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Transgender Rights- A Constitutional Study

Ritika Goyal

ABSTRACT

In academia nowadays Transgender is a very important topic from point of view of research. These people are struggling a lot by fighting for their rights and it is coming only through the verdicts of various courts of India be it the lower courts or the apex court. We the common people make their lives intolerable irrespective of the verdicts by the judiciary. We are the ones who have differentiated the term Transgender; we are the only ones who differentiate transgender from the male and the female and also created the so called "third gender". Approximately 700,000 transgender are there in India. In 2011, first time ever Indian Census specifies transgender population. In socio-economic status India has no proper and systematic data available. Justice, Equality and Unity have always been the prime motto of the government. Numbers of welfare schemes have been introduced by the government (both centre and state government), these schemes does not talk about the third gender anywhere though they do talk about men and women. Citizenship and gender identity is the main ground on the basis of which Constitutional rights are granted. The Constitution of India has certain prohibited grounds of discrimination like race, caste, creed, sex, etc., but this does not mainly includes sexual orientation. Constitution provides safeguards to everyone (including transgender community) as a part of fundamental Rights. Though things are now changing in India and also India is progressing but still it's a very long way to go.

“To those who are gay, lesbian, bisexual, or transgender-let me say- you are not alone. You're struggle, for the end to violence and discrimination is a shared struggle. Today, I stand with you. And I call upon all countries and people, to stand with you too.”

“A historic shift is underway. We must tackle the violence, decriminalize consensual same sex relationships and end discrimination. We must educate the public. I call on this council and people of conscience to make this happen. The time has come”

— Ban Ki-Moon

INTRODUCTION

Transgender are not new to the society. From the initial episodes of the human face they are in existence. Whenever we speak about the third gender what we see is a very unique and altogether different situation in India. On one hand people have thought of hijars as normal but on the other hand some people consider them as sacred. Discriminating transgender has become very common and the reason behind this is their weak economic position which makes them indulge in prostitution in order to earn their livelihood. They were respected and honored as well during Mughal period but now this status has been completely changed. But now most of them are living a life of a sex worker or beggar where they are humiliated like for no reason. In countries like India where they are isolated and alienated nothing much has been done for them, moreover the fundamental rights which a person gets just after the birth they are denied for them as well.

When we compare earlier position of Indian Transgender with rest of the world we found that although for a long time society has accepted the third gender but there was no legislation which recognized as a third gender. Then in 2005, because of this increasing demand Indian Passport application forms were updated and along with two gender options M and F, E was also inserted as Eunuch. Later in 2009 in order to give further recognition to third gender, eunuchs and transgender people were listed as others distinct from males and females, in voting identity cards and voting rights. Even after this some people were not able to understand them as separate gender they were considering them either as male or as female.

A phenomenon where we are transgendering a person is known as “Transgenderism”. The struggle of transgender is unimaginable because living in a body that is not their own and continuously trying to understand what all things will make it correct, all this might be easy for us to say but practically it

is very difficult. The story of human life has recorded that transgender people have existed everywhere, say in every culture, race and class. The very first time this term transgender was arose by grassroots community of gender-different people in mid 1990s. We know this thing that human rights and freedoms are very basic without which existence is almost not possible, so these are the ones which can neither be created nor destroyed by any government. It includes various rights like right to life, liberty, equality, dignity and fundamental freedoms. Article 21 ensures that a person chooses one's own gender identity. The court has given the right to gender identity to the people of India; the court observed that "the gender to which a person belongs is to be determined by the person concerned."

ABOUT THE TERM TRANSGENDER

The people who are born anatomies of male or female but have different body structure are Transgender. Transgender is a blanket term which covers people whose expression, identity or behavior is different from what was expected from their birth sex, so the term is not restricted to only those whose genitals are intermixed. Transgender people identities fall under the category of male to female (MTF) and female to male (FTM). It also includes gender queer people (who feel that they belonged to either either genders or neither of them), cross dressers (who wear clothes of others) and also transsexuals. In India we have different types of identities related to transgender which are as follows- Hijars, Aravanis, Kothi's, Jogatas, Shivshaktis.

Hijras- This term is commonly used for transgender community in India. Basically it's a Persian word, which means eunuch.

Aravanis- The male transgender who experience genital alteration through SRS (Sex Reassignment Surgery) or perform a tradition of castration called Nirwaan.

Kothi's- They are the ones who chooses the role of feminine in same sex relationship, but they do not live as Aravanis in communes.

Jogatas- They are basically the devotees of a particular god who are male to female transgender, found in Maharashtra and Karnataka.

Shivshakti- They are particularly found in Andhra Pradesh who are considered to be married to god, Mainly to Lord Shiva. Usually they work as an astrologer.

THIRD GENDER

India's Supreme Court recognized transgender people as "Third Gender" in 2014 in its landmark judgment¹. A bench consisting of Justice K.S.Radha Krishnan and A.K.Sikri, said that "eunuchs, except for the binary gender, is treated as —third gender" this was mainly with the aim of protecting their rights under our constitution and also under the laws made by parliament and the state legislature because earlier they were forced to either write male or female. Also it had been asked by the court that centre should treat transgender as socially and economically backward. The apex court said that "transgender are going to be allowed admission in educational institutions and given employment on the idea that they belonged to the third gender category." It had been stated by the court that the law which does not recognize transgender as third gender shall be discontinued by virtue of discriminatory in nature. Formally this was the first time when third gender got recognition. "The third gender people are going to be considered as OBCs", this was said by the supreme court of India. Under OBCs they will be given reservation in employment and academic institution. The apex court also said "states and the centre will devise financial aid schemes for third gender community and run a public awareness campaign to erase social stigma also it had been said by the SC that states must construct special public toilets and departments to look into their special medical issues". One more important thing was that an individual who changes his/her gender shall not be discriminated.

TRANSGENDER IN INDIAN HISTORY

Indian Society for centuries had transgender as its indispensable part. Traces of transgender people are evident with the outbreak of human civilization. We have their evident in history and mythology as well, so their existence can't be questioned and neglected as well. From the initial writings of ancient India there are historical proofs of persons not confirmed to be male or female. Even they are also mentioned in Hindu scriptures and Sanskrit epics of ancient India like Ramayana and Mahabharata. The names of transgender are different depending on the culture and religion. Some of their names are Hijras, Aravanis, Kothi's, Jogatas/Jogappas, Shivshaktis.

1. An important role was played by transgender during Mughal reign, where they were called as Khawaja Sara.
2. For British logics they were considered as imploration for sexual services.

¹National Legal Services Authority (NALSA) Vs. Union of India AIR 2014 5 SCC 438

CONSTITUTIONAL RIGHTS OF TRANSGENDER PEOPLE

The rule of law is supreme and also a component of basic structure and everyone is equal within the eyes of law. The community of transgender is continuously fighting against the discrimination, abuse and oppression from every part of the society, including their family friends and relatives. It's a form of a daily battle in the life of the transgender because they are not accepted anywhere and by anyone. The concept of Fundamental Rights was first conceived within the Bills of Rights of the American Constitution² and from there it's been taken into the Indian Constitution³.

“Preamble to the Indian Constitution emphasizes on Social, Economic and Political, also on Equality of status”. The Fundamental premise of equality is predicted by the thing that the Constitution of India is gender blind.

RIGHT TO EQUALITY

“Article 14 of the Constitution of India is as follows:”

“The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”

Equal status before the law and equal protection of laws to every person is provided by constitution inside the territory of India. Word “person” used in this article talks about every individual, that to with no discrimination on the basis of various categories like caste, creed, religion, sex etc.

This article is basically in two major parts i.e. on one hand it commands state to give every person ‘equality before law’ on the other hand it also directs state to give ‘equal protection of laws’. This article completely prohibits discrimination. The former part of this article deals with ‘Equality before Law’ while later deals with ‘Equal protection of Laws’ so we can say article 14 has both negative as well as positive aspect. To go with the later part of the article, in order to set up equality in the middle of the citizen the state is required to grant special remedy to people. The conclusion is that equals are supposed to be treated equally, whereas unequal have to be treated unequally.

Words “any person” include transgender as well⁴ and they are also given equal status as that of other two genders in the country.

² Bill of Rights of the United States of America (1791). The first 10 amendments to the Constitution make up the Bill of Rights. Written by James Madison in response to calls from several states for greater constitutional protection for individual liberties, the Bill of Rights lists specific prohibitions on governmental power.

³ The Constitution of India - Preamble.

⁴ National Legal Services Authority (NALSA) Vs. Union of India AIR 2014 5 SCC 438 Para 54.

National Legal Service Authority v. Union of India which was not just a case rather it was a turning point in the life of transgender, the explanation of the word person was expanded and it was held by the apex court that the word 'person' of Article 14 is not restricted to only male or female. Hijras who basically doesn't fall in either of two genders fall within the ambit of expression 'person', that's why they are also qualified to have protection against all activities, such as employment, education, healthcare and all other fundamental rights, in the same way like male and female enjoys protection. Thus transgender community comes within the amplitude of the Indian Constitution and deserves or entitled to all the rights which are guaranteed under the Constitution.

EQUALITY OF OPPORTUNITY AND RIGHT AGAINST ALL FORMS OF DISCRIMINATION

Article 15 of the Constitution of India, which says," No discrimination should be there on the grounds of religion, race, caste, sex, and, place of birth states that the state shall not discriminate any citizen on the grounds of race, caste, religion, sex, place of birth or any of them". The rights under this article are available to every single person without any discrimination on the grounds of gender.

The Apex Court of India in a landmark case⁵ held that the term 'sex' has to be given a broader perspective than the binary norm of biological sex, but intended to include people who consider themselves to be neither male nor female.

Article 16 guarantees equality in case of opportunity that to in matter of public employment and stops state from doing any kind of discrimination on the basis of "religion, race, caste, sex, descent, place of birth, residence or any of them". Article 16 also gives freedom to state to make special provisions for backward classes, underrepresented people of states, SCs and STs. It also commands center and state governments to grant necessary reservations in academic institutes and in appointments to the community of transgender people by taking them in account as socially and economically backward as it is mentioned in Article 15 of the constitution of India. Along with this center and state are also supposed to spread awareness in the middle of the general public in order to avoid any spread of hatred.

Discrimination on the basis of gender identity is also included under Article 15 and 16 of the constitution when it says discrimination on the basis of "sex". Article 15(2) and 16(4) of the constitution is assumed to provide equality socially to transgender community like approach to shops,

⁵ Suresh Kumar Koushal Vs NAZ Foundation

restaurants, hotels and places of public entertainment and also equality in public employment, it provides that the states shall have the power to make any special provision for the upliftment of these vulnerable minority who are now included within the category of socially and educationally backward classes.

Article 15 and Article 16 read with Directive Principle of State Policy and other international instruments where India is one of the party, asks for social equality, which transgender can recognize, only when prerequisites and opportunities are given to them in order to make them live with status equal to the status of other genders.

FUNDAMENTAL FREEDOM”

“Expressing one's identity through words, dress, action or behavior is included in the right to freedom of expression (Article 19).”

One's gender identity is protected by court under Article 19(1) (a) and court held that “no restriction can be imposed on one's personal appearance or choice of dressing subject to the restrictions contained in article 19(2) of the Constitution”. Gender Identity is at the heart of personal identity of individual. So because of this it has to be protected under the virtue of Article 19.

Article 19(1) (a) of the Indian Constitution states “that every single individual citizen of India shall have the right to freedom and expression”. Under this Article very basic and fundamental rights are guaranteed such as Privacy, self-identity, autonomy and personal integrity. The state is supposed to protect as well as acknowledge the citizen's rights.

Indian Constitution's Article 5⁶ recognizes the persons who are qualified to be the citizen of India. There is no requirement of discovering the sex or gender identity for getting citizenship. This gives transgender right to express their feelings, their behavior, and view point towards the society. The State is responsible to safeguard this right. The state cannot limit this from being a part of the fundamental rights.

RIGHT TO LIFE”

The transgender community has the right to live a dignified life⁷ with their own choices as guaranteed under Article 21 of the Constitution of India. This article grants every person the fundamental right

⁶ The Constitution of India - Article 5.

⁷ Francis Corali v. Union Territory of Delhi, A.I.R. 1981 S.C. 1675. The Court held that the right to life includes the right to live with human dignity and all that goes with it, namely the bare necessities of life.

to life and personal liberty. It is the main root of the human rights that acknowledges the spirituality of human life. This article indicates the very important right as a human being, the right to live, which state is supposed to guard from any kind of violation.

To live a life with dignity it is very important to choose one's own identity. The Apex Court was also of the point that acknowledgment of gender identity is an integral part. Also personal freedom and self expression falls under the ambit of Article 21 of the Indian Constitution.

Knowledge of gender identity gives acknowledgment of their rights, like right to live with dignity and non acknowledgment will contravene the same, like other two genders transgender also have the right to live their life without any fear and with reputation⁸. We have always seen in our societies that transgender are not given the respect which they deserve, they are often humiliated and also neglected everywhere be it authorities who are in power or members of society.

The right to gender identity was protected under Article 19 and 21, this was stated by the Supreme Court in the very important case i.e. NALSA case. Also if NALSA's assertion is taken thoughtfully then we will get to see that according to Article 19 and 21 transgender are supposed to be treated equally because gender identity is a fundamental choice so no one can be discriminated on this basis.

RIGHT AGAINST EXPLOITATION

Prohibition of human being's trafficking as beggars and various other types of bonded labour and any other violation of these provisions are considered as an offence and shall be punishable under law as per Article 23.

Various other sadistic acts like human trafficking and begging are affirmed as an offence against human rights and are also punishable under law. The purview of Article 23 has broad meaning which includes all forms of discrimination which are not allowed to be done. Unethical activities like prostitution are seen in society where most of the workers in this field are transgender only.

Personal growth and development is everyone's right, no one should be deprived of this right. This right can be secured only when there is a right which is available against exploitation and only then a free environment will be created for all citizens including transgender as transgender are the main sufferers of exploitation. Because of their deteriorating status they are being forced by the society to

⁸ State of Maharashtra v. Public Concern for Governance Trust (A.I.R. 2003 SC 223). The Court held that a good reputation was an element of personal security and was protected by the Constitution, equally with the right to the enjoyment of life, liberty and property.

indulge in unethical activities. In order to safeguard these individuals and protect them from men to men exploitation this Article should be properly exercised.

TRANSGENDER PERSONS (PROTECTION OF RIGHTS) BILL 2019

This bill was first passed by the 17th Lok Sabha on 5th August, 2019 and then by Rajya Sabha on 26th November, 2019.

These were the provisions in this bill:

- i. There shall be no discrimination against a Transgender Person in educational institution, public employment, healthcare facilities etc.
- ii. Acknowledgment of identity of Transgender Persons and to grant them self perceived gender identity right.
- iii. Right to reside with parents and family remembers.
- iv. Provision of making schemes for their welfare and programmes for academics, and health related facilities.
- v. National Council for Transgender Persons is required to suggest or advice, monitor and assess schemes and other things for their protection.

The Bill will make defaulters responsive and accountable for not following the provisions of the bill. The centre and state will become more answerable and will perform on their part more effectively and efficiently.

Large number of persons from transgender community will be benefited with this bill. The main purpose of this bill is to bring equality, remove social stigmas and most importantly to let them access all their rights like other two genders do. This will make transgender persons an inclusive part of the society.

LEGAL PROVISIONS

The formation of different laws by the center and state is because of the constitutional provisions which give legal sanctity by setting up the rights and provisions in favor of the transgender community. Following are the acts which are not really specific but are admissible for the betterment of this community.

THE CITIZENSHIP ACT, 1955: This act provides for the accession and acknowledgment of Citizenship of India but does not demand for any sex or gender identity, in expressed or unexpressed form, in order to give citizenship⁹. To become a voter, individual just has to be a citizen of India. In order to enroll transgender persons as electors The Election Commission of India took measure steps.

THE GENERAL CLAUSES ACT, 1897: Under this act the term ‘person’ has a more broad meaning i.e., along with individuals it also includes any company or even association, whether that is incorporated or not¹⁰. Section 13 of the said act stipulates that the words importing the masculine gender shall be taken to include females. Unless there is anything conflicting in the subject matter this demand is a statutory direction.

A tuneful reading of Constitution makes it clear through its provisions and other provisions of above two stated acts that there is no restriction imposed on the meaning of “person” by any law. So transgender person would doubtlessly fall in the ambit of the definition of “person”.

THE REGISTRATION OF BIRTHS AND DEATHS ACT, 1969: The act is not gender biased. It does not even specifically talks about gender of a person which is to be registered in case of childbirth or passing away of a person. The core ingredient of identification is on the basis of sex. The need to specify the gender or sex of person in case of birth or death certificate is not mentioned in the provisions of this act. However, in the rules made by the state can make changes in the format and can ask for the indication of gender.

The shelter which is provided by Fundamental Rights of the Constitution is available to all the individuals but some of them are only available to the citizen of India. The identification on the basis of sex is a crucial component of identity.

⁹ The Citizenship Act, No. 57 of 1955

¹⁰ The General Clauses Act, No. 10 of 1897, Section 3(39)

LEGISLATION IN OTHER COUNTRIES

Besides India who recognized third gender there are other countries in the world as well who legitimized third gender.

NEPAL

It is believed that Nepal is the first country in the world that recognized transgender as third gender in its census by virtue of a landmark judgment of Supreme Court of Nepal. This case of Sunil Babu Pant & ors was basically against the gender discrimination and their fundamental rights, where the court acknowledged the presence of third gender.

PAKISTAN

Once in Pakistan near Islamabad, transgender's wedding was spoiled by local police when they attacked them and also raped eight hijras there. This shocking event resulted in a private case filed by Muhammed Aslam Khaki, as an outcome for this the Supreme Court of Pakistan on 22nd March 2011 acknowledged the rights of hijras as the citizen of the country who are subject matter of the Islamic Republic of Pakistan and their rights are to be protected equally. They were also given identity cards for non binary citizens as a third category.

BANGLADESH

Since 2009, the transgender have the right to vote in Bangladesh but they were announced as third gender in all national documents by the government in Nov 2013.

GERMANY

Amongst other European country Germany was the first one to declare transgender as third gender. According to Section 3 of German Civil Statutes if neither of the gender i.e. male or female, is assigned to a child then without any specification the child has to be named.

NEWZEALAND

In 2012, New Zealand gave transgender third category of gender on their passports, that to with the commencement for unknowns.

AUSTRALIA

In case of Australia there is no particular way of finding the sex of a person for the motive of law of marriage. Important matters need to be considered along with the life experience of the person and perception of individual. It was also found that there was no relevant reason to not use psychology as important basis in recognizing sex or gender of a person. The main two acts of Australia regarding this are as follows:

- 1) Sex discrimination Act, 1984
- 2) Sex discrimination Amendment (sexual orientation gender identity & inter sex status) Act.2013.

SOUTH AFRICA

In 2003, the parliament of South Africa Passed two things one was alteration of sex description and other was Sex Status Act, 2003. This allows the transgender person to go through reassignment and also modification of his/her specification in the birth register by going to the Director General of Home Affairs.

ARGENTINA

In 2012, a law was passed in Argentina related to gender identity where rights of all persons were recognized by recognizing their gender for the main purpose of development of the individuals on the basis of their genders. They were also allowed to get their already recorded genders changed with the name only if they are not agreeing with the self recognized gender.

Recently Denmark, Sweden and Netherland have established legislations to grant individuals the right to change their gender identity that to without any Sex Reassignment Surgery.

There is one more thing which makes other countries unique from India:

The bill that came in 2016, The Transgender Bill, 2016 had not included the gender identity in case of prisons. This means transgender were not provided cells on the basis of genders, rather they are supposed to be searched by the gender. Prison Rape Elimination Act, 2003 of USA was implemented with the intention of banning the abusive behavior towards transgender and also to provide them cells on the basis of their requirements. Till date, almost 18 countries, some of them are Denmark, UK, Germany, France, and Finland, allowed transgender to serve in the military for the country. In case of India there is no such provision to include transgender in military.

THE SUPREME COURT JUDGMENT ON TRANSGENDER RIGHTS

The very leading case of transgender, National Legal Services Authority v. Union of India¹¹ gave a turning point in transgender life by Supreme Court when they were declared to be a “third gender”, which means that the fundamental rights which Constitution provides shall be equally granted to transgender people as well, and they shall be given the right to self identify their gender as male, female or third gender. In relation to equality of all genders in India this case was of utmost importance.

While coming to this crucial decision the court considered progressive jurisprudence of other countries as well, example of such countries are United Kingdom, Australia, New Zealand, and the United States, these are the countries that have recognized the basic rights of transgender community. Also it was stated that as there is “lack of suitable legislation protecting the rights of the members of the transgender community” so it is important for India to comply with the international human rights convention. That is why court took measures to shed light, in context of human rights convention and principles, on Constitution of India. According to Article 14 of the Constitution of India - “the State shall not deny to ‘any person’ equality before the law or the equal protection of the laws within the territory of India.” The court held that “this Article grants protection to “any person”, and transgender person also falls in the ambit of any person”. Consequently, they are qualified to get law’s legal protection in all the domains of the society, which broadly includes employment, healthcare facilities, academics and also equal status in case of civil and citizenship rights, in the same way as they are granted to other citizen of the country.

This decision provides shelter to two things, first one is to those who wants to identify themselves as third gender, second one is to those who want to alter their identity to other identity i.e., from female to male or vice versa. Centre and State are asked by the court to give legal acknowledgment of gender identity like: either it is female, male, or third gender. Some of the highlighted points from the judgment are as follows:

- Legal Recognition for Third Gender: In acknowledging the third category of gender as third gender, the court ordered that third gender should also be given the fundamental rights in the same way as they are given to other two genders i.e. male or female. In addition to this, it also stated that this will be considered as discrimination towards third gender if third gender is not acknowledged in criminal and civil statutes as well.

¹¹ National Legal Services Authority (NALSA) Vs. Union of India AIR 2014 5 SCC 438

- **Legal Recognition for people transitioning within male/female binary:** The court stated that it prefers to go with the psyche of the person, and also used the “Psychological Test” instead of “Biological Test”, in order to move towards the procedure of recognition. It was also added that if someone is insisted for Sex Reassignment Surgery (SRS) for changing of gender as a condition then that would tantamount to an illegal activity.
- **Public Health and Sanitation:** The court asked Centre and State governments to take sufficient steps in order to provide healthcare facilities to transgender community in India especially in hospitals and to make their separate public toilets to avoid any kind of inconvenience to them. Also they are asked to make following policies to improve the health and to provide healthcare facilities to transgender.
- **Socio-Economic Rights:** In order to provide various social welfare schemes the Center and State are directed to consider transgender community as socially and economically backward classes. In order to provide reservation in public employment and academic institutes, Centre and State are asked to take various measures.
- **Stigma and Public Awareness:** Acknowledgment is somehow given to transgender community but still they are not treated properly. So to move towards equality in society, Centre and State Governments are directed to spread awareness in the middle of the public so that it will create a sense of belongingness among transgender community who feels neglected and they will no longer be treated as untouchables. In order to restore their long lost respect, status in society and also to take off social pressure, depression, and social stigmas various measures are to be taken on both centre and state level.

SUGGESTIONS

Emasculation is covered under the Section of Indian Penal Code i.e. under Section 320 which prescribes only one year or fine up to a thousand rupees only as punishment for this offence. In accordance with the offence the punishment is not at all appropriate. As on one hand government is safeguarding transgender from their exploitation and on the other hand this comes out to be a source of encouragement to those who forcefully makes boys transgender by the use of artificial means. This is the reason why changes in provision are necessary.

Article 15(2) and 16(4) of the Constitution of India (which states that “State is bound take affirmative action to give them new representation in public services”) scrutinized with Directive Principle of State Policy and other International Instruments to which India is one of the party for social equality, can be realized by third gender only if various resources and advantages are directed towards them so that they can also live their life with same dignity and status like others do.

In NALSA judgment centre and state were asked to construct special public toilets for transgender, but neither of them has complied with this order. For this separate department should be launched to look into this healthcare related matter.

All required policies, provisions, and other measures should be launched so that nobody is deprived of their health related facilities.

Now without wasting any time speedy actions are needed to extend schemes related to social welfare to third gender. Actions are supposed to be taken on long term basis only like spread reliable information about transgender community to remove the clouds of ignorance and rumor and also stopping of negativism from general public. Social media platform is doing exceptionally great so with their help along with The Press Council of India including film and television, guidelines should be issued for generous behavior towards transgender.

CONCLUSION

India is towards the direction of a better future but it has to be accompanied not with the negative mindsets but with the positive mindset as eventually it has started acknowledging the rights of unheard, those whose voice was suppressed by the society. The golden judgment¹² by Apex Court in the year 2014, acknowledged transgender as “third gender”, giving them their own identity and also commanding the government to grant necessary reservation in employment and academics to them. No reason is there because of which this community should be refused to access their human rights which includes rights like “Right to Equality, Equality of Opportunity and Right against all forms of Discrimination, Fundamental Freedom, Right to Life and Right against Exploitation”. Constitution has astonishingly fulfilled its duty now as a citizen it is our duty to work on our part by giving respect to transgender so that they can live their life with dignity.

Third gender bears lots of social pressure, health problems related to mind like depression and suicidal tendencies. In this context the doctors along with the society must recognize what takes them towards all these things. According to 2011 census, around 4.9 lakh transgender in the country suffers from social discrimination and harassment. It is so obvious that this number is not relevant because there are so many who have not revealed what they have been suffering may be because of the fear of being judged. Every change be it major or minor is initially observed by the parents so it is the duty of the parents as well to take care of this thing that their child does not feel awkward they should put more efforts to make their child comfortable because they are the one who stands with them.

In order to rectify the behavior of society towards third gender various organizations can be established and other programs can be launched to help these people to have equal opportunities. Awareness campaigns that to on large scales are required to spread information about transgender community. We as society are supposed to understand that transgender people are just like us only, they does not belong from any other planet and also they are not aliens, they are different just because of some gender attributes. Government of India on its part has made new rules and regulations for the betterment of this community but again it is not so easy it will still take a lot of time to reach all the members of this community. If everything goes according to the plan then transgender will no longer live a miserable life. Don't make them feel differently rather give them the respect which they deserve. Society has to understand the sentiments of this community and also in all the parts of the society we should welcome them with open arms. They should be given the opportunities and rights

¹² National Legal Services Authority (NALSA) Vs. Union of India AIR 2014 5 SCC 438

in order to feel free, feel good, and feel equal so that they can also live a healthy life with dignity like others.