

“Transgender Rights and Social Inclusion in India: Challenges and Progress”

***Dr. Rishi Kumar Sharma**

These individuals have been a part of Indian civilization for generations and are members of the transgender community. They are known as Hijras, Eunuchs, Kothis, Aravanis, Jogappas, Shiv-Shakthis, etc. In the Vedic and Puranic texts, the terms "tritiyaprakriti" (the third gender) and "napunsaka" (a person who is unable to procreate) are used. The Persian term hiz, meaning "someone who is effeminate and/or ineffective or incompetent," seems to be an etymological ancestor of the Indian word hijra. Kinnar is another popular term, while chhakka is reserved for insults. Even though eunuchs are more often seen now begging at weddings and traffic lights, they were a highly esteemed group in mediaeval India under Mughal authority. Euneukhos, meaning "bed chamber attendant" in Greek, is an etymological ancestor of the English term "eunuch." Because of their emasculation, they were then assigned to oversee harems. Under British administration, they were not granted civil rights and were seen as a distinct tribe or caste that engaged in practices such as child abduction, castration, and dressing and dancing like women.

Members of the "lesbian, gay, bisexual, transgender, and queer community" (LGBTQ) include a wide range of sexual orientations and gender dysphoria experiences. Despite widespread acceptance and legal protections for the LGBT community, transgender persons face discrimination and lack of legal protections in many countries.

Findings on the Transgender Community in India

Despite years of collecting data, the Indian census has never acknowledged transgender people as a distinct gender. The 2011 Census, on the other hand, included transgender people's employment, literacy, and caste information under the "Others" heading under Gender. There are an estimated 4.88 lakh transgender people in the world, according to the census. Although they may be requested to be classified as women, the data has mostly been associated with the males section since they are often counted as men. This precludes any statement on the true transgender population, yet a rough estimate is available from the census. Additional 55,000 children whose parents identified as transgender were included in the 2011 census.

Present Circumstances

In a landmark decision from April 2014, the Supreme Court of India recognised transgender people as a distinct gender and affirmed that an individual's sexual orientation is fundamental to their identity, dignity, and freedom. Transgender people, known as Hijras and Eunuchs, were granted legal

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status by the supreme court in the case of National Legal Services Authority (NLSA) v. Union of India, among seven other directives. Several courts issued transgender people affirmative rulings after the NLSA ruling.

In 2014, the Rajya Sabha approved the Rights of Transgender Bill, in response to the NLSA ruling. But in 2015, the government revised the 2014 law and made certain changes, including eliminating references to the Transgender Rights Court and the National and State Commissions. This new measure is called the Rights for Transgender Persons law. Activists and transgender people were quick to criticise the 2016 Lok Sabha introduction of the Transgender Persons (Protection of Rights law), which followed further revisions to the 2015 law.

The Transgender Persons (Protection of Rights)

Bill, 2016

Highlights of the bill

A person is considered transgender if they identify as either male or female, as well as if they exhibit characteristics of both sexes. Also included are transgender people, intersex individuals, gender-queers, and those whose biological gender does not coincide with their biological gender.

In order to exercise their rights under the Bill, transgender people are need to have a certificate of identification that confirms their identify as transgender.

The District Magistrate would issue the certificate after a Screening Committee makes a recommendation. A medical officer, a mental health professional, a representative from the government, and someone who identifies as transgender would make up the committee.

In the sectors of education, work, and healthcare, the bill forbids discrimination against transgender people. In these sectors, it mandates social programmes from the federal and state levels of government.

A fine and/or two years in jail might be imposed for crimes including making a transgender person beg, preventing them from entering a public area, or engaging in bodily or sexual abuse.

Key issues and analysis

Article 21 of the Constitution guarantees the right to dignity and individuality, which includes the freedom to self-identify as a gender, according to the Supreme Court. Nevertheless, in order to qualify for benefits, one's gender may need to be determined using objective criteria.

The right to one's "self-perceived" gender identity would be granted to an individual who is recognised as "transgender" according to the Bill. Nevertheless, the means by which this right may be put into practice is absent. A transgender person would be recognised and issued an identification certificate by a District Screening Committee.

International organisations and Indian specialists have different understandings of what

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"transgender persons" mean, and this differs from the Bill's definition.

"Trans-men," "trans-women," "gender-queers," and anyone with "intersex variations" are all defined as transgender people under the Bill. But no definitions have been provided for these concepts.

Some existing personal and criminal laws just recognise the genders of "man" and "woman," and there are a number of additional areas that want explanation. For transgender people, who may not feel comfortable identifying with either gender, the exact application of such legislation is unknown. So, these statutes would have to be revised.

Conclusion

A number of transgender-friendly welfare policies and programmes have been adopted by the Indian government today, marking a significant improvement. To prevent human rights violations of the transgender community and institutional mechanisms to address their specific concerns, there needs to be a census, documentation, citizenship ID card and passport issuance, social, economic, and political transformation, housing, legislative measures, police reforms, and constitutional and legal protections.

Medical Glossary

To better comprehend the many terms connected to gender, the following explanations are provided: seven to nine.

- Gender assigned at birth describes a person's biological designation as either male or female. The child's genitalia and other outwardly obvious physical sex traits are used for this purpose.
- People who do not identify with a certain gender are said to be "agendered," meaning "without gender."
- "Cisgender" refers to those whose biological sex matches their self-perception of gender.
- "Closeted" means that the LGBTQ individual has chosen not to publicly acknowledge their gender or sexual orientation.

The term "coming out" refers to the moment when a person starts to talk about their sexual orientation or gender identity with others after they've accepted and valued it for themselves.

Gender refers to a person's publicly acknowledged and often legally sanctioned life function as a man, a woman, or a boy. There are a variety of elements that influence gender development, including biological, social, and psychological ones.

Gender-atypical - describes traits or actions that do not conform to the norm for a certain gender. What we call "gender expression" is really just how a person shows their gender to the world around them via things like their clothes, their physical appearance, and their habits. Their sexual orientation or gender identity may or may not be reflected in this communication, which might be either

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deliberate or unintentional.

Behaviours that do not adhere to the expected gender norms in a particular culture are referred to as gender-nonconforming.

A person's gender identity may be defined as their preference for being identified as male, female, or non-binary.

Gender reassignment is the process of formally changing one's gender, which is often governed by law. It has nothing to do with a person's biological sex and refers to their fundamentally held beliefs about whether they are male, female, bisexual, or neither.

Gender dysphoria — a broad phrase for those who are unhappy with their biological gender. The diagnostic usage of the term provides a clearer definition.

The term "gender expansiveness" describes an approach to gender that is less rigid and more open to a variety of expressions and identities than the traditional binary paradigm.

"Gender fluidity" means neither a person nor something associated with a fixed gender identification; it describes someone who does not adhere to a rigid binary.

Gender queer — Those who identify as gender queer commonly, but not always, reject rigid gender classifications in favour of a more flexible understanding of one's own gender and sexual orientation. Those who call themselves "gender queer" may identify as neither male nor female, with neither sex at all, or with no gender at all.

"Transgender" encompasses a wide range of people who, for various reasons, either temporarily or permanently identify with a gender other than their biological gender.(Remember that transgendered is not a commonly used word.)

A person who identifies as transgender is someone who is seeking or has had a social transition from one gender to another. A physical transition including genital surgery (sometimes known as "sex reassignment surgery") and cross-sex hormone therapy is also included in many instances, but not all. The dread, hostility, or discomfort felt by transgender individuals is known as transphobia.

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