

Desire, Behaviour and Identity: Envisaging Social Acceptance of Transgender Community in India

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Abstract: *Gender and Sexuality has become a pivotal issue in today's social world surmounting the barriers of biological sex and gender roles by focusing on the identity of an individual. Empowered by the long struggle of identity crisis, transgender community has now been given equal status in few of the States in India with a vision of social convergence and assimilation. Transgender community in India has gradually overcome the issues of stigma, discrimination and other social barriers pertaining to their identity more explicitly than ever before. The present paper aims at presenting the current status of transgender community in India and how a paradigm shift has occurred in our social structure and age old myths related to transgender community.*

Keywords: Gender, Sexuality, Identity, HIV / AIDS, Transgender

1. Introduction

In India, people with a wide range of transgender-related identities, cultures, or experiences exists namely Hijras, Aravanis, Kothis, Jogtas / Jogappas and Shiv Shakthis (Rajkumar, 2016). Often these people have been part of the broader culture and treated with great respect, at least in the past, although some are still accorded particular respect even in the present. The term 'transgender people' is generally used to describe those who transgress social gender norms (UNDP India Report, 2010).

Transgender is a state of one's gender identity not matching to one's assigned sex (Thomas, 2013). It is often used as an umbrella term to signify individuals who defy rigid, binary gender constructions, and who express or present a breaking and / or blurring of culturally prevalent stereotypical gender roles. They are individuals of any age or sex whose appearance, personal characteristics, identity or behaviour differ from stereotypes about how men and women are supposed to be (Satashivam 2012).

In the Indian culture, the most prevalent transgender are hijras (Thomas, 2015). Hijra is a Persian word translated as eunuch which is used in common parlance for transgender community in India (Rajkumar, 2016). An older name for hijras is kinnar, which is used by some hijra groups as a more respectable and formal term (Wikipedia, 2017). Transgender is the most commonly used term to describe people who cross socially constructed gender boundaries (Gupta, 2005).

Hijras have a long attached recorded history of almost 4, 000 years with India. During the Mughal empire in the 16th and 17th centuries, castrated hijras – or eunuchs – were respected and considered close confidants of emperors, often being employed as royal servants and bodyguards. These jobs were so coveted that historians say some parents actually castrated their sons in order to attain favour with the Mughal kings and secure employment for their children. But despite acceptance centuries ago, hijras today live on the fringes of Indian society and face discrimination in jobs and services such as health and education (*ibid.*).

The Transgender community in India belongs to LGBT category which stands for Lesbian, Gay, Bisexual and

Transgender (Hotchandani, 2017) and are individuals of varied physical being and / or sexual practices and identifications, including (individually or in combination) transsexual, transgender, transvestite, homosexual, and asexual individuals, as well as hermaphrodites or intersexed individuals, and eunuchs (Loh, 2011).

1.1 Gender Identity

The transgender in India is possibly the most well-known and popular third type of sex in the modern world (Michelraj, 2015) and have emerged as a strong faction in the LGBT rights. They are individuals whose gender identities do not pertain to their biological sex (Athreye, 2015). Transgender does not include sexual orientation or physical sex characteristics but is in fact a less clinical term which pertains to gender identity and gender expression.

Hijras are biological males who reject their 'masculine' identity in due course of time to identify either as women, or "not-men", or "in-between man and woman", or "neither man nor woman" (UNDP India Report, 2010). Hijras can be considered as the western equivalent of transgender / transsexual (male-to-female) persons. They have a long tradition / culture and have strong social ties formalized through a ritual called "reet" (becoming a member of Hijra community). Transgenders / Hijras may earn through their traditional work: 'Badhai' (clapping their hands and asking for alms), blessing new-born babies, or dancing in ceremonies. Some proportion of Transgenders / Hijras engages in sex work for lack of other job opportunities, while some may be self-employed or work for non-governmental organisations.

They tend to identify with normative female gender roles in Indian society, although they present themselves as categorically distinct from women, and theoretically as a sex / gender distinct from male and female. Aside from occupying a position outside the normative sex / gender binary of male / female they also occupy a marginal position almost everywhere in Indian society, literally and figuratively (Hotchandani, 2017; Loh, 2011).

A study conducted by Chettiar (2015) on Hijra Community in Mumbai provided a closer look at hijras who see themselves as a third gender. This articulation and language is clearly defying the binary constructs of the gender by the

patriarchal society as male and female only. The concept of a third gender raises many questions with regard to the stereotyping of gender roles. In a society where the gender roles of male and female are strictly specified, hijras as human beings, find themselves trapped as female soul in a male body. In other words there is a definite clash here between what nature or biology expresses and what society dictates through its rigid social constructs of gender.

Kimmel (2004) quotes sociologist West and Zimmerman about their argument that “gender was less a component of identity – fixed, static- that is taken with us into our interactions, but rather the product of those interactions.” Emphasizing the social construct of gender they argued that “a person’s gender is not simply an aspect of what one is, but more fundamentally, it is something that one does, and does recurrently, in interaction with others.” (Chettiar, 2015).

1.2 Stigma, Discrimination and Violence

The Transgender community is one of the marginalized and vulnerable communities in the country which is seriously lagging behind on human development index including education (Rajesh et. al., 2013). Despite affirmative action, the disparities remain substantial among the transgender community in India. Majority of the population is uneducated and undereducated thereby excluding them from participating in social, cultural, political and economic activities.

Many transgender people live on the margins of society, facing stigma, discrimination, exclusion, violence, and poor health (Winter et. al., 2016). They often experience difficulties accessing appropriate health care, whether specific to their gender needs or more general in nature. (Tanupriya, 2016).

Social Exclusion Framework is increasingly used in highlighting the issues and problems faced by disadvantaged and disenfranchised groups (UNDP India Report, 2010). It provides a multidimensional and dynamic framework that focuses attention on both the causes and consequences of social disadvantage. Social Exclusion Framework is seen as having particular salience in addressing the barriers to meeting the Millennium Development Goals, particularly where these relate to exclusionary social relations and institutions. Adapting the Social Exclusion Framework to Hijras / Transgenders, one can understand how they have been excluded from effectively participating in socio-cultural life as well as decision-making processes.

The content analysis of the problems narrated by the hijras in a study by Chettiar (2015) on Hijra Community in Mumbai revealed that a significant majority of them suffered harassment at the hands of the police (both railway and traffic) particularly for begging and soliciting clients for sex work. There have also been cases when hijra respondents have been raped and even gang raped by the police especially in the first class compartments of the local trains in Mumbai. Few hijras complained that they suffered inhuman and disrespectful treatment especially in the Government hospitals at the hands of the doctors and nurses.

1.3 Legal Recognition as Third Gender

Identifying transgenders as a third gender, the Hon’ble Supreme Court passed this unique judgement on 15th April 2014 stating one’s sexual orientation as the integral part of personality, dignity and freedom. In the National Legal Service Authority (NALSA) vs. Union of India, the apex court (c.f. <http://academia.edu>) has declared Hijras and Eunuchs as third gender, providing them a legal identity (c.f. <http://indianexpress.com>).

The land mark ruling of the Hon’ble Supreme Court of India has stirred immense intellectual debates (Raju et. al., 2013). Justice KS Radhakrishnan, headed the two-judge Supreme Court bench and in his ruling that recognized the transgender as a third gender as not a social or medical issue but a human rights issue. It was observed that transgender are also citizens of India and they must be provided equal opportunity to grow. The spirit of the Constitution also entails to provide equal opportunity to every citizen to grow and attain their potential, irrespective of caste, religion or gender.

In a pioneering effort to address the issues faced by transgender people, the Government of Tamil Nadu has already established a transgender welfare board in April 2008. This effort was touted to be the first of its kind by any State Government in India and even in the whole Asia-pacific region. The board was formed to potentially address a variety of concerns of transgender people that includes education, income generation and other social security measures. As a first step, the board has conducted the enumeration of Transgender populations in all 32 districts of Tamil Nadu and in some places identity cards and ration cards were issued with the gender identity mentioned as “Aravani” (c.f. www.medindia.net).

In addition, Tamil Nadu government has issued an order in May 2008 to enrol transgender people in government educational institutions and to explicitly include ‘other’ or ‘third gender’ category in the admission forms (c.f. infochangeindia.org). After the success in Tamil Nadu, Transgender boards were also established in West Bengal, Kerala and Andhra Pradesh to uplift the social status of Transgenders (UNDP India Report, 2010).

1.4 Social Inclusion, Convergence and Assimilation:

Indian society is deeply stratified along the axes of class, religion, language, education, which intersect with sexuality to create deeper oppressions. Although hijras have a sort of sanctioned and visible place in Hindu society (especially at weddings, births and festivals), in the contemporary context, it is the gender non conformity of the hijra that has a major impact besides lack of a gender recognition certificate, sexual expression, employment, decent housing, subsidized health care services, and as well as the violence they suffer especially when they choose to take up sex work (People’s Union for Civil Liberties, 2003; Yogyakarta Principles, 2008). Though the journey of Transgender in India has been very struggling but despite facing all glitches, they are creating their own way with assistance from the ordinance.

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 (Hotchandani, 2017). 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. The Ministry of Social Justice and Empowerment along with Ministry of Statistics and Programme has planned to map the Socio-economic status of Transgenders to create a better environment for them by improving their living standards.

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 (*ibid.*).

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 (Transgender Rights in India, 2017).

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 (The Transgender Persons Bill, 2016).

A remarkable decision was also taken by the Chandigarh Administration recently by giving an identity to the transgender community. The Administration has decided to make a provision for a separate gender-neutral title, "Mx", in all forms and applications for them. Chandigarh Administration has formed a 14 member Transgender Welfare Board in order to ensure that they don't face any kind of discrimination. The board recently wrote to all heads of departments, corporations and boards to examine the issue of the prefix "Mx" for transgenders. The decision was taken to uplift the social status of Transgenders in Chandigarh and to mainstream them with civil society (c.f. Tribune News Services, October 23, 2017).

Giving equal rights to Transgenders in Panjab University Chandigarh, the authorities have decided to introduce a column for transgenders in the gender category in all application forms, academic testimonials and other relevant

documents processed and issued by the university. The decision was taken by the Vice Chancellor in compliance with the guidelines communicated by UGC, based on the judgement of Hon'ble Supreme Court in year 2014 (c.f. Tribune News Service, March 27, 2017). Moreover, to bring the members of transgender community in the mainstream life, sensitization programmes and awareness workshops for students, teachers and non-teaching staff will be organized by the authorities.

2. Conclusion

Each being in this Universe is indeed unique, and an integral part of Nature. It would thus be wrong to judge and discriminate people who may be different from the stereotype, which again is man-made. It is the right time to realised that every individual has equal rights and privileges, and must follow the policy of "live and let live" (Athreye, 2015).

Preamble to the Constitution of India mandates justice—social, economic, and political equality of status. Thus the first and the foremost right that transgender deserves is the Right to Equality under Article 14. Article 15 speaks about the prohibition of discrimination on the ground of religion, caste, sex or place of birth. Article 21, ensures right to privacy and personal dignity to all the citizens. The Constitution provides for the fundamental rights to the equality and tolerates no discrimination on the grounds of sex, caste, creed or religion (Bund, 2013).

All Transgenders are human beings and logically all human rights apply to them. As all human beings have the right to live with dignity at all times, regardless of their legal, social or political status so do Transgenders. In general, Indians tolerate, accept, and respect a wide range of differences in cultures, religions, languages, and customs. Despite Indian society's general climate of acceptance and tolerance, there appears to be limited public knowledge and understanding of same sex sexual orientation and people whose gender identity and expression are incongruent with their biological sex (UNDP India Report, 2010).

3. Recommendations & Suggestions

- 1) Systematic strategies to reduce the violence against transgender need to occur at multiple levels, including making perpetrators accountable, facilitating legal and policy reform that removes criminality, and general advocacy to sensitize the ill-informed about the issues and concerns of Transgenders (Divan et. al., 2016). Providing equal status to housing, education, public facilities and employment opportunities, developing and implementing anti-discrimination laws and policies that protect transgender people in these contexts, including guaranteeing their safety and security are essential to ensure that transgender individuals are treated as equal human beings.
- 2) Transgender Community in India are among the most neglected group of individuals. Very limited research work has been conducted on the issues and challenges faced by them. In order to mainstream them with civil society and to uplift their social status, it is essential to

have continuous research on Transgender community through appropriate institutions.

- 3) The rape law which can protect a woman becomes toothless when the same violation is done against Transgenders. Sexual favours, bribes, corruption etc are criminal situations perpetrated by the authorities of law and order too while they blame transgenders as antisocial groups (Gupta, 2005). It is significant in this context to emphasize the need of gender sensitization among police force, not just about the rights of women alone, but also of the sexual minorities and transgenders. This is a serious aspect to consider when one talks of civil liberty of citizens.
- 4) For transgender people, their right to health can only be assured if services are provided in a non-stigmatizing, non-discriminatory and informed environment (Divan et. al., 2016). This requires working to educate the healthcare sector about gender identity and zero tolerance for conduct that excludes transgender people. Derogatory comments, breaches of confidentiality from providers, and denial of services on the basis of gender identity or HIV status are some of the manifestations of prejudice. The right to non-discrimination that is guaranteed to all human being under international law must be enforced against those who violate these principles in the healthcare system.
- 5) It is a well-known fact that transgenders are the victim of discrimination due to idiosyncratic outlook, feminine body languages, bizarre way of dressing and gestures. In order to mainstream transgenders with the civil society, it is essential to be thoughtful for their estrangement and solitude which is abridging the gap. Actions of compassion may have positive reactions.

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