus end of their generation (if they have only one male child) and perceived inability on the part of their child to take care of the family. Thus, later transgender women may find it difficult even to claim their share of the property or inherit what would be lawfully theirs. Sometimes, the child or teenager may decide to run away from the family not able to tolerate the discrimination or not wanting to bring shame to one's family. as they do not get support from their biological family in the long run. Subsequently, they face a lot of challenges especially when they are not in a position to earn. Some of them may eventually find their way to join the transgender communities (Delliswararao K &Hangsing C, 2018).

Harassment and stigma

The LGBT community still faces considerable stigma based on over a century of being characterized as mentally ill, socially deviant and sexually predatory. While these flawed views have faded in recent years for lesbians and gay men, transgender people are still often met with ridicule from a society that does not understand them. This stigma plays out in a variety of contexts – leaving them vulnerable to lawmakers who attempt to leverage anti-transgender stigma to score cheap political points; to family, friends or coworkers who reject transgender people upon learning about transgender identities; and to people who harass, bully and commit serious violence against transgender people.

Discrimination

As soon as people come to know about their gender status the process of discrimination begins. They face widespread discrimination while searching for jobs, searching for houses to rent, entry to public spaces. They are not accepted as normal by society. They were not granted the same rights as other citizens of the country. Due to discrimination the third gender people are not able to receive any formal education. They live on begging and prostitution, which further hardens the attitude of the society. They can be usually seen as beggars in trains and marriage because they don't have any other source of living rather than begging (Priti Sharma, 2014)

Lack of livelihood options

Transgenders have very restricted employment opportunities and they have no access to bathrooms/toilets and public spaces. The lack of access to bathrooms and public spaces access is illustrative of discrimination faced by transgenders in availing each facilities and amenities. They face similar problems in prisons, hospitals and schools also. Most employers deny employment for even qualified and skilled transgender people. Most of the transgender people choose or continue to be in sex work due to lack of livelihood options.

COVID-19 and the Vulnerability of the transgender community

Highlighting the plight of the transgender community, Amnesty International said: "As the world comes together, India's transgender community fights COVID-19 alone." This structurally discriminated group has been rendered even more marginalised under the double jolt of the disease and social distancing. A study conducted by a Karnataka-based civil society organization on a sample of 1,387 workers across sectors and members of certain marginalised groups in the state found that an overwhelming 82% didn't have money to buy essentials and run their houses.

The survey covered those living at the fringes of society such as those in sex-work, transgenders and nomadic people, and found that nearly all such people received no relief from the government and just 5% were able to receive the medical attention required during the period. Since most transgenders are daily-wage earners forced to subsist on begging and sex work, social distancing has hit them hard. A large number of them do not have basic documentation, including Aadhaar, ration card, voter ID or bank account in their self-identified name and gender and therefore remain outside the coverage of government social security schemes like rations and pensions, making it impossible to survive in these difficult times of lockdown.

The other fields where the transgender community feel neglected are inheritance of property or adoption of a child. They are often pushed to the periphery as a social outcaste and many may end up begging and dancing. Sometimes running out of all options to feed themselves, they even engage themselves as sex workers for survival.

Policies and Interventions

In India the government's interventions for the welfare and development of transgendered persons are very limited. Of late, both the central and state governments have initiated some interventions to safeguard the interests and to protect the transgendered persons. A Committee has been constituted by the Government of India on 22nd October 2013 with 18 members from academics, bureaucrats, NGOs and members from transgender community to make an in-depth study of problems being faced by the transgender community and to suggest suitable measures to ameliorate them. The report of the committee was submitted to the Ministry of Social Justice and Empowerment on 27th January 2014. In its judgement dated 15th April 2014, the Supreme Court of India established the rights to equality and equal opportunities for transgender persons in India under the Articles 14, 15, and 16 by prohibiting discrimination on the grounds of gender identity. Subsequently, the Government of India has enacted legislation in the year 2019.

Major provisions of the Transgender Persons (Protection of Rights) Act, 2019

Government of India has enacted the Transgender Persons (Protection of Rights) Act 2019 for protection of rights of transgender persons and for their welfare. This Act defines transgender person as "a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), persons with intersex variations, gender queer and persons having such socio-cultural identities as Kinner, hijra, aravani and jogta." This act consists of nine chapters wherein the prohibition against the discrimination of transgender persons is discussed in chapter 2. Recognition of identity of transgender persons and issue of certificate of identity and welfare measures by the government , non discrimination in employment and obligations of establishments, grievance reddressal mechanism, rights of residence, obligation of educational institutions to provide inclusive education to transgender persons, vocational training and self-employment, health care facilities, constitution of National Council for Transgender Persons, offences and penalties etc have been discussed in other chapters of the Act.

Most of the state governments have also made policies and programmes for the transgendered people in their states. Tamil Nadu state government is proactive in addressing the issues of transgenders and the first state to establish Transgender Welfare Board on 15th April 2008, with official and non official members including members from transgender community and officially announced that day as 'Thirunangai Day'. State Policy for Transgenders in Kerala, 2015 has been approved dated 22.09.2015 of the Social Justice Department of Kerala. In West Bengal a Transgender Welfare Board was set up in the year 2015. Subsequently Odisha, Himachal Pradesh, Chandigarh governments have started welfare boards for the transgenders in their states during the years 2016 and 2017.

The Karnataka Government issued the "State Policy for Transgenders, 2017", in October 2017 with the aim of raising awareness of transgender people within all educational institutions in the state. Educational institutions will address issues of violence, abuse and discrimination against transgender people. It also established a monitoring committee designed with investigating reports of discrimination (The Indian Express, 2017).

On 28 November 2017, the Chief Minister of Andhra Pradesh, announced the enactment of pension plans for transgender people. On 16 December 2017, the Andhra Cabinet passed the policy. According to the policy, the State Government will provide an amount of ₹ 1,500 per month to each transgender person above the age of 18 for social security pensions (Apparasu, Srinivasa Rao, 2017).

By 2018 and 2019 welfare boards for transgenders have been established in Jammu and Kashmir, Delhi, Rajasthan, Uttarakhand, Maharashtra, Bihar, etc. The latest inclusion is the establishment of Welfare Boards for Transgender by the state of Uttar Pradesh and Madhya Pradesh in the year 2020.

Some NGOs and transgendered communities have taken up very good initiatives. These include Naz Foundation (India), Delhi; Adhhikaar, Delhi; Sahodari Foundation, Tamil Nadu; Sangama, Karnataka; Udaan Trust, Maharashtra; Bharosa Trust and MAAN Foundation, Lucknow; Andhra Pradesh Male Minorities (AMMA), Secunderabad; Sangini (India) Trust, New Delhi etc. These organnisations have been working to empower the transgender communities.

Several opportunities are there for meeting and discussing their issues of the urban transgendered communities in metro cities of India, though not very openly. These communities include: Delhi- Harmless Hugs; Mumbai- GayBombay; Chennai-Orinam; Hyderabad-Mobbera; Bangalore-Good as You; Bhubaneswar-Parichay Collective; Kochi-Queerala; Thiruvananthapuram- Queerhythm, etc. These communities are actively engaged in highlighting various issues of the transgenders and also working towards empowering the transgender community through networking with the local, regional, state and national level.

Conclusion

The problems of the transgenders are very peculiar keeping in view of the stigma. Though only the recent Census could collect data on transgneders, still the number could be much more. The initiatives and policies / legislations of the governments are recent and should address the issues of stigma, discrimination, violence against gender non-conforming and transgender children and adolescents. Since the origin of the problems of transgendered persons in India lie in stigma and discrimination they face in family and society, resulting in their exclusion from socio-economic-cultural-political spectrum, there is an urgent need to mainstream them and adoption of an inclusive approach in all spheres of life. Further, in other national and state policies also the policies of transgenders should be integrated. Besides government and NGO efforts, the academic and research institutions, civil society organisations, and other stake holders should actively take part in the policies and interventions for the development and empowerment of transgender communities in India.

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