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## **Education of Transgenders in India: Status and Challenges**

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### **Abstract**

*Education is essential for the development of any democratic country. India is a democratic country. The spirit of the Indian Constitution is to provide equal opportunity to every citizen to grow and attain their potential, irrespective of caste, religion or gender. Everyone has a gender identity. In India there are three gender; male, female and transgender. In a landmark judgment, the Supreme Court of India on April 2014 created the "third gender" status for hijras or transgenders. As per census 2011, there are around 4.9 lakh third gender in the country who faces social discrimination and harassment. Transgenders were respected earlier in the society but situation has changed and they now face discrimination and harassment. Now, transgenders will study in schools and colleges with all facility approving their admission under the category of "disadvantaged group" defined by the Right to Education Act 2009 (RTE). Transgenders are eligible for twenty five percent reservation under the economically weaker section (EWS) and disadvantaged students category for admission. They are socially and economically backward. Transgender will be allowed admission in educational institutions and given employment on the basis that they belonged to the third gender category. The Supreme Court said absence of law recognizing hijras as third gender could not be continued as a ground to discriminate them in availing equal opportunities in education and employment. The Supreme Court said they will be given educational and employment reservation as OBCs. Transgenders are deprived of social and cultural participation, are shunned by family and society. This paper is as a step towards enhancing the participation of transgender in mainstream education including higher education, professional education and employment. The paper has analysed the present educational, social and employment status of transgender community in India.*

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**Key words: Transgender, Education, Disadvantage group**

## **Introduction:**

Human rights are basic rights and freedoms which are guaranteed to a human by virtue of him being a human which can neither be created nor can be abrogated by any government. It includes the right to life, liberty, equality, dignity and freedom of thought and expression. The right to choose one's gender identity is an essential part to lead a life with dignity which again falls under the ambit of Article 21. Determining the right to personal freedom and self-determination, the Court observed that "the gender to which a person belongs is to be determined by the person concerned." The Court has given the people of India the right to gender identity.

Education & skills opportunity plays pivotal role in enhancing jobs and economic opportunities for an individual. The United Nations Convention on the Rights of Child, 1989 (UNCRC) article 29 *The education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential*; and the Constitution of India consider 'education' as a fundamental right for children for six to fourteen years, *Every child of the Age of six to fourteen years shall have a right to free and compulsory education in neighbourhood school till completion of elementary education.* Promulgation of a separate Act further provided impetus to the government efforts in providing free compulsory education to children, as it has now become constitutional obligation for the state to provide free education.

India has achieved significant growth and development. It has improved on crucial human development indices such as levels of literacy, education and health. There are indications, however, that not all disadvantaged groups have shared equally the benefits of the growth process. Among these, the transgender community, one of the marginalized and vulnerable communities in the country is seriously lagging behind on human development indices including education (Rajesh & Naved 2013). What is appalling is that despite affirmative action (reservation policies, Right to Education, etc.) the disparities remain substantial among the transgender community in India. Majority of the population is uneducated or undereducated thereby excluding them from participating in social, cultural, political and economic activities. Along with teachers' apathy towards transgender community, exclusion from society, poverty, continued discrimination, violence are some of the important factors which can be attributed to the poor participation of transgender persons in educational activities.

The life of transgender people is a daily battle as there is no acceptance anywhere and they are ostracized from the society and also ridiculed. They face high levels of stigma in almost every sphere of their life such as health, schools/colleges, employment, social schemes and

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entitlement. Extreme social exclusion diminishes self-esteem and sense of social responsibility. The community needs to be included in the mainstream development program of the country and be protected from all forms of abuse and exploitation. Transgender is not a term limited to persons whose genitals are intermixed but it is a blanket term of people whose gender expression, identity or behaviour differs from the norms expected from their birth sex. Various transgender identities fall under this category including transgender male, transgender female, male-to-female (MTF) and female to male (FTM). It also includes cross-dressers (those who wear clothes of the other), gender queer people (they feel they belonged to either both genders or neither gender) and transsexuals. In India, there are a wide range of transgender related identities which includes the Hijras, Aravanis, Kothis, Jogtas/ Jogappas, Shiv Sakthis. In the past, they were treated with great respect. 'Hijra' is a Persian word translated as eunuch which is used in common parlance for transgender community in India. 'Aravani' is a term used for male-to-female transgender who undergo genital modification through SRS (Sex Reassignment Surgery) or perform Nirwaan which is a traditional mode of castration. Kothi is used for those who adopt a feminine role in same sex relationships, but do not live in communes as Aravanis. Jogtas/ Jogappas found in Maharashtra and Karnataka are male to female transgender who devote themselves to the service of a particular god. Shiv Shaktis found in Andhra Pradesh are males who are considered married to gods particularly Lord Shiva. They usually work as spiritual healers or astrologers.

Transgender people are individuals of any age or sex whose appearance, personal characteristics, or behaviours differ from stereotypes about how men and women are "supposed" to be (Satashivam 2012). Transgender people have existed in every culture, race, and class since the story of human life has been recorded. Only the term "transgender" and the medical technology available to transsexual people are new. The Literal meaning of transgender is "beyond gender." Transgender and trans-identified are umbrella terms to represent a wide range of gender identities and expressions (wikipedia). A transgender or trans-identified individual is a person whose gender identity, outward appearance or gender expression transcend culturally defined categories of gender. Transgender fall under the LGBT group (lesbian, gay, bisexual and transgender) (Athreye).

According to Indian Census 2011, there are around 4.9 lakh transgender in the country. Census data also reveals that this community has low literacy levels, just 46 per cent transgenders are literate, compared to 74 per cent literacy in the general population. This community comes under the category "disadvantage group" defined by the Right to Education Act (Indian Express 2014). It means these kids will be eligible for 25 per cent reservation under the economically weaker section (EWS) and disadvantaged student's category for admission.

'Transgender' does not include sexual orientation or physical sex characteristics, but is in

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fact a less clinical term which pertains to gender identity and gender expression. Thus transgender people encompass those people whose identity and behaviour do not adhere to the stereotypical gender norms. There are so many problem which are faced by the transgender in India are as:

- They are shunned by family and society alike.
- They have restricted access to education, health services and public spaces.
- Recently, they were excluded from effectively participating in social and cultural life.
- Politics and decision-making processes have been out of their reach.
- They do not have their fundamental right.
- Reports of harassment, violence, denial of services, and unfair treatment against transgender persons have come to light.

### **Historical Background of Transgenders:**

Members of the third gender have played a prominent role in Indian culture and were once treated with great respect. They find mention in the ancient Hindu scriptures and were written about in the greatest epics Ramayana and Mahabharata. In the great epic Mahabharat 'Shikhandi', was a transgender. In medieval India too, they played a prominent role in the royal courts of the Mughal emperors and some Hindu rulers. Many of them rose to powerful positions. Their fall from grace started in the 18th Century during the British colonial rule when the Criminal Tribes Act of 1871 categorised the entire transgender community as "criminals" who were "addicted" to committing serious crimes. They were arrested for dressing in women's clothing or dancing or playing music in public places, and for indulging in gay sex. After Independence, the law was repealed in 1949, but mistrust of the transgender community has continued. Even today, they remain socially excluded, living on the fringes of society, in ghettoised communities, harassed by the police and abused by the public. Most make a living by singing and dancing at weddings or to celebrate child birth, many have moved to begging and prostitution. In 2003, the Hon`ble High Court of Madhya Pradesh upheld the order of an Election Tribunal which nullified the election of a Hijra, Kamala Jaan, to the post of Mayor of Katni, on the ground that it was a seat reserved for women and that KamlaJaan, being a 'male' was not entitled to contest the seat. It is submitted that all the citizens of India have a right to vote and to contest elections. But in the electoral rolls only two categories of the sex are mentioned – male and female. This is unfair to the third sex of India as they are deprived of their statutory right to vote and contest elections.

In 2009, India's Election Commission took a first step by allowing transgenders to choose their gender as "other" on ballot forms. But India is not the first country to recognise a third

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gender.

The spirit of the Constitution is to provide equal opportunity to every citizen to grow and attain their potential, irrespective of caste, religion or gender. In a landmark judgement in April 2014, the Supreme Court of India observed that “The transgender community, generally known as “Hijras”, are a section of Indian citizens who are treated by the society as “unnatural and generally as objects of ridicule and even fear on account of superstition”. In its judgement, the Supreme Court passed the ruling that “In view of the constitutional guarantee, the transgender community is entitled to basic rights i.e. Right to Personal Liberty, dignity, Freedom of expression, Right to Education and Empowerment, Right against violence, Discrimination and exploitation and Right to work. Moreover, every person must have the right to decide his/her gender expression and identity, including transsexuals, transgenders, hijras and should have right to freely express their gender identity and be considered as a third sex.” Thus, today the transgender people in India are considered to be the Third Gender.

### **Status of Transgender Education:**

Third Gender i.e. Transgender is a new sex in Indian Constitution. This new sex emerges with a major population. They are deprived of social and cultural participation and hence they have restricted access to education, health care and public places which further deprives them of the Constitutional guarantee of equality before law and equal protection of laws.a

**Educational Status:** No formal education for transgender is popular in Indian context. They are deprived from family and school environment, transgender discontinue their education and risk their future career opportunities. A close analysis of various reports and discussion with community and stakeholders suggest that transgender are most uneducated or undereducated, become reluctant to continue schooling. The average qualification is secondary (Matric) or senior secondary level. The enrolment is significantly low and dropout rate at the primary and secondary level is still very high. They are hardly educated as they are nor accepted by the society and therefore do not receive proper schooling. Even if they are enrolled in an educational institute, they face harassment and are bullied every day and are asked to leave the school or they drop out on their own. It is because of this that they take up begging and sex work. It is mandatory for the Government to provide inclusive education for transgender students and provide adult education to them.

Beside these some transgender on working reputed place, ManabiBandyopadhyay working as a principal to a government college in West Bengal and AmrutaAlpeshSoni as the advocacy officer for the states of Punjab, Haryana and Chhattisgarh for the National AIDS Control

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Project.

In India, some states work for the betterment of transgender. Tamil Nadu has been the only state which has successfully pioneered transgender inclusion by introducing the transgender (*aravani*, as they are locally called) welfare policy. According to the policy, transgenders can access free Male-to-Female Sex Reassignment Surgery (SRS) in the Government Hospital, a free housing program, various citizenship documents, admission in government colleges with full scholarship for higher studies, and alternative sources of livelihood through formation of self-help groups and initiating income generation programmes (IGP). It was also the first state to form a Transgender Welfare Board in 2008 with representatives from the transgender community. In March 2009, Tamil Nadu government set up a telephone helpline called "*Manasu*" for transgenders, an initiative which was responsible for the formation of India's first helpline for the LGBTQIA community in 2011 at Madurai.

The Chhattisgarh government is also making efforts to empower the transgender community by drafting an action plan for the welfare of around 3000 eunuchs in the state. Tripura government which announced in July an allowance of Rupees 500 per month to the transgender people in the state to ensure their financial independence. The West Bengal government is not far behind. On October 1st, 2015 the government has requested the Kolkata Police to recruit transgenders in the Civic Police Volunteer Force (CPVF) to end the stigma and discrimination against the community.

**Social Status:** The transgender community faces stigma and discrimination and therefore has fewer opportunities as compared to others. They are hardly educated as they are not accepted by the society and therefore do not receive proper schooling. Even if they are enrolled in an educational institute, they face harassment and are bullied every day and are asked to leave the school or they drop out on their own. It is because of this that they take up begging and sex work. They are forced into sex work which puts them at the highest risk of contracting HIV as they agree to unprotected sexual intercourse because they fear rejection or they want to affirm their gender through sex. They are viewed as 'vectors' of HIV in the society. Other sexually transmitted infections such as rectal gonorrhoea, syphilis, rectal Chlamydia, etc., add to the risk of HIV

**Challenges of Transgender Education :** The nomenclature "*third gender*" is a problem in itself: it treats sexuality as a ladder-like structure in which the lowest rung is occupied by the queer community. Although it provides them with legal recognition, it does not alleviate them of their adjacent conditions as they continue to be a part of the marginalized section of society and are not considered equal to the rest of the Indian population. India has finally been able to successfully

adopt the inclusion principle which was for a long time hoped for but not acted upon, it is also important to bring to attention the various ways in which it has been a failure. The third gender people will be considered as OBCs. The Supreme Court of India said they will be given educational and employment reservation as OBCs. The apex court also said states and the Centre will devise social welfare schemes for third gender community and run a public awareness campaign to erase social stigma. The Supreme Court said the states must construct special public toilets and departments to look into their special medical issues.

**1. Inclusion in School/ college and University:** Inclusion of transgender with school and college is a big challenge. It is so challenging to provide equal opportunity of education to transgender because there is a problem of inclusion with male and female gender students.

**2. Use of disrespectful names and pronouns:** When a transgender youth identifies as a particular gender (irrespective of biological sex), it is respectful to the youth's human dignity to use the name chosen and the pronouns appropriate to that particular gender. To persevere intentionally in the use of a prior name and other pronouns is to be deliberately disrespectful. Transgender youth can understand and sympathize with some confusion, so long as there is continuous, good faith progress in using the proper name and pronouns.

**3. Lack of access to appropriate restroom facilities:** Transgender people often lack safe access to public restrooms. They may be assaulted if they use the restroom that conforms to their gender identity or forced to use a restroom that does not conform to their gender identity. Transgender people often have no safe access to locker room facilities that conform to their gender identity. Wherever dress codes are enforced, they may create problems for transgender youth.

**4. Confidentiality:** Transgender youth may have unsupportive families and may even face violence and/or ejection from their home if their gender identity or gender expression is disclosed to the family.

**5. Lack of ideal personality:** Transgender youth often feel alone in the world. Few programs for youth employ transgender people; few libraries offer information about biological sex and gender, gender identity, or being transgender.

**Solutions:**

**1. Made effort for inclusion:** There is a need for prepare an environment where transgender feels secure. Teacher and community people can play an important role in inclusion. India is facing acute shortage of skilled manpower in different sectors. There is a need to provide vocational education and training to teachers and other school members. At the secondary and higher secondary levels vocational training should be provided to the transgender that they prepare for their job.

**2. Names and/or pronouns:** Use the name and/or pronouns appropriate to the young person's chosen gender identity. Remember that it is everyone's essential dignity to be called by our chosen name, and it is everyone's right to be recognized as the person we see ourselves to be. Please apologize if you use the wrong pronoun or the wrong name.

**3. Access to restroom facilities:** Educate staff and youth about gender identity. Make sure that everyone understands that transgender youth. If possible, designate gender-neutral restrooms and locker rooms (toilet facilities that anyone may use, irrespective of gender identity or gender expression). Educate staff and youth about gender identity.

**4. Confidentiality:** Make sure that the program maintains confidentiality with regard to the gender identity, gender expression, sexual orientation, and sexual behavior of *all* the youth in the program.

**5. Ideal Personality:** Search out transgender support groups and GLBTQ youth-serving organizations in your area. Make sure that these groups and organizations are included on your resource lists.

**6. Provide financial assistance:** Government should provide fee-waiver, fee-reimbursements, scholarships, free textbooks, free hostel accommodation and other facilities at subsidized rates for students belonging to the transgender in order to make higher education and professional education accessible by the community. Special coaching should be provided to the candidates for competitive examinations.

**7. Establishment of anti-discrimination cell:** All the educational institutions/universities should establish an anti-discrimination cell to monitor any form of discrimination against the transgender

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community. On the line of strict anti-ragging cell, there should be zero tolerance towards any incidence of the discrimination or complain.

**8.Research:** There is need for a focused institutionalized mechanism of research and academic activities to generate more data/information to identify and understand the problems related to various aspects of their life and help frame policies through research and academic program that would bring an effective and long-term change in their lives.

**Conclusion:**

*“The biggest lacuna in the system is that nobody knows the real definition of a transgender. Sensitisation will not help until people are ready to accept change and acceptance can come only through education.”*

Each being in this Universe is indeed unique, and an integral part of Nature. It would thus be wrong to judge and discriminate people who may be different from the stereotype, which again is man-made. It is time that India realised that every individual in this country has equal rights and privileges, and follow the policy of “live and let live.” Thus the first and the foremost right transgender are deserving of is the Right to Equality under Article 14. Article 15 speaks about the prohibition of discrimination on the ground of religion, caste, sex or place of birth. Article 21, ensures right to privacy and personal dignity to all the citizens and article 21 (A) ensures education is a fundamental right to every Indian. The constitution provides for the fundamental rights to the equality and tolerates no discrimination on the grounds of sex, caste, creed or religion. The constitution also guarantees political rights and other benefits to every citizen. Despite such laws in the constitution of India, the other sex (transgender) continues to be ostracized. Transgender people faced discrimination and harassment at family, school and community forces them to move to the other places. The nature of the harassment includes verbal, physical and sexual abuse which has serious impact on the mental health as well. In a democratic country like India Transgender has no access to the social and political rights. They are not the part of any welfare scheme. Keeping in view the above findings it can be concluded that there is an immense need to intervene at individual, community and policy level to safeguard the rights of transgender.

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