

## TRANSGENDER PEOPLE RIGHTS AND PROBLEMS

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### INTRODUCTION:

Transgender people are individuals of any age or sex whose appearance, personal characteristics, or behaviours differ from stereotypes about how men and women are “supposed” to be. Transgender people have existed in every culture, race, and class since the story of human life has been recorded. Only the term “transgender” and the medical technology available to transsexual people are new. In its broadest sense, transgender encompasses anyone whose identity or behavior falls outside of stereotypical gender norms. Sex refers to biological status as male or female. It includes physical attributes such as sex chromosomes, gonads, sex hormones, internal reproductive structures, and external genitalia. Gender is a term that is often used to refer to ways that people act, interact, or feel about themselves, which are associated with boys / men and girls/ women. While aspects of biological sex are the same across different culture, aspects of gender may not be. “Gender Identity” refers to a person’s internal, deeply felt sense of being either man or women, or something other or in between because gender identity is internal and personally defined, it is not visible to others. In contrast, a person’s gender expression” is external and socially perceived. Gender expression refers to all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, mannerisms, speech patterns and social interactions.

### WHO ARE TRANSGENDER PEOPLE?

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available to transsexual people are new in its broadcast sense, transgender encompasses anyone whose identity or behavior falls outside of stereotypical gender norms.

### **Difference between Sex and Gender :**

Sex refers to biological status as male or female. It includes physical attributes such as sex chromosomes, gonads, sex hormones internal reproductive structures, and external genitalia. Gender is a term that is often used to refer to ways that people act, interact, or feel about themselves, which are associated with boys/men girl's women. While aspects of biological sex are the same across different cultures, aspects of gender may not be.

Indian census counts transgender people for the first time, finds half a million. The first ever count of India's transgender population has found nearly 500,000 who were prepared to say they were transgender in filling out census papers – though activists say the real number may be higher. Nearly 490,000 people listed themselves as “third gender” or transgender in India's most recent census- the first time the Indian Government has sought to ask how many people identify as such. 55, 000 of those were under six and were thus recorded by their parents as being transgender.

66% of the people who chose the third gender box lived in rural areas – close to the 69% of the Indian population in rural areas.

### **TRANSGENDER RIGHTS IN INDIA**

In mid – April, India's Supreme Court recognized transgender people as a legal third gender. Grounding its decision on rights guaranteed by the nation's Constitution as well as international law, the court determined gender identity and sexual orientation to be fundamental to the rights to self-determination, dignity and freedom.

The decision is particularly welcome after another group of justices in December reinstated a colonial – era that bans gay sex: Section 377 of the Indian Penal code, which bars “Carnal intercourse against the order of nature”. The two contradictory decisions – issued by separate panels of judges are the result of a quirk of the system. The Supreme Court consists of a chief justice and 30 other justices, with cases often being decided by panels of just two or three judges. In the transgender case, Section 377 was cited as an instrument of discrimination against transgender people. The court properly recognized the historical and diverse presence

of transgender people in Indian society, referring to ancient Hindu and Jain text and to the place of transgender people in India's Mughal court.

It listed the different traditional categories of transgender people in India, including hiras, Aravanis, Kothis, Jogtas and Shiv-Shakthis. The court was wise to make this point, since anti – gay –rights groups in India have tried to paint the decriminalization of gay sex and transgender identities as degenerate western ideas lien to India's cultural traditions.

### **CONSTITUTIONAL RIGHTS OF TRANSGENDER PEOPLE.**

Preamble to the Constitution mandates Justice – social, economic, and political equality of status. Thus the first and foremost right that they are deserving of is the right to equality under Article 14/ Article 15 speaks about the prohibition of discrimination on the ground of religion, race caste, sex or place of birth. Article 21 ensures right to privacy and personal dignity to all the citizens. Article 23 prohibits trafficking in human beings as beggars and other similar forms of forced labour and any contravention of these provisions shall be an offence punishable in accordance with law.

The Constitution provides for the fundamental right to equality, and tolerates no discrimination on the grounds of sex caste, creed or religion. The constitution also guarantees political rights and other benefits to every citizen. But the third community (transgender) continues to be ostracized. The constitution affirms equality in all spheres but the moot question is whether it is being applied.

As per the constitution most of the protections under the Fundamental Rights chapter are available to all persons with some rights being restricted to only citizens. Beyond this categorization the Constitution makes no further distinction among rights holders.

### **Tamil Nadu Aravanigal (Transgender Women) Welfare Board: A Landmark Initiative**

In pioneering effort to address the issues faced by transgender people, the government of Tamil Nadu (a state in South India) established a transgender welfare board in April 2008. It is the first of its kind by any state government in India. Social Welfare minister serves as the president of the board. This effort is touted to be the first in India and even in the whole. Asia – pacific region. The board would potentially address a variety of concerns of transgender people that includes education, income generation and other social security measures. As a first step, the board has conducted the enumeration of Transgender populations in all 32

districts of Tamil Nadu and in some places identity card – with gender identity mentioned as “Aravani” are being issued 34. The government has also started issuing ration cards (for buying food and other items from government – run fair- price shops) for transgender people.

In addition, Tamil Nadu government issued a government order in May 2008 to enroll transgender people in government educational institution and to explicitly include “other” or “third gender” category in the admission form 35. Furthermore, only in the state of Tamil Nadu, in collaboration with the Tamil Nadu Aravanigal Welfare Board, free sex reassignment surgery is performed for Hijras TG in select hospitals.

### **PROBLEMS FACED BY TRANSGENDER:**

The main problem that are being faced by the transgender community are of discrimination, unemployment, lack of educational facilities, homelessness, lack of medical facilities, like HIV care and hygiene, depression, hormone pill abuse, tobacco and alcohol abuse, penectomy, and problems related to marriage and adoption.

In 1994, transgender persons got the voting right but the task of issuing them voter identity cards got caught up in the male or female question. Several of them were denied cards with sexual category of their choice.

The other fields where this community feels neglected are inheritance of property or adoption of child. They are often pushed to the periphery as a social outcaste and many may end up begging and dancing. This is by all means human trafficking Sometimes running out of the all options of feed themselves, they even engage themselves as sex workers for survival.

Transgender have very limited employment opportunities Transgender have no access to bathroom / toilets and public spaces. The lack of access to bathrooms and public spaces access is illustrative of decimation faced by transgender in availing each facilities and amenities. They face similar problems in prisons, hospital sand schools.

### **CONCLUSION :**

In the point of views that many problems are faced by Hijras / TG, which necessitate a variety of solutions and actions. While some actions require such as introducing Hijra / TG-

specific social welfare schemes, some actions need to be taken on a long –term basis changing the negative attitude of the general public and increasing accurate practice.

Hijras / Transgender women require understanding and support of the government, health care professional, general public as well as their family members. We need to understand and accept that humans are diverse. People have the right to be what they are and what they want to be. For transgender people the same holds true.

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