



Social & Legal issues and its development Scenario of Transgender people in the modern society with special reference to Tamil Nadu

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ABSTRACT: Transgender people face discrimination at and in access to work, public accommodations, and healthcare. Transgender populations face inequalities in access to education, employment, health, social protection and equal rights. In addition, there is limited documentation of models for providing appropriately tailored services, social protection and legal support system for transgender populations in India. Social welfare departments provide a variety of social welfare schemes for socially and economically disadvantaged groups. However, so far, no specific schemes are available for Transgender except few cases in Tamil Nadu. Transgender are highly discriminated and vulnerable in all aspects. Almost 93% of the transgender people in India are school dropouts. They could not continue their education at school due to the discrimination and an uncertain future full of fear. Transgender are left with no legal rights. This research paper highlights the available literature on social and legal issues and its current development in the lives of Transgender population in the modern society.

Keywords: Social and Legal Issues, Transgender, Modern Society, Tamil Nadu

1. INTRODUCTION

Transgender people are individuals whose gender identities do not pertain to their biological sex and thus they differ from the stereotype of how men and women normally are. "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. Thus transgender people encompass those people whose identity and behavior do not adhere to the stereotypical gender norms. They may be transsexual, transvestite or gender queer.

The Transgender of India is probably the most discriminated, vulnerable third sex type in the modern world. "The Humsafar" Trust (NGO) estimates there are between 5 and 6 million transgender in India. In different areas they are known as Aravani/Aruvani or Jogappa. Often (somewhat misleadingly) called 'eunuchs' in English, they may be born intersex or apparently male, dress in feminine clothes and generally see themselves as neither men nor women.

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Children, adolescents and adults that identify as transgender often face many challenges that are difficult to handle on their own. Transgender people have been facing inequality and discrimination since before the 1800s. In the past, people have been arrested or forced into insane asylums for being transgender.

They constitute the marginalized section of the society in India, and thus face legal, social as well as economic difficulties. But in 2011, data of Transgenders were collected with details related to their employment, Literacy and Caste. In India, total population of transgender is around 4.88 Lakh as per 2011 census. The highest proportion of the third gender population, about 28%, was identified in Uttar Pradesh followed by 9% in Andhra Pradesh, 8% each in Maharashtra and Bihar, over 6% in both Madhya Pradesh and West Bengal and well over 4% in Tamil Nadu, Karnataka and Odisha. Rajasthan accounted for over 3% of the total transgender population and Punjab for 2%. Almost 93% of the transgender people in India are school dropouts. They could not continue their education at school owing to the discrimination and an uncertain future full of fear.

2. Methodology

2.1 Objectives

The primary objective of the study is to understand the social and legal scenario of Transgender in the modern society of Tamil Nadu. The specific objectives of the study are as follows:

- a) To understand the problems faced by the transgenders in the modern society.
- b) To study the legal provisions and rights of transgender.

2.2 Research Design

The researcher has adopted the descriptive study of design where the title of the study is based on the literature available on the modern society.

3. Transgender in literature

An American psychiatrist by name John F. Oliven is the one who brought up the term transgender in 1965. He coined the term while he was working at Columbia University. The term first appeared in his reference work called *Sexual Hygiene and Pathology*; the term transgender was then popularized with varying definitions by various transgender, transsexual and transvestite people, including Virginia Prince, who used it in the December 1969 issue of *Transvestia*, a national magazine for cross dressers she founded.

Both transgender and trans-people were used as an umbrella terms during the mid 1970's. 'Transgenderist' was another term used to describe people who wanted to live cross-gender without sex reassignment surgery (SRS). By 1976, trans-genderist was abbreviated as TG in educational materials. The term transgender is also used by many to refer 'hijras' and 'aravanis' in India. Krishna and Gupta (2002), Chakrapani et al. (2004, 2007, 2008a, 2008b), Project Parivartan (2006), Kavi (2007), The Humsafar Trust & Population Services International (2007), Asia Pacific Coalition on Male Sexual Health (APCOM) (2008), Puri (2008), and Chakrapani (2009) have loosely used the term transgender to address hijras and aravanis who fall under the MtFcategory. The term aravani is used for hijras in Tamil Nadu (Mahalingam 2003; Chakrapani et al. 2004, Chakrapani 2009; Saravanamurthy et al. 2010; UNDP 2010; Kalra 2011; NACO 2011)

3.1. Social concerns

Transgender people face discrimination and violence throughout society, from their family growing up, in school, at work, by homeless shelters, by doctors, in emergency rooms, before judges, by landlords, and even police officers. At least one in five transgender people surveyed report experiencing employment discrimination. In six studies conducted between 1996 and 2006, 20% to 57% percent of transgender respondents said they experienced employment discrimination, including being fired, denied a promotion or harassed. Though even more difficult to measure, transgender people also face incredible barriers as job applicants.

Transgender people face extreme discrimination and violence in much of the world. In many countries, their identities are being criminalized. Through public and private diplomacy, reporting on human rights abuses and action at the United Nations and providing funding and other support to human rights defenders in countries around the world. The US has indeed helped move global LGBT rights forward in recent years. Transgender people who are going through divorce, inheritance battles or custody disputes are vulnerable to legal challenges. This is because the validity of their marriages is often called into question due to inconsistent laws regulating transgender equality.

3.2. Transgender Welfare Board

In April 2008, when Tamil Nadu set up a Transgender Welfare Board, the State was hailed as a model for progressive development. TGWB addresses the social protection needs of TG people - income assistance, housing, education, employment and health care. Support for their higher education, short-stay home for TG people in crisis and as a safe place to for TG people to stay when they visit Chennai for medical care and sex reassignment surgery.

3.3. Legal concerns and its present scenario of Transgender community

It is your society's problem that you only recognize two sexes. Transgender social movements have campaigned for recognition as a third sex, and in 2005, Indian passport application forms were updated with three gender options: M, F, and E (for male, female, and eunuch, respectively). Some Indian languages such as Sanskrit have three gender options.

In November 2009, India agreed to list eunuchs and transgender people as "others", distinct from males and females, in voting rolls and voter identity cards. On April 15, 2014, the Supreme Court of India recognized a third gender that is neither male nor female, and as a class entitled to reservation in education and jobs, stating "Recognition of transgender as a third gender is not a social or medical issue but a human rights issue." This verdict made India one of the few countries to give this landmark judgment.

In April 2014, Justice K.S. Radhakrishnan, of Supreme Court of India declared transgender to be the third gender in Indian law, in a case brought by the National Legal Services Authority (Nalsa) against Union of India and others.

(1) Transgender, Eunuchs, apart from binary gender, be treated as "third gender" for the purpose of safeguarding their rights under Part III of our Constitution and the laws made by the Parliament and the State Legislature.

(2) Transgender persons' right to decide their self-identified gender is also upheld and the Centre

and State Governments are directed to grant legal recognition of their gender identity such as male, female or as third gender.

4. Discussion

The recent trends proved a development of transgenders in various stages especially social and legal aspects which motivate them to lead a decent life to some extent.

4.1 Media representation

As more transgender people are represented and included within the realm of mass culture, the stigma that is associated with being transgender can influence the decisions, ideas, and thoughts based upon it. Media representation, culture industry, and social marginalization all hint at popular culture standards and the applicability and significance to mass culture as well. These terms play an important role in the formation of notions for those who have little recognition or knowledge of transgender people. Media depictions represent only a minuscule spectrum of the transgender group, which essentially conveys that those that are shown are the only interpretations and ideas society has of them.

4.2 Employment & Reservation policy

- The Indian state of Tamil Nadu is to hire the country's first transgender police officer after a court cleared hurdles that faced one applicant.
- Transgender people are coming forward to run community based organizations (CBOs) almost all the district of Tamilnadu.
- Transgender play a role in employment in government funded programmes, offices and private establishments.
- Colleges have come forward to allot seats for the transgenders in both Arts and Engineering education.
- Transgender organizations train their people to display their capacities as folk dancers, drama artist, television and cine artist etc.

But still effective framing of policy and its proactive implementation would lead them to take part in several positions which in turn pave the way for mainstreaming them in the society.

The Tamil Nadu state government's 'Aravani (male-to-female transgender people) Welfare Board' has given identity card for Aravanis – in which both their male and female names are given. This identity card may, however, have limited value and may not be useful for accessing a broader series of rights. For example, these cards (voter identity card or Aravani welfare board card) might not be able to enable transgenders to access other civil rights such as marriage, as legally marriage is seen as only between a man and a woman and there is no recognition of a third gender category in the marriage laws.

4.3 Sex Reassignment Surgery (SRS)

For pre-operative male-to-female transsexual people, the removal of their genitals through surgery gives so much psychological satisfaction. They feel more close to being a complete woman. They

are constantly in an urge to get rid of their male genitals. Many of them pay thousands of rupees to doctors who are not qualified enough to perform this surgery. As a result, after the surgery eventually their urinary passage gets blocked. This is a very painful problem for the person who underwent this surgery.

Male-to-female transsexual people undergo penectomy as they cannot spend enormous money on sex reassignment surgery. Sex Reassignment Surgery, shortly known as SRS, is a very expensive surgery which may cost at the maximum of 3 lakhs. Only rich transsexual people (except in Tamilnadu) can afford SRS. At present, few government hospitals in Tamilnadu are performing the SRS at free of cost.

Transgender Persons (Protection of Rights) Bill 2016 for introduction in Parliament, and this Bill is expected to bring social, educational and economic empowerment to the transgender community. To a community that has been ostracized and discriminated against for so long, this Bill could mean a chance to live a life of dignity and equality. Under the provisions in this Bill, transgender persons shall also have equal rights and access to a cultural life, leisure and recreational activities.

4.4 Journey from Marginal to Mainstream

Within the Third Gender population, one can come across many stories of grit and determination where a transgender did not allow societal pressure decides their fate. Transgender activists, who have written their own success stories with the help of their endowment, hard work, dedication and perseverance, would take the transgender community forward in all aspects.

5. Suggestions and recommendations

1. Increased access to legal and psychological services and advocacy training
2. Access to social protection
3. Given the convergence of multiple issues among transgender populations such as poor mental health, STIs, HIV, alcohol use and gender violence, appropriate health interventions should be a priority for health systems and services.
4. Legal and legislative framework to decriminalize sexual practices among transgender populations would contribute to reducing their exposure to violence and harassment.

6. Limitation

While reviewing the various literatures, the limitations of our study should be noted. As indicated, researcher was unable to find much resource on transgender people. It was noted that statistics were not available in census as well as in data related to social measures provided by the government departments. The literature on Transgender in the modern period was so limited for reference.

7. Conclusion

Each human 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 now up to the government to bring in policy to ensure that they are not discriminated against and that they enjoy equal rights like any other children and adults," We keep

creating generations of transgender beggars and sex workers by denying their opportunities. It is time we stopped it, the law and government are gearing towards helping those transgender by legally recognizing us and passing bills at the houses for those who live in shackles to claim their space for equal opportunities at all spheres like any other citizen of India. It is time that India realized that every individual in this country has equal rights and privileges, and follow the policy of "live and let live."

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