

TRANSGENDER RIGHTS

K.Shyam Srinivasan

*N.Janani***

ABSTRACT:

One of the most undeserved, unrecognized communities in the society, which faces a lot of crises. We still live in a society, where people defy gender norms. This paper is about the rights imposed to the transgender, which they aren't aware of. Where, TRANS means across or beyond, which does not connote to a gender. It is usually said to be an umbrella term. Gender Dysphoria is used by the psychologist, which means an emotional feeling as of a male or female to be opposite to one's biological sex. It can be also said as a mental disorder. Gender identity differs from sexual orientation. Where, gender identity is one's sense of being either male or female and sexual orientation is the emotion or physical attraction towards the another. Indian census- it's seen that, they've never recognized the trans people. But in 2011 census, with details related to their employment, literature etc. it is noticed that about 4.88 lakh transgender people exist¹. One of the most arousing area of law is the gender discrimination. Many trans people are forced to beg, and some even participate as sexual workers, just because of the discrimination caused. This paper also explores about how the transgender is marginalized in the society. In addition, it deals with the problem currently face by the transsexual people, the constitutional implementation, the medical services which lacks to them, the schemes provided & their recognition in the society. The laws should be written in such a way, as they should expressively include the transgender people. The main idea of this paper is to help the transgender people to live in a peaceful and secured society and to reveal the transgender right to the society and to protect them from discrimination.

INTRODUCTION:

¹ 2011 census data on transgender

*school of excellence in law, Chennai, Tamil nadu

** school of excellence in law, Chennai, Tamil nadu

RATIONALE AND AIMS OF THE STUDY:

India's recent census says that , the count of the transgender people , is more than 4,90,000. It also tells that, there is a low literacy rate in the transgender community. In India , transgender people are recognized as a third gender . They are traditionally called as "HIJRA" . Even though , they are provided with equal rights ,as of other gender, they are discriminated in many ways. They have to face problems while moving in the public places like theater , shops etc. and even more serious problems while using toilets in public place , where they are sexually assaulted at times , hence it violates Article.14 of the constitution of India, which tells about ,equality before law and equal protection of the laws ². most of the places in South Asia name them as Aravani, Aruvani , or Jagappa .

The main aim of the study is to , reveal the rights of the transgender to the society and to protect them from further discrimination . Now ,India and Bangladesh have legally recognized the transgender or Hijras as a third gender, by including in the passport and official documents . we shall have a detailed study about the rights provided to the transgender and the ways , they are discriminated .

THE TERM TRANSGENDER:

- LITERAL MEANING :

It relates to a persons gender , whose identity does not correspond to the sex, which is assigned at the time of birth. The term transgender is a vast term , which was recognized in the caselaw : NATIONAL LEGAL SERVICE AUTHORITY v. UNION OF INDIA . Where justice Radhakrishnan says " recognition of the transgender as a third gender is not a legal or social issue but human issue".

- ETYMOLOGY :

From tran- + gender . First used in english , by john olivine in 1965. Later it was displaced by the word TRANSSEXUAL.

- SOME DEFINITIONS :

² Article.14 of Indian constitution –equity before law: the state shall not deny to any person equality before law or equal protection of the laws within the territory of india .

TRANSGENDER : it relates to the gender identity , which does not conform the conventional belief of either male or female .They are also known as CROSS GENDERS or BEYOND GENDERS.

TRANS SEXUAL : It is a medical term , which is imposed to an individual who undergo a surgery to modify or alter their body , to live at their fullest in the sex , which was not at the time of their birth.

RIGHTS WHICH ARE ASSURED BY THE INDIAN LAW TO THE TRANSGENDER :

ARTICLE.14 OF THE INDIAN CONSTITUTION says about the equality before law and equal protection of the laws. It is guaranteed to all citizens irrespective of birth , religion ,SEX ,or race .It also says that , there shall not be any arbitrary DISCRIMINATION between one citizen and another.

In Stephen's college v. university of Delhi ,the court held that "every one may enjoy equal protection of law and nobody is denied such protection".

Right of equality is recognized as a basic feature of Indian constitution , which was held in INDRA SAWHNEY CASE³.

In the case of RAMESH PRASAD V. STATE OF BIHAR (1978) ⁴, it has been noted that , both the concept 'equality before law' and 'equal protection of the law' is the equal justice.

Article .15 and 16 of the Indian constitution says about the non discrimination against the citizen irrespective of race, religion, caste or SEX.

Article .19(1)(a) tells " no restrictions can be made on ones own opinion on dressing or clothing , subjected to the restriction under art. 19(2) of the Indian constitution.

Where article. 21 says right to live with HUMAN DIGNITY, right to livelihood , right to health, right to pollution free air and etc.

NALSA relies upon the international human right law , specially on gender oriented and sexual orientation .

³ AIR 1993 SC 477

⁴ AIR 327,1978 SCR(1) 787

Article .23 of Indian constitution – prohibits the trafficking in human being as beggars and other forms like bonded labour .

PROBLEMS CURRENTLY FACED BY TRANSGENDER :

Inspite of the welfare schemes provided by the government as like free access to sex reassignment surgery in government hospitals ,free housing program , admission in government colleges even for higher studies . yet, transgender community faces a lot of discrimination in the society like.,

- Restricted entry either directly or indirectly to hospitals, malls, restaurants ect.
- Calling them by improper names.
- Associate them with the sexual workers.
- Inequality in public places .
- Harassment , which causes them mentally ill.
- They are excluded from the family and society .
- They restricted in participating in social and cultural activities ,if so, discriminated by the gender .
- Even in education , even though were provided by welfare scheme by the government.
- No specific gender recognition in school and college application forms.
- No special quota given to transgender.

Due to these , many transgender people are forced to beg ,to fulfill their needs.

SITUATIONS WHICH NEEDS POLICY SOLUTIONS ARE:

- Gender specifying houses:

The transgender persons are mostly the ones , who are excluded from their family. At times , in some places , singles aren't given place to live for rent . when it comes to transgender people , the owners hesitate to leave rent to live in their places . which is one of the most horrible thing , which still happens in todays era.

- Shower room and locker rooms:

The most difficult task for the transgender is, while using the shower rooms. They at times find it difficult to use other gender shower rooms (male/female) and locker rooms . Their must be a reasonable accommodation to the transgender people . there must be some concern regarding it.

- Restrooms:

In some places , people hesitate to use the restrooms , just because it has been used by the transgender people. They at times don't know , which gender rest room they should use. Transgender people have to face a great deal relating restrooms, that many people doesn't consider.

- Dress code:

At times, the transgender people have to wear their cloths , just for the sake of society. Where they feel miserably uncomfortable . hence, the Transgender people should be permitted to wear the dress according to their gender identity , in order to provide a better place to work.

- Lack of protection:

According to the human rights campaign 2014 state equality index, only 18 states in Colombia has prohibited the discrimination in employment and residence . Equal employment opportunity commission and department of education has recently taken place in order to protect the trans people. At times , debates evolve on the legislation measures regarding trans sexual person. There is no proper toilet facility , gender identification and many more .Hence, there is a lack in legal protection towards the transgender people.

- Bars to health care:

Even though the law provides them sufficient schemes . they still lack in health care, some aren't even aware that the government provides free sex reassignment surgeries , they are also provided with the privacy in their treatment. Some hospitals take it for granted and use people for unnecessary surgeries .Due to which , they face a lot of obstacles in the society.

- Poverty line:

Due to the circumstances, some trans sexual person are excluded from their families, where they become helpless and are pushed towards the poverty line, which at times results in

begging .In National transgender discrimination survey(NTDS) , it says that , 15 per cent of transgender are under the poverty line , which needed to be changed. It also forces them to participate in sexual activities . It has become such a way, that the sexual workers are of the transgender persons.

- Harassment :

One of the most terrifying issue that evolve these days , is the harassment . Earlier only,female were harassed , but even in todays era , the transgender people are being harassed , which is one of the most undigestable situation in our country. Trans people are being harassed, bullied by the society . sexual harassment is considered and said to be unlawful .nowadays , the trans people can file a suit regarding sexual harassment .

- No proper identity :

The Indian government has consider the transgender persons as the third gender. Which was the only step take by the government . right from the school application , the transgender column isn't present. No specific quota given to the transgender persons in the society .

CONSTITUTIONAL IMPLEMENTATION FOR THE RIGHTS OF TRANSGENDER:

The legal right to the transgender and identification of sexual orientation was recognised in the case law : NATIONAL LEGAL SERVICE AUTHORITY V. UNION OF INDIA⁵.

The word "PERSON" in article. 14 of the constitution of india includes male , female and TRANSGENDER community (TGC).

The TGC was the on – recognition of their gender identity , which violates the fundamental rights , that violates article. 14 , 15 ,16 and 21 of the Indian constitution.

The NLSA, constituted under the legal services authority Act, 1997, provides free legal services to the weaker and marginal section of the society.

In SURESH KUMAR KOUSHAL V. NAZ FOUNDATION , were prescribed to declare that section .377⁶ of the Indian penal code violates article . 14,15, 19(1)(a)-(d) and 21 of the Indian constitution as the section 377 of IPC⁷ criminalizes consensual sexual acts of adults.

⁵ WRIT PETITION(CIVIL) NO.400 OF 2012

Section 377 of IPC tells , any person who commits carnal intercourse either with men, women or animal , shall be punished .

The higher court are empowered to strike down section 377 of IPC , id its inconsistent to the fundamental rights in the Indian constitution. Where, KAUSHAL CASE , speaks about the sustainability of criminality of the same sex being an unnatural conduct . but in NLSA case, it recognizes the transgender as a third gender and have equal protection as of men and women , and it will not violate article . 14, 15,16,19 and 21 of Indian constitution .

Where,

- international covenant on civil and political rights- article . 6,7,17 (1996) ;
- UN Convention against torture and other cruel inhuman °rading treatment or punishment ,2008; and
- International bill on human rights – article. 1,3,5,12

Recognizes the right of the transgender people .

Justice sikri ‘s conception on “ JUSTICE AS FAIRNESS” combined with the “DISTRIBUTIVE JUSTICE” SAYS that ,the transgenders are the marginal section of the society and also have protection under article.4,15,16,19 and 21 of the Indian constitution .

Article .253 of the Indian constitution says about,the legislation for giving effect to international agreements-

Notwithstanding anything in the foregoing provisions of this chapter, the parliament has the power to make any law for the whole or any part of the territory of india for implementing any treaty , agreement or conventions with any other country or countries or any decision made at any international conference , association or other body.

Article VI, Cl. (2) of the U.S. Constitution reads as follows:

⁶ Indian penal code, 1860

⁷ Unnatural offences

“.....all treaties made, or which shall be made, under the authority of the united States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding”.⁸

- National human rights commission v. state of Arunachal Pradesh ⁹, This Court observed that,

Every individual is entitle to be protected by the law equally , without any discrimination.

YOGYAKARTA PRINCIPLE :

The yogyakarta principle deals with the GEDER IDENTITY and SEXUAL ORIENTATION .

It tells us to follow the international human rights law, in order to prevent or reduce the abuse that happens to the transgender people.

This principle is to promote the protect to the discrimination against the transgender people .

- Principle . 12 to 18 of the yoyakarta principle deals with the economic , social and cultural rights to the transgender people.

CONSTITUTION OF INDIA AND TRANSGENDER:

- Article.14 and transgender :

None is denied to equal protection of laws and equality before law.

Even transgender people , has equal rights as of the other two common gender ,that is the male and female. Even they are bound to law.

As the transgender is recognized as a third gender in NLSA judgement .

- Article.15 and transgender:

Where, it tells about the prohibition of discrimination irrespective of race, religion , caste ,SEX or place of birth.

⁸ <https://indiankanoon.org/doc/193543132/>

⁹ AIR 1996 SC 1234

Even the transgender person have the right to access to shops,hotels etc. and even they have the right to use the wells , tanks, bathing ghats as of other gender.

- Article. 16(2) and transgender :

Transgender people shall not be discriminated on the base of race, colour , sex, etc.for the employment under the state.

- Article.19 and transgender:

Transgender people has the freedom to speech and expression, to participate in trade, to move freely within the territory of india ,as of other gender.

- Article.21 and transgender:

The vast area in the Indian constitution is the protection of life and personal liberty. If anyone deprives the personal liberty of the other, shall be punished under law, irrespective of the gender.

Even , the constitution implementation towards the transgender is vast . the transgender people faces lot of discrimination in the society , which needs to be vanished .

MEDICAL SERVICES PROVIDED TO TRANSGENDER:

The number of transgender are increasing day by day. Even at some places, unnecessary surgeries are taking place .so,the transgender people needs to know about their rights in order to fulfill their need , so they can break down the wall of discrimination. Which follows some of the international aspect also.

- GENDER CONFIRMATION SURGERY :

Sex reassignment surgery or the gender conformity surgery , is a surgical procedure to transform to a gender , due to their change in sexual characteristic .

The sex reassignment surgery can be made to :

Trans women (male to female)

Trans men (female to male)

It also includes mastectomy, breast reconstruction , facial feminization surgery and so on.

- **NURSING HOME REFORM ACT:**

It provides the trans people the right, to select the visitors, their physicians , the treatment privacy, right to live with dignity and right to live a peaceful life without any abuse cause to them.

- **PATIENTS BILL OF RIGHTS AND RESPONSIBILITY:**

There is a respectful care for the people , regardless of SEX, gender identity , disability or religion. People have the right to expect full confidentiality and privacy in care, discussion and treatment . you can agree or refuse to take part in medical treatment.

The patients have all the rights to know about their needs irrespective of the gender. Even the transgenders have the right to access about their privacy.

Some people aren't aware of the patients bill and the hospital is liable for any breach of trust or contract , made between the hospital authority and the patients.

- **THE HEALTH INSURANCE PORTABILITY AND ACCOUTABILITY ACT:**

Many transgender people doesn't like revealing their gender to their society. They feel they aren't protected by the state. For this cause, the country has initiated a scheme known as health insurance portability and accountability Act , where they provide them the right of privacy , when it comes to the health information. They have the right to protect or copy their health information , in order to live a peaceful life .

- **HORMONE REPLACEMENT THERAPY:**

This therapy is the substitute of the other hormone for the naturally according hormone. It can also be said as supplement to the naturally occurring hormone .

This therapy is applicable to both the transgender male as well as transgender female.

It provides the transgender people a boon , to live their life at peace .this therapy also has some bane, it also increases the rate of breast cancer , stroke and heart disease .

But, it improves the muscle function, protects the brain , it is more favourable to the younger children .

- **MEDICARE AND MEDICAID REGULATIONS:**

It allows the patients to decide , who can visit them. What treatment they can undergo. Hence , they cannot discriminate the LGBT persons , in the decision made by them and the person who can visit them.

- **PROTOCOL FOR INTERACTION WITH THE TRANSGENDER PATIENT:**

(Yorkshire and humber)

This protocol is issued by human rights commission .

The equality Act, 2010 deals about the protection of the discrimination of gender reassignment. and, the gender reassignment Act, 2004 , deals with the part, that the trans people can get an individuality by issuing them a certificate (gender recognition certificate).

- **PATIENTS PROTECTION AND AFFORDABLE CARE ACT(2010):**

Section. 1557 of the patients protection and affordable care act is an non discrimination part. Where, none can be discriminated irrespective of race, colour, nationality , SEX or disability .

One of the most important part for the trans people from being discriminated . it provides the majority health insurance team and health care issuers from discriminating the transgender people.

- **JOINT COMMISSION HOSPITAL ACCREDITATION STANDARD :**

The hospital should be incorporated with international policies in order to protect the trans people from discrimination. And the state and local non discrimination laws deals with the protection for the trans people from discrimination.

Even in India , people are given equal rights to have the access of their medical treatment , only is that, the trans people aren't aware of the protection given to them.

THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) BILL, 2016:

THE MAIN HIGHLIGHTS OF THE BILL:

- Primarily it defines ,a transgender and the categories that comes under them. Secondly , it say that the trans people must obtain the certificate id , for the identification of their gender. Thirdly, the above said certificate should be granted by the district magistrate mainly and a separate committee that consist of a medical officer, a district

welfare officer, a government official and mainly , their should be a transgender person .

- The main idea of this bill , is to protect the trans people from discrimination in any aspect . it also provides punishment to the persons who force the transgender people to undergo sexual abuse or beg . the punishment imposed is imprisonment for two years and also liable to fine.

ISSUES RAISED IN THE BILL AND THEIR ANALYSIS IN GIST:

Right of self identification of gender is implied in article.21 of the constitution of india , which also involves the human dignity .objective criteria needs to be required for the gender entitlement . This bill also tells that , the trans people have the right to perceive .Where, chapter III ,of the bill speaks about the recognition of identity of transgender persons.

The attractive part of the bill, is that , the welfare measures –it tells that , the government shall take steps to make the trans people with full participation in the society. It also includes the protection and rehabilitation to the transgender persons. which is expressed in chapter IV of the bill.

Chapter V of the bill speaks about the reservation of seats in education , both in primary and secondary level(government institution).it also deals with the employment exchanges .

It haven't dealt about transgender marriage , which could be said as a negative aspect of this bill, where as, US recognizes their marriage.

This bill also provides foster care to the trans children. They also impose penalty for the hate speech against the trans people, where the punishment is – imprisonment for one year and also liable to fine .

Hence, this bill provides a lot of boon to the trans people, in order to live their life without any discrimination , and to live their life in peace .

SCHEMES INITIATED TO TRANSGENDER PEOPLE :

- TAMIL NADU:

TAMIL NADU was the first state to introduce the TRANSGENDER WELFARE BOARD , which was followed by Maharastra and west bengal . The boards main intention was to

provide the transgender their right and to protect them from the discrimination from the society .

- KARNATAKA STATE:

The Karnataka state women development corporation (KSWDC) has initiated some welfare schemes for the transsexual or transgender person , in order to make them live in the society with the SOCIAL SECURITY , which is assured to them.

They had brought housing scheme to the transgender persons ,for 600 transgender people.

To provide a financial assistance to transgenders upto Rs. 20,000 in addition with the subsidy of 50 per cent as a source of income.

To increase the financial assistance for rehabilitation to construct house for transgenders from 1.20 lakh to 1.50 lakh .

The chair person of the Karnataka state women development corporation (KSWDC) says to the press , that they would bring the transgender and sex workers back to the society and provide social security .

- ODISHA SCHEME FOR TRANSGENDER :

The government of odisha , has implemented five scheme to the transgender persons .

Department of Social Security and Empowerment of Persons with Disabilities (SSEPD) considers the trans people as a third gender.

They provide pre-matric scholarship for std.VIII to X ,Rs.150 for day scholars and Rs. 350 for hostelers for 10 months per year.

For post matric scholarship for std.XI & XII , Rs.550 for day scholars and Rs.1200 for hostelers for 10 months per year.

Rs. 1000 per month for transgenders parents.

For the skill development ,Rs. 15,000 will be provided to transpeople trainee for 200 hr. they will be steepened for 1000 Rs per month .

They are provided pension upto Rs. 1000 per month.

They demanded the government to provide sanitary facilities to the transgender persons.

They also demanded 5 per cent reservation for the job and also in the electoral seats.

- STATE OF KERALA:

STATE POLICY FOR TRANSGENDER IN KERALA 2015 was the initial made by the kerala government for eliminating the discrimination against them.

The policy incorporated with the equal rights given to the transgender.

Right to equality, right to life ,right to self identity, right to have protection under law as of the other gender.

To provide the equal social and economic access to the transgender.

It was just an initiation made by the kerala government in order to protect the transgender people.

GENDER JURISPRUDENCE AND CONSTITUTION OF INDIA :

- TRANSGENDER JURISPRUDENCE :

Prohibition of discrimination irrespective of colour, sex, religion is dealt in the ,Title VII of the civil rights Act, 1991. Mostly, the transgender person are said to be marginalized and discriminated group by the society.

The first transgender involved case is Ulane v. Eastern Airlines ,Inc. , which is one of the most leading case. Which held that , the seventh circuit denied title VII protection to a transgender pilot.

Even in JAMES V. RANCH MART HARDWARE, the claim under title VII for employment discrimination was failed. The court dismissed james claim because she wasn't a member of the protected class either a transsexual.

But in SMITH V. CITY OF SALEM case law,

Where smith was born male, and transferred to female. She is a transgender. Her coworker told that she was masculine , she filed a suit. Where the sixth circuit dismissed smiths claims.

Later, the sixth circuit considered the title VII of the civil rights Act and provided a shield from discrimination . hence this became one of the landmark judgement of the trans sexual discrimination .

- CONSTITUTION OF INDIA:

Part- II, III & IV of the Indian constitution deals with the fundamental rights, fundamental duties and directive principle of state policy. Which is given to all , irrespective of religion , race, colour, caste and sex.

Where, Article. 39(a)relates to the policy towards securing , all the citizens ,to have the adequate means of livelihood.

The transgender people are considered and said to be the downtrodden community in the society, where they should be given equal rights to livelihood too.

Article. 39(b) tells about the ownership and control of the resources of the community.

Article.42 deals with the just and humane conditions of work and maternity relief. Even the transsexual people should be given work , in order to live a life.

Article.39A , Which is the inserted provision in the forty second amendment act, 1976. Which deals about the EQUAL JUSTICE AND FREE LEGAL AID ,this provision make it clear , that , securing justice aren't denied to any citizen , which includes the transgender also.

Article.46- transgender people are considered to be the weaker section of the society. This provision deals with the promotion of educational and economic interest of SC, ST, and in particular to the weaker sections.

Article.47- it is one of the directive principle of state policy which is fundamental in the governance of the country . the transgender people needs a high protection under this section.

It is the duty of the state to increase or raise the level of nutrition and standard of living and also to improve the public health.

- One of the interesting step taken by the government is , by introducing section.36A in the Karnataka police Act,1964- which deals about the registration & surveillance of HIJRAS who is indulged in kidnapping of children , unnatural offence & offences of this nature.

SOME CASE LAWS :

ASHISH KUMAR MISRA(ADVOCATE) [... V. BHARAT SARKAR THRU. SACHIV...ON 15 APRIL ,2015] held that,

The hijras , to be treated as the third gender and can be safeguarded under part III of the Indian constitution ,i.e., the fundamental rights. Secondly , it provides trans people the right of self identity , which was upheld by the central and state government . Thirdly ,it says that , transgender should be treated as socially and economically backward class of citizen and steps regarding the extension of reservation will be taken for the transgender persons.

In SHIVANI BHAT V. STATE OF NCT OF DELHI &ORS ON 5 OCTOBER , 2015: held that,

The transgender persons are prohibited from violence and discrimination . they have the right of dignity under article.21 of the Indian constitution and also the right of self determination.

In K.PRITHIKA YASINI..... V. THE CHAIRMAN ON 3 NOVEMBER, 2015, it was held that, the transgender or hijras are apart of the binary gender in the society and also considered as a third gender. They can be safeguarded under part III of the Indian constitution, even they have the right of self identity ,upheld by the central and state government ,they have the right of life , which includes live a life with dignity and taken steps for considering them as a socially and economically backward class in the society and also extend the reservation for the admission in educational institution and for public appointments .

Even, the international laws have considered about the discrimination against transgender and taken steps . India have made many improvement regarding transgender , yet it lays back in discrimination , which needed to be rectified .

EMPLOYMENT RIGHTS :

Article. 16 of the Indian constitution deals with the EQUALITY OF OPPURTUNITY IN MATTERS OF PUBLIC EMPLOYMENT .

CLAUSE 1 says about the equal opportunity to the citizen, which also includes the transgender people , to have office under state . yet there are only few transgender persons who are working under state.

CLAUSE 2 says that there should be no discrimination, irrespective of religion, race, caste, SEX, descent, place of birth or residence. It mentions CITIZEN, under which transgender will also be present. Yet transgender persons are the ones who face a lot of discrimination in the society.

CLAUSE 3 is an exception to clause 1 and clause 2 regarding to the class of employment or appointment to an office.

CLAUSE 4 is also an exception to this article. It deals about the reservation of appointments in favour of backward class citizen.

CLAUSE 4(A)&(B) is an inserted provision on seventy seventh amendment Act, 1995 and eighty first amendment Act, 2000.

CLAUSE 5 is also an exception, says about the law with the affair of any region.

Shabanam mausi, was a transgender person, who was elected as a member of state legislative assembly, Madhya Pradesh from 1998 to 2003.

Hira bai was the first transgender member of state legislation of India from Jabalpur.

Kalki was the first transgender writer and also an actor.

There are many trans people who have achieved great heights, but still the transgender community in the society is laden back.

While US provides equal employment opportunity commission (EEOC), provides anti discrimination to the trans people. They say if any one is discriminated just because of their sex i.e., transgender, they are amount to sexual discrimination and the affected transgender person can file a case against them. They (trans people) have the right to be appointed, promoted like others. They cannot be fired or refused, just because they are transgender. Sexual harassment is said to be unlawful. Sexual harassment also includes indecent names or wrongful names. They have equal facility as of others, like restrooms access, medical access or legal access. Prohibition of anti-LGBT is provided by the executive order 13762. The equal employment opportunity commission (EEOC) of the trans people provides a great boon for the transgender people.

Hence, under the Indian constitution , the protection is given mostly to the backward , SC & ST category . it neither speaks about the transgender and their rights. Even quotas aren't allotted to the transgender community . They face a lot of crises . They undergo lot of discrimination from the time they are physically changed . Even though , the law helps the transgender to develop , yet the society discriminates them , which needed to be altered in the society .

CONCLUSION :

Hence , to conclude , the transgender which is considered not only as the third gender of the society but also the downtrodden community. The so called transgender people , face a lot of discrimination, criticism , in this society. Even though article. 14 of Indian constitution gives equal protection. Yet they faces many problems . still now, the law has just recognized them as a third gender.

All they undergo is only the obstacle and not the peace , they have to face issues right from the time , they are physically change ,for which they aren't the cause . where at some houses, they are excluded from their family, they stand helpless. When they enter into the society, people defy them by their appearance, while finding jobs, they aren't considered as a human . Even for residing . the transgender persons faces all the difficulties , for which they aren't the reason. due to these, many transgender commit suicide , some beg and some participate in sexual workers in the society.

Yet some transgender have achieved great heights, for instance , K.PRITHIKA YASHINI , who is the first transgender person to become a police official in india at the age of 24.

In a judgement made by the madras high court , the TAMIL NADU UNIFORMED SERVICE REQRUITMENT BOARD(TNUSRB) included the transgender as a "THIRD GENDER" and she was appointed as SUB-INSPECTOR OF POLICE , and there are many other transgender person who have achieved their goals irrespective of the criticism made .

INTERNATIONAL ASPECT:

Article -6,7,17 of International covenant on civil and political rights (1996); United Nation convention against torture and other cruel inhuman and degrading treatment or punishment 2008 ; article-1,3,5,12 of International bill on human rights , recognizes the rights of the

transgender person ;Even title VII of the Civil rights Act, 1991 deals with the protection of discrimination .

There is the existence of - a patients bill of rights and responsibility; the health insurance portability and accountability Act; hormone replacement therapy ; medicare and medicad regulations; protocol for interaction with transgender patients ; patients protection and affordable care Act and many more.

Even India has and is providing a lot of schemes for the transgender person . though there are numerous laws , laws enforced in the country along with the governments support in favour of the transgender .still they faces a lot of obstacle in their life. The newly proposed bill for the transgender known as “ TRANSGENDER PERSON (PROTECTION OF RIGHTS) BILL ,2016 has recognized transgender as a third gender and imposed sufficient rights and schemes in order to improve living style and also to protect them from discrimination.

COMMENT :

Inspite of various laws provided in favour of the transgender people. Yet they face a lot of criticism and discrimination in the society .They are still considered as a downtrodden community ,which needed to be modified. The key idea of our paper , is to make the trans people aware of the rights ,to implement sufficient laws , which lacks to trans peoples and to protect them from discrimination caused.

REFERENCE :

- [www.census 2011.co.in](http://www.census2011.co.in)
- www.Wikipedia.org
- www.indian kanoon.org
- Cdjlawjournal.com
- www.hrc.org
- www.quora.com
- www.religioustolerance.org
- www.undp.org
- www.mapsofindia.com
- www.hrw.org
- www.globalcitizen.org

- www.ncbi.nlm.nih.gov
- www.blog.ipleaders.in
- www.yogyakartaprinciple.org
- www.thewire.in
- www.academia.org
- www.aljazeera.com
- [www.MIC Network Inc\[us\]](http://www.MIC Network Inc[us])
- www.ohchr.org
- George by alex gino
- www.genderwikia.com
- www.nursinghomeabuseguide.com
- www.aapsonline.org
- beyond magenta by susuan kuklin
- www.transequality.org
- www.medlineplus
- www.nhs.uk
- www.barnsleyhosplital.org
- www.jointcommission.org
- www.slideshare.net
- www.hindustantimes.com
- luna by Julie anne peters
- transgender rights by paisley currah and Shannon price minter
- Indian penal code,1860(bare act)
- The Indian constitution (bare text)
- Constitution of india by J.N.Pandey
- Indian penal code by K.D.Gaur.

