

Third Gender Discrimination In India

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Introduction:

In India there are socio-cultural groups of transgender people i.e.hijras, kinnars, Shiv-Shakti, jogtas, Aradhis, Sakhi etc. These groups are not only transgender but there are many individuals who are transgender but not belonging to any of the groups. Transgender or third gender people are the person of any age or sex whose appearance, personal characteristics, behaviour, habits, belief, temperament differ from stereotype. They have existed in every culture, race, caste and class since from the very beginning of the story of human life. According to one estimate, India has about two million transgender people. In India, a common term used to describe transgender people, transsexuals, cross-dressers, eunuchs and transvestites is hijra.

In Indian culture members of the third gender have played a prominent role. In ancient Hindu scriptures they find mentioned and were treated with great respect. In Mahabharata and Ramayana, the greatest epics, their presence were mentioned and written about them. In medieval India too, third gender played a prominent role in the royal courts even had prominent

and key position during the rule of Mughal Emperors and some Hindu rulers. But there was beginning of downfall in their position and status in 18th century during British rule due to 'Criminal Tribes Act of 1871' which categories the entire transgender community as "Criminals". They were regarded as "addicted" who always busy in committing serious crimes. When they wore women's clothing and playing music and dancing on the road or public places and indulging in gay sex then they were arrested by the police during those days.

In 1949, after independence, the law was repealed but the misbehaviour, ill-treatment, mistrust is still continued and they remain socially excluded in Indian society. They are compelled to live on the fringes of society. Mostly they are harassed and tortured by the police and misbehaved and abused by the public. They earn their bread and butter and livelihood by singing and dancing on road, public places especially at weddings and child birth celebration. Many of them are compelled and live in a very pathetic condition and have moved on begging and prostitution. Humiliation and degradation is their part of life which is gifted to them by the society at large and they are living such type of condition without any respect, dignity and status. Nobody is ready to think about the mental and psychological condition of third gender. They have been forced to choose either male or female as their gender in most public spheres. "It is the right of every human being to choose their gender," it said in granting rights to those who identify themselves as neither male nor female. India's Supreme Court has recognised transgender people as a third gender, in a landmark ruling. It ordered the government to provide transgender people with quotas in jobs and education in line with other minorities, as well as key amenities.

Objectives of the study:

The main objectives of this research study are as follows.

- 1-To trace out Gender Discrimination and Challenges faced by Third Gender People.
- 2- To highlight on Rights and Privileges for Third Gender in India.
- 3-To derive conclusion about the theme.
- 4- To discuss about some suggestions.

Gender Discrimination and Challenges faced by Third Gender People:

Transgender or third gender people face so many problems and challenges in their day to day life. Most of the families do not accept their male child who behaves against their gender role just like feminine. For this family members may threaten, scold or even assault them for misbehaving. Some parents evict their child from home. They give many excuses for this i.e. it is shameful for the family, status and image of the family will be declined in the society, inability of their child to bear the burden of family, end of generation etc. In this situation it is very difficult for the third genders to claim their rights in the family property. Sometimes, by their own will they decided to run away from the family and join hijra communities and end up begging and dancing, which is the only option to feed themselves. Sometimes they even engage themselves as sex worker for their survival.

Third gender people are not educated or uneducated and it is very difficult for them to get employment opportunities. Numerous problems that are being faced by the third gender community viz. homelessness, lack of educational facilities, lack of medical facilities, problems related to marriage and child adoption, discrimination on the basis of sex, hormone pill abuse, tobacco and alcohol abuse, no access to bathrooms/ toilets and public spaces, face problems in prisons, hospitals and schools, even from police they face verbal and physical abuse, forced sex, extortion of money and materials, illegal arrest on false allegation. Despite all Constitutional guarantees, the transgender or third gender community is denied everywhere in the society even for their basic rights i.e. Right to Personal Liberty, Dignity, Freedom of Expression, Right to Education and Empowerment, Right against violence, discrimination and exploitation etc.

In spite of deprivation, exploitation, humiliation third gender community people are trying their level best to climb the ladder of success. There are many shining stars and became the torch bearer in transgender community. To prove themselves efficient enough people like Sathyasri Sharmila became the first transgender lawyer. She set an example by pursuing law so that she can fight against injustice. Joyita Mondal became the first judge as she was appointed at Lok Adalat in North Bengal. She got inspired to pursue law while working for transgender rights. Prithika Yashini became the first transgender police sub-inspector though she was declared failed

by one mark but she got her score re-evaluated in the physical examination and came out clear with flying colours. Manabi Banopadhyay became the first transgender college principal of Krishnagar Women's College, she is also the first transgender person in India who has completed Doctor of Philosophy [Ph.D]. Mumtaz, a social worker, is the first transgender person to contest election in Punjab from Bahujan Samaj Party. Another best example is Shabnam Maushi, India's first transgender MLA from Sohagpur constituency in district Shadol, Madhya Pradesh. As she was not supported by her family, she wasn't able to attend school, yet she learnt almost 12 different languages.

India's first transgender soldier, Shabi joined Marine Engineering Department of Eastern Naval Command around eight years ago. India's first transgender medical assistant Jiya Das, who is working in operation theatre or OT technician. Padmini Prakash is India's first transgender television anchor. Previously Padmini had worked as a dancer and acted in various Tamil soap opera before joining the Coimbatore based Lotus News Channel. Kamla Jaan, India's first woman transgender Mayor who contested and won the election. But in 2003, High Court upheld that Kamla Jaan was not a woman, hence she was asked to step down from the post of Mayor- reserved for a female candidate. Kalki Subramaniam, India's first transgender entrepreneur is a journalist, writer, actor and activist. She holds two masters, one in Journalism and Mass Communication, second in International Relations. Laxmi Narayan Tirpathi, transgender rights activist, Hindi film actress and Bharatnatayam Dancer, is the first transgender person to represent Asia Pacific in UN in 2008. These are best examples of transgender or third gender persons who made history for community. They are proving themselves by their contribution, dedication, devotion and achievement and changed totally not only their lives but became the source of inspiration for others also.

Rights and Privileges for Third Gender in India:

An important decision has been given by Hon'ble Supreme Court, New Delhi on 15.04.2014 in relation to the writ petition of the National Legal Services Authority, against the

Government of India and others. By which Supreme Court instructed the Central / State Government to improve the daily status of third gender persons, to get them a proper place in the society and to provide them various benefits of government schemes. Instructions have been given by the Ministry of Social Justice and Empowerment, Government of India, New Delhi vide letter No. 17-18-2013-DP II (VOL II) to implement the recommendations of the Expert Committee constituted in relation to the persons belonging to the third gender by the date of July 21, 2014.

In pursuance of the above instructions, Government of Chhattisgarh, Social Welfare Department informed GoI Ministry of Social Justice and Empowerment, New Delhi vide letter No. F7-1 / 2014 / SC / 26, dated 10.10.2014 regarding the directions given to the concerned departments (Chhattisgarh Government General Administration Department, Tribal and Scheduled Caste Department, Women and Child Development Department, Urban Administration and Development Department, Technical Education, Mass Education Planning, Department of Science and Technology, School Education Department, Police Headquarters, Panchayat and Rural Development Department, Labor Department, Public Works Department, Health and Family Welfare Department, Higher Education Department, Public Relations Department) and all heads of Departments/ District Heads/ related officials etc.

Government of Chhattisgarh, General Administration Department, New Raipur, declared the Social Welfare Department as nodal department vide Order No. / F-1-2 / 2014/01 / F, dated 11-09-2014 for the supervision of programmes / schemes implemented by various departments of the state for the welfare and protection of the rights of persons belonging to the third gender community. In order to provide the benefits of the various governmental schemes and make the inter-departmental coordination for welfare of the third Gender persons, the Third Gender Welfare Board has been constituted under the Chairmanship of Honorable Minister, Social Welfare Chhattisgarh vide Order No. / F7-1/2014/SW/26 dated 04.10.2014 of Secretary, Government of Chhattisgarh, Social Welfare Department. Third gender Welfare Board has a total of 16 members including The Principal Secretary / Secretary of the concerned department,

05 non-governmental member (four Third gender members and one representative from the NGOs).

Justice K.S Radhakrishnan, who headed the two-judge Supreme Court Bench, said in his ruling, "Recognition of Transgenders as a third gender is not a social or medical issue but a human rights issue." The Court further said, "'Transgenders are also citizens of India" and they must be "provided equal opportunity to grow". "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 judges asked the government to treat them in line with other minorities officially categorized as "socially and economically backward", to enable them to get quotas in jobs and education.

"We are quite thrilled by the judgment," Anita Shenoy, lawyer for the petitioner National Legal Services Authority (Nalsa), told the BBC. She said, "The court order gives legal sanctity to the third gender. The judges said the government must make sure that they have access to medical care and other facilities like separate wards in hospitals and separate toilets." The Judgment of Supreme Court has been welcomed by the petitioners especially prominent transgender activist Laxmi Narayan Tripathi, who was among the petitioners in the case. She said, "Third gender community had long suffered from discrimination and ignorance in the traditionally conservative country." Tripathi told reporters outside the court in Delhi, "Today, for the first time I feel very proud to be an Indian." First step was taken in 2009, by India's Election Commission by allowing transgenders to choose their gender as other on ballot forms.

Preamble of Indian Constitution denotes Justice – social, economic and political equality of status. The first and foremost right Article 14 guarantees the right to equality to third gender have along with all Indian citizens. Article 15 ensures the prohibition of discrimination on the ground of religion, race, caste, sex or place of birth. Article 21 guarantees right to privacy and personal dignity to all. Article 23 prohibits trafficking of human beings. The Constitution also guarantees political rights and other benefits to every citizen. But in reality it is not applied for

the third gender community. They are deprived of their rights which are guaranteed by Indian Constitution i.e. right to vote, right to own property, right to marry, right to claim formal identity through passport, ration card and driving license, right to education, employment, health and so on. Due to such type of deprivation they are compelled to keep themselves away from the Indian civil society.

Centre and State Governments have been asked to provide the community various social welfare schemes and to treat the third gender community as socially and economically backward classes. Governments also have been asked to extend reservation in education and public employment. Centre and State Governments have been directed to take proper measures to provide medical treatment and care to transgender people and provide them separate public toilet and other facilities. Governments are also asked to take steps to create public awareness so that transgender people will feel that they are also part and parcel of social life. They are also asked to take measures to regain their respect and place in society, and seriously address the problems such as fear, shame, gender dysphonia, social pressure, depression, suicidal tendencies and social stigma.

So far no specific schemes are available for third gender community even though the Social Welfare Department provides a variety of social welfare schemes for socially and economically disadvantaged groups. Andhra Pradesh Government has ordered the Minority Welfare Department to consider third gender people as a minority and develop welfare schemes for them. In Tamil Nadu, an initiative is taken by the Department of Social Welfare recently established 'Aravanigal / Transgender Women Welfare Board' to address the social welfare issues of third gender community. Maharashtra has become the second state in India to set up a welfare board and the first, to set up a cultural institute dedicated to the transgender community. The Welfare Board will provide avenues for formal education, expand employment and self-employment opportunities, run health programmes and provide legal help to the community for free. Welcoming the Maharashtra government's steps, Laxmi Narayan Tripathi, transgender activist said, "The Transgender Welfare Board and Cultural

Institute will help us gain access to various government entitlements and services and take forward the much neglected issue of rights for transgenders. The Board will also have community representation on it, which will ensure that transgenders are part of the policy decisions that affect them.”

Conclusion:

The third gender community is a part of social order and they have equal rights in everything that is available to all others in the world. Discrimination and deprivation make third gender community one of the most disempowered groups in Indian society. It is not easy to face the world for the third gender people when they are deprived of for everything. Almost every other transgender person has to face the abusive behaviour in the society they live in. They have to cross all the hurdles and cross all the limits to make a mark with their identity and make their lives better and praiseworthy. The career path for transgender people is not simple and straight, they have to make extra efforts. There are many successful transgender or third gender people who broke all the barriers to become first ones to achieve big in their area of interest, from academics to politics.

Barack Obama has rightly said, “Change will not come if we wait for some other person or some other time. We are the ones we’ve been waiting for. We are the change that we seek.”

Suggestions:

Following are the some of the suggestions,

- 1] There should be a special legal protection against all forms of discrimination against third gender or transgender community.
- 2] Every person in society must have the right to decide their gender expression and identity.
- 3] Civil Rights under law such as the right to get a passport, ration card, make a will, inherit property and adopt children must be available to all including third gender people with their own identities.
- 4] The police administration should adopt transparency in their dealings with third gender people and treat them just as human being.

5] Gender Sensitization- special reference to third gender workshops and programmes should be arranged in order to break down their social prejudices and provide human treatment to third gender people from general public.

6] Vocational training centres should be established for giving the transgender or third gender people the new occupational opportunities.

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