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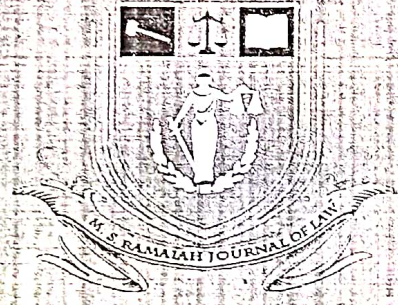
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EMPOWERMENT OF TRANSGENDER IN INDIA: A MIRAGE

Annapurna Shet*

ABSTRACT

The word transgender creates in every mind a kind of fear and hesitation. Transgenders are those people whose sense of personal identity and gender does not match with their birth sex. They are those people who are recognised under the third gender category. Transgenders are found in society and live among others from time immemorial. These are those vulnerable people who have suffered a lot in the society due to the humiliation caused to them. The State has initiated several measures for the empowerment of transgenders in India by framing rules, regulations and exclusive Statutes. Still the struggle for the empowerment of transgender has not come to an end. Being the most marginalised section of the society, they face too many hurdles due to which it is very difficult for them to lead a normal life. From the day they realise their peculiarity, till they live their last breath, they face too many humiliations in the society.

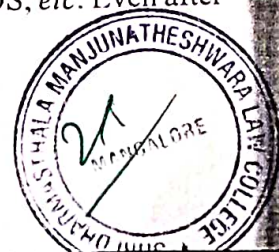
I. INTRODUCTION

"I know I am transgender because my brain knows its female, and my body disagrees"-Alan Cohen.¹

Transgender is a term used to identify those communities of people whose gender identity is different from the sex in which they are born with. They are the people who are deprived from various rights assigned to the citizen at large. There are many reasons for this. The way the society treat the transgender are very heinous. Transgender were not recognized in the society until the enactment of special laws to them viz. The Transgender Persons (Protection of Rights) Act, 2019. Even after the enactment of The Transgender Persons (Protection of Rights) Act, 2019, still the protection is a mirage to most of the transgenders in India. Offences against transgenders are very rampant in the society. Even their families do not accept them because of which they are forced to quit the home at their tender age due to which they will lose all love and affection of their family. Many a times the transgenders are treated as sex workers by many people and it is a sad truth that they become a mode of carrying sexually transmitted diseases like HIV/AIDS, etc. Even after

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¹ An English Author and Poet



...protection, very few transgenders are recognized in the pioneer... of them are deprived of their rights. The author explains... transgender, laws relating to transgender, problems faced by... in the paper. The author also discusses the empowerment of... the present days.

II. CONCEPT OF TRANSGENDER

...of transgender is an age old one. There are several instances of... ancient writings. Bahu Chara Mata is considered as a goddess... according to ancient Hindu mythology. Even in Kama Shastra... of the third gender. There is a mention about the transgender... *Dr-havala* in Mahabharata too. Transgender termed '*Hijras*'... during the Mughal period. These groups of transgenders... important positions like political advisors to the King and... and they played an important role in the administration and... making of the empire.² During ancient times, these sexual... were respected in the society, and as time passed this respect... Transgenders are found everywhere throughout the globe.

Transgenders are those categories of people who are neither included in the... nor in the female category. They differ from the normal gender and due... which they are termed as third gender. In India, transgenders are referred by... names such as *Hijras*, *Kothis*, *Aravanis*, *Jogathis* and *Jogappas*, *Shiv*

...an important role in the life of every human being. It is their... identifies their activity and based on which they are recognized... As transgenders have problems in identification of gender, they... in society. It has greatly affected the lives of such people... of them are living below the poverty line.

²... "Historical Evolution of Transgender Community in India" 4 *Asian Review*... 7-16 (2015)

³... "Historical Background and Legal Status of Third Gender in Indian... *International Journal of Research in Engineering and Social Sciences*...



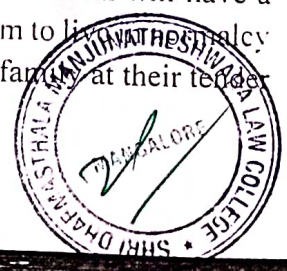
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There is a myth followed with regard to the sexual minority, that it is treated as a curse to be born as a transgender, in which the child will realise the reality normally at the time of attaining the maturity where the behaviour of that child will be exactly of the opposite sex with which the child is born. Gradually there arises a change in the behaviour, conduct and character of a child due to which the child is treated unevenly by the society. It is considered as strange to be recognized as a transgender in India and it is evident from the way they are treated in the society. Even their parents will not be in a position to accept such children as they are. Most of the time the child is deprived of its desire of being converted into a sex of its choice which will indeed affect the life of the transgender.

III. PROBLEMS FACED BY TRANSGENDER

The transgenders are the category of people who have unique nature and behaviour with opposite emotions as of their sex. Their such mental emotions ruin their entire life till they really get transformed themselves into other sex which will match with their emotions. But changing a gender is not an easy task. If a person is born with one sex and if he/she is recognized by the people with that sex, later in the midway if he/she desire to transform himself into an opposite sex, no one will recognise them either with male or female. The society will start treating them in a different way. This is the most difficult situation every transgender has to face in his or her life. The struggle for existence of the transgender begins from the day they realise that they are not actually what they are supposed to be. Day in and out he or she will struggle for his or her existence in this society.

First problem the transgenders face is with regard to getting adjusted with other people of their birth gender. As they will have peculiar likings and opinion of opposite sex, normally they will not be in a position to mingle with other people which will gradually separate them from the mainstream. They have to undergo a lot of humiliation because of their strange behaviour. Either in school or at home they are always criticized for their conduct or character. Once the society realizes their reality, they are kept aside which will have a great impact on them. It will become very difficult for them to live as a transgender due to which they are forced to abandon their house and family at their tender age.



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institutional institutions they will not be treated in a proper way by society because of which many will quit education and try getting a job. It is a very difficult task for them to get a job in a society and to lead a life by resorting to begging and other unlawful activities. They will even practice prostitution which will result in several diseases to them which will become a threat to their life.⁴

of normal marriage and family to these types of people. They are not in a position to lead a normal family life. They follow a concept of the marriage concept which is not recognised by the law.

people in order to gather money for their sex reassignment surgery, they indulge with several criminal activities due to which their

where these people in the name of god submit themselves to society. Devadasi system which is a social evil prohibited in some parts of India, where several transgenders in the form of jogappas are the victims of devadasi system even now.

communities are very high. They will be the victims of society. It is very sad to know that these people are not at all respected in the society. Some people misuse them whereas several

an exclusive legislation for protection of the transgender. Still the problems faced by them have not decreased. No doubt government has started several initiatives in order to protect the rights of transgenders in India. Several transgenders have taken the benefit of the government. Still, it is not possible to reach the majority and address their problems. Only a few are benefited and welfare measures. The main reason for this is lack of During their age of learning, they are forced to quit learning

Shri Dharmapala M. N. "Transgender Rights, the 'Third Gender' and Transforming Gender in India". available at: <https://www.lexology.com/library/detail.cfm?clid=882c-2c386a041a07> (last visited on March 12, 2021)
Chandrasekaran S., "Care of Transgender Individuals in India", *Indian Journal of Soc Psychiatry* 284-288 (2020).



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due to the adverse societal views which greatly affect their life. It is a fact that education ties a man with all other aspects of life, may be social, political, economic, etc. But the sad truth is that education is not attained by the majority of the transgenders due to which they are deprived of several benefits available to them.

Even though the government has passed several initiatives for the betterment of the transgender community, still it has not reached the whole community. Very few instances of transgender's success stories are to be seen in the society where majority of people found ruining their lives because of the adverse views of the society against the transgenders.

Transgenders are one among the most marginalised categories of people in society. Until recently, they did not have proper status in society. Their existence was not taken into consideration. They were not given job opportunities. They were not given any share in the family property, nor were any services provided to them. They were not allowed to participate in any activity nor were they treated in the society due to which their life has been spoiled to maximum extent. These people suffered a lot due to lack of family and societal support.

Family of a transgender play an important role in ruining the life of transgender to the maximum extent. Home is considered as the first school for every child. But the family does not treat a transgender in a normal way. The family members will not be in a position to accept such people as they think it affects their name and reputation in the society. It is considered a sin to be the parent or relative of such a category of people due to which the transgenders are forced to quit their families along with education. This leads them to further trauma. Not only the family but their community people also do not accept these people due to which they lose all ties with the family as well as society.

No transgenders are born criminals neither do they love begging nor they don't like to work. Like others they also wish to lead a happy and meaningful life by taking up employment or business and make their living. But society does not allow them to do so. These people are faced with too much humiliation

6 Dr. Subhrajit Chatterjee, "Problems Faced by Transgender Community: Some Recommendations" 6 *IJCR* 665-679 (2018)



...which force them to quit the work environment and resort to ... freedom.

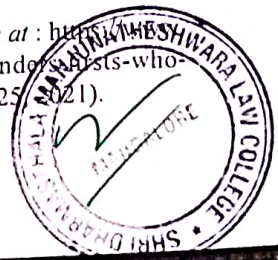
... is very common in all transgenders as they live with ... They are the most vulnerable people in society who face ... with their emotions from their very tender age due to which ... as psychologically weak which will greatly affect their ... for the problem faced by transgender in every society.

LAW RELATING TO TRANSGENDER IN INDIA

... the concept of transgender has been recognised in ... life. It is the right of every individual to choose his ... if he is not happy with his present gender it is his right ... But the sad truth is that such people are not treated as ... They are not given any respect in the society as well as they ... of other males and females. This is a very bad gesture of ... the transgenders slowly started getting recognition ... few of them in their community really excelled with ... and involvement to a society. Even though they were not ... the people and ill-treated by them, the struggle for their survival ... which they ultimately achieved. Satyashri ... the first transgender to study law and be the first transgender ... Joyita Mondel became the first transgender judge in India ... and was appointed in the Lok Adalat in North Bengal from ... is the first trans police officer to be appointed in the ... Angurini Manjamma was awarded with Padmashri from the ... tremendous achievement in the field of folk and literature.

... all the laws and enactments passed are applicable to transgender ... There is no any discrimination made to transgenders with regard ... Apart from the general laws, there are several laws and

... from Tamil Nadu of the age 36. ... people who were the firsts in their fields, available at : <https://www.gk-current-affairs.com/story/list-of-transgender-activists-who-are-remembered-today-gk-current-affairs/story/list-of-transgender-activists-who-are-remembered-today-gk-current-affairs-1276415-2018-07-03> (last visited on March 25, 2021).



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rules applicable to transgender in order to protect the rights of trans the society.

The Constitution of India enumerates various rights in Chapter III of the Constitution under fundamental rights which is applicable to transgender. Article 14⁹ of the Indian Constitution says about Right to equality. Article 15¹⁰ which stress that no person should be deprived of any the basis of sex. Transgenders, just because they belong to the third not deprived of any rights to them.

Universal Declaration of Human Rights also enumerates rights applicable to the people universally and are applicable to third gender. Article 6 of the UDHR states that every human being has an inherent live and the same shall be protected by law due to which no one can of their right.¹¹

The inclusion of transgenders in the Mahatma Gandhi National Employment Guarantee Act (MGNREGA), played a major role in employment opportunities to the transgender people as well as conducive environment to them at the work place.¹²

Ministry of Social Justice & Empowerment (hereinafter MSJE) in its No.17-08/2013-DP-II dated 22nd October, 2013 (Annexure-2) constituted Expert Committee specially to deal with the issues relating to transgender people and also to make an in-depth study about the difficulties being by the transgender and also to suggest suitable measures to be taken by Government to ameliorate those problems. The expert committee called meetings and even met the concerned authorities to obtain the first information relating to the transgender community.

Following recommendations were made by the Expert Committee:

- (i) It was suggested to register transgender in the employment exchange of both Central as well as state government.

9 The Constitution of India, art. 14.

10 The Constitution of India, art. 15.

11 Universal Declaration of Human Rights, United Nations, www.un.org/en/universal-declarationhuman-rights (last visited on March 20, 2021).

12 Mahatma Gandhi National Rural Employment Guarantee Act, 2005.



comprehensive legislation for the protection of transgender persons who suffer with certain defect due to which the transgender persons are subjected to all the humiliation faced by the society. There is a need to change the behaviour of the people with regard to the treatment of transgender persons. There must also be strict laws to be enacted for the protection of transgenders in India.

VII. CONCLUSION

The word 'transgender' is used to specify a person with the third gender. It is not a sin to be identified as a transgender person with special character. They are also to be given equal respect and dignity. A bitter truth is that in spite of several legislations and policies for the betterment of the transgender community, the same is not being implemented. The reason for this is many viz lack of education, no awareness by the society, etc. There are several transgenders who have achieved greater heights due to their hard work and have become a role model to others. On the other hand, there is a number of third genders who are still living in a closed environment in which they are unable to utilize the facilities of the society. Steps taken by the government from time to time have not been sufficient for the betterment of the transgender community. Society has still not implemented the provisions of these legislations to those trans category people. There is a need to give a message to the transgenders. But the struggle has not started from the beginning. It is the duty of the people as well as the NGOs to build a nation which is free from any kind of discrimination. Everyone equally as mentioned under Articles 14 and 21 of the Constitution of India. There is a need to educate the children about the transgender persons as normal people like other genders viz- male and female. The society must join hands with the State for the upliftment of the transgender community and bring them to the main stream so that they also live like that of other human beings.

Author is a motivational speaker, and singer.

