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**Gender discrimination on Transgenders**

Swathi R

## ABSTRACT

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*Trans person is a term which is used to describe a persons, whose gender identity or gender expression differs from their biological sex. The word "transgender" or "Trans" is an umbrella term for people whose gender identity is different from the sex assigned to us at the time of birth. Although the modern definition of the word transgender came to us in the late 20th century where people who would fit under the definition of this word have existed in every culture of the recorded society from then to till now. Transgender people comes from all walks of life, from seven year old children, young adults and to seventy year old grand parents. They are a diverse community representing all racial and ethnic backgrounds as well as the faith backgrounds. The Trans community is incredibly diverse, some people identify themselves as trans-men, trans-women, while others others may identify themselves as non-binary,gender non conforming, bigender or other identities that reflects their personal experience in their life. Some of them could undergo surgery as a part of their transition,while others change their pronouns or appearance.*

## CHALLENGES FACED BY THEM

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While the transgender people are increasingly visible in both popular culture and in our daily life (i.e Laverne Cox, jazz Jennings) they still face severe inhuman discrimination, systematic inequality and stigma along the other human beings. They face various form of gender violence, harrasment and discrimination in both home and public places. The study titled, situation and needs assessment of transgender people carried out in three major cities of India like Mumbai, delhi, Bangalore. They found that 57% of the respondents in transgender community had experienced violence, 53% in mumbai, 55% in delhi and 71% in Bangalore. In this survey, one's own family and relatives are said to be the perpetrators to about 25% and common people is about 20% of violences committed against the transgender community. It has been several year, since the NALSA judgement, yet transgender persons continue to face severe several problems till now. They have been continuously ignored by the people of other gender, in reality however transgender protection act passed.

They have been treated as untouchables, avoidable and so on. Transgenders face many problems not only in society , but also in employment, education and every other institution that tends to develop the whole human community. They are not provided with the proper education and a job to lead a basic life without discrimination and humiliation. When is society going to treat them as natural human beings? Rather than being treated as aliens. The humiliation is the main reason for the Transgender people for not stepping out boldly in every field of the country (not even a step outside their home). However the society is changing day by day, but till now their basic human rights are violated more in the ratio than their achievements.

They're not even allowed freely to take public transport for transportation. Right now there are many movements and organisations for gender discrimination, are the transgenders are excluded from that? And talking about the challenges faced by the transgenders, here comes another burden for them. The caste system in the transgender community. There exists types of castes within them. They are hijras , jogtis , and aravanis. The caste discrimination exists even inside the higras community, they have to be accepted by the Guru and received into a Gharana when they run out of their home to them. Many times a person from lower caste is denied the acceptance by the Guru.



## THE TRANSGENDERS ACT, 2019

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The transgender person bill was passed in the lower house in August 2019. The transgenders (protection of rights) act assures the rights to the transgenders as the other human beings (citizens). An Act to provide for protection of rights of transgender persons and their welfare. The act states that,

1. "Section 3" states that, No person or establishment shall discriminate against a transgender person on and of the following grounds namely,
  - (a) the denial, or discontinuation of, or unfair treatment in, educational establishments;
  - (b) the unfair treatment in, or in relation to, employment or occupation;
  - (c) the denial or termination from, employment or occupation;
  - (d) the denial or discontinuation or unfair treatment in healthcare services;
  - (e) the denial or discontinuation or unfair treatment with regard to, access to, or provision or enjoyment or use of any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated to the use of the general public;
  - (f) the denial or discontinuation of, or unfair treatment with regard to the right of movement;
  - (g) the denial or discontinuation or unfair treatment with regard to the right to reside, purchase, rent, or otherwise occupy any property;
  - (h) the denial or discontinuation or unfair treatment in, the opportunity to stand for or hold public or private office; and
  - (i) the denial of access to, removal from, or unfair treatment in, Government or private establishment in whose care or custody a transgender person.
2. "Section 4" states that,
  - (2) A person recognised as transgender under sub-section (1) shall have a right to self-perceived gender identity.
3. "Section 5" states that, A transgender person may make an application to the District Magistrate for issuing a certificate of identity as a transgender person, in such form and manner, and accompanied with such documents. Provided that in the case of a minor child, such application shall be made by a parent or guardian of such a child.

4. "Section 9" states that, No establishment shall discriminate against any transgender person in any matter relating to employment including, but not limited to, recruitment, promotion and other related issues.
5. "Section 12" states that, No child shall be separated from parents or immediate family on the ground of being a transgender, except on an order of a competent court, in the interest of such child. Every transgender person shall have—
  - (a) a right to reside in the household where parent or immediate family members reside;
  - (b) a right not to be excluded from such household or any part thereof; and
  - (c) a right to enjoy and use the facilities of such households in a non-discriminatory manner.
6. "Section 13" states that, every educational institution funded or recognised by the appropriate Government shall provide inclusive education and opportunities for sports, recreation and leisure activities to transgender persons without discrimination on an equal basis with others.

These are some important sections to be known to everyone out here. The most important landmark judgement in April 15, 2014 transgender case is, in *NALSA (national legal services authority) v. Union of India*, the supreme court held that, declaring the transgender people to be the " third gender " in India. According to this judgement, transgender people had the right to be treated equally under the constitution of India and they have the right to self-identification and most importantly, they were recognised as socially and economically backward classes there by making them eligible for the reservations in jobs and in the educational institutions. Even though the act gets away with the controversial provisions that existed in the bill of 2018 which includes criminalizing of begging, another main criticism bounds because it does not give the transgender people to self - identify their gender without having sex reassignment surgery.

As per the legislation, the district magistrate and the screening committee at district level will assign a gender certificate to an individual who had undergone sex reassignment surgery, if not they can only be identified as transgender not as a male or female gender. And coming to the punishments that are given to violence against a transgender is comparatively low when compared to the punishments given to the violence against cis-genderd people. This bill also denies reservation to transgender intersex and gender non-conforming people and requires

them to be living with the families which are a site of both physical and psychological violence in the most cases.

## **ACHIEVEMENTS**

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Apart from the struggles and challenges faced by the transgender community, they tend to achieve in particular fields that they are interested in. It's not easy to face the world when you are constantly being looked down upon based on your sexuality. Almost every other transgender person has to face the abusive behaviour in the society that they live in. To make their lives better and to make a mark with this identity, they have to take the tough path. A transgender's career path is not as simple and straight, for that they have to make extra efforts to be accepted in the world of 'commoners'. Let's take a look at successful transgender people who broke the shackles to become the first ones to achieve big in their area of interest, from academics to politics and even more.

### **INDIA'S 1ST TRANSGENDER LAWYER:**

#### **Sathyasri Sharmila**

Who is 36 years old became India's first transgender lawyer apart from all the struggles she faced. She set an example by pursuing law so that she can fight against injustice.

### **INDIA'S 1ST TRANSGENDER JUDGE:**

#### **Joyita Mondal**

At the age of 29, joyita Mondal became the first transgender judge as she was appointed at lok Adalat in north bengal, on October 2017.

### **INDIA'S 1ST TRANSGENDER POLICE OFFICER:**

#### **Preetika Yashini**

Moving ahead of all the odds, Prithika Yashini became the first transgender sub-inspector though she was declared failed by one mark. Nonetheless, she got her score re-evaluated in the physical examination and came out clear with flying colours.

### **INDIA'S 1ST TRANSGENDER PRINCIPAL:**

#### **Manabi Bandopadhyay**

Who doesn't know about the charming Manabi Bandopadhyay, who became the first transgender college principal of Krishnagar Women's College on June 7, 2015.

### **INDIA'S 1ST TRANSGENDER TO CONTEST ELECTION:**

#### **Mumtaz**

Mumtaz, a social worker who has been working for BSP for 11 years. She contested election in bhuchho Mandi constituency.

### **INDIA'S 1ST TRANSGENDER MLA:**

#### **Shabnam Mausi**

Born as a transgender, Shabnam Mausi has taken a tough road in life. She contested elections from Sohagpur constituency in district Shahdol, Madhya Pradesh.

As she was not supported by her family, she wasn't able to attend school, yet she learnt almost 12 different languages.

### **INDIA'S 1ST TRANSGENDER SOLDIER:**

#### **Shabi**

Shabi joined the Marine engineering department of the eastern naval command around 8 years ago. She has undergone sex reassignment surgery and joined the naval base in Vishakhapatnam.

## **CONCLUSION**

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From then to now, so much as changed but is it enough? Absolutely no! It could be the absolute change that we expected, when a transgender is treated equally in the society without any discrimination in an employment and education as well. Political movements that talk about marginalized people, should talk about the Transgenders also. India has a long road ahead to go in the gender justice, and the transgender community wants incredible efforts to be made to bring about legal reform so that transgender people are free and empowered in their public and private lives as any other citizens in India.