

Victims of Violence But Justice Denied: A Reflection Of Transgender Community In India

Inclusion is a choice...

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Abstract

Sex is an identity. It is what a person is born with. But at times, few people might not be comfortable with the sex they are born with. Today though there are several options available to change their sex and identity, it is not easy. The society and the taboos associated with sex and gender are deep rooted. One community which is constantly caught between the battle of body and mind is 'Transgenders'. They are subjected to various sorts of abuse. Physical abuse is the most common form of torture they endure. But they are also forced to undergo emotional, psychological and sexual abuse. Though they are victims of abuse, though violence is inflicted on them regularly, justice is not often found. They continue to suffer in silence. The police who should be the protectors also turn out to be oppressor at times. This article discusses through case studies and statistics the nature of violence inflicted upon transgender people and also provides suggestions for making this world a better place for them to survive.

Keywords: Transgender people, Abuse, Exploitation, Justice, Exclusion, Violence, Gender

Introduction

Inclusion is not a cake walk. To include a community and accept them as an integral part of the society is not easy. In India, since centuries, several communities, or sections of population have been excluded from the mainstream society. The creamy layer grabs all the attention while the neglected community treat them as outcasts. In our country, where diversity is its uniqueness; and 'unity in diversity' is the ultimate motto; we also find exclusion of several communities. People can be excluded on grounds of gender, caste, religion, language, regionality, political ideologies, cultural practices and sexual identity. One such community that has been kept away since centuries is the transgender community. They have been ridiculed, humiliated and mocked

for long. The society is familiar with social exclusion of the community. But, here the authors of this paper aim to draw the attention of people towards exclusion of the community in terms of violence inflicted on them. The number of crimes or atrocities committed on trans community is huge. But how many of them get reported? Has it been possible for the community to find justice? In the year 2020 NCRB (National Crime Records Bureau) recorded that only 236 cases of crimes were committed against trans people during that year. This amounts to 0.0006% of all crime victims. Further, what is more surprising is that there were no cases of rape, human trafficking for sex work that involved trans victims (Bansal, 2022). One cannot assume these statements to be true. It cannot be looked at with a positive angle. This is not a reflection of reducing amount of violence against the community. On the other hand, it is a reflection of improper documentation of crime rates committed on the trans community. This is a matter of great concern. Excluding the community from the social fabric is one side of the story; but to exclude the community from legal aspects is a dangerous blow. When cases do not get registered, where is the question of justice?

This paper aims to take a look at the violence committed on the trans community and the obstacles faced by the community in finding justice. Several research articles and crime data reveal that trans people are more vulnerable to crimes than cis men and women. The paper will analyse the reasons for such vulnerability, reasons for delay in providing justice for the community. The various forms of violence or atrocities faced by the community which include verbal abuse, physical abuse, emotional exploitation, sexual abuse and murder will be considered for study. The paper will look into case studies of violent incidents against trans community to derive conclusions.

When society refers to 'sex' of an individual, what is expected is that they should conform to either one of the dominant sexes – Male or Female. The other possibilities are usually sidelined or not treated with respect. The landmark judgement by the Supreme Court came in the year 2014, when it identified the 'Third Gender' and called for their inclusion into mainstream society. In 2014 when a case was filed by NALSA (National Legal Services Authority of India) in Supreme Court, it gave a verdict that gender of a person does not depend on their biological sex but with what they identify. (Bansal, 2022). In the words of queer rights activist Philip, this became the reason for cases not being registered by trans community even after they are victims

of abuse. Trans people were forced to select one of the binary sexes while registering a case at police station. But majority of trans people have not yet got their sex certificates or document ready. The reasons for this are several. They might not be interested to identify themselves with one sex. Now, with the Transgender persons protection act of 2019, it is necessary for them to attain a certificate from District Magistrate stating that the person is a transgender person. The procedural delays in attaining the certificate cannot be neglected here. It should also be known that not all people who apply for a certificate will get it. As per current records of National Portal for Transgender persons, outof 21,571 applications received for transgender ID and certificate, 17211 (80%) are issued. 2907 (13%) are considered not eligible and 4387 (20%) are still pending.

Table showing number of applications for transgender certificate and ID

No of applications for transgender certificate and ID	No of certificates issued	No of applications rejected as not eligible	Noof applications pending
21,571	17,211	2907	4387

Source: National Portal for Transgender persons

As per the 2011 census, the transgender population in India is 4.9 lakh. Considering this statistic, the number of applications received for transgender certificates is also small. From 2011 to 2024 the transgender population has definitely increased which should also be taken into consideration here. So, in reality, we do not have the actual figures of transgender population in India. This makes it impossible to assess the percentage of crimes or violence committed on the community.

Lack of technical knowledge is one of the major reasons for the inability of trans community to get their certificates online. Lack of proper knowledge regarding the procedures and where to apply for certificates also leads to less percentage of trans people with certificates. This has a direct effect on the smaller number of cases registered at police stations when atrocities are committed against them.

There are various kinds of crimes that the trans community is subjected to. Rape, sexual assault, physical abuse, emotional abuse, murder are just few of them. In words of Chandini, an activist for transgender rights, “legal awareness among the community is very less. Most of them lack

education and knowledge of law. They are unaware of the protection available and the means of achieving it. They are usually into sex work or begging. Hence, when caught by police for whatever reasons, they are scared of being put behind bars. They are not bold enough to question the police about reasons for arresting them. They just want to escape from that situation and be safe from police interrogation”. Further, police also lack awareness about the various sections and provisions available for trans community under law. They look at the community with yellow eyes and target the community as they are highly vulnerable. Petty cases are filed on them even when they are not at fault. Trans people end up paying some money and escape as they do not want a case to be registered. This scenario has to undergo a change. The community should be provided awareness about what constitutes to a crime and what is not. The community should be enlightened about their rights so that they are not misled.

It is also true that the savior can also turn out to be an oppressor at times. They are also subjected to harassment by police who are supposed to be the protectors. The attitude of the police towards trans people needs a change too. The community is never treated with humanity, compassion or understanding by majority. Trans people are usually looked with doubt and contempt. This makes it more difficult for the community to approach police for justice.

Cases of Atrocities against Transgender People

Case 1

Social media does greater harm at times. Misinformation and disinformation that spreads through social media is detrimental. Inability of the public to understand that all news spreading on social media is not true causes further damage. WhatsApp lynching is increasing lately. As a result of one such incident, a trans person was murdered in Hyderabad by a mob. Based on rumors that transgender people were sex trafficking children, a furious mob ended up killing a trans woman. This incident that took place in the year 2018, sends shiver down the spine. Believing the forward messages on WhatsApp, public got furious and attacked a group of trans people who were begging on streets. The police too were unable to take situation into control. Two trans people were deeply injured and shifted to hospital. But one of them breathed her last in the hospital.

But why did not media raise its voice after such a heart wrenching incident? if the dead was not a transwoman, the response of the society towards this incident would have differed in many ways. Being deserted by their own family, and living among other trans people, who will come to stand and fight for their rights? The body gets silently buried and other trans people might continue to slip back into normal life with tears in their eyes and pain in their heart.

Case 2

Not long time ago, but in October 2022 two trans women in Tamil Nadu were brutally attacked. In Thoothkudi district of Tamil Nadu, two trans women who were begging on streets were attacked by goons. As per reports, they were attacked, their hair chopped off, stripped down and beaten heavily (Singh, 2022).

Sadly, this incident did not come to light until transgender and Dalit rights activist shared the video on 'X' (then twitter) few days later. Why did not those two trans women file a case? This is a mirror held to the silent suffering of the community. The society has failed in creating trust among trans community about justice and police protection.

Case 3

In 2022, in October five trans persons were attacked in Agartala, Tripura during Durga puja. The trans persons were triggered by cis women who tried to call derogatory names. Remaining unperturbed, they tried to remain unaffected and walked out of the place silently. But soon, they were attacked by a group of 30 men who left them in a badly beaten stage (Singh, 2022).

The above incident very clearly depicts that the trans people did not pick the fight but they instead tried to walk away silently from the scene when they were abused verbally. But a group of men targeted them and further went and physically abused. What is scarier is that nobody came to their rescue. The insensitivity of the public when someone is targeted and being beaten cannot be accepted. Would the response of the crowd be the same if the persons being beaten up were not trans people?

In words of Manjula a transgender rights activist from Mandya, "It is rare that we find good treatment in police stations. The basic approach is reluctance to listen to or woes and file a case. We are usually asked to walk out of the station. "Your stories are unending" is what we get to

hear from police officers in stations. But there are few good ones who treat us in a humane way and try to provide justice to us. Their number has to increase. The trans people should feel secured, safe and confident to walk into a station and file a case of any injustice faced by them. Till that can be achieved, the state of trans people will continue to be miserable”.

The law needs to get more stringent. Sexual abuse against trans people remains neglected. Though the Transgender Persons (Protection of Rights) Act 2019 recognizes rape as a punishable offence, the punishment inflicted is not serious. Punishment of physical and sexual abuse on a trans woman is imprisonment for minimum 6 months and maximum 2 years with fine. In contrast, when a man is found guilty of raping a woman, law enables to imprison him for 10 years in prison which may extend to life. Provision for death penalty is also there (Mitra, 2020).

This striking disparity needs rectification. This communicates a wrong message to the society that atrocities committed on trans women are not so serious when compared to atrocities committed on women. This is a striking example of excluding the community from legal facilitation, enabling equality and providing justice for them.

Between 2018 to 2021, India has registered 102 transgender murders. This is the data provided by Trans Murder Monitoring (TMM), a global project; tracking homicide against trans and other gender diverse people (Paul, 2023). It is not just India, trans murders are occurring across other countries too. Brazil has recorded 1645 murders followed by Mexico which recorded 593 murders and USA with 324. These countries top the world in number of trans murders. The number of transgender deaths due to murder, or harassment are many, but several go unnoticed. There is no proper record of their death statistics. There is no authentic record of crimes committed on them. November 20th is observed as Annual Transgender Day of Remembrance. This is to commemorate the loss of transgender lives due to violence.

The nation has not come up with a proper method to document trans violence. It is easy to obtain statistics of road accidents, death by accidents, rape, dowry deaths, acid attacks, murders, attempt to murder and every other statistics of people who are cis male or female. But are we documenting the statistics of this extremely neglected and excluded community? In fact, trans persons turn out to be victims of various forms of abuse. The most basic form of physical abuse a trans person gets targeted to is ‘beating’. When the sexual orientation of the teenager gets revealed; they are subjected to physical abuse by family. The physical and sexual abuse they are

targeted to during sex work goes unnoticed. The rights of sex workers have been highly neglected. They are treated more like animals than humans by men who seek them for sex. Many of them lose their lives as a result of fights which turn violent and goes unrecorded. The number of trans people who go missing is also unknown. Detaching from family, they barely remain in touch with them. Unaware of there whereabouts, family will not even be aware of their death. Many times, death of trans people will not even be reported to their own family. Several of them are driven into suicide. When emotional trauma, humiliation and pain becomes unbearable, they end their life and we do not have statistics of trans suicide too. In the name of 'honour', they are murdered by their own family. We do not have statistics of transgender people subjected to 'honour killing'. Dying in the hands of their own family will amount to nothing but murder. In the name of protecting their respect in society, lives of innocent are being lost. And who talks about the psychological trauma faced by the community? Apart from physical and sexual abuse what disturbs the most is the emotional or psychological abuse inflicted upon trans people. The humiliation they face day in and day out; derogatory terms they are called by; mockery they are subjected to will snatch their self-respect and confidence. Several of them remain ashamed of their identity. When their dreams fail, when depression seeps in they might not have a soul to console and shoulder to weep on. This pushes them to suicide. When psychological aid for cis gender is not a common step in our nation; this neglected community being provided with psychological aid is unimaginable. The expenses required to have access is also not in their favour.

In words of Kanmani Ray, a trans advocate most of the documents of transgender people have 'M' (Male) or 'F' (Female) marked next to their names. This is their sex at birth and their death also records the same. This is also one of the major reasons for unavailability of exact statistics of trans deaths (Paul, 2023).

With this being the scenario, we lack the ethical grounds to discuss about violence and gender. We can with a clear voice declare that violence is not gender neutral in our nation.

As per a study conducted by the National Institute of Epidemiology, most people who inflict violence on transgender people are police personnel and law enforcing authorities. Reshma, a transgender shared her own experience when police targeted her and she became a victim of sexual abuse. She stepped into the police station seeking justice. She went there to lodge a

complaint. But the police officers abused her and raped her. Protectors becoming oppressors is not new. There are several transgender people who are sexually exploited. 8 out of 10 trans persons with whom the researchers spoke to said that they have been victims of abuse by police in some form or other.

Case 4

Another case of atrocity committed against trans people took place in July 2022. This was by none other than police personnel. Police officials from Dabri police station threatened five transgender residents and assaulted them who were residing at Transgender shelter home at Garima Greh in Delhi. They gave death threats and abused the trans community (Alliance India Condemns Violence against the Transgender Community - Alliance India, 2022).

Case 5

As per information provided by Deepak Kumar, an activist who works with rehabilitation of people with HIV to 'The Quint'; he discusses one incident where a transgender was sexually assaulted brutally by policemen. Protecting her identity, he doesn't reveal her name. He says how 17 policemen in a single night had forced sex with a transwoman in a police station. She then faints on the road naked and bleeding. A good Samaritan lends her his shirt in the morning which she wears and reaches home. But she succumbs to death in a few days (Gopinath, 2017). This incident again raises question of how trustworthy are policemen? Officials who should file a case and punish end up being criminals. This is the most inhuman and unacceptable behaviour from police. It is cynical that such men hold posts of providing justice in our society.

Case 6

Sweet Maria, a bold and strong transwoman who fought for trans and gay rights in Kerala was murdered. In 2012, she was found dead in Kollam, Kerala. The murderers slit open her throat, and stabbed her multiple times. They even sprinkled chilli powder all over her body (Gopinath, 2017). Such brutal murder is a well planned one and committed more on grounds of contempt. Otherwise, who carries chilli powder along? Multiple stabs and slit opening of throat are all reflection of contempt held against her. The intention was not to just kill her, but kill her in a barbaric way.

Case 7

Udhaya, a transwoman was kidnapped and physically abused by her partner's family in Tirunalveli district of Tamil Nadu. She was left with injuries. Verbal abuses led her to emotional trauma. Caste was also a dominant factor here for his family to target and abuse her (A Call to End Violence against the Trans Community in India, 2022).

The above incidents or case studies are just few of the atrocities committed against trans community. Hundreds of incidents go unnoticed. When police officials who should be taking complaints and providing justice to the trans people, who should raise their voice and stand for their support, are the ones who are oppressing them, there are no doors to knock.

Oppression happens from every section of the society. Inclusion of the trans community among any section of the society is still a distant dream. There are several NGOs who are working for the benefit of the community. They are striving hard to uphold rights of transgender people, provide basic facilities of food, shelter, medical care, and a job for survival. But this has not been achieved yet. It is not an easy task too. Family acceptance of the trans community is the greatest solution to major problems faced by them. With this violence at home can be stopped and trans people will get the required confidence to face the world. One community being targeted to all forms of violence for centuries is unacceptable.

Government has come up with few schemes for protection of the community. Mainly the Transgender Persons (Protection of Rights Act) 2019 clearly states that the trans community should not be subjected to any type of abuse. Harming, injuring or endangering the life, safety, health or well-being of a transgender, causing mental, physical, emotional, economic or sexual abuse is a punishable offence (Alliance India Condemns Violence against the Transgender Community - Alliance India, 2022). But to what extent has this act been successful in protecting the trans community? According to several trans rights activists, the act has not protected or secured the transgender community at all. Abuse and violence continue to haunt them even today. Absolute lack of awareness about such a law among the trans community is its biggest drawback. Further, people and law enforcers too are unaware of this. Many of them have not even heard the name of this act, forget being aware of its legalities. In words of Manjula, "when

trans people themselves are unaware that they can seek protection under this act, how is it going to benefit? Trans people continue to suffer, shed tears, bear all violence inflicted upon them. They fear to step into police station and consider all abuse as their fate. This provides more strength to people who continue to abuse. Silent suffering is not the solution”. But she is also aware of the hurdles in the path. She recalls the words of police officer who treated her and her friends with disrespect when one of them was sexually abused and an attempt was made to file a complaint. Remembering words of police officers who said “you people stand on the road and are involved in sex work. Then blaming others for committing rape is not acceptable. It is your mistake”. Such attitude of law enforcing officers is shocking. Even a sex worker can be raped. And she has all the rights to fight it in court of law. Being a sex worker does not provide a right to anybody to rape. As fairly expressed in ‘Pink’ movie – ‘No means No’. And any forceful act committed after a ‘No’, constitutes to sexual abuse or rape.

The researchers found from secondary data that there are innumerable cases of violence committed on transgenders across various states of India. The scenario does not differ much in any state. Cases of suicide, murder, assault, verbal, sexual, emotional abuse are found everywhere.

Delhi High Court in the year 2018 came up with a landmark decision that section 354A of IPC (Sexual harassment) extends to transgender women too. This judgment came after a student from Delhi University approached court after Delhi police refused to take her case and file it. She wanted to file a sexual harassment case. But the police said that section 354A of IPC covers only women and does not include other gender. The High Court judgment made sexual harassment gender neutral and provided opportunity for transgender women too to file cases of sexual harassment. But this has not benefitted the community much. The stigma and taboo with which society and police personnel view the community; fear of rejection of case, humiliation and shame at police stations or courts, lack of awareness about this land mark judgment of section 354A including trans community, red tapism, corruption, political and economic power influencing justice, and crime being committed by police themselves have all resulted in thousands of transgender people still being victims of sexual exploitation. Further, the procedures of law and justice are familiar to very minimal percentage of transgender people who are educated or learned. The majority of them who still remain uneducated find it absolutely

impossible to fight for justice. They can try and raise their voice only with support of an NGO or trans rights activists. Hence, innumerable cases still get buried in silence.

Conclusion

Trans community has been excluded from every aspect of life and fabric of society. But exclusion of the community from law and justice for decades is unacceptable. Though tiny steps are taken and attempts are made to include them as a part of law; proper understanding of the problem from all angles has not been achieved. Though the Indian constitution assures every individual with fundamental rights that include freedom of equality, it has been impossible to achieve the same in reference to transgender population. It was only in 2018 that courts observed the disparity in law related to sexual abuse on trans women. The indirect subtle pressure of choosing one of the dominant 'genders' has remained for centuries. Though the constitution clearly states that no discrimination should be made based on caste, creed, GENDER or religion; we have failed to understand the diversity of gender. Assuming that gender is either male or female has to be come to an end. 'Third Gender' should become an inherent part wherever the word gender is used. Excluding the community from provisions of law is also a violation of human rights. The solution to this problem lies in proper action taken from all. Awareness among trans community about law, initiative from them to fight for justice, changes within the police stations and their working, awareness among police personnel about provisions of law, and support from courts are all necessary to find the marginalized trans community find justice in terms of violence committed against them.

Media has a greater responsibility in voicing out the injustice and violence faced by trans community. How many of the above cases made it to headlines of newspapers or news channels? How many channels stood with the community in their fight for justice? The lives of trans people are neglected just the way they are neglected when alive. More or less orphaned, their death does not matter much or raise alarms in society. All that they receive is few seconds of pity after reading such gore, violent acts of abuse inflicted on them, but shall soon be forgotten and faded out of memory.

Recommendations

The following recommendations can help the trans community in attaining justice in instances of abuse or violence.

- Primary data and several studies conducted reveal that police exploit trans people to the maximum. Hence, Steps should be taken to enable protection to transgender population in police stations.
- Care should be taken so that transwomen do not become re-victimized in the process of gaining justice.
- Law makers should fight for inclusion of 'Third Gender' as a part of every act or law in the nation.
- Documentation of crimes committed against transgender people should be maintained regularly.
- Transgender people should be made aware of provisions and rights available under law to the community.
- Similar punishment should be provided under law for murder, rape or sexual abuse against transgender people as what is provided for abuse against women.
- Awareness about the Transgender Persons (Protection of Rights) Act 2019, Domestic Violence Act 2005 which include transwoman too, Hindu Marriage Act which observes marriage of a transwoman with a man as valid, section 354A of IPC which provides protection against sexual exploitation, prevention of sexual harassment at work place which include transgender people, all fundamental rights guaranteed under Indian constitution, and human rights should be created.
- For all the above laws to function, proper support from police personnel, NGOs, courts, and lawyers become necessary.
- Transgender people should be guaranteed with right to education. Even when they distance themselves from home and have no family support; there should be provisions made for them to continue education.

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