

Historical Evolution and Hijras as Marginal Community in Indian Society

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Abstract

Hijra word used for transgender is not a novel term for India. Their existence has a long history in India. Earlier their position was not miserable but after colonial intervention in Indian social set up their position became miserable in Indian society. After Independence they were neglected for long time by the Government. It was only in last decade of twentieth century that some transgender people raised voice for their rights and they became noticeable. Now-a-days laws and legislations are being passed in their favour yet a lot needs to be done to give them a respectable life and position in society. Only laws would not help but there is a need to change the mindset of people.

Keywords: Transgender, Miserable, Marginalised, Laws, Legislations, Awareness, Community.

Introduction

Transgender is a broad term encompassing those heterogeneous people whose lifestyle appear to have conflict with the gender norms of society and who do not fit into binary gender system of male and female. Transgender community in India are typically referred to as Hijras, word derived from the Persian word 'Hizi' which means someone who is effeminate and/or ineffective or incompetent.¹ It is a common term used to describe transgender people, transsexuals, cross-dressers, eunuchs and transvestites etc. Hijras are known by various other names like Khwaja Sara, Kinnar, Aravanis, Shivshaktis, Kothis, Eunuchs, Sakhi, Jogtas, Aradhis and Jogappas.² Due to their sexual identity they are not acceptable to society and are sometimes looked upon as aliens and are deprived of the human rights. Hijras live at the margins of the society with very low status and people avoid normal discourse with them due to which they are forced to live a life of social exclusion. But after all they are also human beings with heart and soul with aspirations to live a dignified life and are as important part of human society as binary genders.

Discussion

If we look up at the pages of our history, we come to know that it is not a new term. The concept of "*trityaprakriti*" had been an integral part of Hindu mythology, folklore, epic and early Vedic and Puranic literatures.³ The origin of transgender can be traced back to Mahabharata times. During exile Arjuna (one of the five Pandavas), transforms his identity as eunuch to avoid being caught. There is also mention of another transgender Shikandhi and Mohini in Mahabharata. There is mention of Hijras in Ramayana also. on one occasion, deeply touched by the devotion of *Hijras* Lord Rama granted them a boon to give blessings to people during auspicious and inaugural occasions and this raised their status in society.⁴ This practice of giving blessings on occasion of childbirth or on wedding ceremonies or on some other occasions is known as '*Badhai*.' This practice was and is only source of income for such people. The authenticity to their existence is also laid down by the *Ardhnarishwar* form of Lord Shiva. This form is half Shiva and half Parvati and is also not completely male or female but is between two. Due to its gender ambiguity this form of deity is greatly revered by *Hijras*. By these instances it becomes clear that *Hijras* were present there with two other genders from antiquity yet it is problem of our society that we only recognise two sexes.

During sultanate period eunuchs were present there in society and their trade flourished with slave trade. They held important place in the life of Sultans. Eunuch Malik Kafur held exalted position under Delhi Sultan Alauddin Khalji. Similarly Khusrau Khan was held in high esteem under Qutub-ud-din Mubarak Khalji. Eunuch Imadudin Rayhan was chief minister of Sultan Balban.



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During Mughal era, *khwajasaras* or eunuchs held important place and they were not only limited to harems but held important positions in political and administrative organisations as well.⁵ Eunuch Itibar Khan was confidential servant of Emperor Babur and was made responsible for safety of royal ladies who were travelling from Iran to India. Aitbar Khan was also made Governor of fortress by later emperor⁶ and was governor of Agra at Jahangir's death.⁷ Tombs of eunuchs Etmad Khan, Firuz Khan gives a testimony to their important place in Mughal emperors rule. Both of these were *mansabdars* of 3000 under Emperor Akbar and Jahangir. Agah Khan was appointed *Faujdar* of Agra. Another eunuch Aitbar Khan was appointed by Aurangzeb to guard Shahjahan in prison.⁸ This shows that eunuchs were highly trusted by rulers and were entrusted highly confidential works. Eunuchs were very faithful and confidants to their masters and sometimes laid down their life for their masters. Eunuch Shahbaz of Prince Murad Baksh proved his loyalty towards his master by sacrificing his life for him. During Mughal period Hijras were held in high regard, were often considered as divine beings, held positions like that of political advisers, administrators, generals and guardians of the King, chiefs, nobles, and were considered as intelligent, confident and loyal to their masters.⁹ The stature of eunuchs during Mughal India was elevated and many foreign travellers and historians lend authenticity to this. Mrs Postan, (who was a foreign traveller in India) also discovered that Hijras owned land and high status in Mughal India.¹⁰ Mrs Postan also recorded contribution of eunuchs in guarding wives of King of Cutch.¹¹ Francisco Palsaert in his work, *Jahangir's India* described their exalted position. Mannuci in *Storio de Moghur* also recorded the names of important eunuchs of Mughal Kings. Basant, Khawajah Miskin, Shahbaz and Fahim (eunuch of Shahjahan) were some of the eunuchs mentioned by him who enjoyed respectable positions.

Though *Khwajasaras* occupied an important place in Mughal administration yet they had to face discrimination, hardships and animosity. They could not go on pilgrimage and had no blood successors to succeed. In patriarchal set up they were persecuted and oppressed. But in spite of all this it can be concluded that India's religious and cultural heritage has long been more accommodating to multiple gender than western societies who mainly preferred binary gender system. Seeing their plight, Jahangir and his successors passed orders for banning the practice of making eunuchs.¹² This shows that life of eunuchs was not so good and this made rulers to pass such orders.

During the rule of colonial power officials like *Khwajasara* remained central to the courtly culture but these were featured as menial servants and became apparently as unacceptable and corrupt officials for the company with the passage of time. The British annexation of regional states resulted in complete dismantling of the structures of patronage upon which eunuchs had depended. As the British Empire grew powerful in the Indian subcontinent, their ideas about society, law and culture also grew. The local notions about multiple gender system along with various native systems were viewed as barbaric and British officials imposed western norms on colonial subjects about gender also.¹³ In addition to describing their exalted status, British travellers, writers and colonial officials rarely passed on the opportunity to prefix some derogatory remarks to *Hijras*.¹⁴ Francisco Paelsart described them as "wretched women".¹⁵ British travel writers also referred to eunuchs as the vilest and most polluted beings.

The onset of British rule in India changed the situation drastically for the *hijra* community since it marked a critical moment of transformation not only in power dynamics, but also in cultural, social, intellectual and legal realms of Indian society. British interventions made them to lose their status as slave nobles, were marginalised by British bureaucratic culture and were depoliticised thus making their position deplorable. It seems that the roots of the contemporary violence against the *Hijra* community can be traced back to the British authorities who sought to eradicate and criminalise the *Hijra* community through various laws. In 1871 one such law was enacted in British India. This law which was named as Criminal Tribes Act 1871 was an extraordinary legislation as it departed from the principles on which Indian Penal Code was based.¹⁶ According to this act certain tribes and communities were perceived to be criminals by birth, with criminality being passed on from generation to generation. In 1897, another law was enacted in British India

which was titled as “An Act for Registration of Criminal Tribes and Eunuchs. This law was the result of suspicion that *Hijras* were responsible for kidnapping and castrating children. So registration would help to easily identify and arrest them without delay. Under this act *Hijras* were arrested without a warrant and were punished with imprisonment or fine or both. The laws passed in British India also made them incapable of acting as a guardian, making a gift, drawing up a will or adopting a son thus making their position miserable.

In British and independent India reforms were and are carried against caste and women. The acts and legislations helped in social construction and in ameliorating the cause of deprived or marginalised sections. But dilemma is that *Hijras* were nowhere in these and their existence was not even recognised as no single reform was carried out in their favour and they escaped from the eyes of reformers and so their conditions remained deplorable. It is only recently that transgender people and *Hijras* had made their place in the group of marginalised. The census of 2011 estimated the total number of transgender in India to be around 4.88 Lakhs which were considered in others under gender. The census also reported 55,000 children reported by their parents.¹⁷ This study intended to expose sufferings, discrimination and marginalisation of such people in society. They are denied from basic rights, including the right to vote, own property, marry and claim a formal identity through a passport or other government identification. They have also been unable to secure Government services such as food subsidies, education, employment and health.¹⁸ This leaves them with no option but to depend on others for their livelihood, begging or engage them in prostitution. Most of the *Hijras* are school dropouts so they are not able to gain a decent livelihood and often get engaged in begging, singing and dancing and in sex work. *Hijras* are not allowed to live a normal life and are thrown out of homes or sometimes harassed in society to such an extent that they decide to leave homes and join their *mandalis*. Sometimes they commit suicides. But contrary to this *Hijras* could choose any respectable profession in earlier times. Arjuna in his third gender form chose to become a teacher. They could freely participate in battles. They were trusted messengers, servants and informers of the king. They were also employed as trusted security for women’s palaces. Certain professions were reserved for them and were extensively employed as guards, supervisors and servants in the royal chambers meant for queens and princes during Mughal rule. This makes us clear that they were not well treated or ill treated but were treated with a certain pity for being freaks of nature.

Countless issues are associated with them in modern times. They lack employment opportunities, lack of shelter and lack of medical facilities. They easily become prey to depression, hormone pill abuse, and tobacco and alcohol abuse. They face problems relating to marriage, property, electoral rights, adoption, alienation from family and society, insecure life and absence of sensitivity. Forced adherence to binary gender roles has made problems for them in public toilets, in government paperwork they are required to select one of the binary genders. Since the passing of laws against *Hijras* in British India, they have been ostracised and they have formed their own communities, around a guru or a mother figure to provide emotional and financial security. Many communities or groups even started using a secret code language known as *Hijra Farsi*.¹⁹

In modern times, the Indian *Hijra* community has begun to mobilize themselves through the formation of collective groups for fighting for their rights. They are establishing a link with other social movements. Through a series of public rallies and marches an awareness programme is spread among masses. Various *Hijra* activists are working for their own rights. Laxmi Narayan Tripathi, Bubbly Malik, Neeli Rana, Sarah Gill, Kamala Jaan, Shabnam, Gauri Sawant, Aparna Banerjee, etc. are some of the *Hijra* activists who are fighting for their rights as well as upliftment of their community. They have raised their voice due to which they become noticeable in marginalised section of present society. Some of the transgender people have outshined by breaking the bars of society. Satyasri Sharmila (1st transgender lawyer), Joyita Mondal (1st transgender judge), Prithika Yashini (1st Police Officer), Kamala Jaan (1st transgender Mayor), Jiya Das (1st transgender operation theatre technician), Padmini Prakash (1st transgender TV anchor), Shabnam Mausai (1st to contest elections in 1998), Shabi (1st transgender soldier) are some of transgenders

who attained respectable employments for them on their own. Laxmi Narayan Tripathi was the first transgender person to represent the Asia Pacific region at the UN in 2008.²⁰ Recently Dr. Manabi Bandopadhyay has created history, when she became first transgender college Principal of Krishnagar Women's college in West Bengal on June 9, 2015.²¹ Various states in India have a Transgender Welfare Boards and activists are talking to their state's Ministry of Social Justice and Empowerment. In some states like Maharashtra, the women and child welfare ministry took up the responsibility of working for welfare of transgender.²² Bihar Government in 2008, recognised third gender and tried to give them employment as protectors of women even before the Supreme Court verdict. But these efforts and names are mere a drop in the ocean and a lot has to be done to make their position better in the society.

Transgender people cannot be neglected and should be given special rights and recognition in society so that they can live respectable life. It is rightly remarked by Mrinalini Mazumdar that despite their seemingly invisible status in official records, members of the transgender community inhabit a crucial space and are very much part of our public worlds.²³ Through the medium of media, cinema and literature awareness programme is spread for bringing into notice the plight of *Hijras* and for raising their position and providing them a respectable and dignified life. Various documentaries and films have been filmed on this issue. These include movies like Darmiyani, Tamana, Mani Ratnam's Bombay, Bride and Prejudice of Gurinder Chadha, Nayak, Ardhnari (Malayalam movie), Jogapa (Marathi movie), Bol and Welcome to Sajjanpur. Ladyboys (1992), Middle Sexes (2005) and Shabnam Mausi (2005) are some of the documentaries which depict the plight of *Hijras*. The novel Delhi of Khushwant Singh also depicts the story of prostitution of *Hijras* how they are forced to adopt this for sustenance and their miseries. Various television advertisements are also spreading awareness and putting light on their lives. Advertisement of Vicks, PregaNews ad, free the roads ad, Bhima Jewellery ad, Brooke Bond Red Label tea ad, others and AAO Acha Dekhein are some of the advertisements that are changing perceptions of people and spreading awareness among people.

Legal assistance has been sought by *Hijras* and they reached the doors of supreme authority of justice. Writ petition 400 of 2012 was filed by NLSA (National Legal Services Authority) constituted by NLSAA 1997, for recognition of transgender as third gender. It is due to these efforts that the Supreme Court of India in the famous NLSA judgement verdict was given by Justice K.S. Radhakrishnan and Justice A.K. Sikri in favour of transgender. Supreme Court recognised transgender people as marginalised, gave them status of socially and economically backward class and gave them proportional access and representation in jobs and education. Justice KS Radhakrishnan made a historical declaration by declaring them as third sex and said that these people should be treated consistently with other minorities and appealed to change mindset towards them. In his judgement K.S. Radhakrishnan states "*Our society often ridicules and abuses the transgender community and in public places like railway stations, bus stands, schools, workplaces, malls, theatres, hospitals, they are sidelined and treated as untouchables forgetting the fact that moral failure lies in the society's unwillingness to contain or embrace different gender identities and expression, a mindset which we have to change.*"²⁴ NLSA judgement changed things for *Hijras* and transgender. Before this the gender equality remained an issue for women only and third gender remained untouched before this²⁵ After this, circulars are sent by UGC to include a third gender column in official papers and constitute a separate bathroom for third gender people.

Another landmark in this field was The Transgender Persons (Right to Protection) Bill. This bill was drafted and presented in Lok Sabha in August 2016 and was passed by Lok Sabha on 17 Dec. 2018 after 27 amendments.²⁶ This bill prohibits discrimination against transgender persons in different areas such as education, employment opportunities and healthcare, makes it punishable to separate a child from parents for being a transgender. It also ensures the rights of residence to a transgender person and ensures inclusive education for transgender. This bill also includes provision for Sex Reassignment Surgery (SRS), hormonal therapy, laser therapy or any other health issues of transgender persons. It also made a provision for

establishment of National Council for transgender persons.²⁷ But the bill also invited criticism from transgender and activists as it contained the clause for production of a certificate of identity. It does not provide employment opportunities through reservations but banned begging and made it offence makin transgender helpless. So about this bill it is opined that it resembles Marathi saying, “*Aai jevayla det nahi aani baap bhik maagu det nahi*”, which means mother won’t feed me and the father won’t let me beg.

Aim of the Study

This paper tries to bring into notice the miseries and social exclusion of one of the marginalised sections of society so that they can be brought into mainstream and treated with dignity in society without looking upon them as aliens.

Conclusion

Above discussion made it clear that only legislations and laws would not change the position of transgender. Making them economically strong and aware about their rights is also necessary. This could be done by educating them. Education would make them economically dependent and would change their position. But educating them alone would not help as this would not change the viewpoint of society about them. In present times, some of the Hijras who are economically well off, educated and are aware of their rights are not allowed in many restaurants and malls.²⁸ Also society is not ready to embrace them. The resignation case of Manabi Bandhopadhyay because of uncooperative attitude of her faculty in college lends authenticity to the fact that educating transgender alone would not help them. As rightly pointed out by justice KS Radhakrishnan the need of the hour is to change the mindset of society about transgender.

Suggestions

Here are few suggestions which would help in improving the condition of *Hijras* in India:

1. The situation of transgender can be improved by making them more and more educated and giving them employment. Special schools must be opened for their education so that they can study without any hinderance.
2. Counselling centres must be opened for the parents of such children so that they do not ostracise them in pressure from society. Also special welfare boards must be opened for them which can spread awareness and work for their upliftment. Special rescue homes must be opened by the Government so that they can easily get shelter in case of homelessness.
3. Government must pass special laws and legislations in favour of trans people so that they do not get maltreated at the hands of other genders. They must get reservations in education, employment, health and other facilities.
4. More sensitisation of the public is needed so that the attitude of people can change for them. Awareness must be raised through mass media, public rallies, and awareness campaigns. By celebrating transgender days, weeks, months or years people must be made more and more aware about their needs and problems faced by them.

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