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# Social Legal Dimensions of Third Gender

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## ABSTRACT

*In the year 2014, after The Supreme Court gave recognition to the third gender, after which an official count was conducted in which there more than 4.9 Lakh of third genders in India. The Social Activists estimates the count to be 6 or 7 time more. So, in India there is a huge population of Transgenders which face a lot of problems in walking step-by-step with the society. They face a lot of Social Exclusions and are not considered as a cursed element of society. In India the transgenders are commonly recognized by the term 'Hijras' and are the most neglected community. They are a marginalized community and they face discrimination due to difference in their gender orientation from the societal norms of genders that makes them one of the most defamed and disempowered group of our society. They face abuse, rejection, demoralization on daily basis. Though they are the citizens of India, still they are denied the basic human rights. They have a very ancient recognition in our civilization yet they fight every day for their acceptance in our community. The people in this community are generally rejected by their families and other social organizations and various other forms of social exclusions. They don't have any other source of living and are most commonly forced to into ritual begging as they are denied proper education, employment and health care facilities and opportunities.*

*In this paper, the author analyses the condition of the Transgender community, the main reference to Transgender Concept, who are Actually Considered as Hijras and their Historical Background and the various Social Exclusion that Transgenders Face as well as other problems face by them in the society on day-to-day basis. The study aims to focus on the socio living status of Third Genders and the health and socio-economic harassment they face. The author further puts light on the new Act introduced in 2019 that provides for reform upliftment of this group of society and also provides with some reforms in the existing structure of the society so that this community of people can be secured their basic Human Rights and can walk together with the society.*

**Keywords:** *Transgender, Third Gender, Problems faced by Transgenders, Social Exclusion of Transgenders, The Transgender Persons (Protection of Rights) Act 2019.*

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## I. INTRODUCTION

Century-old histories of in the Asian Countries of gender-variant men, who are known as “Transgender Women” in the present scenario. India has a very huge range of existence of cultures, identities, or experiences related to Transgender which Includes- ‘*Hijras*’, ‘*Aravanis*’, ‘*Kothis*’, ‘*Jogtas/Jogappas*’ and ‘*Shiv-Shaktis*’ (UNDP, 2010).

“Transgender People” is a term which describes a section of people who transgress social gender norms, that is, their behaviour, identity, expression, does not conform to that of the sex in which they were born. Gender is a matter of the body which is an internal sense that refers to male, female or other. People often use the terms “Feminine” or “Masculine” for describing gender. The concept of Gender is a more complex concept and encompasses more than 2 possibilities which are influenced by culture, class because the behaviour attributes may be appropriate in one section of society but inappropriate in the other section. This is a very big concept and this other form of gender except for Male or Female, on a whole is labelled as “Transgender”.

There are over a Million of Transgender Humans in our Country, where a common phrase or term “Hijra” is used to denote various segments as Transgenders, Transsexuals, Crossdressers, Eunuchs and Transvestites. These people live on the outer edge of the society, mainly in under-developed and poor habitats as the society does not accept them due to their Gender Identity. A huge population of this community make their livelihood by the means of singing or dancing, begging and prostitution. Let us see what does Transgender means.

## II. THE CONCEPT OF TRANSGENDER

The term “Transgender” has become an Umbrella Concept in the current scenario which describes a very wide range of individuals who include individuals who were pre-operative, post-operative and non-operative transgenders (who are recognized with gender different from their biological class); cross dressers (also referred as Transvestites); or people whose characteristic and appearances are in contrary to their sexual orientation. Some Activists who support Hijra Community may prefer others to denote them by the term “Hijras” and not to other subsumed Hijras under the concept of “Transgenders” as they feel that Hijras have a history, culture, tradition and characteristics which will not be evident or which will be disregarded when the term “Transgender” is used. On the other hand, Some Hijra Activists support the idea of the label of “Transgender” and support its application as a label of “Transgender Women” to the women who don’t form part of the Hijra Community. SO various

people have their own ideologies and opinions on this concept which varies from one segment of people to another.

Transgenders in our society never enjoyed a High-Quality Lifestyle due to the notions set for them in prevalent times. They have always been subjected to confusion and pain on the basis of their inflexible conformity to sexual behaviours of their gender to which they biologically belong. They deal with Social-Stigma and discrimination in their daily life.

There are various questions that they face in their day-to-day life.

#### **(A) Why several Individuals are Transgender?**

There is no brief explanation to this question, but experts believe that biological factors play the role which includes genetics and parental hormone levels contribute which are acknowledged later in maturity. They are not defective people and have same abilities like a man or woman.

#### **(B) What Characteristics differ them from normal people and are recognised as Transgenders?**

They have the distinct characteristics with humans in their gender and they have no desire to become like people assigned to their sex. This can be observed by an individual at any point of his age.

#### **(C) Being Transgender is a Disease?**

It is not at all a disease. The psychological phenomenon taken into account as a disease only when it is a reason of great distress or incapacity. Due to some genetic or hormonal disabilities their orientation changes from the people of same sex. This is an actual mental hassle that people face as they become less attractive in the society and face distress, assault and discrimination in society.

### **III. WHO ARE HIJRAS?**

Hirjas is the term that denotes reference to transwoman (male-to-female transsexual individuals) or transgenders. This is the term which is used in South Asia, especially in our country. Various other terms such as Aravani, Aruvani or Jagappa, are used to denote transgender people in India.

Hirjas or Transgenders, known as Third Gender show contradictory approach in physical and psychological manner from their gender and due to this they are considered as menacing community. They are psychological males with feminine gender identity, wear such clothes and adopt such roles as well. There is no confirmation to any particular gender sect and they

move between them that is between being a male and a female. The vulnerability, frustration and insecurities have been ignored by the society at large.

This is a term with huge ambit as it tends to cover the individuals who deny the rigid constructions of the gender and who expresses or tends to break or blur the culture present in stereotype gender roles. From past many years, various activists, socialists, NGOs are working in the direction for getting the “Third Gender” recognition for the Hijras. In year 2014, the Supreme Court gave them the recognition of “third gender” in the eyes of law.

The Term ‘Hijra’ is of Arabic Origin, is an Urdu word taken from the root word *hjr* which means “leaving the tribe” and it is borrowed in Hindi.<sup>2</sup> There are various pronunciations of the Hijra as “*hijira, hijda, hijada, hijara, hijrah*”. Its traditional English Translation was “Eunuchs” or “Hermaphrodite” which refers to castration of male genitals. The transgenders experts committee in the Ministry of Social Justice and Empowerment, asked for removal of the term “eunuchs” from the governmental purposes for its recognition as it was not the correct term for identifying the community.

This community is always denied the legal and social justice from the beginning and Hijras take on the kind of magical personality that brings both fear and respect for them in the society. Hijras give performance at the marriages, inauguration ceremonies or at the birth of the child involving various forms of signing, dancing and music. These religious ceremonies tend to bring good luck and fertility. They are uninvited at the functions and hosts pay the fees to them for their performance. Many people have a fear that Hijras if not happy by the fees they got may curse them and it will bring bad luck and infertility. It is said that Hijras transform their sexual energy into sacred powers. Hijras take on this practice as they don’t have any other source of livelihood. This comes in conflict with the Hijras who are employed as Sex-Workers in the urban area. The feminine attitude adopted by the Hijras often become the source of mental trauma due to their presence in society. They are also excluded from family functions, funerals. In India, Hijras face a lot of Social justice problems such as

- i. Discrimination whether private or governmental in basic human needs.
- ii. Violence with young Hijras leads to mental trauma
- iii. Less opportunities for livelihood.

In the year 2014, the Supreme Court granted the Transgender People recognition of the “Third Gender”. The Supreme Court in its judgement granted various definitions related to the

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<sup>2</sup> Mohammad T. Alhawary and Elabbas Benmamoun (eds), *Perspectives on Arabic linguistics XVII-XVIII: papers from the Seventeenth and Eighteenth Annual Symposia on Arabic Linguistics*, (John Benjamins, 2005), p.g. 97 where “*hjr* (main meanings): a) to break with, leave, forsake, renounce, emigrate, flee” Lahzar Zanned, “Root formation and polysemic organization”.

transgender people. These are-

- **Eunuchs-** A male who has been castrated. If castrated in early age, it can have hormonal consequences.
- **Hijras-** Biologically males who identify themselves as females and rejects their masculinity. They consider themselves as “not men” or “in between man and woman”
- **Kinnars-** This is recently used in Maharashtra and middle India, used to denote better educated hijras.
- **Aravanis-** Used in Tamil Nadu, identified as women trapped in male body. They prefer themselves calling “Thirunangi”
- **Kothi-** These are the males that take female role in same-sex relationship, many of them are still bisexual. Not all Kothis are recognised as Hijras or Transgenders, yet they form part of same community.
- **Shiv Shaktis-** This community belongs to Andhra Pradesh. The males think themselves as “Possessed by females” and are “married to” the Gods, especially Lord Shiva. They cross-dress as women during religious festivals.

**Jogti Hijras-** They are of two types- Jogtas and Jogtis. Jogti- Hijras are referred to as Male-to-Female Transgenders, who devoted their life in service of a Particular God. They are more prominently found in Maharashtra and Karnataka.

#### **IV. HISTORY OF TRANSGENDERS**

Transgender Community have a very strong ancient mention in our Hindu Mythologies. The Vedic and Punaic Literatures have the mention of the concepts of tritiya prakrti or napunsaka.

- In the great epic of Ramayana, when Lord Ran was banished for 14 years and he was leaving for forest, Lord Rama turned around and asked his followers (men and women) to leave. Only a group of transgenders did not go as they were not bound by Lord Rama’s direction and stayed. After seeing their devotion, Lord Rama gave them the power that they can shower blessings on people on occasions like child birth, marriages, inauguration- Popularly known as their custom of Badhai.<sup>3</sup>
- Aravana and Nagakaniya, sacrificed to Goddess Kali, to ensure the Kurukshetra war victory, in Mahabharata. A condition was made by him, that he wanted to spend his last night in matrimony, no woman was ready to marry for one night to him as he was

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<sup>3</sup> 1, Stephen Hunt (ed.), Religions of the East (2017, ISBN 1351904752), pp. 457-458.

doomed to be killed, So Lord Krishna took the appearance of Mohini and married him. Transgenders or Hijras of Tamil Nadu consider themselves as Aravanis.<sup>4</sup>

- The Hijras/Transgenders played an important role in our history, but from the 18<sup>th</sup> Century their position changed Drastically. During Britishers rule in India, in 1874 The Criminal Tribes Act was enacted to keep a check on activities of Hijras/Transgenders, which considered Hijras as ‘criminals’ and they used to commit ‘Non-Bailable Offences’. This act provides for registration of Hijras/Transgenders, for surveillance and control of certain tribes and eunuchs and those eunuchs who appeared to be dressed like a woman in a public street, who were registered, they were punished for doing so. They were arrested without a warrant and were penalised with 2 years of imprisonment or with fine or both. Local Government had to register the names and residence of all eunuchs, who were reasonably suspected of kidnapping or castrating children or for commission of offences under Sec 377 of IPC, under this Act. Though however this act has been repealed in August, 1949.

## **V. SOCIAL EXCLUSION TRANSGENDERS FACE**

The Transgender Community in our country is viewed as the one which is marginalized and is also defamed. Hijra Community claimed that the society always criticised their culture gender and sexuality and never tried to understand them. In the traditional beliefs of our society their Human Rights, Sexual Right and Fundamental Rights are violated. There is a lack of understanding by our society at large about those transgender people as normal human beings as there is a very complex relation between biological sex on one side and gender identity on the other. Their sexual orientation is different from their biological sex which lead them to face problems in our society who has a very narrow mind set for them. Let us see what all problems do they face on a whole generally in our society-

### **(A) Social Problem**

Their presence is often disliked by their own family members. The Transgender people face a lot of problems including verbal and physical abuse; isolation and rejection; denial of family property. Hijra Community are often discriminated on the basis of their sexuality and gender disorder. This also becomes the reason for their stigmatization by the society. This stigma basically means Transgender people are often looked down, labelled and face the negative behaviour of society towards themselves such as sex workers or sex solicitors. This community

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<sup>4</sup> Nida Sayed, Modern day retelling of Shikhandi will attempt to blur gender lines, Times of India, December 19, 2017, p.g. 7

do not get inheritance in their family property and cannot even adopt a child. Families do not accept their child behaviour which are inappropriate according to the gender role they play in society. Some parents may outright, disown and evict their son for not fulfilling the norms that are prescribed by their gender. Transgender People often resort to run away from their families as they think they will bring disgrace to their families. This eventually leads some of them to become the part of Hijra Community as there is no other option. This shows that many Hijras are not educated which also leads them to face a problem in getting jobs. This leaves them with no other options and eventually push them to be a social out cast and many of the people end up being beggars or dancers. Some even lead their ways to become a sex worker for livelihood. Sometimes they even face physical and verbal abuse; forced sex; extortion of money and arrest done on false allegations by the police. Due to consequent Acquisition and Exclusion form the society, Transgenders have a very miserable and tough life. Transgenders don't even get the Fundamental Rights that a woman or man enjoys. This shows how tough and sad the life is for transgenders.

### **(B) Health Problems**

There is a huge amount of discrimination done towards Transgenders regarding Health Care access in rural and urban areas. In a survey conducted, it was clearly stated that various Transgenders are suffering from blood related illnesses; some of them had AIDS and STD. The transgenders who were suffering from herpes and Sexually Transmitted Infections (STI) did not reveal their HIV Status. This shows how desperate is the need of their social acceptance in our society. Many Transgenders don't like going to Government Hospitals because firstly, there is no availability of space in wards for them; Secondly, they are not admitted in women's ward as then women feel uncomfortable; Thirdly when admitted in men's ward they have to face sexual abuse. There is lack of Personal Respect in the attitude of health care workers towards Hijras. They also believe that their health care is compromised.

### **(C) Economic Problems**

Most of the Hijras/Transgenders are disowned or evicted by their families so they don't have support from their biological families. Transgenders face a lot of social security issues and challenges especially when they are not in a position to earn a livelihood due to lack of jobs; health issues; old age. The major issues faced by the Transgenders are-

#### **1. Short of Livelihood Choices**

Even Skilled and Educated Transgenders are denied employment. Some Hijras who are self-employed run food stalls or organised cultural programs in some of the states. These are certain

exceptional cases as there are no options for earning left for them. Lack of livelihood options is the main reason for a large no. of Transgenders to become or opt the field of sex worker which comes with health-related risks and HIV. In recent times, there is an Initiative run that provides jobs of Life Insurance Agent to qualified Transgender Women.

## **2. Problems Faced in Social Welfare Scheme**

A variety of Social Welfare Schemes for socially and economically disadvantaged groups are provided by the Social Welfare Department, but there is no such scheme given to Transgender People, except for the Land Scheme in which Land was Provided to Aravians in Tamil Nadu. Some rigid and inconvenient procedures require address proof, identity proof and income certificate, all hinders the making use of the scheme by the deserving candidates. Most Hijras due to lack of knowledge and education; incapable of paying premiums; are not a part of any Life Insurance scheme or cannot even enrol for it. Due to less exposure, uneducated Transgenders cannot enjoy all the schemes.

## **1. Political Problems**

Though with interest and knowledge of Politics in some Transgenders, still they cannot play a significant role in States Political Parties. Transgenders may contest local body elections yet they did not get adequate social recognition by the society. After all sorts of Discrimination and Marginalization, Transgenders are proving their potential by emerging recognition in Politics. There are instances in recent times that shows how Transgender People are rising and succeeding in gaining political power. For instance- Shapnam Mousi became Member of Parliament in Madhya Pradesh; Kamla Jaan became Mayor in the same year. Still the community is not significantly empowered by this. Transgender People got voting rights in 1994 still they cannot cast their votes as the task of issuing them the Voter Identification Card got caught in the question of gender. Many Transgenders were not given the Voter Card due to their gender specification choice. In 2009, Election Committee in general elections denied candidature to 3 Transgenders on the ground that they could not identify their gender specifically as male or female.

## **VI. OTHER PROBLEMS FACED BY TRANSGENDERS**

- **Discrimination-** This is the basic problem that transgenders face. They are discriminated of basic rights as well as education, employment.
- **Disrespect-** They disrespect by the society in every aspect. They are disrespected in all the aspects of life except for when a child is born or they go to marriage

- **Downgraded-** They are always suppressed by the people in the power. They are treated badly and they always suffer for social justice as their identity is of Transgender.
- **Prostitution-** Due to lack of jobs and no source of livelihood, some of them choose this way to earn money. They sometimes are forced by their community or friends or family to enter this profession.
- **Attention in Public-** They are given unwanted attention in public places. People start passing comments about them and try to suppress them. People create a scene by insulting them, abusing them.
- **Entry Restrictions-** Their entry in public places of gathering is restricted and they face humiliation at those places. Their entry is restricted in religious places, parks, hotels, halls etc.
- **Rape and Verbal as well as Physical Abuse-** People ill treat them and by this people tend to create psychological impact which leads to Mental Harassment.
- **Lack of Education Facility-** They are treated differently in terms of education. They are not entitled to take education like normal people in schools and colleges.
- **STI and HIV AIDS-** Most Transgenders belong to be of lower socioeconomic status. Due to this they are not so literate. They tend to have MSM due to which they are prone to diseases like STI and HIV AIDS. Due to low literacy level they tend to have improper medical facilities.

## VII. JUDICIAL DECISIONS WITH RESPECT TO THIRD GENDER

### (A) National Legal Services Authority v Union of India and Others<sup>5</sup>

In this landmark judgment of a two Judge Supreme Court Bench consisting of Honourable Justice K. S. Radhakrishnan and Honourable Justice A.K. Sikri held that hijras/eunuchs which are not a part of the gender binary i.e., male and female be treated as the 'third gender' thus safeguarding their fundamental rights under Part III of the Constitution as well as other laws made by the Parliament or State Legislature.

The National Legal Services Authority which is constituted for the purpose of providing free legal services to the weaker and other marginalised sections of the society filed a case before the Honourable Supreme Court to legally recognise those who fall outside the gender binary, i.e., male and female and identify them as the 'third gender'. The petitioners were joined by a

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<sup>5</sup> National Legal Services Authority v Union of India and Others, A.I.R. 2014 S.C. 1863 (India)

number of interveners who stressed that the pre-existing Indian law recognises only two genders, i.e. male and female and there is no specific provision with regard to the rights of the transgender community. Moreover, hijras/eunuchs who fall within this group seek to be legally identified as the third gender. The petitioners prayed that non-recognition of their gender identity is violative of Article 14 and 21 of the Constitution.

The Honourable Justice K. S. Radhakrishnan while delivering the judgment observed that gender identity is one of the most fundamental aspect of life that refers to a person's intrinsic sense of being male, female or transgender or transsexual person. It is a person's individualistic experience of gender and it is deeply felt. This may or may not correspond with the sex assigned at birth as gender identity is the individual's self-identification. The Honourable Court also observed that the right to express one's gender identity through speech, mannerisms and clothing is a part of freedom of speech and expression provided in Article 19(1)(a).

The Honourable Court also held that the transgender community is not excluded under Article 15 and 16. Moreover, the transgender community is entitled to reservation under Article 15(4) and 16(4).

Apart from upholding transgender person's right to self-identify their gender, the Honourable Court directed the Central and State Governments:

- i. To take steps to treat the transgender community as socially and economically backward classes and extend reservations for them in admissions of educational institutions and in public appointments.
- ii. To operate HIV sero-surveillance centres as the hijras/ transgenders face several health issues. Moreover, medical care must be provided to them in hospitals and separate public toilets shall be provided to them along with other facilities.
- iii. To address gender dysphoria, fear, shame, social oppression which may often result in depression or suicidal tendencies etc and insistence to declare one's gender shall be illegal and immoral.
- iv. To frame social welfare schemes and generate public awareness and other measures to regain their respect which once was enjoyed by them in the cultural and social life.

In **K.S. Puttaswamy v Union of India**<sup>6</sup> a 9 Judge bench of the Honourable Supreme Court held that our Constitution establishes a fundamental right to privacy that creates a zone of personal autonomy which cannot be intruded by the State. Justice Chandrachud observed that

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<sup>6</sup> K.S. Puttaswamy v Union of India, (2017) 10 S.C.C. 641 (India)

protection of sexual orientation lies at the core of fundamental rights under Article 14,15 and 21 of the Constitution. This created a jurisprudential foundation for the case of **Navtej Singh Johar and Ors v. Union of India**<sup>7</sup> In this case, Section 377 of the Indian penal Code was held to be violative of Article 14, 15(1), 19 and 21. This case upheld the reading down of Section 377 by the Delhi High Court in **Naz Foundation v. Government of NCT of Delhi and Ors**<sup>8</sup> where the Delhi High Court held that section 377 of the IPC deemed violative of Article 14,15 and 21 but it is not unconstitutional in its entirety. The Navtej Singh Johar case also overruled the **Suresh Kumar Koushal & Anr v Naz Foundation & Others**<sup>9</sup> where it was held that the LGBT community comprises only a minuscule of the total population and the applicability of section 377 is irrespective of consent and it doesn't criminalise any particular identity or orientation. It only regulates the sexual conduct rather than orientation or gender identity.

### **VIII. THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT 2019**

The Transgender Persons (Protection of Rights) Act, 2019<sup>10</sup> was introduced in the Lok Sabha by Mr. Thaawarchand Gehlot, Minister for Social Justice and Empowerment was presented in Lok Sabha on 19<sup>th</sup> July, 2019 which was passed on 5<sup>th</sup> August, 2019. After that it was passed by the Rajya Sabha, the upper house of the Parliament on 26<sup>th</sup> November, 2019. This Act was then Assented by The President of India on 5<sup>th</sup> December, 2019 and it came into effect on 10<sup>th</sup> January, 2020.

The main highlights of the Act are as follows:

- 1. Transgender person:** The Act defines a transgender person as a person whose gender does not match the gender assigned at birth and includes trans-men, trans-women, persons with inter-sex variations that is, showing variations in his/her primary sexual characteristics, genitalia etc from the standard of male/female body. Hijras and kinnar who have socio-cultural identities are also included.
- 2. Prohibits Discrimination:** Discrimination against transgender person relates to denial of a service or unfair treatment with respect to education, employment, healthcare, access to good, facilities and opportunities as well other rights such as right to movement, reside, occupy property, hold public/private office etc.

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<sup>7</sup> Navtej Singh Johar and Ors. V. Union of India, W. P. (Crl.) No. 76 of 2016 (India)

<sup>8</sup> Naz Foundation V. Government of NCT of Delhi and Ors. (2009) 111 D.R.J. 1 (India)

<sup>9</sup> Suresh Kumar Koushal & Anr. V. Naz Foundation & Others (2014) 1 S.C.C. 1 (India)

<sup>10</sup> The Transgender Persons (Protection of Rights) Act, 2019, No. 40, Acts of Parliament, 2019 (India)

3. **Right of residence:** Right to reside and be included in his household shall be with every transgender person and if their immediate family is unable to take care of them then they may be placed in rehabilitation centre.
4. **Right to Employment:** The Act prohibits discrimination against a transgender with regard to employment, recruitment and promotion. Every establishment is required to have a complaint officer who would deal with complaints under this Act.
5. **Right to Education:** Inclusive education shall be provided for transgender persons along with sports and recreational facilities in the educational institutions funded by the government. There shall be no discrimination in the same.
6. **Health Care:** The Act provides that the government shall take measures for providing HIV surveillance centres, sex reassignment surgeries to the transgender persons as well address other health issues. Medical insurance schemes shall also be provided to them.
7. **Certificate of Identity:** An application may be made to the District Magistrate for a certificate of identity, indicating the gender of a person as 'transgender'. If the individual undergoes surgery to change their gender as male/female then a revised certificate may be obtained.
8. **Welfare measure:** The At provides that the government should take measures to ensure that the transgender persons have full inclusion and participation in the society and take steps for their rehabilitation and vocational training, self employment and create transgender sensitive schemes.
9. **Offences:** The following offences against transgender persons are recognized:
  - a. Forced/ Bonded Labour
  - b. Denial of use of public places
  - c. Removal from household and village
  - d. Physical, sexual, verbal, emotional or economic abuse.Penalty for these offences varies from 6 months to 2 years with fine.
10. **National Council for Transgender persons (NCT):** The NCT shall monitor the impact of policies and legislations, redress grievances of transgender person and advise the Central Government. The composition of NCT is:
  - a. Chairperson- Union Minister for Social Justice
  - b. Vice Chairperson- Minister of State for Social Justice

- c. Other members: Representatives of NITI Ayog and the National Human Rights Commission. There is also representation from the State
- d. 5 members of transgender community
- e. experts from non-governmental organizations.

## **IX. CONCLUSION**

The Hijras are one of the most deprived communities as they are constantly shunned by their families and the society. Their access to education, medical facilities, public spaces is restricted to a great extent. Under the *NALSA v. UOI* 2014, the Honourable Supreme Court ruled that the hijras shall be recognised as a ‘third gender’. Recently the Election Commission forms have the column ‘O’ (Others) in Voter Enrolment and registration form and they identify as eunuch or ‘E’ on passport and government documents. On the same lines, the Unique identification Authority of India (UIDAI) recognises transgenders as ‘T’ for transgenders. Even though recognition is granted to the third gender, there are still a multitude of problems faced by them. The major issue is access of the hijra community to essential services like education and health. To alleviate these problems certain proactive measures are required to be taken by the State such as giving a sensitive approach to the society in relation to gender identity. Availability of land and shelter for them as well as separate public toilets, wards in hospitals, etc is indispensable. Moreover, the media needs to highlight their status and spread awareness of their plight so as to sensitise the society towards them. Financial aid must be extended to them through various organisations.

Hijras are human beings and their basic human rights have to be safeguarded. Just like every human being has the right to life with dignity irrespective of their status whether legal, political or social, hijras should also be entitled to the same rights. Unfortunately, there are instances where certain hijras have been subjected to inhumane and hostile treatment in various public places including some government hospitals.

Various NGOs are working for upliftment of Hijras by providing them proper training so as to enable them to be financially independent. However, for these small steps to become effective there is a need for the society to display respectful behaviour towards them and keep an open mind. As long as they are looked down upon and the ‘third gender’ does not come at par with the other two, the hijras will always be social outcasts which will push back the development of the Indian society. The Indian society cannot move forward unless the downtrodden and weaker sections have been given an equal opportunity to move forward. Thus, in the name of equity, equal opportunities need to be given to the third gender so that they can be at par with

the other two genders so that the society can collectively move forward.

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