THIRD GENDER EXPLOITATION IN INDIA

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ABSTRACT:
Any discussion on the Third Gender must begin with the distinction between the much ignored or may be deliberately under-played difference between the concepts of „gender identity" and „sexual orientation". Gender identity refers to a person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth Unfortunately, by defining individual identity purely in biological terms, most of the literature before 1960s failed to distinguish sex from gender, and sexual differentiation from sex discrimination. Author opines that the sexual orientation, which lies at the core of "private space", is expressed through sexual relations and ought to be viewed as a core part of individual identity and as an inalienable component of the Right to Life. Therefore, the prohibition of certain private, consensual sexual relations under section 377 unreasonably abridges the right of privacy and dignity within the ambit of Right to Life and Liberty under Article 21 of the Indian constitution. Further, fixing an autonomous identity always presumes a fixation of the "interpellating other" a "respond to a request", in which the moment of subjection necessarily implies oppression. The person-as-subject in such a situation is defined by the other and the person recognizes themselves as an image or reflection of the „other".
KEY WORDS: Third gender, Right tolife for third gender „Sexual orientation .

CONCEPT OF THIRD GENDER IN INDIA

Third gender or **third sex** is a concept in which individuals are categorized, either by themselves or by society, as neither man nor woman. It also describes a social category present in those societies that recognize three or more genders. The term *third* is usually understood to mean "other"; some anthropologists and sociologists have described fourth, fifth, and "some enders. Biology determines whether a human's chromosomal and anatomical sex is male, female, or one of the rare variations on this sexual dimorphism that can create a degree of ambiguity known as intersex. However, the state of personally identifying as, or being identified by society as, a man, a woman, or other, is usually also defined by the individual's gender identity and gender role in the particular culture in which they live. Not all cultures have strictly defined gender roles. In different cultures, a third or fourth gender may represent very different things. While found in a number of non-Western cultures, concepts of "third", "fourth", and "some" gender roles are still somewhat new to mainstream western culture and conceptual thought. The concept is most likely to be embraced in the modern LGBT or queer subcultures, or in ethnic minority cultures that exist within larger Western communities such as the North American Indigenous cultures that have roles for Two Spirit people.

STATUS OF THIRD GENDER IN INDIAN SOCIETY

> **IN ANCIENT INDIAN SOCIETY:**

These are, the transgender of India, or Hijras as well call them, and according to Humsafar Trust, there are **6 million** Transgender in India, forming the largest Eunuch community in the world.

They're known by many names, and it is their facial anatomical features that stands apart from the less obvious first. They are also known as Kothi (which sounds similar to Kathoi, as called by the people of Thailand). Here in Bengal, we call them, in our crude form of daily language, Hijre or Hizre. When speaking about the third gender with regard to India, we see there is a unique position here. Here is a society that has accepted the third gender, or Hijra's as they are commonly called in mainstream society. People here have thought of Hijra's as normal and it has gone upto the extent where some people consider them as sacred. The Indian position becomes unique as compared to the rest of the world whereby although society has accepted the third gender, for a long time, there was no legislation which recognized them unlike in most other cultures. Due to this Hijra social movements have campaigned for recognition as a third sex. Some people fail to understand them as they fail to recognize them as a separate gender and instead think of them of them of either being a male or a female. Many activists and people belonging to the third gender feel that this is the main reason for discrimination

> **MODERN SOCIETY:**

The Hijra of India are probably the most well-known and populous third sex type in the modern world – Mumbai-based community health organization The Humsafar Trust estimates there are between 5 and 6 million hijras in India. In different areas they are known as Aravani/Aruvani or Jogappa. Often (somewhat misleadingly) called eunuchs in English, they may be born intersex or apparently male, dress in feminine clothes and generally see themselves as neither men nor women. . It is your society's problem that you only recognize two sexes.'"Hijra social movements have campaigned for recognition as a third sex, and in 2005, Indian passport application forms were updated with three gender options: M, F, and E (for male, female, and eunuch, respectively). Some Indian languages such as Sanskrit have three gender options.

Hijras are often defined as eunuchs (castrated males) and acknowledged both in Hindu and Muslim cultures. Numerous references to eunuchs in the royal courts of India's Muslim rulers are cited as the Hijras' legacy. The fact that many don't consider themselves true Hijras until they have undergone the "emasculation operation" links them to this tradition, as do elements of Islamic practice that they observe, such as burying rather than cremating their dead.Dual-gender figures in Hinduism provide other sources of identification in a religious context.

THIRD GENDER RIGHTS IN INDIA :

Some basic rights denied to hijras include ration (family) card, Right to vote, right to marriage, child adoption, opening a bank account and many other fundamental (transgender) rights. Some of the legal issues faced by transgenders in India such as legal recognition of their gender identity (difficulty in getting legal recognition as a woman or a transgender woman), inheritance, wills and trusts, immigration status, employment discrimination, and access to public and private health benefits. The change of name and gender on the credentials is also an issue. The sex assigned at birth mentioned on their birth certificate and other school/ college documents do not match with the gender identity and hence transgenders are denied admission in colleges for higher education. However, child adoption procedure for hijras is not clear. The adopted children address them as mother or aunt or by any other. Hijras also face physical and sexual violence from police and local hoodlums/ extortionists due to the nature of their work.Hijras are harassed by police in many ways and many of these go unreported as they fear that their complaint will be seen as a false story. There are incidents of gang rape and domestic violence, clients force aravani sex workers for unprotected sex and some physically assault them after the sex act. Many of these violent episodes and violation of transgender rights go unreported and right to maintenance also. Preamble to the Constitution mandates Justice - social, economic, and political equality of status. Thus the first and foremost right that they are deserving of is the right to equality under Article 14 and Article 15 speaks about the prohibition of discrimination on the ground of religion, race, caste, sex or place of birth. Article 21 ensures right to privacy and personal dignity to all the citizens.Article 23 prohibits trafficking in human beings as beggars and other similar forms of forced labour and any contravention of these provisions shall be an offence punishable in accordance with law. The Constitution provides for the fundamental right to equality, and tolerates no discrimination on the grounds of sex, caste, creed or religion. The Constitution also guarantees political rights and other benefits to every citizen. But the third community (transgenders) continues to be ostracized. n 2014, the Indian Supreme Court in **NALSA v. India** ruled that transgender people should be recognized as a third gender and enjoy all fundamental rights, while also being entitled to specific benefits in education and employment. Justice K.S. Radhakrishnan, writing for the bench, ordered that Transgender persons' right to decide their self-identified gender should be recognized by state and federal authorities. The court made clear that any insistence for [sex reassignment surgery] for declaring one's gender is immoral and illegal.A Delhi High Court ruling in October 2015 laid out the intrinsic link between the right to legal gender recognition and other rights. Affirming a 19-year-old transgender man's right to recourse against harassment by his parents and the police, **Justice Siddharth Mridul wrote:**A transgender [person's] sense or experience of gender is integral to their core personality and sense of being. Insofar as I understand the law, everyone has a fundamental right to be recognized in their chosen gender.

Section 377: Navtej Singh Johar vs. Union of India: The judgment contradicts the findings of the Supreme Court in Suresh Kumar Koushal case in various ways.

.As the time passes by today the third gender have some or the whole rights with them as other citizens have with them , today not only there status have improved but also now the transgender society come up to compete in different filed across the nation , Today various example have been set by various transgender , in various fields , be it be sports or beauty peagent or politics , Today the transgender have equal right of job under Article 15,16 , Equal rights under Article 19 , Free life with dignity under Article 21 and so on .

PROBLEM FACED BY THIRD GENDER :

- **Discrimination:** Transgender population remains one of the most marginalized groups. Sexuality or gender identity often makes transgender a victim of stigmatization and exclusion by the society
- **Ostracization:** Transgender individuals are often ostracized by society and sometimes, even their own families view them as burdens and exclude them.
- **Poverty:** In many cases, this lack of legal protection translates into unemployment for transgender people
- **Education:** Transgender people are unable to access equal educational opportunities because of harassment, discrimination and even violence. Most transgender children are forced to drop out of schools as Indian schools remain unequipped to handle children with alternative sexual identities
- **Health:** Transgenders frequently experience discrimination when accessing health care, from disrespect and harassment to violence and outright denial of service. The community remains highly vulnerable to sexually transmitted diseases like HIV AIDS. According to a recent UNAIDS report, the HIV prevalence among transgenders in India is 3.1% (2017).
- **Mental health** issues include depression and suicidal tendencies, and violence-related stress
- **Employment:** They are economically marginalized and forced into professions like prostitution and begging for livelihood or resorting to exploitative entertainment industry.

- **Access to Public spaces and shelter:** Transgenders face direct discrimination and denial while accessing houses or apartments. Further, they also face problems due to lack of provision of gender neutral/separate transgender toilets and discrimination in accessing public toilets
- **Civil Status:** Possessing accurate and consistent identification documents has always been challenging for the transgender community.
- **Gender-based violence:** Transgenders are often subjected to sexual abuse, rape and exploitation.

CONCLUSION:

The journey of the transgender's rights movement from 300 BC to the 21st century was full of hurdles. This neglected community faced atrocities, discrimination, humiliation, and whatnot. Even after the supreme court's decision in the year 2014, the government is not able to provide them the security and support they deserve. We as a system or society owe them a lot. Gender as a spectrum may seem like a contemporary discovery to some, yet Hindu literature and mythology have taught for ages about heroes who broke the binary gender system. While the reproductive bond between man and woman has long been alued in the religion, Hinduism, unlike most Western religions, has long seen homosexuality as a natural activity, which is chronicled in the folk story and sacred scripture alike. There are uncounted stories in Indian mythology regarding gender identity, gender expression, gender fluidity, and sexuality. Many similar examples may be found in our epics. If we look back, we can see how these personalities can upset patriarchal notions. Before the British colonized us, India and its culture were considerably more tolerant. Let us all pledge to restore our culture, the culture that represents our true attitude. Let us restore our fire from the past, and make this world a nicer place to live in.

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