

TRANS* WELLNESS

A Burning Issue

Editors

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ISSUES AND CHALLENGES OF TRANSGENDER THROUGH SOCIAL PRESSURES

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Introduction

The transgender (TG) community is one of the most marginalized social groups in the country. Historically subjected to structural violence, the TG community continues to face widespread stigma and discrimination at the hands of their own families, society and even everywhere. Transgender, it is not about confident expression of challengers to existing social normative gender practices, but about their suppression it is about concealment, suppression, stigmatization, fear, isolation, doubt and repression. It is about how transgender exist in the real world and this experience may affect thought their life. Despite some recent progressive measures by the government, the community's social mainstreaming and access to rights and entitlements remains shrouded in challenges. This paper attempts to put in perspective the struggle for transgender rights in India. It builds on a study of TG women to highlight the challenges faced by the community in the absence of legal

safeguards for their physical safety, well-being and financial security.

Constitutional Safeguards and Policy Interventions by the State

The Constitution of India accords to all its citizens, equality before the law (Article 14), freedom of speech and expression (Article 19[1]) and the right to a life of dignity (Article 21). Moreover, discrimination of any kind, restriction of any activity or denial of access to public places and goods and discrimination for employment opportunities on the grounds of sex, is strictly prohibited by the Indian Constitution, as laid down in Articles 15 (1), 15 (2) and 16 (2). Article 15 however, specifies that a sex based non-discrimination clause should not prevent the State from introducing special provisions for women and children. What the Constitution however does not specify, are special provisions for the TG community akin to those for women and children. Noting this gap, the Union and some state governments have introduced measures for TG groups, mostly related to provision of identity documents, access to healthcare, housing rights and employment guarantee.

Some of the milestones with regard to according legal recognition to the TG community include the introduction of category 'E' in passport applications by the central government in 2005 , the inclusion of the community as a third gender category in the 2011 census; and as part of the Backward Class category in Karnataka in 2010. Furthermore the National Legal Services Authority (NALSA) has granted TGs the status of a marginalized group. An order of the Election Commission of India 2012 relaxed conditions for TGs, with the addition of 'chela' (assistant) or 'Guru' (teacher) in the voter registration form. Registration of the Aadhaar card has a column specifically

for TGs along with male or female. The National AIDS .The Government of India has introduced the category 'E' for eunuchs in addition to the two options of male (M) and female (F) in passport application forms. Although, the move has been appreciated by the TG community, it is widely believed that the term 'Eunuch' does not capture all categories within the TG community. The State Backward Classes Commission of Karnataka recommended the inclusion of TGs as a Backward Class category in 2010, after petitions were filed by organizations working with TGs such as Karnataka State Sexual Minorities Forum (KSMF) and those funded by Karnataka Health Promotion Trust and Karnataka State AIDS Prevention Society. The Aadhaar is a 12 digit number issued by the Government of India through its implementing vehicle, the Unique Identification Authority of India. The number serves as a proof of identity and address for registered individuals and enables their access to government and non- government services.

Understanding Transgender Issues: Voices from the Field

Many of the analysis of schemes and programmes which target TGs reveal that these issues remain largely unaddressed. Besides the identity question, the TG community continues to be faced with poor access to education, healthcare, legal aid, employment and quality housing related facilities. These are in turn reflective of structural barriers and ideologies of oppression – of patriarchy, capitalism, caste – the core anchors of which are the state and society (UNDP policy brief, 2010). The life trajectory of male to female transgender as documented in study there are three stages of their lives are described, namely adolescence (between 10 and 18 years of age), adulthood (between 19 and 40 years) and middle & old age (beyond 40 years). It is important to recognize that they lived experiences

of stigma, violence and exclusion faced by TGs differ at every stage. For an effective policy response, it is critical to understand these differences and accordingly design interventions to address the multiple layers of ostracism faced by the community across their life cycle.

It is reported that all transgender interviewed during a case study, first it was noticed psychological differences between them and their playmates around the ages of 11 and 14 years. They preferred assisting their female friends and relatives in daily chores and chose to adapt to the dominantly perceived feminine roles over the more masculine ones. Isolation within families: The field survey reveals that the gross lack of understanding and support for adolescent boys wishing to adopt feminine gender roles. While there were instances of mothers extending support, patriarchal structures often left them incapable of providing financial aid or physical security. As a result, young boys would be coerced into following masculine gender roles against their wishes. Such instances created spheres of isolation wherein they found themselves sans any emotional support. The complete absence of institutional mechanisms for sensitization of parents and community members was noted by several transgender. Historical marginalization of the community added to their grievances. Instances of lack of empathy were routinely accompanied with violence. In the absence of parental support, respondents shared that as children they would become victims of sexual abuse by male relatives, teachers and supervisors. The lack of care and love in their lives would often be used by abusers as a tool to gain proximity and establish control. Discrimination at schools: Participants stressed that harassment and stigmatization from schoolmates was a very common problem. Teasing, derogatory remarks, spreading of rumours about their sexuality, bullying, verbal, physical and sexual abuse by peers,

students and teachers, especially male teachers were common occurrences.

These often resulted in transgender discontinuing their schooling. Complaints by teachers and classmates to parents of these people further intensified their isolation. Such instances not only demonstrate the complete lack of understanding and sensitivity, but also point to the absence of necessary skills/tools amongst teachers to address concerns of TG students. Most of the transgender students they quit school due to discrimination and violence. Adulthood By the age of 20 years, most transgender in rural areas migrate to cities, where they start dressing like women and try to undergo SRS. Pressure of marriage, violence and rejection from family as well as expulsion from school are common reasons for running away from home. Those who enter higher education face greater discrimination. Professional courses like engineering and medicine are nearly impossible for TGs to access and so are co-educational institutions

Illiteracy, Unemployment and Sex Work

The lack of education leaves transgender with very few options for seeking formal employment. In cases where they are trained, the stigma associated with their sexual identity dissuades employers from hiring them. In addition, barriers like absence of proper educational certificates, discrepancies between various sets of documents such as birth certificates and their status post the SRS, etc. reduce their chances of gaining formal employment. Those who get hired, face discrimination at the workplace. This takes the form of lower wages, longer durations of work and subjection to sexual harassment from colleagues. In an another case study, it is reported a 23 year old transgender from Madurai who worked as a school teacher was publicly

humiliated and forced to resign when she refused the sexual advances of her male manager. The absence of explicit provisions under the Vishakha guidelines for caravans makes legal recourse against sexual harassment at workplace all the more difficult for sexual minorities in the country. Unskilled and uneducated, caravans face the additional discrimination of being disowned from ancestral wealth. Currently, there is no legislation which supports their right to ancestral property. It is not surprising that majority caravans prefer the safety of what they perceive as their own community even if it means engaging in sex work. To quote a TG rights activist: "Manual scavenging becomes an occupation enforced on Dalits through the exclusion of access to other jobs; in a similar way begging and sex work are forced occupations for transgender through exclusion from other jobs.

Several respondents also referred to uncertainty of income as they were employed in high risk jobs in terms of the health impact and stigma attached, for instance sex work. An assessment of their expenditure needs revealed that significant proportions of their incomes were spent on travel, house rents and rates for electricity and water. Respondents shared they were forced to hire private vehicles because of rampant harassment in public transportation and that inflated rates for rent, electricity and water were charged to them because of their TG identity.

Access to Basic Amenities

In an another case study also reveals that on transgender, though majority of them had ration cards and voter ID cards, they were deprived of the benefits of welfare schemes since they did not have BPL (Below Poverty Line) cards. Healthcare: With regard to the community's health needs, respondents revealed that perceived association with HIV and AIDS was a major reason

for discrimination by healthcare providers. Out of 124 cases of visits to various government hospitals, TGs faced stigma, discrimination and exclusion in 68 per cent of the visits. Of these, 47 per cent were from doctors, 20 per cent each from nurses and others that included attendants, security staff, canteen staff, etc. Discrimination ranged from refusal to provide services, delays, charging of excess money, verbal abuse and harassment and breach of confidentiality. As far as the special health needs of aravanis were concerned, respondents shared that most hospitals lacked adequate skills or provisions to meet them. Interviews revealed that doctors often committed mistakes in SRS operations, impelling them to undergo additional surgeries. Medical expenses would invariably increase leading to indebtedness, which would then be supplemented by expenses on hormonal tablets and injections, silicon breast implant related treatments, laser treatments for hair removal, etc.

Everyday forms of violence and brutality

Transgender face constant violence, harassment and blackmail from the police. They are prone to verbal, sexual and physical abuse by policemen and faced immense difficulties in registering cases. Those involved in sex work are being forced to regularly bribe officials. They are often implicated in false cases and put behind bars. Besides violence from institutions, they suffered from occupational violence and abuse. Forced sex and rape at workplace are very common. Besides violence at work and in society, these transgender are victims of legal discrimination which is best understood in the contexts of Section 377 of the Indian Penal Code (IPC)⁹, Section 46 of the Army Act, Section 292 and 294 IPC. These Acts translate into charges of obscenity and non-recognition of same sex unions and often result in extortion, illegal detention, abuse, outing (revelation of the

sexual orientation of a person to his/her family resulting in ridicule and shame), rape in jails, etc.

Middle and Old Age (Beyond 40 years) Beyond 40 years of age, transgender women were found to be physically debilitated due to SRS, hormone injections and silicon implantation and often other diseases which included diabetes, tuberculosis, sexually transmitted diseases, HIV & AIDS and hepatitis. Health problems resulted in large numbers dropping out from sex work. In some cases, the lack of employment opportunities forced transgender to engage in more hazardous and unsafe sex work. The absence of a support system to take care of transgender women during their middle and old age was noted in testimonies of TGs. Several respondents shared that with increasing migration, the traditional system of chelas looking after ageing the transgender are gradually disintegrating. Excluded from their community, abandoned by their biological families, failed by their chelas, with no or very little savings and no or very few employment options, they at this stage of their life cycle found themselves completely abandoned. Due to unemployment, unsafe sex work, HIV risks these transgender people denying of their healthcare.

A data reveal that TG women face multiple forms of discrimination (verbal, physical and sexual violence; harassment; refusal to provide services; false arrests; denial of share in ancestral property; denial of admission to educational institutions; victimization by teachers and fellow students and several others) in multiple settings (family, school, workplace, health care settings, public spaces including also the Jamaat) by multiple perpetrators (family members including parents and siblings, friends, school and college authorities, employers, neighbours, house owners, health service providers, police, clients and from their own community members) due to multiple reasons (effeminate behaviour, trans status, real or perceived

association with sex work; real or perceived HIV status, dress code, physical appearance and others). A few other issues merit attention. Discrimination faced by transgender are not sporadic in nature. It is routine, 'everyday' and embedded in their daily lives. Unlike several other marginalized and discriminated groups whose invisibility often acts like a shield against stigmatization and discrimination, TG women's visibility (in terms of their physical appearance which makes it impossible to evade detection and recognition) becomes the reason for multiple discrimination in every walk of life. Worse still, being born in an affluent family or dominant caste, which otherwise works to the advantage of individuals, becomes a reason for further discrimination and violence in the case of transgender.

The recently released 'Report of the Expert Committee on the Issues Relating to Transgender', 2014 makes some important recommendations to mainstream the TG community and bring about convergence in critical areas such as education, employment, healthcare and reduction of violence against the community. This Report is an important milestone, and it will be critical to implement these recommendations to take the agenda of TG rights forward in the country. It is important to reiterate that the 'identity question' of the TG community is extremely complex and therefore requires a nuanced response. Any assessment of the discrimination suffered by TGs must necessarily be made along all axes of exclusion - gender, caste, class, religion, occupation, age, HIV status etc.

Key recommendations of the Expert Committee

- Survey to ascertain the socio-economic status of transgender persons in the country.
- Umbrella scheme for transgender people consisting of (a) Scholarship scheme (b) Loan with 25% subsidy for taking

- up self-employment activities (c) Pension scheme for people between 40 and 60 years (d) Grant-in-aid to CSOs to provide vocational training. Suggested long term measures
- A law to prevent discrimination and atrocities against transgender people.
 - Housing schemes for transgender people devised by Ministries of Rural Development and Housing & Urban Poverty Alleviation.
 - Access to education of children of TGs through special provisions under the Right to Education Act; anti-discrimination cells in all schools to monitor any discrimination; and revision of Juvenile Justice Act to address concerns of children among transgender community.
 - Policies on registration and admission of transgender people devised by public hospitals.
 - National clinical guidance (standards of care) document prepared by Ministry of Health and Family Welfare.
 - National Council for transgender people on lines of the National Council for Senior Citizens.
 - Media campaigns launched with the Ministry of Information and Broadcasting for public awareness on issues of transgender people.
 - Introduce legal reforms to ensure that TGs are entitled to their share in ancestral property.
 - Include transgender women in the category of women in every government document (as well as the planning and budgets documents where women are referred to).
 - Formulate policies which prevent abandonment of effeminate boys and transgender women by their families.

- Introduce stringent laws that deal with violence, harassment, discrimination against transgender. Transgender women should be brought within the ambit of anti-rape laws of the country.
- Establish a complaint mechanism at the state and district levels to prevent abuse, torture and harassment by police and other service providers including public and private sector.
- Set up an accessible grievance redressal mechanism to address day-to-day rights violations of transgender.
- Constitute a separate National Commission for Transgender Women.
- Constitute a National level Transgender Welfare Board with proportional representation of transgender women from different states. A Transgender Welfare Board in each state on the lines of Tamil Nadu Transgender Welfare Board should be set up. Appropriate mechanisms to ensure coordinated functioning between the state level boards and the national board should be introduced and adequate resources for effective functioning of Transgender Welfare Boards at the national and state level should be made available. Proactive participation of transgender women in all democratic spaces and systems, including participation in policies purported for their welfare.
- Ensure TG representation and participation in decision-making bodies at all levels of administration, development programmes and departments and in monitoring of welfare and development programmes.
- Ensure eligibility of transgender women to contest in all democratic platforms (three tier Panchayat, legislative assembly and parliament).

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- Strengthen Community Based Organizations of transgender women.
 - Ensure that at least one seat in the legislative assembly of each state is reserved for transgender people. a. Promoting employment
 - Ensure reservation for transgender in government jobs and provide incentives to the private sector to recruit transgender persons.
 - Create and regularly update employment database for TGs by District Employment Officer and issue/endorse certificates of approval to the TG persons for jobs.
 - Promote recruitment of TG persons in specific sectors such as police/traffic police and fire fighters, nurses, teachers, lectures, airhostess, community health workers, government bus drivers and conductors, railways ticket inspectors, railway catering service, Integrated Counselling and Testing Centre counsellors, clerical staff in Transgender Welfare Board, etc.
 - Provide loans for self-employment and to start SHGs; all procedures and formalities should be simplified for transgender persons to access services from financial institutions.
 - Promote vocational training (tailoring, making sanitary napkins, computer, travel and tourism, catering etc.) to increase employment opportunities for TG persons. b. Promoting health care
 - Provide free Sex Reassignment Surgery for all aspiring transgender persons.
 - Ensure that trained and skilled doctors and facilities are available in government hospitals at the regional (for cluster of districts) level in each state to deal with health care issues of transgender persons.

- Issue proper guidelines in government hospitals for SRS and silicone implants so that transgender are not considered objects for medical experimentation.
- Address HIV related concerns of TGs in a holistic manner with due consideration for the transgender identity, life situation and culture. c. Promoting education.
- Ensure reservation of seats for transgender students in educational institutions including higher and professional education and financial incentives for institutions which admit transgender persons.
- Develop and incorporate appropriate material/themes on sexual minorities and alternate sexual identities, specifically on transgender issues in the academic curriculum from high school onwards. Material on sexual minorities should be introduced in teacher training courses.
- Provide counselling facilities in all schools for both parents and students. A grievance redressal mechanism linking schools with the State Transgender Welfare Boards for ensuring disciplinary action against institutions which discriminate against sexual minorities should be introduced.
- Provide vocational training and reservations in Industrial Training Institutes for extending support to TGs in order to increase employment opportunities for them. 3. Creating an enabling environment characterized by acceptance and respect for people with alternate sexual identities.
- Conduct programmes for awareness building and sensitization of all service providers in health, education, revenue department, Panchayat, banking and other government departments towards the rights and entitlements of transgender.

- Conduct campaigns and awareness generation programmes for sensitization of society towards transgender persons, their problems and rights.
- Ensure positive projection of TGs in movies and serials to inculcate a positive mind-set among the general public.
- Allocate funds for counselling services in all schools; sensitization and capacity building programmes in schools and government offices and for introducing measures such as grievance redressal mechanisms to curb police violence against aravanis. Periodic upward revision of pension amount for transgender persons who are above 40 years old should take place.
- Formulate programmes to address the needs of transgender persons above 40 years of age, especially in housing allotments, destitute support, and short stay home facilities.

Conclusion

Unfortunately, many transgender adolescents are teased or bullied at school. Middle school and high school can be difficult years for all adolescents for transgender students, the social pressures to fit in are even more severe. With transgender student's inability to fit into gender norms, they are often taunted and bullied by the peers being bullied can cause students to experience stress-related seizures, depression, or panic attacks. While about 1.6 percent of the general population attempt suicide, a staggering 46 percentage of the transgender population has reported attempting suicides, according to GLAADS'S statistics. The biggest issue that transgender youth is being understood by their family and their friends.

According to the national non-profit Gay, Lesbian & straight Education Network (GLSEN), 80 percent of transgender

students report feeling unsafe at school. Most school administrators are unprepared to accommodate transgender students. If these administrators work proactively to ensure future transgender students are well cared for in their schools. School life for future transgender Students will be a more pleasant experience.

The transgender adolescents are often cast aside because public does not understand what these individuals are going through. But as more and more transgender people open up and share their stories, our society's understanding of gender identity and gender expression will increase. Unfortunately, there is not much in the way of help and support from other parents who have experienced this, especially in a smaller town. The process itself can take years to come to full fruition and of course the possible financial costs are very high. Counselling for the parents both individually and a family unit is essential in regards to this issue.

We need a world where our families no longer disown us, where society treats us as equal, and where governments guarantee our rights; a world that understands the transgender identity. This is the right time and also an urgent need for legal and constitutional safeguards to prevent human rights violations of the TG community as well as institutional mechanisms that can address the specific concerns of TG people. However, undoing centuries of discrimination that the TG community has faced, will require interventions at multiple levels, in multiple settings; key amongst which will be transforming prevalent attitudes about the TG community that continue to marginalize them.

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