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The Third Gender: Affliction or Cure?

Muskan Malhotra

I. ABSTRACT

“To assure inclusiveness we need to be concerned with each other”

This paper gives a proper analytical understanding of the problems and struggles endured by the third gender with the idea of providing a platform for the mass address of their problems. It also broadcast the legal rights given to the community and its implementation. In explanation of requisite to have changes in laws and rules to provide equality and dignity in the lives of a human being irrespective of their sex. It tries to answer the repeated question which pops up in the mind of the common people in order to help them reconsider their behavior and methods they used in reference to them.

This paper was written with a hope of redemption and rehabilitation of society at large for making a safe and secure environment for the people who we thought are an affliction to our society.

II. WHAT DO YOU MEAN BY THIRD GENDER OR THIRD SEX?

It becomes difficult to understand the concept of third, fourth, and some gender within the western conceptual categories. Biologically speaking chromosomes like X and Y determines whether a human being is male or female. Through variation of these chromosomes, intersex people are born, the state of being neither woman nor man describes the concept of a third gender or third sex.

Some western scholars have tried to understand the concept in terms of sexual orientation, especially in non-native western scholars considered this as misrepresentation.

The term has been used to categorize hijra of India, Bangladesh and Pakistan virgins of the Balkans and other as the third gender which represent a state b/w men and women or being neither(neuter)

III. HINDU RELIGIOUS NARRATIVES IN TERMS OF THE THIRD GENDER

When we talk about transgender community or HIJRA, we look back at times where they have played important role in formation of Hindu mythology or Hinduism and they have been part of our civilization since establishment including significant mentioned in Mahabharata and Ramayana and even in Kama sutra, a Hindu text on human sexual behavior. They even held an important position in courts and various facets of administration during the Mughal era. They were given to hold religious authority and were sought out for blessings.

Especially in Hindu narrative tradition, there are various stories of god engaging in activities like changing gender or reincarnated genders.

Transgenders usually adore different Hindu gods associated with sexual orientation decent variety, for example, Ardhanarisvara (the male/female type of Shiva and his partner Parvati), Aravan (a legend whom the god Krishna wedded in the wake of turning into a lady), Harihara (a manifestation of Shiva and Vishnu joined), Bahuchara Mata (a goddess associated with transsexuality and eunuchism), Gadadhara (a manifestation of Radha in male structure), Chandi-Chamunda (twin warrior goddesses), Bhagavati-Devi (a Hindu goddess related with cross-dressing), Gangamma (a goddess associated with cross-dressing and masks) and the goddess Yellamma. There are likewise explicit celebrations associated with the love of these gods, some of which are well known in India for their cross-dressing aficionados. These celebrations incorporate

the Aravan Festival of Koovagam, the Bahuchara Mata Festivals of Gujarat, and the Yellamma Festivals of Karnataka, among others.

Sex fluctuation can likewise be seen in legends of Hindu figures like Mahabharata which portrays that saint arjuna accepts a pledge to live as an individual from the third sex for a year and further transforms into brihannala, an individual from third sex.

Vedas are the foundation of Hinduism which do not refer homosexuality but Rigveda specify that diversity is what nature is all about, or what it seems unnatural is natural

The Kama Sutra is the soonest surviving and most significant work in the Kama sutra convention of Sanskrit writing. It was aggregated by the thinkers Vatsyayana around the 4th century, prior writing and depicts gay and transgender practice in a few spots, just as a scope of sexual orientation “types”. the creator recognizes that these relations likewise include love and an obligation of trust.

IV. THE BRITISH INVASION OF THE THIRD GENDER COMMUNITY.

Invasion by British officials on our culture and land led to the eradication of the third gender which is mainly known as eunuchs. Their roles were limited to the religious authority and were cast out from the society which caused disparity among genders. They were subjected to social exclusion. English authorities started considering eunuchs "ungovernable". Analysts said they evoked pictures of "foulness, malady, virus and defilement". They were depicted as individuals who were "dependent on sex with men". Frontier authorities said they were a risk to "open ethics", yet in addition a "danger to pilgrim political position".

Transgender in India: 'This is the manner by which we endure'

Eunuchs frequently spruce up like ladies and portray themselves as being emasculated or brought into the world that way. A pupil-based network, it has significant jobs in numerous societies - from sexless individuals guarding groups of concubines to singing and moving performers.

In societies in South Asia, they are thought to have the ability to favor or revile richness. They live with received youngsters and male accomplices. Today, many consider eunuchs

transgender, despite the fact that the term additionally incorporates intersex individuals.

Bhoorah was among the 2,500 recorded eunuchs who lived in the North-West Provinces - presently India's most crowded state Uttar Pradesh and neighboring Uttarakhand, The areas propelled a battle to diminish the number of eunuchs with the target of progressively causing their "termination". They were viewed as a "criminal clan" under a questionable 1871 law which focused rank gatherings viewed as inherited lawbreakers.

The law outfitted the police with the intensity of expanded observation of the network. Police gathered registers of eunuchs with their own subtleties, frequently characterizing "a eunuch as a lawbreaker and explicitly degenerate individual". "Enlistment was a methods for observation and furthermore an approach to ensure that maiming was gotten obviate and therefore the hijra populace wasn't imitated.

Eunuchs were not permitted to wear female attire and gems or act in broad daylight and were compromised with fines or tossed into jail in the event that they didn't agree. Police would even remove their long hair and strip them in the event that they wore female apparel and trimmings. They faced police brutality on a daily bases and loses the hope of equality.

The people group responded by appealing to for the option to move and play out in the open, and perform at fairs. The petitions, calls attention to monetary destruction brought about by the restriction on moves and exhibitions. In the mid-1870s, the eunuchs of Ghazipur locale whined that they were starving.

One of the most stunning moves of the specialists was to remove kids who were living with eunuchs to "salvage them from an existence of shame". In the event that eunuchs were living with a male kid, they gambled fines and prison.

A considerable lot of these youngsters were really educating. Others seemed to have been vagrants, received, or subjugated as youngsters. There were likewise offspring of artists who performed with eunuchs and seemed to have lived nearby them with their families. Some eunuchs even lived with widows who had youngsters. English authorities considered them to be "specialists of infection and a wellspring of good threat". "Pilgrim tensions about the danger to the Indian young men that hijras presented exaggerated to the real number of kids dwelling with the network," there were somewhere in the range of 90 and 100 male kids

discovered living with enrolled eunuchs somewhere in the range of 1860 and 1880. Not many of them had been castrated and the greater part of them were living with their organic guardians.

"The transient point of the law included the end of that limited freedom to the eunuch and pushed them to the brink. The express, long haul desire was constraining, and in this manner at last smothering, the quantity of eunuchs," To some high-positioning provincial authorities, the little eunuch network imperiled the magnificent undertaking and pilgrim authority."

The British additionally started policing different gatherings which didn't fit the double sexual orientation classes - delicate men who wore female garments, acted openly and lived in family-based families, men who performed female jobs in theatre and male lovers who dressed as ladies. "The law was used as a tool to regulate sexual orientation.

From numerous points of view, the mentalities of the British and the English-speaking Indian elites to eunuch's reverberation parts of Hindu confidence that provincial rulers discovered loathsomely. After gaining independence from Britishers in 1947, laws were repealed which were enforced with the purpose of eradication and criminalization of the hijra community. While every community after independence was recovering and attempts to rehabilitation at large, still hijra community became the victims of abuse and discrimination. Violence and hate crimes against the community are common so are other discrimination.

V. TRIUMPH AFTER STRUGGLE

The government tried to introduce bills for protection of transgender persons but fails to enforce at ground level but with the eradication of illegal matters and acts, the third gender went underground and still became the victims of discrimination and marginalization their roles were limited to blessing a child at religious ceremonies.

In India, there is no unbending comprehension of being third sex, nor is there an inflexible definition around the individuals who self-recognize themselves as third sexual orientation. The people group is simply alluded to as the hijra and generally alluded to as Kinner. What's more, the network isn't constrained to simply individuals who need sexual orientation affirmation tasks —

indeed, some don't need that by any stretch of the imagination. While some sex affirmation tasks do occur, medical procedures are generally restricted to bosom increase or genital growth medical procedure.

Indian culture everywhere had proceeded with its involved acquaintance with the third sexual orientation, notwithstanding its criminal. Be that as it may, the idea of the relationship veered off. Rather than being respected and joined into day by day life, third sexual orientation was restricted to the job of gift babies and commending relationships. Other than that, they were denied employment and excused in standard society, constraining numerous to withdraw to prostitution and asking in the city.

Their natural families have had complex associations with the issue. Some reject their kids for their self-distinguishing proof as a third sexual orientation, and some acknowledge them absent a lot of inquiry. This adoration or dismissal has nothing to do with class. Individuals who are from the most noteworthy class, known as the Brahman, to the least class called the untouchables. All got love and acknowledgment from their organic families — however, the excursion towards that was unique. Each excursion has its own disturbance.

Therefore, an underestimated network of about 2 million individuals in India took their interest to be recognized as a third sexual orientation right to the Supreme Court. The individual who documented the case had minimal monetary help to get legal advisors and media consideration. The entire procedure came naturally, with individuals choosing to make some noise about the predicament of their locale and their interest in fairness. At the point when the Indian Supreme Court recognized that sex is a non-twofold type of character that goes past male and female, the triumph came as decent amazement to many in a landmark judgment of Supreme Court of India *National Legal Services Authority Vs Union Of India* regarding the transgender community of India recognizing them as the third gender gives a fair chance for a fight for gender equality. Further, these rights are protected under articles 14, 15, 16, and 21.

The court also included one's gender expression invoked by article 19(1) (a) and held that “no restriction can be placed on one's appearance or choice of dressing subject to the restrictions contained in article 19(2) of the Constitution”.

- The right to choose one's identity is an essential part to lead a fuller life due to which court under article 21 freedom to choose one's own identity through the determination of gender.

- The Supreme Court decisions on Section 377 (Naz Foundation versus Legislature of NCT of Delhi and Others and Suresh Kumar Koushal and another versus Naz Foundation and Others) and transgender right archive disarray of idea inside the legal executive. The clashing decisions of the court on homosexuality seen along the edge of its illuminated decision on transgender rights plausible presentations a drowsy advancement of liberal idea inside higher Indian legal executive. The milestone judgment of the Delhi over the top court, u announced that Section 377 of the Indian Penal Code disregards major rights ensured by the method of the Constitution, got reliable with around the world, human rights and mainstream and criminal patterns and announced Section 377 an encroachment on singular rights.
- A bill For Transgender Persons Protection of Rights was passed by both the houses in 2018 and 2019 respectively in terms of hierarchy. Various provisions like Defining Transgender as one whose gender is not assigned at birth which includes trans-man, trans-women, persons with intersex variations, gender-queer, and persons with socio-cultural identities, such as kinnar and hijra.
- Prohibition against discrimination in terms of employment, health care, access, or enjoyment of goods, facilities, opportunities available to the public.it provided the right to be included in his household. No government or private entity treats them differently in matters of recruitment and promotion.
- HRD measures made registration of identity easier, indicating the gender as transgender through application submission to the district magistrate. With such recognition educational institutes funded by the government will provide inclusive facilities without discrimination with healthcare facilities for HIV surveillance centers and sex reassignment.
- Special tribunal for address of grievances by transgender namely The National council for transgender persons (NCT) chaired by Union minister for social justice, survey feedback to the central government.
- Legal protection which already provided in article 23 which prohibits human trafficking, bonded labor, and abduction for every citizen

From that they forward they were included in documents like election card, passport, driving license and ration card, admission in the hospital, institutes, etc. and were offered acceptance and

equality in terms of a job opportunity. They demanded separate washrooms at public places, such guidelines were accepted and ordered to be followed in the future construction.

Recent recognition in government services like the army and police made them feel part of the country.

The month of June of every year is celebrated as a pride month that acknowledges the growth and struggle endured by the LGBT community and the freedom to be themselves. It features a rainbow flag as a sign of independence in the honor of stonewall uprising in Manhattan. They use Drag as an art form to express and celebrate their individuality. Such a celebration showcases a reality beyond the restraints of gender.

‘Being a hero is not about being known’

There are many real-life heroes who aren’t popular but due to their struggle against politics and sacrifices for justice led the transgender community from margins to mainstream. With active and engaging participation in demand for recognition have resulted into small victories such people made us believe in a saying i.e. “being a hero is not about being known but getting a job done” like:

- Maneka Guruswamy. She is a Senior Advocate at the Supreme Court of India. She is a B.R. Ambedkar Research Scholar and Lecturer at Columbia Law School, New York. Guruswamy has been visiting staff at Yale Law School, New York University School of Law, and University of Toronto School of Law. She is known for having assumed a noteworthy job in numerous milestone cases, including the Section 377 case. In April 2016, Guruswamy alongside a group of legal counselors including Arundhati Katju and Saurabh Kripal documented a request in the interest of five LGBT applicants drove by Navtej Singh Johar testing the constitutionality of Section 377 of the Indian Penal Code, 1860. The request was the primary occasion that LGBT Indians really documented writ petitions asserting infringement of their central rights. Guruswamy additionally showed up for the benefit of applicants from the Indian Institute of Technology, Delhi and in the milestone judgment, the 5-judge Constitutional seat of the Supreme Court read down Section 377 as not material to consenting adults.
- Laxmi Narayan Tripathi is a transgender rights extremist and Bharatanatyam artist in Mumbai, India. She was conceived in Malti Bai Hospital on thirteenth Dec 1978 in Thane. Laxmi is a hijra. She is the principal transgender individual to speak to the Asia Pacific in

the UN in 2008. At the get-together, she talked about the predicament of sexual minorities. "Individuals ought to be progressively human like. They should regard us as people and think about our privileges as transgenders," she said. She was a contender on the well-known unscripted TV drama Bigg Boss in 2011. Laxmi has served on the sheets of a few NGOs which lead LGBT' extremist work. In 2002 she became the leader of the NGO DAI Welfare Society, the principal enlisted and working association for eunuchs in South Asia. In 2007 she began her own association, Astitva. This association attempts to advance the government assistance of sexual minorities, their help, and development.

Not long after she left India just because and made a beeline for Toronto, Canada for Asia Pacific sex laborers arrange. Her identification expressed that she was a female, transgender, and eunuch.

When Kavi began to claim Section 377 of the Indian Penal Code, which made homosexuality wrongdoing; Laxmi joined his group. During a public interview with the media and Zee TV, she showed up in full cosmetics and ladies' garments. This is the point at which her folks got some answers concerning her relationship with the hijra network. It was stunning news as her folks were investigating engagement propositions.

In April 2014 Indian Supreme Court perceived transgender rights, formally remembering them as a third sexual orientation which offers alleviation to an expected 3 million individuals inside India. Laxmi alongside a lawful organization had appealed to the court to perceive transgender as the third class on all archives. Nearby this acknowledgment the courts have requested the administration to give shares in occupations and training, like the ones for other minority bunches in India. Governments were additionally requested by summit courts to build third washrooms and make wellbeing divisions to deal with transsexual clinical needs. They will likewise be qualified to receive kids and after reassignment medical procedures related to their sex of choice.

- Anjali Gopalan She was concentrated in the two- India and the US, and her degree in political theory from Lady Shri Ram College for Women, a postgraduate certificate in reporting, and a Masters in global advancement from Jawaharlal Nehru University.

In 2000, she opened the nation's first all-encompassing home thinks about stranded helpless HIV+ youngsters and Women. She prepares wellbeing experts and parental figures to treat HIV+ youngsters and perceives that current offices need to extend their degree to incorporate them. She has structured a framework that gives multi-faceted consideration to tainted youngsters, both in the home and in child care.

Her principal concern stays in furnishing quality consideration to those living with the HIV contamination, which she has done through establishing and dealing with a consideration home for HIV-positive youngsters and ladies. As a solid backer for the sexual wellbeing and privileges of the LGBT people group, she initiated the eight-year fight in court against Section 377 of the Indian Penal Code (IPC). In 2001, her association recorded a Public Interest Litigation (PIL) to decriminalize homosexuality and shut down the age-old law under which people were bugged and oppressed dependent on their sexual direction. The Delhi High Court decided for Naz India in 2009 and announced Section 377 an encroachment on singular rights.

- Manvendra Singh Gohil is an Indian ruler who is the heir and likely beneficiary of the Maharaja of Rajpipla in Gujarat. He is the principal straightforwardly gay sovereign on the planet. He runs a cause, the Lakshya Trust, which works with the LGBT community. In 2000, he began the Lakshya Trust, of which he is executive, a gathering committed to HIV/AIDS instruction and anticipation. An enrolled open altruistic trust, Lakshya is a network-based association working for HIV/AIDS counteraction among men who have intercourse with men (MSMs). It gives directing administrations, facilities for the treatment of explicitly transmitted diseases, libraries, and condom-use advancement. The trust additionally prepares female field laborers who instruct ladies wedded to MSM about safe sex practices. Lakshya won the Civil Society Award 2006 for its commitment to forestalling HIV/AIDS among gay men.

The trust additionally makes work open doors for gay men and backing for different associations for MSMs, and plans to open a hospice/mature age home for gay men.

Lakshya is an individual from the India Network For Sexual Minorities (INFOSEM) and an establishing individual from the Sexual Health Action Network (SHAN).

In 2007, Manvendra joined the Interim Governing Board of the Asia Pacific Coalition on Male Sexual Health, known as APCOM, a provincial alliance of MSM and HIV people group-based associations, the administration division, givers, specialized specialists and the UN framework. He fills in as India Community Representative for INFOSEM, the India MSM and HIV organize. Manvendra said of this work, "APCOM is perhaps the best medium to unite various nationalities and create linkages with others working for HIV and MSM/TG. In India, it will be a significant device to impact specialists to change thinking and widen viewpoints for the improvement of society. APCOM exhibits the substance of solidarity and solidarity inside diversity."

In 2018 Manvendra opened up his 15-section of land royal residence grounds to help house powerless LGBT individuals who may some way or another be "left with nothing" when "their families repudiate them in the wake of coming out".

CONCLUSION:

With these small victories, there's still a long road ahead of us to reach the ultimate goal of welfare and equality rights. First, we need to replace our political leaders with young and more acceptable ones because such marginal policies were made by 60-year-old intolerant to new changes.

There must be criminal charges against parents of a transgender who refuses to accept them as their own. There are laws and policies for the minority community for protection and preservation of dialects, religion, language, welfare, etc, same sets of laws should be available to the transgender community as well with proper institutes to facilitate their education and shelter. All the transgender sex workers must be treated with equality and respectfully especially in eyes of law.

Discrimination is prohibited under articles 14 and 15 but still faces inequality in many areas like getting independent housing facilities for a decent living, matrimonial rights are limited, institutes for providing shelter, education, and health are biased.

Especially In this COVID-19 pandemic, there are no specific guidelines given by the government for welfare and shelter for the transgender community. There is absolutely zero support from the government which is making their life difficult in these compelling times.

Stereotypes that are embedded in our system needs to be shattered through governmental bodies by spreading awareness and implementing a strict rule to prevent discrimination and cultural prejudice based on gender identity.

Social inclusiveness is an essential part of the growth in one's life. Associating and labeling them with "mental disease" or something to be fixed causes hatred in society. The community of transgender is a cure for mankind's narrow behavior because in order to accept them we have to change our perspective. According to me, we need new sets of eyes to see the new world and alter ourselves. They were never the outsiders, we were. It's not education that makes us wiser but our kindness, Britishers too were educated maniac who deployed half of the forces for the eradication of transgenders what they lack was kindness and humanity for other human beings irrespective of sex.

Our ancient mythology always considered eunuchs as children of God then who are we tell their place in this society. Recognition given by the government is not enough, what they need is a sense of belongingness. They do not need our sympathy but our support in this fight and fighting alongside will not only secure their triumph but will also have a shot at saving this world from its own destruction. Every inhuman act causes disturbances in a society of its magnitude which ultimately results in destruction.

We humans beings are a beautiful creature of this planet due to the possession of the power to change our narratives each day with the constant evolution of society demands adaptability to reality. Unlearning homophobia and ending discrimination are the first few steps that will make this world a better place. These oddities are what make us human in real sense.

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