

HUMAN RIGHTS PERSPECTIVES OF THE THIRD GENDER IN INDIA

Kamala Kanta Show

Faculty Of Social Work, Durgapur Law College & IGNOU,
Kaji Nazrul University, Email-kksha123@rediffmail.com

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Abstracts:

Transgender is generally described as a person whose gender identity, gender expression or behavior does not conform to their biological sex. The court says that since TGs do not have reproduction capacity as a either man or woman, they are neither man nor woman and claim to be an institutional “third gender”. TG also includes persons who intend to undergo sex Re-Assignment. The Paper studies the life of TGs concerning to the rights they are enjoyed, also social aspect with the case study of TG community of Burdwan district.

Keywprds: *Transgender, Rights, Human, India, La*

Transgender is generally described as a person whose gender identity, gender expression or behavior does not conform to their biological sex. As per judiciary view since TGs do not have reproduction capacity as a either man or woman, they are neither man nor woman and claim to be an institutional “third gender”. TG also includes persons who intend to undergo *sex Re- Assignment surgery* (SRS) or have undergone SRS to align biological sex with their gender identity in order to become male or female. Transgender or hijra in India are called by different names and different region like *Hijras* in north India, *Kinnar* in Delhi, *Aravanis* in Tamil Nadu, *Jogaties* in Maharashtra & Karnataka, *Shiv-shakthis* etc.

Hijras are magical personality that create fear and sometimes respect to common people. Hijras perform religious ceremonies at weddings and at the birth of male babies, involving music, singing, and sexually suggestive dancing. These are intended to bring good luck and fertility. Although hijras are most often uninvited, the

host usually pays the hijras a fee. Many fear the hijras curse if they are not appeased, bringing bad luck or infertility, but for the fee they receive, they can bless goodwill and fortune on to the newly born. Hijras are said to be able to do this because, since they do not engage in sexual activities, they accumulate their sexual energy which they can use to either bestow a boon or a bane.

Most hijras live at the margins of society with very low status; the very word "hijra" is sometimes used in a derogatory manner. Few employment opportunities are available to hijras. Many get their income from performing at ceremonies (toli), begging (dheengna), or sex work ('raarha')—an occupation of hijras also recorded in pre-modern times. Violence against hijras, especially hijra sex workers, is often brutal, and occurs in public places, police stations, prisons, and their homes. As with transgender people in most of the world, they face extreme discrimination in health, housing, education, employment, immigration, law, and any bureaucracy that is unable to place them into male or female



gender categories. Beginning in 2006, hijras were engaged to accompany Patna city revenue officials to collect unpaid taxes, receiving a 4-percent commission.

Hijras are often encountered on streets, trains, and other public places demanding money from people. If refused, the hijras may attempt to embarrass the man into giving money, using obscene gestures, abusive language, and even sexual advances. In India for example, threatening to open their private parts in front of the man if he does not give away some money. The dominant cultural role of the hijras, as we have seen, is that of ritual performers. It is also true, however, that hijras often engage in homosexual prostitution.

Recognition and protection and promotion for the rights of Hijaras in India traced back to In the time of Ramayana, As [per the popular epic when Rama set for 14 years exile in the forest the citizens of Ayodhya (Kingdom of Rama) followed him with grief and tears, Rama stopped them at the border of kingdom before entering into the forest and asked them to wipe every men and women to wipe the tears. But those man who were neither men nor woman did not know where to go. So they stayed there because Rama did not ask them to go. They remained their 14 years and Snake hills grew around them. When Rama returned from Lanka, he found many Snake hills. Not knowing why they were there, he removed them and found so many people with long beards and long nails. And so they were blessed by Rama. That is why they are respected so much in Ajodhya. During ancient and the medieval period of Indian history they were existing as an institution. In the fourth century B.C. they were employed in the harems. This role of their, in fact, was very significant in maintaining the personal hygiene of the harem in mates and in the administrator of affair of the harems. During the Mugal period, particularly, during reign of Shah Jahan, hijras held very high status. They were also employed during the rules of Akbar.

In 1994, they were given the right to vote. In 1999, Shabnam Mausi Bano became India's first hijra MLA. In 2003, Hijras in Madhya Pradesh have established their own political party called "Jeeti Jitayi Politics" (JJP). In recent Loksabha elections, Daya Rani Kinnar, a transsexual activist, stood as an independent candidate from Ghaziabad constituency against Rajnath Singh. Tamil Nadu became the first state to give recognition to the transgender. In official forms, there is 'T' along with 'M' and 'F' in the gender identification column. In Chennai, toilets are being built for the transgender. Recently a large no. of NGOs has come up to work for the transgender. Things are changing. But the limits to these changes are in our mindset. There is a need to broaden our mindset, to make our mindsets more human or more rational.

1. HIJRAS IN CONTEMPORARY INDIA

Hijras who belong to south India and particulars to madras region, tell about a different type of death ritual. According to them the dead is buried in his own home. If the home does not belong to the death, then the dead is taken out of the home at mid night when no one is there to watch. The dead is taken out in the standing position by three-four of his companions. They take the dead to the jungle and dig a deep ditch. They put two three quintals of salt into the ditch and bury the dead in a standing position. While taking to the jungle he is given beating. After burying the dead they offer a prayer to the goddess to give salvation to the death. The hijras worship their goddess Bahuchara. The temple of the goddess is situated in Gujrat near Ahmadabad. The Bahuchara mata is their main goodness yet the hijras of North India do worship the local and religion goodness, like Vaishnu Devi, Mansa Devi etc. But there are hardly any mythological justification revealed by the hijras. However in the case of Bahuchara Mata there are a large number of stories. Salunke argues, the Bahuchara worship in the form of the vulva is related to the ritual



of castration. The idea is to identify one-self with the deity which is done by feminine dress. Since it gives them a sense of identity, so violation of it is considered threat to hijra culture. According to salunke, violation of any such rule is punishable by the hijra community's court of law, i.e., hijra panchayat. It is therefore within the purview of hijra community to provide religious symbols.

2. HIJRA AND PUBLIC INTEREST LITIGATION

Transgender now a third gender in response to a Public Interest Litigation (PIL), the apex court has delivered a land mark judgment which is expected to bring transgender in the main stream of society. The Supreme Court, in a land mark judgment, has recognized transgender as the third gender in this country. This decision of the apex court makes India the first country to give transgender third gender status. A bench of justices K.S Radhakrishnan and A.K Sikri directed the Govt. to take steps for granting recognition to transgender as a separate third category of gender after male & female. The bench said they are part and parcel of society and the Govt. must take steps to bring them in the main stream of society. The apex court passed the order on a PIL filed by National Legal Service Authority (NALSA) urging the court to give separate identity to transgender recognizing them as the third category of gender.

3. THE VERDICTS OF SUPREME COURT OF INDIA

The Supreme Court judgment on Transgender Right (NALSA vs Union of India) A summary of the 15th April 2014 judgment, by Danish Sheikh, This judgment covers persons who want to identify with the third gender as well as persons who want to transition from one identity to another, i.e. to male to female or vice versa. The Court has

directed Centre and State Governments to grant legal recognition of gender identity whether it is male, female or third gender. Legal Recognition for Third Gender: In recognizing the third gender category, the Court recognizes that fundamental rights are available to the third gender in the same manner as they are to males and females. Further, non-recognition of third gender in both criminal and civil statutes such as those relating to marriage, adoption, divorce, etc is discriminatory to the third gender. Legal Recognition for Persons transitioning within male/female binary: As for how the actual procedure of recognition will happen, the Court merely states that they prefer to follow the psyche of the person and use the "Psychological Test" as opposed to the "Biological Test".

4. ECONOMIC ENGAGEMENT

Almost anyone who has ever travelled in a train across UP/Bihar must have had several misadventures of such type. The question arises that why cannot they think of more ethical and socially acceptable ways of earning their bread?..Do they always have to resort to the usual 'saree lifting' ways?...Sadly, they hardly have a choice. Almost no-one will be willing to employ a eunuch they virtually have no right to education, health care, jobs, etc. they hardly have a voice in the country. Apart from constitutional amendments, they only think that can change the scenario is social awareness. Awareness both for us and them. We need to learn that they too are humans and that matters more than any other reason. We should be more tolerant. And the hijra should learn that they should go out of the way to ensure that the society's perception towards them changes. They should revert firm their usual tradition and behave in such a way that the society's apathy towards them decreases. They shouldn't indulge in such activities that will make the general public hate them even more. People should pay them at weddings/birth so that at least they



can enjoy some comforts of life rather than being discriminated as well as living a merciful life with no mercy of others. There should be some organizations as well who would treat them as a target section and organize a work-force or a community like they do with poor women. 99% hijras are the victim of forced castration. There is no effective law to curb this heinous crime. Removing a small part makes big difference in the rest his life. I do not know god created such an important organ outside the body? The hijra of India are probably the most well known and populous third sex type in the modern world. The Humsafar Trust estimates there are between 5 and 6 million hijras in India. Often 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.

5. MEANS OF ENTERTAINMENT

Movie/Television: All the hijras are very fond of watching television and movies in the theatres. A colored Television set rests installed in the tent for the entertainment of the members of the group. The hijras lead a very stressful life due to living far from family and to minimize this stress most hijras go to Theater hall to watch a movie at least once in a week. All of them get together and share the experience of the day's work that how much was the earning and, what all problems were faced. The hijras also plan the activities for the next day that which area they had to go for earning next day. The conversation is not limited to them but many topics of current importance are freely discussed. This is the time to relax and vent out their mental frustrations by talking to their housemates.

Each kinnar is allowed to go and enjoy to any place in India once in a year and stay there a number of days, in tradition houses of kinnars in India. The arrangement of a guest kinnar's stay, his food and journey are borne by the natives. The guest kinnar

has never to pay for anything; they just go there and stay until they wants to leave.

6. LAST RITES ANALYSIS

“Nobody has seen a funeral of a kinnar”, “When a kinnar dies his body is beaten brutally and then buried inside the traditional house”-These types of myths are prevalent in the society but death and funeral of a eunuch takes place as normally as of any other common man's funeral and cremation. The information of death of a eunuch is communicated to others by making announcement from the Hijiji. Hindu kinnars are cremated and Muslims kinnars buried in the graveyards. The only difference between burial of a eunuch and common man is that a common man can be buried in any graveyard of Burdwan town but a eunuch can be buried only in a specified graveyard and there to a special section is allotted and reserved for them. A common man cannot be buried there.

7. BURDWAN TOWN: THE LOCALE OF THE PRESENT STUDY

The decision and finalization of the topics and selection of the area of study are almost simultaneously done. The researcher decided to conduct a study on the socio economic condition, and problem faced by hijras in Burdwan town, it was found to be the right place because good number of hijras residing in this town.

As per the Census 2011 data, Bardhaman District has an area of 7,024 km². It is bounded on the north by Birbhum and Murshidabad districts, on the east by Nadia District, on the southeast by Hooghly District, on the southwest by Bankura and Purulia districts, and on the northwest by Dhanbad district of Jharkhand. The district has six sub-divisions, Asansol, Sadar (North), Sadar (South), Durgapur, Kalna, and Katwa. It was amongst the first districts to have a 100% literacy rate. Bardhaman is the



most advanced district in West Bengal both industrially and agriculturally. The eastern part is enriched by the alluvial soil of Bhagirathi River (minor stream of river Ganges), and is one of the most productive agricultural regions in West Bengal. The western part of the district, chiefly Asansol, is rich in coal and other mineral resources. This part is highly industrialized and contains various factories based on iron and steel processing, as well as many cement factories. Durgapur, Burnpur, and Kulti are in the western part of the district. It also contains power plants at Durgapur and Dishergarh.

8. RESEARCH METHODOLOGY

The Main Objective is to understand the socio-economic condition of Hijras with focusing on the ascertainment the social status of hijras, Assessment the economic status of hijras; identification the culture of the hijras; finding out the factors underlying their problem¹s.

For the purpose of the present study the researcher selected Burdwan town as his proposed geographical area of work which falls under Burdwan district of West Bengal in India. In Burdwan town there are 216 eunuchs residing and this population is estimated by local NGO SAATHI, and the age group of the respondents are also estimated to fall between 20 to 45 years².

¹ The method used to collect the data was:

1. Interview schedule:- The researcher prepared an interview schedule which included question according to the set objective and arranged them systematically and sequentially. During data collection the researcher filled the interview schedule by himself. The biggest advantage in the use of interview schedule is that one can observe, interpret and read the body language and attitude of the respondents.
2. Interview guide:- The researcher collected data from the head of one of the traditional house in order to have an in depth knowledge of socio economics and cultural practices of hijras.
3. Observation:- The researcher observed the respondent during data collection tried to code their body language and attitude. So for the allotted task both the verbal and nonverbal attitude plays key role.

² As we know that hijra groups are very conservative, so they fear to share any information to the people who were not belongs to their community. In this adverse circumstances researcher plan the strategy to collect the data after proper rapport building with local NGO SAATHI who are working on this issue. Purposive sampling method has been adopted to

9. MAJOR FINDINGS & CONCLUSION

- In poor family when any genital abnormal child born they hide this matter within few members of the family, and try to find out any solution, on other hand other persons of society was unable to raise the voice against the rich family, due to this, it clearly indicated that maximum respondents who join the hijra group belongs to lower middle class family, and its percentage was 42.5%
- Due to abnormality in genital organ and strange cross dresser attitude, the school mates, friends, relatives, community peoples try to molestate them, whenever possible. Maximum cases of molestation remain when they were alone, maximum respondents were molested by kith & kin, neighbors and school mates its percentage was 65%.
- Maximum respondents have no attachment with other family members, and its percentage was 72.5%.
- Maximum respondents were unable to complete the basic education, due to non supportive attitude of other community members, and its percentage was 47.5%.
- They were not shown any interest toward education, in this stage of life, they choose the way of begging in running trains, homes, red signals and in bus stops.
- From the childhood they were suffering from many obstacles. And many incidents took place in their lifespan.

collect relevant data from the respondents. From the total universe of 216, 20% samples have been selected and thus, the size of the sample selected through the above sampling method becomes 40. All the respondents were above 18 years and lives in the group or Toli of four to six members who have migrated from various places/parts of country.



- All the respondents were male hijra with female soul, among them only seventeen respondents were gone through castration; others reported that their genital organ was not in definite shape.
- A large no. of respondents were earning by the begging in trains/express trains and local trains which were running in the route of Howrah to other cities. During the dhandha/work hour they were bound to pay (30) thirty rupees to the RPF staffs, railway on duty staffs, to catch the train from siding or from the Burdwan railway station. On other hand they were bound to hand over fixed amount (500) five hundred to guru/gaddi, for there per day maintenance.
- Maximum no. of respondents were accepted that there per day income vary from (500-550) rupees, and its percentage is 77.5%
- Living place of hijras was non hygienic, it was the end point of the railway platforms attached with the boundary wall of the railway premises, where the garbage heaps were present.
- Only list no. of respondents accepted that they were suffering from HIV/AIDS, and its number was four.
- Maximum hijras have strong faith in counseling and the treatment provided by the representatives of the NGOs, because they got strong moral support from the organization SATHI.
- Many of them do not possess any valid voter ID card, pan card, driving license due to their typical identity. So they have no any bank account.
- Only list number of respondents accepted that they were working in dance bar previously because it was the good source of earning, but due to high risk of HIV and transmitted disease and huge expense in lifestyle they were unable to save money, and its percentage was 05%.
- Due to unavailable of other profession, hijras choose the profession to collect money by begging in running trains and from the vehicles of red light signals.
- Maximum respondents were prone to cigarette smoking, and drinking due to typical profession and more stressful state of mind.
- The maximum no. of respondents accepted that they went on tour, once in two years, and its percentage was 67.5%..
- All the respondents accepted that, they used sari during the working hours or during earning hours.
- All the hijras know that Koovgama was the religious place of them, in the month of April and May there was a festival of hijras and worship of Bahuchara mata took place every year, in which hijra of all over the world visited this holy place, not only this many common peoples of male and female gender visit to know the cultural aspects of the hijras. As per the ritual of hijra, they become the bride for one night and marry lord Krishna and when the day appears they break there bangles and became widow. Maximum respondents accepted that, they never get the chance to visit Koovgama.
- Hijras have strong we-feeling within the community. So they maintain good cooperation within the members.
- During illness and emergency tour guru/gaddi assist the individual members by giving them economic support to overcome the problematic situation.
- All the respondents come under same guru SHANTI, and lives in groups of same locality. They pay five hundred rupees (Rs.500), to Guru/Gaddi, for overall maintenance.



- All the respondents accepted that there was hollowness in their heart from the beginning, because they never got the desired behavior from the side of family, friends and from society members.
- Human rights violations against sexuality minorities in India report (first edition), PUCL KARNATAKA.
- Human rights violations against sexuality minorities in India report (second edition). PUCL KARNATAKA, 2007.
- Mittal. Devika, Third Gender, Transgender, 2014
- People's Union for Civil Liberties, Karnataka(2000).
- Psychiatrist John F. Olive, *Sexual Hygiene and Pathology* in 1965, of Columbia University.
- Reddy.Gayatri, Sexual differences and their discontents; thirdness in Hyderabad, British library cataloging, 2007.
- Ressler, Oliver, Inclusive Democracy, transcription of video interview of Takis Fotopoulos, recorded in London, Great Britain.
- Revathi, A. Truth about me: A Hijra Life Story. Trans. V Geetha. New Delhi, Penguin India, 2010.
- Sakia, J. P, Gender: Themes & Issues, Naba Bharti Prakashani, Kolkata-09, 2012.
- Saurav, Pratap, Novel- Tisri Tali, Vani prakasan, 2011.
- Sharma,S.K. Hijras: the labelled deviants, Gian publication house,2009,ISBN. 81-212-0266-3

10. REFERENCES

- A.Revathi, Truth about me: A Hijra Life Story, translated by V.Geetha, published by Penguin India,2014.
- Baxi, Upendra. Whether Eunuchs are Recognised as Legal Entity of Indis,a thesis by Sharda, Chanakya National Law University,Patna.
- Carl W. Bushong, What is Gender and Who is Transgendered? by PhD scholar.
- Das, Kamala. The Dance of the Eunuchs in Summer in Calcutta,1965.
- Fear files, episode 18, 26th August,2012.
- Gender and education, reader-1, Nirantar publication, 2010:
- Hazel Reeves and Sally Baden, Gender and Dev: report no. 55, February 2000, Bridge (development-gender), Institute of development studies, University of Sussex.
- Hajela,S.C. Inclusive Democracy or Exclusive Democracy: The Case of Hijras in India, Inclusive Democracy: People, Power and Progress.