

# PARADIGM SHIFT

2018-2019 #2

## From Exclusion to a Life of Inclusion and Equality: Hijras, Bona Fide Indian Citizens

- It is difficult to right a wrong by history. But we can set the course for the future. This case involves much more than de-criminalising homosexuality. It is about people wanting to live with dignity. *– Justice Dhananjaya Y. Chandrachud*
- History owes an apology to these people and their families. Homosexuality is part of human sexuality. They have the right of dignity and free of discrimination. Consensual sexual acts of adults are allowed for (the) LGBT community. *– Justice Indu Malhotra*
- “Recognition of transgender as a third gender is not a social or medical issue but a human rights issue...(they) are also citizens of India” *– Justice K.S. Radhakrishnan, April 15,2014*
- Britain's centuries old homophobia continues to survive among conservative Indians, first, as “...class of persons Indian in blood and colour but English in taste, in opinion, in morals...” and as the main architects of Section 377; and, second, the Hindu right always anxious to assert its triumphal, big chested He-Man image, also readily absorbed the homophobia, pretending ignorance of its British roots...” *– Siddharth Dube(1)*

### Comment:

The human birthing process is a universal phenomenon. That is, when a child is born everyone – doctor, parent, or birth attendant -- announces this news. It's a “girl” or “boy”. The announcement conveys several aspects of the daily lives of people; something that is taken for granted and never questioned. However, some people's gender evolves differently, and might not fit the rigid conventional notions of “female” or “male”.

This fact should have no bearing on whether someone can enjoy fundamental rights. Yet, for transgender people it does –to a humiliating, violent, and sometimes lethal degree! A large majority of them are subjected to economic exclusion and denied the basic

right to livelihood. Often, they have to either resort to – or are forced into -- begging or sex work since they remain socially circumscribed from other forms of employment. They are denied public spaces and also respect that heterosexuals get. They are estranged from their families which removes them from one of the most primary forms of social legitimacy. In short, transgender people are ostracized for self-determining their gender. Homophobia and transphobia is a hard fact. The discrimination and prejudices they face are a betrayal of the already well established history of tolerance apart from displaying total ignorance of the various dimension of Indian sexuality.

Transgender, an umbrella term coined in the US, refers to persons whose lifestyles collide with the gender norms of mainstream society or does not conform to their gender assigned at birth. In the use of the broad term, a transgender person crosses the conventional boundaries of gender -- in clothing, in presenting themselves, even as having multiple surgical procedures to be fully bodily reassigned in their preferred gender role. The term also refers to individuals who exhibit gender-nonconforming identities and behaviors, or in other words, those who transcend typical gender paradigm. They self-identify as transgender female, male, trans woman or trans man, transsexual, or, by a variety of local or indigenous terms, like 'hijra'. Another feature of transgender reality relates to marriage. Unlike mainstream marriage, the demand for same sex marriage and other family arrangement shows the need for equalising "other" relationship with the mainstream.

Being a hijra in India is more a question of identity. It is also a distinct culture that has evolved a secret language and syncretic religious practices. This makes hijras one of unique gender communities in the world; one of the most visibly invisible people. They have evolved to form a unique sub-culture existing alongside the ubiquitous heterosexual unit of the family. They had cultural and social significance across the country in various avatars. This is evident in Indian mythology and in the Indian epics --the Ramayana, the Mahabharata and in the Kama Sutra – and depicted with dignity and respect. It is also noted that their blessings are seen as harbinger of good luck at weddings and births. Thus, homosexuality is not recent history. In the medieval era too homosexuals played a vital role in the royal courts of Mughal emperors serving as bodyguards and guards of the women in the darbar. For instance, a popular deity of the hijra is Bahuchara Mata, the goddess of fertility, worshipped as their patroness and whose temple is in Mehsana, Gujrat. Thus these ancient texts reflect a

culture that accommodated alternative streams of sexuality that makes India tolerant of diverse sexual identities and sexual behaviours. Moreover, there are over 50 words in Sanskrit, Prakrit and Tamil that refer to non-heterosexual normative genders and sexualities and appear also in Buddhist and Jain literature.

Scholars have also pointed to temple art and rituals that used queer metaphors to explain metaphysical ideas. In Goswami Tulsidas's 'Ramcharitmanas, they found couplets spoken where Ram tells 'Kakabhusandi', "Nar, napunsak, nari, va jiva, chara-char koi; sarva bhav bhaj kapat taji, mohe param priya soi. (7.87ka) "Men, queers, women, even plants and animals, all living creatures who abandon malice and approach me with affection are dear to me" (2). One author (3) sees these sculptures as signifiers of a pre-1500 BC feminine world when sexuality was based on pleasure and fertility and concludes that it is the Aryans who first began to suppress homosexuality through its emerging patriarchy. Later, both sexuality systems co-existed until British colonialism.

On the question of violence against Hijras, according to one scholar, it can be traced to the 13th century Moguls rule. The violence largely stems from the oppressive license that legislation Section 377 of the IPC had provided powerful local men -- the police, thugs, petty politicians, -- no different to their barbaric treatment of any defenseless or impoverished community!

Moreover, a section of homophobic Indians, view homosexuality as an unnatural trait and also as a "western" or "foreign" import. However, the various temple carvings with themes of homosexuality, are proof of acceptance of homosexuality. Another author (3) sees these sculptures as signifiers of a pre-1500 BC feminine world when sexuality was based on pleasure and fertility. The author concludes that it is the Aryans who first began to suppress homosexuality through its emerging patriarchy. Later, both sexuality

## Homosexuality and Religion

While Hinduism and Hindu scriptures have been influential in proscribing and prescribing sexual norms, Islam too has asserted a major influence on Indian culture, as a melting-pot of different traditions and histories. Another parallel to Hinduism is that Islam has one of the most sex-positive (Churchill describes Western cultures as “sex-negative” where not just same-gender sex, but all sex was seen as sin) positions among the great world religions: Christ and Buddha were both sexually abstinent, but Mohammed was sexually active with several wives, and had children. Following from this, Islam holds that sex itself is not a something bad and, unlike Hindu tenets, abstinence is not seen as desirable. While some scholars state that the Qur'an unequivocally condemns homosexuality, several Muslim societies have shown a great deal of tolerance towards lesbian, gay and bisexual communities. The English explorer, Richard Burton, (1821-90), for example, noted that homosexual Eros was most accepted among Muslims, not Hindus. Others point out that homosexuality was never penalized till Aurangzeb came to power in Delhi. In the Mughal courts, several political leaders, writers and others in the ruling bloc were practicing homosexuals. Alauddin Khilji even went public with his male slave lover.

Among the Adivasis both women and men enjoyed more freedom than was common among the English to engage in sex with persons of the same gender. Some Adivasi communities also had space for bisexuality. And according to one writer it is this very sexual freedom that led these communities to be target of Christian missionaries who worked hard to introduce them to Euro concepts of sexual chastity and monogamy.

Source: FACTS against Myths # 4/2000

systems co-existed until British colonialism.

The Hijra does not have an exact match to Western concepts of sexual or gender taxonomy. Attitudes towards them vary from culture to culture. On same-sex desire, masculinity, gender expression and intimacy --, both Indian traditional and contemporary grassroots trends -- often differ vastly from those in the West and, comparatively, are a lot more humane. Besides, people in most parts of the country have been raised in a tradition that was far less macho than with the westernised sections of society. People with same-sex desires are readily accepted.

The typical lifecycle of a transgender person is one of the most traumatic. Most often boys who fail to conform to the gender construct binary leave, or are forced to leave their home and families, or live in vulnerable conditions. Most often they begin their journey alone and in search of individuals of their kind, a journey that is marred by unspeakable hardships and

abuse.

Today, despite all the hardship they experience, transgender people have achieved some semblance of dignity but not without a long, hard struggle. A watershed moment in the history of their rights was July 2009 when the Delhi High Court decriminalised homosexuality allowing consensual sex between two homosexual. It held Section 377 of the IPC as unconstitutional and violates Art. 14, 15, and 21 of the Indian Constitution which guarantees equality and dignity to all citizens, freedom of expression and personal liberty. The judges in the right constitutional spirit stated that 'the criminal law cannot be held captive by the popular misconceptions of who the lesbian, gay, bi-sexual, transgender (LGBT) people are'. (4)

The same year, 2009, the Election Commission was informed that some voters were not getting registered as they refused to declare themselves as male or female – the

conventional gender binary, earlier found in registration forms to be completed in order to get enrolled as a voter. This is especially important for the local body elections in constituencies which are reserved for women. As a result, in November 2009, proper directions were issued by the EC to all provinces to amend the format of the registration forms to include the option of "other". This enabled transsexual people to tick the column if they did not want to identify as either male or female.

On February 23 2012 the Government department expressed its opposition to the decriminalization of homosexuality stating that it is seen as being immoral. The Central Government reversed its stance on February 28, 2012 asserting that there was no legal error in decriminalizing homosexual activity. The shift in stance led the judges of the Supreme Court reprimanding the Government for frequently changing its approach on the issue. On December 11, 2013 the Supreme Court set aside the 2009 Delhi High Court Order decriminalizing consensual homosexual acts.

The Judgment however, was met with opposition by a section of homophobic Parliamentarians who also scuttled any debate on the issue and held homosexuality as an unnatural human trait! Yet, some die hard members continue to argue against this and even consider transgender people low-character people, not worthy to be part of Indian culture and civilization. An astrologer even argued that homosexuality could even pose a danger to national security as the soldiers fighting at the borders could be tempted to take male lovers and India might lose the war. (4) The Government also took the moral high ground to condemn the Judgment maintaining that it was all part of the permissive liberalism and that the High Court guilty of judicial over reach! Subsequently, the Supreme Court reversed its earlier ruling (2009) and in 2013 reinstated Section 377 of the IPC!

On January 28, 2014 the Supreme Court

dismissed the review petition filed by the Government and others against its 11th December verdict on Section 377. In April 2014, the Supreme Court in a seminal judgment of National Legal Services Authority (NALSA) vs. Union of India declared that transgender persons have the right to decide their self-identified gender and the Government need to legally recognize the gender of their choice – male, female or as third gender. The Court also held that the right to express one's identity in a non-binary gender was an essential part of freedom of expression.

Several civil society organizations, activists approached the Supreme Court demanding a review of its judgment of 2013 which re-criminalized homosexuality. On February 2, 2016 the Supreme Court referred the matter to a 5-Judge Bench as it raised important questions of constitutional law. Adding to the shame the Government abstained from June 2016 voting, on creating an independent expert panel on sexual orientation and gender identity in the UN Human Rights Council (4)

On August 25, 2017 the Supreme Court declared that the right to privacy also constitutes an essential part of the fundamental rights of the Indian Constitution. It strongly criticized the 2013 Judgment. In fact, this ruling is antithetical to India's commitment to pluralism and contradictory to India's constitutional democracy which accommodates a multitude of identities despite the differences that divide people – sexual preferences included!

In January 2018 the Supreme Court agreed to refer the question of Section 377's validity to a law bench. In response to the Court request for its position on the issue, the government announced that it would let the court decide on the matter. On September 6, 2018 the Supreme Court de-criminalized Section 377 – that is, any consensual sexual act between adults and when any sexual activity that was not meant for procreation was considered a biological aberration. It echoed the historic

high court judgment of July 2009. The Court called the Act unconstitutional and an infringement of the fundamental right of autonomy, intimacy and identity. It removed the stigma from the psyche and allows opportunity for transgender people to express themselves. The Court explicitly overturned its 2013 ruling. The Judgment thus legalized homosexuality in India! It stated “constitutional morality must outweigh the argument of public morality, even if it be the majoritarian view”; any discrimination on the basis of sexual orientation is a violation of the Indian Constitution.

The Census of India, 2011, in its first attempt to count the “third gender” population, estimated 4,90,000 persons. However, it was found that 55,000 “transgender” persons were in the age group of 0-6 years, thereby indicating the number of declared intersex births in that year. The Census showed that nearly half a million transgender people registered Indian identity with a non-binary gender. About 28%, was identified in UP followed by 9% in both MP and W. Bengal and well over 4% each in Maharashtra and Bihar, over 6% in Tamil Nadu, Karnataka and Odisha. Rajasthan accounted for over 3% of the total transgender population and Punjab for 2%. (5)

Apart from legal recognition, transgender people have also been given opportunities for advancement. It also declared that states must not be in the business of regulating gender identities. Recognizing people's self-identified gender does not need governments to acknowledge any new or special rights; instead, it is a commitment to the core ideal that the State will not decide for people who they are. (6)

The hard fact is that the inclusionary mechanisms for transgender have been sparse in time (4) Implementation gap in law are most often the cause for deprivation of individual rights. The biggest challenge is the parochial attitude and societal resistance to include transgender as a normal part of daily lives. To

make such a significant shift it is also essential to first and foremost recognize gender for what it is: a social construct.

## II

### Transgender Health and Rights

In recent times, the synergy between people's health and human rights has become an important agenda with the UN. It focuses on the inter-relationship and to the right of some of the most vulnerable sections of society like the problems of transgender community, etc. It attempts to eliminate the historical discrimination and injustice against the community; ensuring their acceptance in society, given equal opportunities and access to resources.

The concept of a right to one's gender – meaning that everyone should have documents marked with the gender with which they identify – is now legally recognized. It is now also a crime to discriminate against any persons who has surgically changed their sex.

This recognition however raises another crucial issue – the issue of citizenship. Citizenship is generally premised on institutionalized heterosexuality. This means that sexual minorities lack legal recourse to protection from discrimination or harassment including limited access to civil, political and economic, etc., rights that affect their individuality. This is a harsh reality in India -- including in States with high level of development like Kerala. The only exception is Tamil Nadu which always recognized transgender people who thus enjoy high visibility. Educational institutions in the State are highly supportive of transpeople and various colleges are regularly engaged on transgender concerns. Surgery (enabling people to take an operation to change their biologically assigned sex) is provided at subsidized rates. Some local hospitals also offer free breast implants. The overall effect of this was evident in the life of the transgender who largely lead a life free of harassment and

ostracisation and are able to rent accommodations and even marry. The positive attitude towards transgender people is, therefore, reason for transgender people in Kerala migrate to Tamil Nadu -- to escape the social prescriptions and marginalization they face -- with its an enabling environment and treatment.(7) Some are forced to remain in the State owing to various constraints by concealing their sexual identity. (This then raises questions regarding the welfare orientation and high development indicators of Kerala? (8) This is largely due to the powerful hold of patriarchy in Kerala society. (Though women in Kerala are educated and well employed they face serious huddles like dowry demand, access to property, and patriarchal violence.) Being a woman in Kerala is a big deal with little respect for being one! Thus, it is so much harder for a man to be a woman. Above all, for a man to be women in Kerala was a major issue and they were dubbed 'chandhupottu'. (In recent years, however, Kerala has progressed in terms of visibility of transgender people)

As a democracy India is characterized by a range of social hierarchies, an obstacle that mars the lives of trans gender people. That is, if the decision to abide by the majority opinion alone then the Parliament becomes a majoritarian Institution particularly when voting is based on communal or myopic sectarian lines. There is therefore the dire need for a platform like the judiciary to guarantee minimum rights of the minority. While this is an ideal role of the Court it also that the law which are Constitutional are preserved and the un-constitutional one removed.

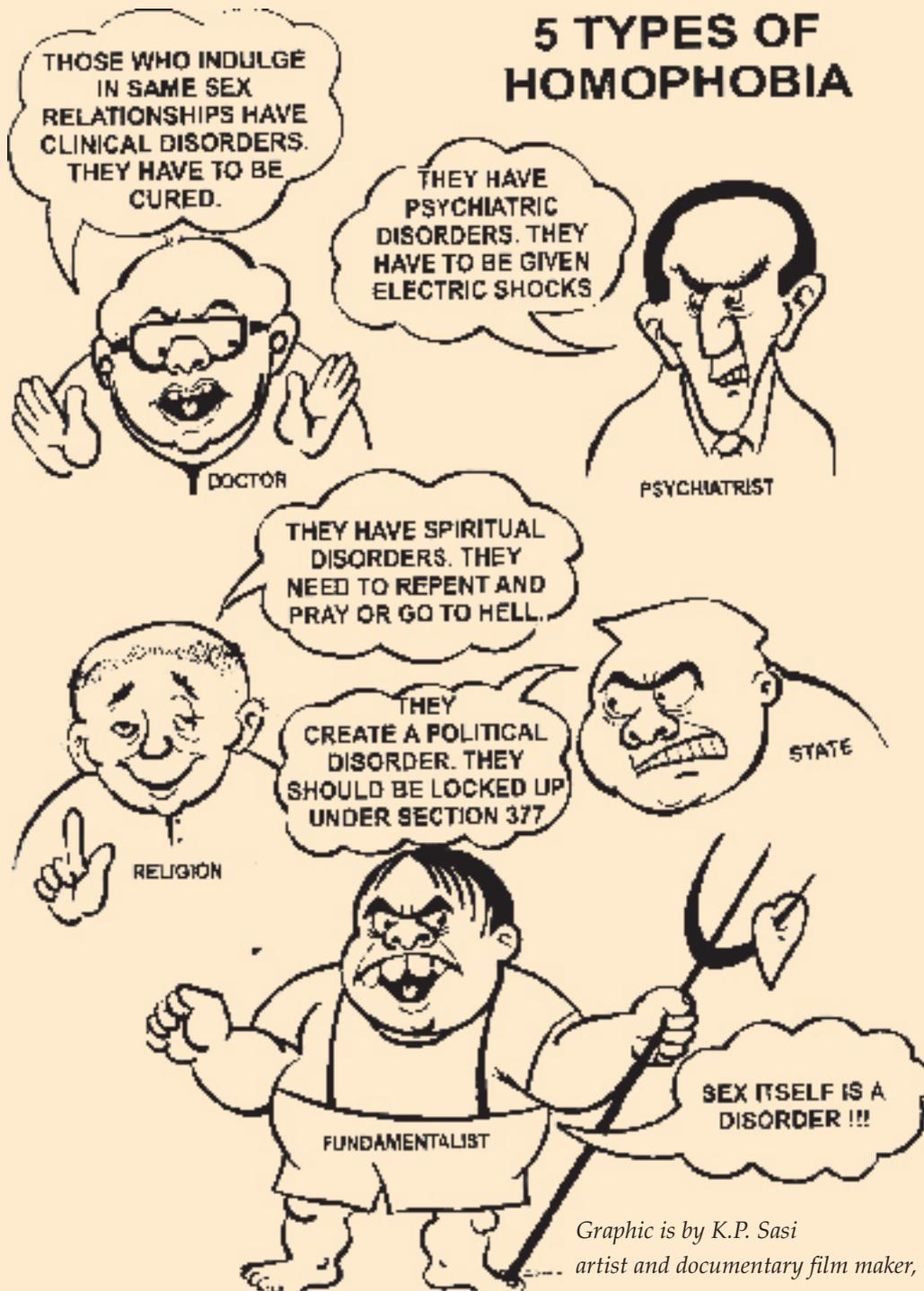
The bill empowers transgender to complain to the police but one of the foremost sources of abuse they face is the police who do not hesitate to use anti begging laws to harass and sometimes sexually abuse them. Hijras suffered enormously under the British owing to their prudish Victorian- belief system. Following independence the Hijras were,

ironically, left out in the margins of Indian social life, along with other members of the LGBT community. Being more visible than the LGBT community transpeople were often mistreated and harassed. Bollywood too, instead of generating proper awareness about their problems and condition, often stereotyped or portrayed them in caricature forms, thus exacerbating the stigma and maltreatment of transgender people.

Although the judgment of the Supreme Court on transgender has been a salutary one it is not devoid of problems. India fails to recognize same-sex marriage. Nor are same-sex couples offered rights such as a civil union or a domestic partnership. Many transgender people turn to begging, one of their main means of income. As begging is outlawed, and the bill fails to protect them from arrest, many of them turn to prostitution. In addition, the Indian Psychiatric Society (IPS) in 2014 noted that conversion therapies continue to be performed on transgender people. This involves electroconvulsive therapy (which may lead to memory loss), hypnosis, the administration of nausea-inducing drugs, or more communally talk therapy where the individual is told that homosexuality is caused by "insufficient male affirmation in childhood" or "an uncaring father and an overbearing mother". Conversion therapy can lead to depression, anxiety, seizures, drug use and suicidal tendencies for the individuals involved. They endure humiliation at hospitals, where admission forms do not have a transgender category and doctors are reluctant to check them physically and verbally ask for symptoms and then prescribe medication. In seeking sex change operations the stigma they face often force Hijras to visit shady and unhygienic clinics that lead to medical complications and even death.

Despite these adverse conditions, a Haryana court, in 2011, granted recognition to same-sex marriage, between two women. On October 2017, a group of citizens proposed a draft of a

## 5 TYPES OF HOMOPHOBIA



new Uniform Civil Code that would legalize same-sex marriage to the Law Commission of India. It defines marriage as "the legal union as prescribed under this Act of a man with a woman, a man with another man, a woman with another woman, a transgender with another transgender or a transgender with a man or a woman. All married couples in partnership entitled to adopt a child. Sexual orientation of the married couples or the

partners not to be a bar to their right to adoption. Non-heterosexual couples will be equally entitled to adopt a child". (9)

While their struggle continues, greater public awareness is the need of the hour especially for the young generation of transpeople -- yet to come out or is still questioning their gender identity -- do not have to suffer due to prejudices, ignorance and bigotry. There is

therefore the vital need for an enlightened judiciary duty-bound to recognize an India in which the law enshrines Indian constitutional values of privacy, equality, dignity and non-discrimination for all Indian citizens, rather than one that allows the law to be an iron cage to oppress a section of Indian society.

### III

#### **New Perspective, New Challenges**

By decriminalizing the colonial law, Section 377, the Supreme Court Judgment lifted the stigma from the psyche and allows Hijras the opportunity to express themselves. The Judgment however also raises new challenges. It brings to the forefront "...a new regime of rights, particularly which is arrived at without the active decision of the community may be a problem; it would undermine the close/d social-economic unity that Hijra groups have traditionally developed by marginalized groups, which law therefore calls for a long dialogue with the community, and communities, and in fact should be largely designed and evolved by them...". (10). That is, the modern legal system may not be able take care of the time tested resilience developed by these marginalized communities.

There is also the question on the notion of the family -- of father-mother-child -- to even beyond two partners with non-biological wards. The challenge is not merely one of legalizing the relationship but other social and economic concerns viz., inheritance, tax, devolution on divorce, etc.

Another pertinent point is that the bill affirms the rights of transgender people to get an education, hold job, get health and rent and buy property. Anyone who violates the provisions would be subject to fines and jail from 6 months to 2 years. On this provision transgender activists rightly maintain that in light of the humiliation they face, the government has decided to inflict an added

misery. That is, to exercise these rights, the law makes it mandatory for transgender people to get a certificate from a screening committee – health and welfare professions – to certify them as “transgender”! The Bill however fails to specify how transgender status would be checked! In other words, the transgender community finds it very hard to bear the thought of strangers determining her identity! (11)

Further, there is the issue of dealing with people's mindset on transgender people. Hijras are not differentiated from inter-sex and transgender persons, and thus the current count of the third gender population in India is not an accurate representation of the hijra population (12) This confusion over the differences between the third gender, transgender, and intersex identities stems from the fact that in Hindi the word 'hijra' has been used as a gender term to label all these identifies. Moreover, the inter-changeability of this term with these other terms, neglects the historicity of all these major terms, which emerged in different socio-political contexts and their invisible synchronization if the process of an elided identity formation is problematic.

With such inherent confusion persisting in understanding who hijras are and who are not, there are classifications made by the hijra communities themselves -- on who “real” hijras are, and how they are differentiated from those who are “fake”. One way to demarcate the difference between the two, is that “real” hijras are affiliated to a hijra 'gharana' (12) which are like “hierarchised lineages” that are highly organized, where “fake” hijras do not have a gharana affiliation. “Fake hijras are men who are “cross-dressed beggars” but are often mistaken as having a hijra identity by the general public. Thus, the affiliation to the hijra gharana system is mandatory for claiming a legitimate hijra gender identity.

Finally, now that LGBT persons are formally being called into full-fledged sexual

citizenship, how does the movement articulate the politics of hope that insists on forms of emancipation that do not exclude those who are on the wrong side of caste, religion, and ethnicity(12)

#### IV

### Transgender People Demystified

Trans people continue to experience all kinds of prejudices, denunciation, etc. Much of this is also owing to lingering myths (13) among the public. For instance:

- ❖ Homosexuality is alien to Hindu culture and civilization.

This dualism between the West and the non-West is not something “foreign”. “On line forums such as Face book group, Transgender India, activist groups like the Association of Transgender/Hijra in Bengal, and films on 'male-to- female transgender people” like 'Rupantara' (“Transformation”, dir. Amitava Sarkar,2009) are proof that there are already many adoptions, translations, and hybridizations of transgender as a rubric of identity. Like other seemingly foreign terms such as 'lesbian' or 'gay', 'transgender' has been found by many to be a suitable word for expressing who they are and many may use the term (or its translated counterparts) in itself or in conjunction with terms like 'hijra' or 'kothi'. Given the hybrid post-coloniality that foundationally marks many articulations of “Indian culture” today, none of these subject positions can be seen as inauthentic. vis-a-vis their socio-cultural context – which would mimic Hindu right-wing and political viewpoints that denounce the rise of LGBT activism and identities as a form of Westernisation?

- ❖ Transgender is a choice and undergo sex change for ulterior motives

Being a transgender is in no way a choice -- no more than being tall or short, straight or black, etc. They have to choose how honest they are with themselves.

Not all transpeople undergo surgery but

some do so in order to get a better sense of alignment with their gender. Sex re-assignment surgery helps them to feel free and to be themselves. And it must be noted that gender and sexuality are independent of each other.

- ❖ Transgender persons are hijras

Not so! While the ignorant and insensitive often use Hijra as a derogatory term to mock and abuse effeminate boys and transgender persons. Their ignorance do not allow them to realize that the Hijra community is a socio-cultural group comprising of transgender people who may belong to India and even a few neighboring countries. They have their own set of rules and customs, and only a transgender person who accepts to become a part of this community can only be called a Hijra. Thus, every transgender person is not a Hijra.

- ❖ Being a parent of a transgender child is both shameful and a disgrace to the family

This widespread prejudice is responsible for families to disown their own children who have to suffer alone in the world.

Parents and families who see their children through prism of mainstream society often harbor some of its deep seated prejudices. This is one of the reasons parents disown or disinherit their own children. They lack the necessary sensitivity and awareness to shed such prejudices and instead evolve a positive outlook and changes towards their relationship with their children. For instance, the prejudices over the girl-child. As girls were not viewed in equal terms with their boys nor provided opportunities for higher education they were married often against their wishes or aspirations.

The same applies to transgender children. Parents must realize that there is nothing abnormal about their transgender child. They do not have to be shunned. After all hostile environment at home or outside are unnecessary hurdles in understanding trans

people and their needs which in turn threaten their safety. Besides, exclusionary environment fuel social vulnerability over a life time and transpeople suffer greater odds of being unemployed thereby facing very high levels of homelessness and poverty. Trans students experience resentment, prejudice and threatening environment in school which leads to high dropout rates with few trans people graduating to higher education.

❖ Transsexualism is a mental illness

Transsexualism, also known as Gender Identity Disorder (GID) is defined by the WHO as “A desire to live and be accepted as a member of the opposite sex usually accompanied by a sense of discomfort with or inappropriateness of, one's anatomic sex, and a wish to have a surgery and hormonal treatment to make one's body as congruent as possible with one's preferred sex”

Transsexual people themselves sometimes (but not always) describe their feeling as being the “wrong sex” or, “trapped in the wrong body”. The experience of dissonance between one's assigned gender role, body, and personal sense of being a man or a woman is known as “gender dysphasia”.

Transsexual people do not choose to feel the way they do. Moreover, the overpowering sense of different gender identity is distinct from sexual orientation: transsexual people may be heterosexual, gay, lesbian, bisexual or celibate. Likewise, the condition knows no social, ethnic or socio-economic boundaries.

Despite some contrary views, transsexualism is not a mental illness! Evidence suggest biologically-based, multifactorial cause. However, scientific consensus on this point is as yet lacking. And while transsexual people can suffer depression or mental illnesses like everyone, the condition itself is seen as to be free of other pathology.

In fact, research suggests that the phenomenon has been viewed, historically, by other cultures as an uncommon but nonetheless valid variation in the human condition. To this day in number of cultures, sex, and gender are not nearly divided along the binary lines of male and female or homosexual and heterosexual. The 'Berdache' in North America, the 'fa'afafine' (Samoan for “the way a woman”) in the Pacific, and the 'kathoey' in Thailand is historical or current examples of gender categories that differ from the West's traditional division of people into males and females.

## References:

1. Dube, S., Of Love, Loathing and Life, *Sunday Express*, September 16,2018
2. Pattanaik, D., Different and Happily So, *Indian Express*, September 16,2018
3. Ghosh, IS., Myths on Sexual Minorities – Part II, *Facts Against Myths*,# 4,2000
4. John, D., Living a Life of Exclusion: Being a Transgender in Modern India, *Fur Die Freiheit*, Nov. 2017
5. M. Atheequ PP, and Nishanti, Marginalisation of Transgender Community, *International Journal of Applied Research*, 2(9), 2016
6. Knight, K. and Ghoshal, N., Recognising the Rights of Transgender People, *Human Rights Watch*, February 13, 2016
7. Augustine, A., Third Gender and the Crisis of Citizenship: Migration from Kerala to Tamil Nadu, *EPW*, #2, January 2,2016
8. Parth M.N., Why Transgender Indians Oppose a Bill that Aims to protect them, *Los Angeles Times*, May 10, 2018
9. LGBT Rights in India, Wikipedia
10. C. Shah, 377 & Beyond: BBnCC@ googlegroups.com, October 11,2018
11. DeSouza, J.[BBnCC] 377 & Beyond: Videos of the PUCL Maharashtra Meeting, @googlegroups.com
12. Baset, Z., Supreme Court Judgment against Section 377: The Tasks Ahead, *EPW*, # 39, 2018
13. Youth Ki Awaaz: Common Myths About Transgender People in India, 2017/12/
14. Kad, R., Eunuchs: *The Right to Be Human*, Vikas Adhyayan Kendra, Mumbai, 2018
15. Deconstructing Art. IPC # 377, *Facts against Myths*, #6, Vikas Adhyayan Kendra, 2008
16. Quraishi S.Y., Beyond Binaries, *Indian Express*, December 4, 2018

## Bibliography:

*How one thinks of oneself, as opposed to what others observe or think about one. However, there is a close symbiosis in societies between the formation of a sense of self-identity and the social and cultural application of labels to describe people. Identities are not acquired in isolation and are profoundly social in character. Thus, our gender identity is how we feel in relation to being male or female - and there are different terms, descriptions and labels for different types of gender identities. Some of these terms:*

**Agender** - not having a gender or identifying with a gender. They may describe themselves as being gender neutral or genderless.

**Bigender** - a person who fluctuates between traditionally “male” and “female” gender-based behaviours and identities.

**Cisgender** - a person whose gender identity and biological sex assigned at birth are the same. For example they were born biologically as a male, and express their gender as male.

**Gender Expression** - the external display of one's gender, through a combination of how they dress, how they act and other factors, generally measured on scales of masculinity and femininity.

**Gender Fluid** – a mix of boy and girl. A person who is gender fluid may always feel like a mix of the two traditional genders, but may feel more man some days, and more woman other days.

**Gender queer** – a gender identity label often used by people who do not identify with being a man or a woman, or as an umbrella term for many gender non-conforming or non-binary identities.

**Intersex** – a person born with a reproductive or sexual anatomy that doesn't seem to fit the typical definitions of female or male. For example, a person might be born appearing to be female on the outside, but having mostly male-typical anatomy on the inside.

**Gender Variant** – someone who either by nature or by choice does not conform to gender-based expectations of society

**Mx.**– is a title (e.g. Mr., Ms., etc.) that is gender neutral. Pronounced mikes, (similar to Ms) it is often the option of choice for folks who do not identify as cisgender.

**Third Gender** – a term for a person who does not identify with either man or woman, but identifies with another gender. This gender category is used by societies that recognise three or more genders, both contemporary and historic, and is also a conceptual term meaning different things to different people who use it.

**Transgender** – A person who lives as a member of a gender other than that expected based on sex assigned at birth.

**Two-Spirit** – is an umbrella term traditionally used by Native American people to recognise individuals who possess qualities of both genders

**Ze / Hir** – alternate pronouns that are gender neutral. Pronounced /zee/ and /here/ they replace “he” and “she” and “his” and “hers” respectively. Alternatively some people who are not comfortable/do not embrace he/she use the plural pronoun “they/their” as a gender neutral singular pronoun.

**Hijras** - Individuals who voluntarily seek initiation into the Hijra community, whose traditional profession is badhai but due to prevailing socio-economic and cultural conditions, several of them are into begging and sex work for survival. These individuals live in accordance to the community norms, customs and rituals which may vary from region to region.

**Transgender people** - Transgender persons usually live or prefer to live in the gender role different to the one in which they are assigned at birth. The preferred gender role may or may not be related to their sexual preferences. It is an umbrella term that includes transsexuals, cross-dressers, intersex

persons and gender-variant persons. Transgender people may or may not have undergone gender transition-related surgery or may or may not be on hormonal therapy related to their gender identity. Transgender people can be 'male-to-female' (MtF) or 'female-to-male' (FtM), and sometimes referred to as 'transgender woman/trans woman' and 'transgender man/trans man', respectively.

**Male-to-Female (MtF):** Adjective to describe individuals assigned male at birth who are changing or who have changed their body and/or gender role from birth-assigned male to a more feminine body or role

**Aravanis and 'Thirunangi'** - Hijras in Tamil Nadu identify as "Aravani" are biological males who self-identify themselves as a woman trapped in a male's body.

**Juntas/Jogappas** - are persons who are dedicated to and serve as servants of Goddess Renukha Devi (Yellamma) – whose temples are present in Maharashtra and Karnataka. 'Jogta' refers to male servant of that Goddess and 'Jogti' refers to female servant (who is also sometimes referred to as 'Devadasi'). One can become a 'Jogta'(or Jogti) if it is part of their family tradition or if one finds a 'Guru' (or Pujari) who accepts him/her as a 'Chela' or 'shishya' (disciple). Sometimes, the term 'Jogtihijras' is used to denote those male-to-female transgender persons who are devotees/servants of Goddess Renukha Devi and who are also in the hijra communities. This term is used to differentiate them from 'Jogtas' who are heterosexuals and who may or may not dress in women's attire when they worship the Goddess. Also, the term "Jogtihijra" differentiates them from 'Jogtis' who are biological females dedicated to the Goddess. However, 'Jogtihijras' may refer to themselves as 'Jogti' (female pronoun) or Hijras, and even sometimes as "Jogtas:.

**Shiv-Shakthis** - Shiv-Shakthis are feminine males who are considered to be possessed by or particularly close to a goddess. Usually, they are inducted into the Shiv-Shakti community by senior gurus, who teach them the norms, customs, and rituals to be observed by them. In a ceremony, Shiv-Shakthis are married to a sword that represents male power or Shiva (deity). Shiv-Shaktis thus become the bride of the sword. Occasionally, Shiv-Shakthis cross-dress and use accessories and ornaments that are generally meant for women. Most people in this community belong to lower socio-economic status and earn their living as astrologers, soothsayers, and spiritual healers; some also seek alms.

**Sexual minorities** - Refers to lesbian, gay, bisexual and transgender/transsexual persons as well as persons with other identities (such as kothis and hijras) as a minority group in a predominantly heterosexual population. are used to stress that, like the people they comprise, these communities or populations are diverse.

**Intersex** - Is a general term for a variety of conditions in which a person is born with a reproductive or sexual anatomy that does not seem to fit the typical definitions of female or male. For example, a person might be born appearing to be female on the outside, but having mostly male-typical anatomy on the inside. Or a person may be born with genitals that seem to be in-between the usual male and female types. For example, a girl may be born with a noticeably large clitoris, or lacking a vaginal opening.

**Sex reassignment surgery (gender affirmation surgery):** Surgery to change primary and/or secondary sex characteristics to affirm a person's gender identity. Sex reassignment surgery can be an important part of medically necessary treatment to alleviate gender dysphoria.

**Paradigm Shift** is a quarterly factsheet to highlight the shifts in various socio-cultural and political fields that affect especially the marginalized communities including transgender people. **Paradigm Shift** also aims to unpack the unsustainable development practices, outsourced to India -- adversely affecting the environment -- and responsible for where humanity finds itself today.

### **Next Issue: Genetic Modified Organism (GMO)**



*Produced and Published by:*

**Vikas Adhyayan Kendra**, D-1 Shivdham, 62 Link Road, Malad (W), Mumbai 400 064, INDIA

**Phone :** +91 22 2882 2850 & 2889 8662

**Fax:** +91 22 2889 8941

**Email :** vak.mumbai@gmail.com, vak@bom3.vsnl.net.in

**Website :** www.vakindia.org

*Designed by:*

Sudhir Joglekar for Omega Publications,

#2 Emerald Corner, Maratha Colony, Tilakwadi, Belgav 590 006

Email : omegapress@gmail.com      Cell : 09886203256