



IDENTITY, EXCLUSIVITY AND RESISTANCE: A STUDY ON THE CHALLENGES FACED BY THE TRANSGENDER COMMUNITY WITH SPECIAL REFERENCE TO THE HIJRA COMMUNITY IN GUWAHATI, ASSAM

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Abstract:

Human society has often studied the concept of gender within a binary gender framework of male and female. In India, the transgender community has always faced social exclusion, exploitation, discrimination and are deprived of their rights. The Hijra community is one such group that falls under the broader transgender community and has been exploited and discriminated against. Though the Supreme Court of India has legally recognised them and came up with various welfare measures, transgender community continues to face discrimination and exploitation in every aspect of their day to day life, including education, employment, healthcare and societal acceptance. This paper tries to explore the historical background of the transgender community in ancient, medieval and colonial India. It also studies the concept and issues of identity, exclusivity and challenges faced by the transgender persons with special reference to the Hijra community in Guwahati, Assam. The findings of the study revealed that there exists wide discrimination based on gender identity and gaps in actual implementation of the legal provisions. The study states that only legal recognition cannot guarantee equality and equal opportunity unless there is social acceptance and inclusion from within the people of society.

Keywords: *Transgender, Hijra Community, Social exclusion, Identity, Discrimination, Guwahati, Assam.*

Introduction

Historically, the concept of gender has been studied within a binary framework of male and female in the society. But there also exists diversity of gender identities. It is the harsh reality that society often fails to identify those individuals whose gender identity doesn't conform to these societal classifications. Identity refers to our perception of who we are as individuals and as members of society. An identity is shaped by various factors such as personality, culture, relationships, experiences, beliefs, gender (Gupta, S. 2026). Identity can be classified into personal identity and social identity. Personal identity is the way an individual defines themselves. An individual can emphasize their religion, family and interests when describing their identity. Whereas another person may use their race, caste, neighbourhood, and job as important parts of their identity. It consists of all the factors that an individual believe that makes them (Gupta, S. 2026). Whereas social identity refers to the sense of who you are based on how the society recognises you in terms of your age, economic class, ethnicity, nationality, gender and sexual orientation (Clerkin, C. 2026).

A person's internal experience or sense of gender is known as their gender identity. It is the sensation of being masculine or female, neither, both, or somewhere in the between. Gender identity is different from a person's sexual orientation. The sex that a person was assigned at birth may or may not match their gender. (Ontario Human Rights Commission, 2014).



Exclusivity refers to when the right to have or do something is taken away from an individual or groups and there is unequal access in the society. In our society transgender community is one such group which experiences exclusivity in the form of harassment and discrimination. Because of their gender identity or gender expression, they are subjected to unfavorable treatment, whether on purpose or not. It may be overt and visible or covert, but it would still be detrimental. Additionally, it occurs at a larger systemic level through organizational policies or procedures that appear neutral but ultimately exclude transgender persons. Friends, relatives, and other people who experience prejudice due to their affiliation with a transgender person are likewise protected. Another type of discrimination against transgender persons is harassment. Sexually explicit or other inappropriate remarks, inquiries, jokes, name-calling, pictures, emails, and social media, bullying that is transphobic, homophobic, or otherwise offensive, sexual advances, touching, and other unwanted and persistent behaviours that insult, denigrate, hurt, or threaten an individual in any way are all included. Assault and other violent behaviour are also common. Trans people experience harassing behaviour because of their gender identity (Ontario Human Rights Commission, 2014).

Transgender community is one such group which challenges the conventionally constructed gender norms. The word “Transgender” comes from a combination of Latin prefix ‘trans’ (meaning across or beyond) and the English word ‘gender’ (Williams, A. 2014). It is an umbrella term which refers to individuals who differs in gender identity, behaviour and expression from socially constructed gender norms and don’t conform to their assigned sex at birth, which comprises but not limited to transexual, transman, transwoman, cross-dresser, gender non-conforming, gender queer (Ontario Human Rights Commission, 2014).

The Hijra community has always been present in the Indian society. The record of their evidence can be traced back to Hindu holy texts such as *Ramayana* and *Mahabharata*. The word ‘Hijra’ is of Urdu origin. It has derived from the Arabic word “Hajr”, which means leaving one’s own tribe. (Hossain, A. 2012). They are known by different names such as Eunuchs, Kinnars, Kothis, Aravanis, Jogappas, Shiv-Shakthis, etc. across the country. Biologically, Hijras are born male, but over time they disown their “masculinity” and identify themselves either “women”, “neither men nor women”, “in-between man and woman”. (Nanda, S. 1986) (Goel, I. 2016). They are considered as incompetent male.

Social organisation of Hijras is an important factor of the community. This social organisation holds the community united and provides a space to live in as the other of society. They follow a system of Guru-Chela, where the guru is considered as mother or teacher of the Chelas (hijras). It is compulsory for chela to have a Guru which gives them respect within the community. The guru has the duty to impart the art of dancing, singing and other skills such as badhai and to deal with clients. The Guru is regarded the status of a mother because of her responsibilities such as nurturing and taking care of the Chelas, providing food, clothes, allowances and shelter. This hierarchical relation provides not only economic support but also builds social relations within the community. Within the family this structure Chelas of a Guru lives like sisters and Gurus are known as Wadi Ammi. This structural organization is one of the most important aspects of their socialization within the community (Pervaiz, H. 2024).

Hijra Community in India

From a long period of time, transgender individuals have been part of the Indian culture and society. There are many historical events of recognition of “third gender”. In Hindu mythology, folklore, epics and early Vedas, there are mentions of “tritiyaprakriti” or “napumsaka” (literal meaning in Sanskrit, neither man nor woman or impotent person). According to the *Ramayana*, Lord Rama impressed by



the loyalty of the Hijras, blessed them with the power to confer blessings on people on auspicious occasions like child birth, marriage, which eventually set the custom of “badhai” in which hijras dance, sing and offer blessings. Records from the *Mahabharata*, mentions Aravana, who was the son of Arjuna and Nagakanya, was immolated to Goddess Kali to ensure the victory of the Pandavas in the war. But there was only one conditions that he wanted to spend his last night of life as a married man and experience marital pleasure. But no woman was willing to marry him, as he was supposed to be sacrificed the next morning, then Lord Krishna adopts the form of beautiful woman named Mohini and married him. Therefore, the Hijras of Tamil Nadu identify themselves as Aravanis, progenitor of Aravan. Moreover, in Koovagam village of Tamil Nadu, 18 days festival is celebrated in the Koothandavar temple, where the trans-women dress themselves as Aravan’s wives and mourn for his death. There are also mentions of Arjuna taking the get up of Brihannala (a transwoman) during his last year of exile for the Pandavas, in the court of King Virata. (Michelraj, M. 2015) (Srinivasan, S., & Chandrasekaran, S. 2020).

Hijras held significant roles in the royal courts of the Ottoman empire and the Mughal empire in India. They were popularly known as khwajasara or eunuch during this period. They hold important positions such as political advisors, administrators, wakil, guardians of the harems. They were considered more loyal and trustworthy towards their king and queens. They also had unrestricted access to all spaces and sections of population, thereby influencing political decisions of the Mughal period. Hijras held respected positions in the Islamic religious institutions, particularly in guarding sacred places of Mecca and Medina. They had strong influence in state decisions also received grants from the kings and queens. Thus, Hijras or third gender were respected community in the medieval India. (Michelraj, M. 2015) (Yadav, S.& Patni, R.K. 2019).

Hijras used to receive safety and benefits from princely Indian states in India during the early British era by joining into the community. These benefits included land grants, basic rights to food and shelter and cash from farming households in specific regions. Later British administration passed laws and abolished these benefits, because lands were not inherited through blood relations and British administration system recognised property rights only when they were inherited by biological family. (Michelraj, M. 2015) (Yadav, S.& Patni, R.K. 2019).

In 18th century, with the beginning of the British rule the scenario changed completely. Early European travellers records mention that they were disgust by the hijras and couldn’t tolerate and understand that why they were given so much importance and benefits in the royal courts. The British government attempted to outlaw the hijra community and deny them equality and civil rights by passing the Criminal Tribes Act in 1871. They were considered as discrete caste or tribe. The act incorporated all individuals who were engaged in kidnapping and influencing others especially children and dressed like women to sing and dance in public areas. The repercussions for such actions were two years of jail and fine or sometimes both. (Michelraj, M. 2015) (Yadav, S. & Patni, R.K. 2019).

There are very limited mentions about the existence of transgender people in Assam as compared to the other northeastern states. Although relevant historical literature and Assamese manuscripts is very limited, certain references about the existence of transgender can be traced back to Ahom royal courts of Assam. They were known as Lehetia. They used to render security services in the kingdom and were appointed as spy due to their advantage of gender identity (Dutta, 2016). According to historical narrations, the word Kinnar was mentioned in the Borgeets (devotional songs of the Vaishnavism) and manuscripts of Sri Sankardeva and Sri Madhavdeva. Lamentably, these manuscripts were destroyed during the Burma and Myanmar invasion (Das, S. 2023).



In present times, Guwahati being the largest urban city of the state serves as a prominent hub for the community. They live in community-based households organized under the traditional guru-chela system, where senior members, known as gurus, provide shelter, guidance, and support to younger members or chelas.

Nalsa Judgement, 2014

Even after many years of independence transgender community continues to face discrimination in every sphere of life. A landmark judgement for transgender rights in India was Supreme Court judgment in the NALSA case, 2014. A petition was filed by the National Legal Services Authority of India (NALSA) to legally recognize individuals who doesn't fall under the gender binary framework including persons who identify as "third gender". Petitioners claimed that transgender individuals face discrimination in every aspect including education, employment, healthcare, and social connections. Transgender community argued violations of their fundamental rights under Articles 14, 15, 16, and 21 of the Constitution of India. They demanded recognition of 'third gender' category including transgender people, hijras, and other non-binary gender groups.

The Supreme Court highlighted that gender identity is a personal identity and it represents personal autonomy and dignity (Article 21 right to live with dignity and express gender identity). Society can't impose gender norms and behaviours on individuals. Constitution provides the right to every individual to identify as third gender. Articles 14 (equality before the law), 15, and 16 (prohibition of discrimination) are violated by discrimination against transgender people.

According to the Indian Constitution, transgender people are legally acknowledged as a "third gender" by the Supreme Court. It recognized gender identity self-identification as a basic right. The equality and non-discrimination guarantees of the constitution are violated by any kind of discrimination against transgender people. Additionally, it mandated that the federal and state governments implement affirmative action policies, such as reservations in public services, government employment, and educational institutions. It mandated government to take welfare measures eliminating social discrimination spread awareness about transgender rights. (Drishti IAS, n.d.). (South Asian Translaw Database, n.d.).

The Transgender Person (Protection of Rights) Act, 2019

The Transgender Persons (Protection of Rights) Bill, 2019 was presented in the Lok Sabha on July 19, 2019, by the Ministry for Social Justice and Empowerment. Key provisions of the act:

1. According to the act, transgender people are those whose sex assigned at birth does not correspond with their gender identification. It included gender queers, people with intersex variants, transgender men and women, and those with sociocultural identities like hijra and kinnar.
2. The act prohibits discrimination against transgender person in terms of education, employment, equal access to healthcare and public services, and reside, rent or own property.
3. The act prohibits discrimination in terms of employment matters including recruitment, and promotion.
4. Every government educational institution shouldn't discriminate transgender person and shall provide equal and inclusive facilities and opportunities.
5. The act suggests government to take initiatives to provide healthcare services including separate HIV centres and sex reassignment surgeries.



6. The act states that government should come up with more inclusive and equal welfare measures ensuring participation of transgender persons.
7. The act states for the establishment of National Council for Transgender Persons which will advise the government on policies and monitor their implementation. (PRS Legislative Research, 2019).

Challenges

1. Hijra community continues to face social stigma and is often seen as deviant or inauspicious by the society.
2. In their childhood they usually face bullying, harassment and non-inclusive environment including in schools because of which they drop out from schools and ultimately it impacts their employment opportunities.
3. They often face verbal and physical abuse and sexual exploitation in public spaces.
4. They are often disowned and boycotted by their families in their childhood which force them to join and seek shelter within the community and sometimes also leads to emotional trauma.
5. Hijras struggle to access safe and secure housing because of discriminatory nature of landlords and society, which eventually force them to live in marginalised conditions.

Methodology

Research Design: The present study is descriptive in nature. A Research Design is a plan for conducting a research study, which includes the methods and procedures used to collect, analyze and interpret data. It ensures that the research question is addressed effectively and efficiently.

Area of the Study: The study was carried out in Kamrup (M) District, Guwahati, Assam.

Sampling of the Study: In this study, Simple Random Sampling technique has been employed. This method ensures that every individual in the population has an equal chance of being chosen for the study. Interviews were conducted with 40 respondents, ranging in age from 21 to 60.

Data Collection: Data collection involves a combination of field surveys, interviews, and observation methods. Both primary and secondary data have been gathered for this investigation. Primary data was collected from the transgender persons especially from the Hijra community of the Guwahati. Secondary data was collected from Articles, Journals, and Books etc. The researcher collected data based on Questionnaire cum Interview schedule. The schedule consists of both close ended and open-ended questions.

Analysis of Data: Data were analysed both qualitatively and quantitatively.

Findings

1. A majority of respondents (63%) have only primary or secondary education, indicating limited educational attainment within the community. Only 15% of respondents reached higher secondary level.
2. All respondents reported that they always face discrimination in seeking rental property. Owners often refuse to provide them accommodation and even if they do they are charged double or more than others because of their identity. They are often judged as being involved in 'bad activities,' and it is assumed that the neighbourhood will become unsafe for others if they are given rental housing.
3. It was found that according to the scheme, four GARIMA GREH were supposed to be established in Guwahati, Dhubri, Nalbari and Dibrugarh. However, only one has been established in Guwahati, and even this is reportedly not functioning.



4. A significant number of respondents expressed dissatisfaction with their own identity. They mentioned instances of forced unwanted work, mental stress, and absence of mental peace leading to both economic and emotional vulnerability.
5. Respondents mentioned that they want stricter laws and monitoring to prevent discrimination, bullying, and corruption in distribution of benefits, with greater social recognition and even separate provisions in public spaces to ensure dignity.
6. A majority of respondents emphasized the need for better access to education and dedicated welfare schemes. They also demanded basic facilities such as free or affordable medical care, ration card access, proper housing, and income-generating opportunities.

Conclusion

Transgender community refers to those whose gender identity doesn't correspond with the sex they were assigned at birth. Hijras are also one of those communities that falls under the broader transgender community. Presence of their existence can be found in various ancient literatures and manuscripts. They mostly had a respected position and status until the colonial rule in India. Today, also after so many years of independence they continue to face discrimination and exploitation. Though after the NALSA judgement of 2014, transgender persons are legally recognised and the enactment of the Transgender Persons (Protection of Rights) Act, 2019, ensured equality and justice but reality is far different. Challenges remain in implementing these legal rights on practical grounds.

It was found from the study that the Hijra community in the study area faces significant economic, social, psychological and institutional challenges on daily basis. The findings also shows that majority of the respondents have attained only primary education because of the discrimination they faced during their childhood which contributed to their economic vulnerability. It was also found from the study that respondents suffer from emotional and psychological trauma because of their gender identity, non-acceptance from family and society and experiences of unwanted and forced work. Although the government took various welfare and legal measures to promote equality and protect transgender persons adequate implementation in reality is much needed. There is need for strict monitoring of laws and welfare schemes, equal access to services and change societal mindset and acceptance. Thus, legal laws and welfare scheme alone cannot ensure inclusiveness and equality to transgender persons. There needs to be change in the mindset of people which should come from within towards gender diversity and society must accept them.

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