



THE EXPERIENCE OF TRANSGENDER IDENTITY DEVELOPMENT

*By Shilpi Sinha and Surbhit Awasthi
From Galgotias University*

The most acknowledged definition as of now for the term transgender is by all accounts “People who were assigned a gender, usually at birth and based on their genitals, but who feel that this is a false or incomplete description of them.”¹ It is regularly utilized as an umbrella term to mean the individuals who oppose unbending, binary gender developments, and who express or present a breaking or potentially obscuring of socially pervasive/cliché gender roles. Transgendered people normally live full or low maintenance in the gender role inverse to the one in which they were born. In contemporary use, transgender is utilized to portray a wide scope of personalities and experiences, including however not constrained to: pre-operative, post-operative and non-operative transsexual people; male and female cross-dressers (now and then referred to as transvestites, drag of sexual orientation, or drag kings); intersexed people; and men or women, paying little heed to sexual orientation, whose appearance or qualities are seen to be gender atypical. The term transgender doesn’t suggest a particular type of sexual orientation; transgender individuals may recognize as hetero, homosexual or bisexual.

From being mocked and treated in an unexpected way, to confronting unfair rejection at working environments, to being exposed to savagery and murder, India’s transgender community had a distressing

time since time immemorial. In the year 2018, the World Health Organization (WHO) proclaimed that being transgender is definitely not a psychological issue or a mental disorder to be precise. While this was a dynamic move for the transgender community, WHO renamed being transgender as a ‘sexual health condition’, bringing up issues on the move notwithstanding its indicated advantages.

Regardless of the declassification of being transgender as a mental illness, numerous clinics or hospitals that offer gender affirmation surgery or medical procedure require the patient to produce at any rate two psychiatrists- evaluated reports that affirm that they have gender identity dysphoria, which many still locate as a disorder. On one hand, this is to guarantee that the individual makes certain of their choice to experience this tremendous change in their life, however on the other, it just makes the procedure a ton harder for them, and disparages their right to self-identification.

The advancement of a transgender or gender-nonconforming identity includes an intricate transaction of phenomena that comprises procedures of acting naturally, both internal and external. The origination of transgender identity development, as it was depicted by youth in this study, included acknowledgment of transgender character, both progressive and prompt, and transition processes. For certain families, there were early verbal indicators, behavioral cues, and appearance-based inclinations that families deciphered as signs that their child didn’t relate to their sex doled out during childbirth. Numerous youngsters expressed that youths’ sentiments of disappointment and

¹ USI LGBT Campaign Transgender Campaign, 2007.



inconvenience with sex-connected physiology, or potentially at a more seasoned age, real changes related to pubescence, incited a young's longing to recognize as another gender. For a few, fundamentally youth ages 7-12 years, sign of transgender identification happened early and was portrayed as "immediate." Yet for other people, essentially youth ages 13-18 years, the self-acknowledgment and transgender identification were less instantaneous.

Transgender people frequently need models of nontraditional gender to help them in their identity development, and a few² depicted accepting that they were separated from everyone else in their gender battles because of the lack of public affirmation. This absence of data has all the earmarks of being in both the public and educational sectors. The psychological literature doesn't yet contain models for every personality identity development that falls under the rubric transgender, however, models of transsexual and butch lesbian identity development have been advanced.

Devor's³ basic research on transsexual identity development portrayed 14 phases of identity development. The underlying three phases were set apart by anxiety, confusion, and attempts to comprehend one's gender through inter-personal comparisons of one's initially allotted gender and sex with others. These stages regularly were described by relational distress, trouble perceiving oneself inaccessible gender identities, and explorations of identities that support variety in gender presentation.

The following three phases portrayed a procedure of finding transsexualism, trailed by confusion and comparisons among oneself and this identity. Often individuals led online research during this period and searched out relationships with transsexual individuals. At that point, an underlying resilience of transsexual identity grew, however, there would, in general, be a deferral before encountering a total acknowledgment of this identity while individuals decided how well it fit their feeling of themselves as well as other people's recognitions (stages 7, 8, 9). Following an acknowledgment of this identity was a comparable postponement while individuals chose in the event that they might want to change or not (stages 10, 11). Following conversion to another gender, individuals attempted to acknowledge, incorporate, and develop pride in that gender identity (stages 12, 13, 14). This procedure helps in figuring out how to live and relate to others with another gender identity, including how to oversee disgrace and segregation, to incorporate their identities, and, at last, to take part in the advocacy.

Bilodeau⁴ presented a model of transgender identity development that intently reflects structure for homosexual individuals. There are six procedures that transgenders work through while in transit to a sound and healthy identity: 1. Leaving a traditionally gendered identity - includes perceiving that one is gender variation. 2. Building up a personal transgender identity concentrating on knowing oneself in connection to the

² K. Bornstein, *Gender outlaw: On men, women, and the rest of us*, New York, NY: Routledge (1994).

³ A. H Devor, Witnessing and mirroring: A fourteen stage model of transsexual identity formation, *Journal of Gay and Lesbian Psychotherapy*, 41-67 (2004).

⁴ B. Bilodeau, *Beyond the Gender Binary: A Case Study of Transgender College Student Development at a Midwestern University*, *Journal of Gay and Lesbian Issues in Education*, 2005.



gender difference. 3. Building up a transgender social identity - making a network of support for one's identity. 4. Turning into a transgender offspring- turning out to relatives and rethinking these familial connections. 5. Building up a transgender intimacy status-setting up intimate personal and emotional relationships. 6. Entering a transgender community turning out to be included strategically and socially with transgender networks. This model expels a portion of the stigma that has accompanied transgender research and turned the focus back onto the transgender individual as a person. It approves what the individual is feeling and the numerous territories they should suffer change so as to set up a sound and healthy gender identity. Today, specialists and advocates bolster an ecodevelopmental approach for investigating and exploring transgender identity development. This structure isn't constrained by what is socially expected; rather, analysts may consider numerous interacting systems of biology and environment.

It was found that numerous trans people in Asian nations who drop out of education early, particularly those drifting into the city with little education or not many family contacts, find it's hard to find a new line of work. They experience some type of exploitation as an immediate aftereffect of their transgender identity. This exploitation ranges from unobtrusive types of harassment and discrimination to obtrusive verbal, physical, sexual assault, including beatings, rape, and even murder. Most of assaults against transgender people are never answered to the police. An attitude is a

speculative develops that speaks to a person's level of like or aversion for something. Attitudes are commonly constructive or adverse perspectives on an individual, place, thing, or occasion. Attitudes are judgments that create on the ABC model (affect, behavior, and cognition). The affective response is an emotional reaction that communicates a person's level of inclination for an element.⁵ The behavioral intention is a verbal sign or typical behavioral inclination of a person. The cognitive reaction is a subjective assessment of the element that establishes a person's convictions about the object. Most attitudes are the aftereffect of either direct experience or observational gaining from the environment.

CRITICAL ANALYSIS OF THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) BILL, 2019

The sole reason for a social welfare enactment ought to be to ensure the rights of the marginalized. In instances where discourse by the marginalized isn't permitted, simply due to an undeniable risk to their lives and fundamental obstacles set up to deter, yet to prohibit individuals from the community from possessing and taking part in political spaces, it is incumbent then on the state to effectively engage in with such communities to make such a discourse. History has, over and over, betrayed the transgender community. Our identities and bodies damaged to such a degree, that the word infringement would be duping the narrative. The unfairness with which history has managed its hand would just be revised through a functioning exertion of the state, to

⁵ L. Feinberg, *Transgender warriors: Making history from Joan of Arc to Dennis Rodman*, Boston, MA: Beacon Press (1996).



recreate a discourse, the essential necessity being consultations with the community.

The year of 2014 was a turning point in the acknowledgment of the community's identities. The formation of a draft of rights and an unmistakable disassembling of the chronicled structures worked to simply mistreat and invisibilize identities, rights and as an augmentation, people from entire societies. The *NALSA vs. Union of India*⁶ judgment was a vindication of a centuries-old movement constraining the state to perceive and maintain gender identities. The Transgender Rights Bill 2014, presented by a member Tiruchi Siva in the form of a private member bill, and passed by the Rajya Sabha in 2015 gave a feeling of a ray of hope that the Supreme Court decision would be trailed by legislative action.

A series of bills starting with the 2016 bill followed by the one out of 2018 was nevertheless a death blow on the zenith of any hopes and expectations of the community. The trans community took over public spaces by spilling out in thousands. A more clear voice contradicting the law going to be foisted on the community couldn't be envisioned. Interestingly, the Transgender Persons Bill 2018 carried fierceness and distress to the Indian trans community, since it proposed the foundation of a board of individuals to decide if an individual is transgender or not, based on their private parts and whether they have undergone a gender-affirmation medical procedure or not. It provoked across the country dissents by the transgender community and trans rights

activists. In any case, the 2018 adaptation of the Transgender Persons Bill, cruised through the Lok Sabha. The manifestations of such activity were many, reviews about the community were missing, consultations were lacking, and any discussion in the Lok Sabha was totally non-existent. The basic reason however, could be nailed down to the total lack of care of the state to any of the concerns the network has raised.

After gathering ubiquitous criticism for its previous bills relating to transgender rights, the Government has once more concocted another Transgender Persons (Protection of Rights) Bill, 2019. This bill was introduced in the name of protecting transgender rights but sadly it dehumanizes and humiliates transgender living in India. The bill was passed by the Lok Sabha on 5th August 2019 and the transgender community marked it as "Gender Justice Murder Day"⁷. Presently the bill has been passed by the Rajya Sabha with no changes and is anticipating the President's assent. The Bill has come to Parliament in this context of apathy, neglect and secrecy. A series of betrayal of affirmations and convolution of a law that would fail to help the trans community and would prefer to grab away the absolute minimum that existed. This paper is an endeavor to toss light upon the principle provisions of the bill and analyze whether they pass the assessment of legality.

LACUNAE IN THE BILL

The Transgender Persons Bill, 2019 fails the community on different records, which are as follows:

⁶ National Legal Services Authority vs. Union of India, (2014) 5 SCC 438.

⁷ Prachi Singh, Why is transgender community unhappy with Trans Persons Bill?

<https://www.downtoearth.org.in/blog/governance/why-is-transgender-community-unhappy-with-trans-persons-bill--67158> (last updated on Oct 09, 2019).



a) A few definitions that the Transgender Persons Bill recommends are somewhat repetitive with respect to the issues of the community. Specifically, the meaning of “family”, where the present Act gets its definition indiscriminately from prior laws in place, with no application of the brain as to the position or the subtleties related to the transgender community. Such a cliché meaning of ‘family’ has brought up after different explanations made by individuals from the community with respect to the need to extend the importance of ‘family’. With most transpersons not living with their biological family due to the discrimination and violence, they face from their natural family. Hence, there is a need to incorporate the chosen family within the ambit and meaning of ‘family’. Since, it is through the chosen family that most transpersons get support and can find their friends and relatives.

b) In spite of the fact that there is a different definition for ‘intersex perso’, it appears to have been done to absolutely mollify, worldwide gatherings engaging for a different definition for intersex persons. Since, in the very next line it has been conflated alongside the definition for ‘transgender person’. This isn’t only a shocking distortion yet additionally an invisibilisation of intersex persons and their concerns. This is of outrageous significance in the aspect of health as there is a scope of particular issues that intersex people face.

c) The chapter that prohibits discrimination covers discrimination against transgender people on the scope of fronts. It isn’t even a toothless tiger; it is only various teeth dispersed about with no power, reason or

authority to make a move without anyone else. The part which talks about prohibiting discrimination is tormented with three significant concerns:

i) Lack of enforcing authority

ii) Lack of remedial measures, be it in terms of compensation or some other methods, for the survivor

iii) Lack of reformatory measures to be taken against the violator

d) The procedure of acknowledgment of the identity of transpersons is influenced by similar issues with the prior Bill. Despite the fact that the District Screening Committee has been disassembled, acknowledgment of a transgender person’s identity is then to be decided by the District Magistrate, who will at that point issue the certificate dependent on a specific set of documents that would be recommended. The elemental inquiry that emerges is then concerning what are the documents that would enable transgender people to be perceived as to their way of life as a transgender individual. In *Justice K.S. Puttaswamy vs Union of India*⁸, the Supreme Court held that the right to privacy is a fundamental right under Articles 14, 19 and 21 of the Constitution. Accordingly, the non-inclusion of a confidentiality provision includes a further dent upon the legality of the bill. These follow on with another set of issues that obfuscate how gender identity is to be decided:

i) In the event that an individual is to, at that point change their favored gender to male or female, the Transgender Persons Bill looks back to the old comprehension, implementing the requirement for a Sex Reassignment Surgery (SRS) so as to change

⁸ Justice K. Puttaswamy vs Union of India, (2017) 10 SCC 1.



their gender identity to their favored gender of either male or female. Also, the legitimacy of the SRS would be decided by the District Magistrate. ii) Post the change in gender identity, the individual is then permitted to just change their first name, which brings up the issue with regards to the sacrosanct position that the last name holds to such an extent that under no condition at that point can the individual be helped in changing their last name. The sole purpose behind such an obstacle of changing one's last name is the impenetrable idea of caste in Indian culture. In this way keeping one from changing one's last name is the essential way through which the caste system and the hierarchy holds its solidified state.

e) The clause of 'rescue, protection, and rehabilitation' must be perused in setting of the experience of trans persons in rescue homes. The amount of abuse, of different forms-mental, physical, emotional and sexual, looked by transpersons has had the community being uncertain about the way in which shelter homes are built up and run. Also, prior encounters shelter homes have shown a clear cold-heartedness toward concerns of transgender people. For quite a long time, we have stayed and lived independently with help from the community, in the midst of discrimination and violence. We needn't bother with a pointless policing of our reality by the state. f) The Transgender Persons Bill stipulates a complaint official assigned to manage complaints under this law. The way toward having a complaint official is totally vague, it could be through nomination, and election or any other process, the way toward having the grievance official is non-existent. The procedure settled will set up the autonomy and the viability of the complaint official and

its absence, the condition is a reason for concern.

g) The limitation of movement as to transpersons in isolating from their parents and enabling an individual to move out just through an order for 'a competent court'. It is therefore dividing the community into class lines with just those having the option to get to court in any event, getting an opportunity at isolating from their family. Moving out of the family has been the need of a large number of transpersons, because of the discrimination and violence they would face from their close family and the immediate surroundings. The freedom to move and have a chosen family has been adequately restricted and destroyed through this clause. Moreover, the main option made accessible to the community other than the family is rehabilitation center, the blunders, and fears of which have been emphasized on various occasions.

h) With respect to health, however, there are issues that are covered. It is relevant to take note of that there is anything but a single organized protocol managing the medical community on healthcare for the transgender network. Without such a coordinated exertion to assemble health systems working for transgender people, a variety of individual clauses and provisions turns into a minor shuffling of health rights that play with our lives. Other than the requirement for a different protocol concerning the soundness of the transgender individual, there likewise should be ensuing incorporation in each one of the health care services that would be drafted further on and furthermore applied retrospectively. For more noteworthy usage all through the Indian health system, there should be an expansion to Primary Health Centers, which would be an executing agency for all the healthcare policies at the grass-root



level. The right of a transperson concerning their fertility is basic, and inclusion in both artificial fertilization and surrogacy. These zones still follow basically heteronormative understandings of the capacity of an individual to be a parent. Besides with respect to emotional well-being or mental health issues faced by the trans community, by prudence of discrimination and ostracization faced by trans persons, other than the association of mental health experts in checking gender dysphoria there is no further help that is given; while there should be proceeded with help for emotional wellness to be given to a transperson.

i) The National Council for Transgender Persons does not have any sort of freedom to perform any functions. The National Council which is made out of at least 30 people has an insignificant portrayal of 5 people from the transgender network. Further, the people would be designated by the Central Government, trading off fundamentally the independence of the people onboard. Each member who isn't a worker of the central government is to be appointed by the Central Government, setting noteworthy inquiries on the autonomy of The National Council for Transgender Persons, its separation from the government and in this way its capacity to then scrutinize the government on different concerns.

j) The offenses and punishments identified, however, have seen changes from past drafts of The Transgender Persons Bill, yet comparative sections have been utilized through a mere twisting of the law. There are still issues that go over glaring blunders:

i) Though the Transgender Persons Bill has removed provisions condemning begging and sex work, it has presented another area that condemns 'compelling or enticing' a

transgender individual to involve in forced labor. The requirement for the section ought to be under investigation, for when there is a pre-existing Bonded Labor System (Abolition) Act which condemns those engaging bonded labor and is applied crosswise over people with no discrimination on gender, the requirement for this provision is repetitive. The main explanation that can be predicted for the presence of this section is to condemn begging and sex work. The bending of words doesn't absolve the legislators of the repercussions it would decipher in, during usage. ii) The section condemning brutality against transgender people has been reproduced with no progressions from past drafts. Truth be told any sort of savagery, as much as that which would jeopardize a transperson's life is rebuffed by a term of a limit of 2 years. Sexual abuse rampant against transpersons is incorporated within a similar section. Such acts that should be condemned well beyond the current sections in the IPC are currently a watered down form of what is available in existing criminal law, which rebuffs an individual with at least 7 years in cases of rape. This part accordingly is a tragedy to the rights of the bodily integrity of transpersons.

In a contention between the court judgment and enactments, the enactment will come first. Till its lawfulness is challenged in courts and such a challenge is acknowledged and the absurd law is struck down. It's anything but a novel concern that the law has been against us, and has kept on overlooking the reality. What is surprising for this situation is the law being utilized as an effective component to approve the reality and existence of transgenders, however, place them at a plane lower than that which the remainder of the general public lays on,



hence legitimizing the brutality that they are put through.

IMPLICATIONS OF THE BILL

The bill will make all stakeholders responsive and responsible for maintaining standards underlying the bill and likewise expedite greater accountability on the part of Central and State Governments/Union Territories (UTs) administrations for issues concerning Transgender people. It will profit an enormous number of transgender people in mitigating the maltreatment, abuse, stigma, and oppression against this marginalized section so as to bring them into the mainstream of society. The bill will likewise prompt more prominent comprehensiveness and make the transgender people productive members of society. These will bring a tremendous change in the society if only, the shortcomings are analyzed properly.

CONCLUSIONS & RECOMMENDATIONS

The bill has left a larger number of queries unanswered than the concerns it expects to addresses. If this bill is passed into law in its present structure, it would make obstacles for existing transgender who are now battling in the society. Transgender rights activists' underlined the bill has left them uncovered, vulnerable under the steady gaze of a law. Considering these concerns and certain demerits identified above, the bill in its present structure requires reevaluation.

As the perceivability of transgenders builds the time has come to assist them with joining the standard of society. So as to accomplish this target it is important to comprehend the mental and psychological issues and difficulties they face as well as examine the

prevailing attitudes in the society. A significant challenge in the mobilization procedure has been persuading the transgender to effectively demand rights and services. There have been some dynamic steps taken to improve their personal life yet this has come following quite a while of squashing social stigmatization, abuse and general derision from the wider community. As one transgender puts it "They make narratives about us and state all these intriguing things, yet when we leave the road despite everything we get the calling and the whistles." One of the significant issues transgender face in the general public is the absence of social acknowledgment. In spite of the fact that they have been a part of every culture and society in recorded mankind's history, they have recently become the central point of consideration in psychological, medical and social research.

