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Transgender and Sanitation: A Fundamental Concern

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ABSTRACT

The article discusses the challenges faced by transgender individuals in India, particularly the need for separate sanitation facilities. Despite the constitutional guarantee of equality and human rights, the LGBTQ+ community still faces discrimination and violence. Transgender individuals, in particular, are often ostracized by society and their families, leaving them with no option but to resort to begging or sex work for survival. This article aims to shed light on their plight and the importance of recognizing their basic needs, such as access to safe and hygienic restrooms. The lack of separate sanitation facilities not only affects their dignity but also poses a risk to their health and safety. By highlighting this issue, the article hopes to raise awareness and promote action toward ensuring equal rights and opportunities for transgender individuals in India.

Keywords: Sanitation, Transgender, India, Fundamental Right.

I. INTRODUCTION

India, formally known as the Republic of India is a country in South Asia³. India is the seventh-largest country by area and is one of the oldest known civilizations consisting of 1.2 billion individuals which include approximately twenty-seven lakh gays. The Preamble in the Constitution declares the right to equality, liberty, and fraternity in the context of "WE THE PEOPLE OF INDIA" and guarantees Human Rights to individuals in their basic rights. Where several European countries, including Belgium, Canada, Spain, South Africa, Norway Sweden, Iceland, Portugal, and Brazil etc gay wedding is legal but India still prohibits their union⁴.

The question of the identity of a human being is determined by the moral dictates and the society they live in. Individuals who showed the courage to challenge these either with their personalities or sexual orientation, often have been abandoned and shunned by society. They suffered at the hands of their own families who ridiculed them and even disowned them. With

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³ Kaminsky, Arnold P. & Long, Roger D., India Today-An Encyclopaedia Of Life In The Republic, available at: <https://www.abc-clio.com/ABC-CLIOCorporate/product.aspx?pc=B4629C> (Last visited on 10th March, 2020).

⁴ Suresh Kumar Kaushal & Anr. Vs. Naz Foundation and ors., available at: www.manupatrafast.com (Last visited 10th March, 2020).

no option left, such people had no option but to resort to beginning or signing in weddings to make their living. Though the Indian Constitution promises no discrimination of all sorts, the harassment and violence these people witness mostly remain unnoticed. Unfortunately, several times it's seen that the rights granted to such people hibernate on paper only.

This draft paper subsequently aims at highlighting the basic understanding of transgender people, focusing on one of the challenges they are still facing regarding the need for separate sanitation facilities.

II. THE UNDERSTANDING OF THE THIRD GENDER

The sexuality of human beings is a complex subject. It's been hard for people to accept the distinction between desire, behaviour and the multidimensional nature of sexuality. The pervasiveness of homosexuality is difficult to understand because of various reasons and one of them is the social stigma associated with it.⁵ Transgender has always faced exclusion from participating in social, cultural, political or political events.⁶ The diversity in homosexual orientation results in several other issues in addition to the challenges one already faces living in a predominantly world of heterosexuals. It's unfortunate but the identity of an individual is often identified by the moral dictates and the society they live in and if the individuals challenge these norms, they are often shunned and abandoned by their own families. Before the Naz foundation judgment, transgenders or transsexuals had only faced a lot of humiliation, torture and cruelty as sexual minorities by society.

The term '*transgender*' is a term that is used by people, who are not able to identify themselves with the gender they are born in, be it male or female or intersex. Transexual, gay, lesbian, bisexual etc are specific terms that fit under the scope of the term '*transgender*'. The term transgender has always held different understandings by different people. Those who identify themselves as 'Trans' can identify themselves as a man, woman, a combination of both or even something else. Basically, the term transgender elucidates the information about how far a person identifies with the sex he/she is born in. It explains the way someone feels, experiences or understands the gender, they prefer to be known as. In several cases, it has been seen that a transgender person changes their appearance to affirm the gender they feel or associate with.

⁵ Drescher J, Byne WM. Homosexuality, Gay and Lesbian Identities and Homosexual Behaviour. Kaplan and Sadock's Comprehensive Textbook, of Psychiatry 9th ed. (In: Sadock BJ, Sadock VA, Ruiz P, Editors) Philadelphia: Lippincott Williams & Wilkins; 2009. p. 2060-89.

⁶ Chakrapani, V, Babu, P, Ebenezer, T. (2004). Hijras in sex work face discrimination in the Indian health-care system. Research for Sex Work. p12-14.

Transsexuals on the other hand, when seen in the light of its historical and medical meaning, is a term often (not always) used to communicate one's feelings involving their gender by transforming their bodies involving medical procedures like surgery or hormones. This helps them to alter their anatomy, aligning it more closely to their gender identity. Often the term transsexual is found offensive and stigmatizing because of its basic understanding in the professional field of medicine and psychology, which labelled transgender people mentally and sexually ill. **Kuiper** explains transsexualism as "*the phenomenon in which someone with the normal internal and external sexual organs of one sex has an incontestable conviction of belonging to another sex. Transsexualism often speaks of experiencing this situation as imprisonment in the wrong body*".⁷ Naturally, every human being belongs to one of the two genders, Masculine or Feminine, into which he/she is born biologically. But there is a minority of such people who are not able to relate with the gender they were born with, i.e., their sense of understanding where they exist in relation to being a girl or a boy is confusing.

III. CHALLENGES FACED BY THE TRANSGENDER COMMUNITY- ACCESS TO SANITATION FACILITY

The Supreme Court of India in 2001, pronounced the landmark judgment in the case Naz Foundation v. Government of NCT, Delhi⁸, where the Apex court declared Section 377 of IPC unconstitutional. In 2016, The Union Cabinet approved the Transgender Persons (Protection of Rights) Bill⁹, which was expected to bring social, educational and economic empowerment. A community which for decades was seen to face rejection and ridicule, this was the chance to redeem their position in society. But despite all the efforts, transgenders are still seen facing severe discrimination and judgments and they are subjected to unfair treatment from being physically, emotionally and verbally abused, false arrest, denial of share in ancestral property, non-admissions in educational institutions and workplaces etc.

One of the basic challenges which have been a raging concern is access to separate sanitation facilities. Unfortunately, the sanitation needs of the transgender community are addressed on the understanding that the community is a homogenous group. The 2011 Census report stated that there are 4.88 lakh transgender persons in India and over 55,000 children under the age group of 6 years were identified as transgender. It is also to be noted that the data primarily

⁷ Alkeling Van Lenning, Kilburg University, the body has crowbar transcending of stretching sex, available on www.sagepublication.com

⁸Naz foundation v. Government of NCT of Delhi, *available at*: www.indiankanoon.org (Last visited on 10th March, 2020).

⁹ <https://socialjustice.nic.in/writereaddata/UploadFile/TG%20bill%20gazette.pdf>- Transgender Protection Bill, 2016

could not be relied upon as usually this section of people were considered as male, therefore the census data under-represents the transgender population and this has evidently affected the allocation of transgender-friendly toilets adequately. Around 1,04,802 toilet seats have been built under the Swachh Bharat Mission and another 1,29,809 toilets are under construction¹⁰. The data for the number of toilet seats allotted to transgender is not easily available rather, on running a simple internet search to know the number of public toilets designated to transgenders, it can be seen that this concept is still rarely found. It is not like the government has not been taking initiatives, for example, the Manipur Government along with NGOs and leaders of the transgender community introduced separate toilets for transgender persons during festivals and parts of Imphal. But these toilets, however, did not look into the issues related to their safety and dignity¹¹. No doubt that increasing the number of toilets for transgenders will make their daily life easy, but this still does not meet all their sanitation needs.

Transgender people are widely identified as a homogenous community; hence their sanitation needs are also measured on the parameters of other sanitation systems meant for the other genders. In India the discussion about the transgender community largely centres on adult transgender persons, hence sanitation needs of young transgenders and children are rarely discussed or not discussed at all. An article mentioned an incident narrated by a young transgender, who was biologically born as a boy & identified himself as a woman, stated *'that they' stopped using the school toilet after 7th grade, because 'they' were not comfortable using a boy's toilet and using a girl's washroom was embarrassing for 'they'. Hence 'they' would rather opt either not to use the washroom at all the entire day, or only use it when school would get over*¹². It's hence very important to not only think about creating public toilets but also provide proper sanitation facilities in schools and colleges.

The problem around sanitation does not end here, it is just not seen confounded to public toilets or age, but the role of caste within the transgender community itself needs a crucial re-examination. The Supreme Court in 2014 passed a judgment and added transgender people to Other Backward Class. This addition gave the transgenders a visible place as a homogenous community¹³. In their daily lives, a transgender person, from a disadvantaged caste faces

¹⁰ Data.gov.in (2018): "Details of Total Number of Community Toilets and Toilet Seats Built under Swachh Bharat Mission," viewed on 2 January 2019, <https://data.gov.in/resources/details-total-number-community-toilets->

¹¹ Pebam, B (2018): "Trans-inclusive Public Sanitation in Manipur Needs a Bigger Push," Varta.com, <http://www.vartagensex.org/details.php?p=5b5c74f1c49de>.

¹² Manral, Anvisha (2018): "Transgender Individuals Demand Safer, Gender- Neutral Bathrooms in India Post-Section 377 Verdict," Firstpost, 21 November, viewed on 25 December 2018, <https://www.firstpost.com/india/transgender-individuals-demand-safer-gen...>

¹³ Goel, Ina (2018): "Caste and Religion Create Barriers Within the Hijra Community," Wire, 18 May,

challenges like the upper caste transgenders are preferred to represent the sanitation related issues, in fact, the funds or resources¹⁴ are also made easily available to the upper caste transgenders in comparison to the disadvantaged caste.

People who identify themselves as transgenders encounter transphobia on daily basis and face a higher risk of violence and harassment while using the public toilet. While mentioning the sanitation system, concerns of the menstruating transgenders or disabled are never addressed.

IV. THE WAY FORWARD

There is no doubt that important strides are being made towards the betterment of transgender, but it is important to recognize that ‘adding’ transgender to sanitation is as similar as adding men or women. The most important step that should be taken is to recognise this community as not a homogeneous group, and other dynamics along caste, age etc should also be seen as significant. Although the Central Government has permitted transgender to use restrooms of their choice (he/she), this freedom does not safeguard them against violence and harassment. Not only this, it is seen that where toilets are explicitly broadcast for the transgender, some transgenders are still subjected to abuse and violence due to transphobia.

V. CONCLUSION

It’s high time that the Indian authorities must implement the Supreme Court directives and recognise transgender in the mainstream community. No discrimination should be made against them and their social needs should be taken care of in the same way as it is done for other citizens, by spreading proper awareness about them, accepting them publicly, and making it normal to have them around in social or political gatherings. Apart from the states, it is significant for the public to be more open and accommodating towards them, and understand their feelings and mental state. It is important now that society takes off their social stigma and provides them with an equal chance to progress in any field and live without any fear.

<https://thewire.in/lgbtqia/caste-religion-hijra-community>.

¹⁴ *ibid*