CIVIL AND POLITICAL RIGHTS OF TRANSGENDERS IN INDIAN CONSTITUTIONAL PERSPECTIVE

Sourav Agarwal

ABSTRACT

The notions to secure to its citizens of Justice, Equality and Unity have been the prime motto of the government. This article throws light on the status of transgenders in India, in the background of the courts having acknowledged the travesty of their being, and despite being sympathetic to them to the extent of even affording recognition, have been unable to ensure a dignified existence to them.

The article analyses the statutory provisions that have not been sufficient to protect their rights which results in the violation of their basic fundamental rights. The intervention of the judiciary has been felt in realizing the rights of these communities and protecting them. The role played by the government of Tamil Nadu is much appreciated. The same is discussed herein-below by the researcher along with the recent developments after the verdict of the Supreme Court declaring “third gender” rights.

INTRODUCTION

“Sex is what you are born with, gender is what you recognize and sexuality is what you discover.” – A. Chettiar

Discrimination of the transgender has become common, due to their weak economic position they commonly engage themselves into prostitution in order to earn their livelihood. The status of these communities during the Mughal Period where they

1 Department of Law, University of North Bengal
2 Anitha Chettiar, “Problems Faced by Hijras (Male to Female Transgenders) in Mumbai with Reference to Their Health and Harassment by the Police” 5 IJSSH 752 (Sept. 2015), available at: http://www.ijssh.org/papers/551-W10007.pdf (last visited on Nov. 28, 2016). The stated line was a comment made by the hijra respondents of the study undertaken by the said author.
were respected and honored has completely changed. The British criminalized these communities and today they live as sex workers and beggars where they are often humiliated. There is not much which is done for transgender in a country lie India where they are alienated and isolated from the society; they are denied the basic and fundamental rights which they are entitled to as citizens of India.

“After I was raped, the officer told me that I got what I deserved.”

Transgender individuals and communities face many barriers to full acceptance in society. One of the issues that have been receiving growing attention is the experience of discrimination that transgender individuals face when they interact with the criminal justice system. It is generally observed that in present circumstances, there are three basic kinds of exclusions of Transgender in India:-

1. Exclusion from Social and Cultural Participation (Social Exclusion) –
   a. Exclusion from family and society
   b. No protection from violence
   c. Limited entry in education sector, health services and public spaces

2. Exclusion from Economy (Economic Problem) –
   a. Exclusion from economy
   b. Exclusion from livelihood and employment opportunities

3. Exclusion from Citizen Participation (Political Status) –
   a. Limited entry to collectivization
   b. Limited rights to citizenship
   c. Limited right to participation in community decision making process

Though, the situation has changed after the honorable Supreme Court judgment in 2014, the perception of Indian society mindset and their behavior towards Transgender has not changed much.

CONSTITUTIONAL LAW AND JURISPRUDENCE

4 Available at: https://docs.google.com/document/d/14ZKcBIJBR1DpXDoM_IWWgQrdkS1crEZUpPvqz0gc63o/edit (last visited on Mar. 26, 2017).
The idea of Fundamental Rights was first conceptualized in the Bill of Rights of the American Constitution and has been adopted into the Indian one. Preamble to the Constitution of India mandates Justice - social, economic, and political, equality of status. In essence, the Constitution of India is sex blind, that is to say, the basic premise of equality is based on a Constitutional mandate that the sex of a person is irrelevant save where the Constitution itself requires special provisions to be made for women.

✔ Right to Equality

The Constitution provides every person an equal status before the law and an equal protection of laws within the territory of India. The word ‘any person’ here means every individual, without any discrimination based on any of the category which includes, caste, creed, religion, sex, etc.

A transgender in India is included within the words ‘any person’ and is given equal status to that of every cis-gender in India. The transgender community cannot be discriminated on the ground of non-application of any of the laws within the nation by reason of their differences and dividing them based on any arbitrary class.

In National Legal Service Authority v. Union of India, the interpretation of the word person was widened and was held that Article 14 of the Indian Constitution does not restrict the word ‘person’ and its application only to male or female. Hijras/transgender persons who are neither male/female fall within the expression ‘person’ and, hence, entitled to legal protection of laws in all spheres of State

5 Bill of Rights of the United States of America (1791). The first 10 amendments to the Constitution make up the Bill of Rights. Written by James Madison in response to calls from several states for greater constitutional protection for individual liberties, the Bill of Rights lists specific prohibitions on governmental power. Other precursors to the Bill of Rights include English documents such as the Magna Carta, the Petition of Right, the English Bill of Rights, and the Massachusetts Body of Liberties. Available at: https://www.billofrightsinstitute.org/founding-documents/bill-of-rights/ (last visited on Mar. 17, 2017).
6 The Constitution of India - Preamble.
7 The Constitution of India - Article 15.
8 National Legal Service Authority v. Union of India, AIR 2014 SC 1863 at 1890 para 54.
9 Id.
activity, including employment, healthcare, education as well as equal civil and citizenship rights, as enjoyed by any other citizen of this country.

The transgender community falls within the purview of the Constitution of India and thereby they are entitled to all the rights as guaranteed under the same.

✓ **Equality of Opportunity and Right against all forms of Discrimination**

The key word with regard to the protection of Transgender is the word ‘sex’. The interpretation of the word ‘sex’ includes these communities irrespective of them falling under the category of male or female.

The Apex Court of India in a landmark case\(^\text{10}\) observed that both gender and biological attributes constitute distinct components of sex. Biological characteristics include genitals, chromosomes and secondary sexual features, but gender attributes include one’s self image, the deep psychological or emotional sense of sexual identity and character.

The discrimination on the ground of ‘sex’ under *Articles 15 and 16 of the Indian Constitution* includes discrimination on the ground of gender identity. The expression ‘sex’ is not just limited to biological sex of male or female, but intended to include people who consider themselves to be neither male or female.

*Articles 15(2) and 16(4)* has also been interpreted to provide social equality to these communities such as equality in public employment, it provides that the states shall have the power to make any special provision for the upliftment of these vulnerable minority who are now included within the category of socially and educationally backward classes.\(^\text{11}\)

These Articles read with the Directive Principles of State Policy and various international instruments to which India is a party, call for social equality, which the transgenders could realize, only if facilities and opportunities are extended to them so that they can also live with dignity and equal status with other genders.

\(^{10}\) *Id.*

Fundamental Freedom

All the basic values of privacy, self-identity, autonomy and personal integrity are the basic and fundamental rights which are guaranteed to the members of the transgender community under Article 19(1)(a) of the Constitution of India and the State is bound to protect as well as recognize the rights of the citizens.

*Article 5 of the Indian Constitution* identifies the persons who are entitled to be citizens of India. None of the conditions specified therein require a determinate sex or gender identity as a pre-condition of acquiring citizenship. Therefore, a transgender has the right to express his feelings, his behaviour and personality towards the society and the state has the duty to protect it. The state cannot restrict this expression being a part of the fundamental right.

Right to Life

The right to choose one’s own identity is one of the most essential right under this article to life with dignity, and this aspect is covered and protected by this Article as it symbolizes the most important right being a human, a right to live, which the State is required to protect from violation.

The transgender communities have a right to dignified life which is one of the most important aspects of Article 21 of the Constitution of India. Recognition of gender identity provides the recognition of their right to dignity and non-recognition violates the same, they have full right to express and live their life without fear. Also, the right to reputation extends to their protection. Transgenders in our society have not been seen with respect, they are often humiliated and beaten up by the authorities in power their reputation in the society has degraded and their significance in the society has been deteriorated.

Right against Exploitation

13 I.R. Coelho v. State of Tamil Nadu, A.I.R. 2007 S.C. 861. *See also* Francis Corali v. Union Territory of Delhi, A.I.R. 1981 S.C. 1675. The Court held that the right to life includes the right to live with human dignity and all that goes with it, namely the bare necessities of life.
14 See State of Maharashtra v. Public Concern for Governance Trust, A.I.R. 2003 S.C. 223. The Court held that a good reputation was an element of personal security and was protected by the Constitution, equally with the right to the enjoyment of life, liberty and property.
Various inhuman acts such as human trafficking and beggary are declared as an offence and punishable according to law. The scope of Article 23 of the Constitution of India is very wide as it includes within any form of discrimination which are forbidden. Immoral activities such as prostitution are usually seen down in the society.

Everyone has a right to personal development, and this could be secured only when there exists a right against exploitation which creates a free environment for an individual. Transgenders are the worst victims of exploitation, due to their degraded economic status they indulge into prostitution and other immoral activities and are usually seen as taboo by the society. The intention behind this Article is to secure independence of an individual identity by preventing exploitation of men by men.

LEGAL PROVISIONS

The enactment of different laws by the legislature is the outcome of constitutional provisions which provides legal sanctity by way of establishing the right in favour of this class. The relevant Acts which establish the identity of this class though not specifically are discussed below.

The Citizenship Act, 1955 which provides for the acquisition and determination of Indian Citizenship also does not, expressly or impliedly require a determinate sex or gender identity as a pre-condition for acquiring citizenship. For a person to be a voter (elector), he/she has to be a citizen of India. The Election Commission of India has taken special measures to enroll the transgender persons as electors.

The definition of ‘person’ under the General Clauses Act, 1897 is couched in even wider terms. The Act defines a person to ‘include any company or association or body of individuals, whether incorporated or not’. Though Section 13 of the Act stipulates that words importing the masculine gender shall be taken to include females, this stipulation is itself conditioned by the statutory direction that this is so unless there is anything repugnant in the subject or context.

16 The General Clauses Act, No. 10 of 1897, Section 3(39), available at: http://indiacode.nic.in.
17 The General Clauses Act, No. 10 of 1897, Section 13, available at: http://indiacode.nic.in.
A harmonious reading of the Constitutional provisions set out hereinabove as well as the provisions of the Citizenship Act, 1955 and the General Clauses Act, 1897 would show that in fact there is no conflict or limitation imposed on the concept of 'person' by any of these laws and a Transgender person would undoubtedly fall within the definition of 'person'.

Interestingly, the Registration of Births and Deaths Act, 1969 doesn’t mention anything about 'sex'/'gender' of a person to be registered in case of birth or death. The Act is gender neutral. The requirement of indicating the sex/gender of a person in case of a birth or death in the Birth or Death certificate, as the case may be, doesn’t seem to flow from the provisions of the Act itself. Such a requirement may have been put in the formats of such certificates prescribed in the Rules under the Act, which are made by the States.

Most of the protections under the Fundamental Rights Chapter are available to every person with some rights being available only for the citizens of India. The identification on the basis of sex is a crucial component of identity.

The main problems that are being faced by the transgender community are of discrimination, unemployment, lack of educational facilities, homelessness, lack of medical facilities like HIV care and hygiene, depression, hormone pill abuse, tobacco and alcohol abuse, problems related to marriage and adoption.

ACCESS TO JUSTICE

The America is celebrating the decision of the US Supreme Court in Obergefell v. Hodges, on the other hand, India despite being world’s largest constitutional democracy, are still grappling in the heteronormative caves of undermining alternative sexualities.

---

In *Jayalakshmi v. State of Tamil Nadu*, Pandian, a transgender, was arrested by the police on charges of theft. He was sexually abused in the police station which ultimately led him to immolate himself in the premises of the police station. Similarly, policemen arrested Narayana, a transgender, in Bangalore on suspicion of theft without informing him of the grounds of arrest or extending any opportunity to him to defend himself. His diary was confiscated by the police and he was threatened with dire consequences if he did not assist in indentifying other transgenders he was acquainted with. Homosexuals have also been at the aggrieved end of financial extortion by the police in exchange for not revealing their identities to society.

In today’s date, the laws that cause a great harm to this transgender community is *Section 377 of the Indian Penal Code, 1860* and *the Immoral Traffic Prevention Act, 1986*. 

*Immoral Traffic Prevention Act (ITPA), 1956 (amended in 1986)* is the principal instrument which prevents the trafficking of women and children into prostitution. With the Amendment of 1986, the scope and ambit of the Act now became applicable to both male and female sex workers and also to those whose gender identity was indeterminable. Thus, both male and hijra sex workers became criminal subjects of the ITPA and it provided the legal basis for arrest of the transgender sex workers population.

The offence of sodomy was first introduced in India through the Act for Improving the Administration of Criminal Justice in the East Indies. In 1837, a *Draft Penal Code* was prepared where *Clauses 361 and 362* dealt with ‘Unnatural sexual offences’ which were later incorporated in *Section 377* as a part of the Indian Penal Code under offences with respect to human body and under a separate heading of ‘unnatural offences’.

*Section 377 of the Indian Penal Code, 1860* was drafted by *Lord Macaulay*. This provision provides the punishment for the prosecution of certain kinds of sexual acts deemed to be unnatural. The natural presumption in case of a homosexual or a hijra is

---

drawn that they are engaging in acts against the order of nature. It is clear that this Section has been frequently used to harass and exploit homosexuals and transgender persons. Surprisingly, the Indian Council for Medical Research (ICMR) and Indian Medical Association (IMA) have not yet framed any guidelines for Sex Reassignment Surgery (SRS).

From the numerous instances of abuse and violence against homosexuals and transgender, it is evident that Section 377 of IPC has been totally misused to cause great harm to such community.

Another notable example is Section 45 of the Army Act, 1950 which penalizes indecent acts which would possibly include the acts of transgender community. 23 It is also to be noted that in India sexual minorities have no freedom to form association or union.

The sexual minority is not a recognized person for the purpose of insurance claims, compensation24 and nomination for the purpose of gratuity benefits. The reality is that, the transgender community in India lives in a precarious environment dominated by oppression, discrimination and systematic exclusion. It cannot be forgotten that discrimination is antithesis of equality and that it is the recognition of equality which will foster the dignity of every individual.

JUDICIAL ROLE IN PROTECTION OF THE RIGHTS OF TRANSGENDER IN INDIA

With the advent of the contemporary epoch, the movement against the repressive and oppressive nature of Section 377 grew exponentially and it was finally on July 2, 2009 that the Delhi High Court passed a judgment in favor of the LGBT’s in the landmark judgment of NAZ Foundation v. Government of N.C.T Delhi25 (hereinafter referred to as the NAZ Foundation case), declaring Section 377 of the Indian Penal Code, 1860 which criminalizes homosexuality in India to be unconstitutional and violative of

25 2010 Cri LJ 94.
Articles 14, 15 and 21 and read down the section, allowing consensual sexual activity between two homosexuals above 18 years of age.

The matter went to appeal to the Supreme Court of India in *Suresh Kumar Koushal and another v. NAZ Foundation and Others*\(^{26}\) where the Supreme Court struck down the decision by the High Court in the *NAZ Foundation Case*.

Justice Singhvi said that *Section 377 of the Indian Penal Code* does not suffer from any constitutional infirmity and left the matter to the competent legislature to consider the desirability and legitimacy of deleting the Section from the statute book or altering the same to allow consensual sexual activity between two adults of the same sex in private.

The Court referred to Indian and foreign judgments, *the Yogyakarta Principles*\(^{27}\) identifying with sexuality as a structure of personality and the worldwide patterns in the assurance of security and nobility privileges of gay people and held:

“*The sphere of privacy allows person to develop human relations without interference from the outside community or from the State. The exercise of autonomy enables an individual to attain fulfillment, grow in self-esteem, build relationships of his or her own choice, and fulfill all legitimate goals that he/she may set. In the Indian Constitution, the right to live with dignity and the right of privacy are recognized as dimensions of Article 21.*”\(^{28}\)

The basic rights are implicit in the *Universal Declaration of Human Rights, 1948*. The judgment of the Delhi High Court reflects general conscience towards the sexual minorities. They should be treated with utmost respect as a citizen of this country, without any discrimination in exercising their right to apply for a employment opportunity, their right to seek justice.

\(^{26}\) Civil Appeal 10972 of 2013.

\(^{27}\) The Yogyakarta Principles are a set of principles on the application of international human rights law in relation to sexual orientation and gender identity. The Principles affirm binding international legal standards with which all States must comply. They promise a different future where all people born free and equal in dignity and rights can fulfill that precious birthright.

In April 2014, the Supreme Court of India declared transgender to be the 'third gender' in Indian law. Justice KS Radhakrishnan noted in his decision that,

"Seldom, our society realizes or cares to realize the trauma, agony and pain which the members of Transgender community undergo, nor appreciates the innate feelings of the members of the Transgender community, especially of those whose mind and body disown their biological sex".

By recognizing the transgender as a third gender, this Court is not only upheld the rule but also advanced justice to the class, so far deprived of their legitimate natural and constitutional rights. It is, therefore, the only just solution which ensures justice not only to the transgenders but also justice to the society as well.

Social justice does not mean equality before law in papers but to translate the spirit of the constitution, enshrined in the Preamble, the Fundamental Rights and the Directive Principles of State Policy into action, whose arms are long enough to bring within its reach and embrace this right of recognition to the transgenders which legitimately belongs to them.

Non-recognition of the identity of Hijras/transgender persons denies them equal protection of law, thereby leaving them vulnerable to violence and sexual assault, in public spaces or in jail by the police. Further, non-recognition of identity of Hijras/transgender person results in facing extreme discrimination in all spheres of society, especially in the field of employment, education, healthcare etc. Hijras/transgender persons face huge discrimination in access to public spaces like restaurants, cinemas, shops, malls etc.

The applicability of the judgment in this case was restricted by the Hon’ble Supreme Court only to transgender and explicitly excluded the Lesbians, Gays and Bisexual, thereby not going in the controversial question of validity of Section 377 of Indian

29 "Supreme Court recognizes transgender as 'third gender" Times of India, Apr. 15, 2014.
30 National Legal Services Authority v. Union of India, AIR 2014 SC 1863 at 1868.
Penal Code. The Court on the basis of Human Rights highlighted the importance of gender for applicability of various human rights. The court while deciding this looked at the International Instruments.

The Court directed that the recommendations by the report of Ministry of Social Justice and Empowerment Expert Committee must be examined based on the legal declarations made in this judgment and implemented within six months. This broadened the ambit of rights that can be granted to the transgender. However, though the judgment recognizes the harm done by Section 377 of IPC to the transgenders, it did not pass any orders or make any recommendations.

The Hon’ble Supreme Court of India declared that:

1. Hijras, eunuchs, apart from binary gender, be treated as “third gender” for the purpose of safeguarding their rights under Part – III of our Constitution and the laws made by the Parliament and the State Legislature.

2. Transgender persons’ right to decide their self-identified gender is also upheld and the Centre and State governments are directed to grant legal recognition of their gender identity such as male, female or as third gender.

3. The Court direct the Centre and the State governments to take steps to treat them as socially and educationally backward classes of citizens and extend all kinds of reservation in cases of admission in educational institutions and for public appointments.

4. The Centre and State Governments are directed to operate separate HIV sero-surveillance Centre since Hijras/Transgenders face several sexual health issues.

\[32\text{With regard to Transgender, both the people who want to transition from their respective genders and the ones who want to be identified with the third gender were included within the ambit of the judgment. Available at: http://lexquest.in/nalsa-v-uoi-critical-analysis/ (last visited on Apr. 30, 2017).}
\[33\text{National Legal Service Authority v. Union of India, AIR 2014 SC 1863 at 1867. Justice A.K. Sikri observed that Human Rights are rights that belong to every person, and do not depend on the specifics of the individual or the relationship between the right-holder and the right-grantor.}
\[34\text{International Instruments such as, the Universal Declaration of Human Rights, 1948; the International Covenant on Civil and Political Rights (ICCR), 1966 and the Yogyakarta Principles.}
\[35\text{Supra note 47.}
\[36\text{National Legal Service Authority v. Union of India, AIR 2014 SC 1863 at 1906.}
5. The Centre and State Governments should seriously address the problems being faced by hijras/transgenders such as fear, shame, gender dysphoria, social pressure, depression, suicidal tendencies, social stigma, etc. and any insistence for Sex Reassignment Surgery (SRS) for declaring one’s gender is immoral and illegal.

6. The Centre and State Governments should take proper measures to provide medical care to the transgenders in the hospitals and also provide them with separate public toilets and other facilities.

7. The Centre and State Governments should also take steps for framing various social welfare schemes for their betterment.

8. The Centre and State Governments should take steps to create public awareness so that the transgenders will feel that they are also part and parcel of the social life and be not treated as untouchables.

9. The Centre and State Governments should also take measures to regain their respect and place in the society which once they enjoyed in our cultural and social life.

Therefore, it can be observed that the role of judiciary has been very significant in the protection of the rights of the Transgenders in India. The status of ‘third gender’ has given recognition to their identity in the society and has spread awareness about their existence. A Bench comprising Justice K.S. Radhakrishnan and Justice A.K. Sikri directed the government to treat them as “socially and educationally backward classes of citizens.”

✓ Social Recognition

Adopting an inclusive approach in education, for felicitation of students by way of admission in educational institutions, the education department of the State of Tamil Nadu issued a government order thereby creating a third gender category. Also, the

---

Jadavpur University in Kolkata has included a separate column for the third gender in its admission forms for the year 2015. Transgenders can now mention themselves as "third gender" while seeking information on governance related matters through online RTI application through the website. The Department of Personnel and Training (DoPT) has introduced a field ‘third gender’ other than male and female on the RTI portal.

The Committee which was constituted in accordance with the judgment of 2014 in its recommendation makes it clear as regards the inclusive definition that has been accorded to the term transgenders and will cover various gender identities and expressions. It will not be confined to any one of the socio-cultural identity groups, such as hijras, kothis, etc. but will include all persons who fall under the generic definition of transgender person.

All transgenders can avail the benefits under the Other Backward Class (OBC) list, irrespective of their community background. The data of the Election Commission stated that 23,019 people have registered themselves under the ‘Others’ category.

In significant decision for transgenders, the Allahabad High Court has ruled that they are entitled to the status of head of a household which will allow them to avail food security benefit through ration card.

---


39 Available at: http://www.ndtv.com/india-news/rti-to-now-have-a-third-gender-field-for-onlineline-applications-781821 (last visited on Mar. 20, 2017). The field ‘third gender’ has been introduced on the website (www.rtionline.gov.in) allowing transgenders to give detail of their identity while filing RTI applications online. Though it is not a mandatory field but it will help the government in collecting data on different categories of people filing queries under the transparency law.

40 Inter-Ministerial Committee on issues pertaining to Transgender Persons, dated Sept. 08, 2014. Transgender Persons – All persons whose own sense of gender does not match with the gender assigned to them at birth. They will include trans-men and trans-women (whether or not they have undergone sex reassignment surgery or hormonal treatment or laser therapy, etc), gender queers and a large number of socio-cultural identities, such as kinnars, jijras, aravanis, jogtas, etc. the term ‘transgender’ shall be construed accordingly.


42 Id.
A few months after the judgment of the Hon’ble Supreme Court of India, the Madhya Pradesh government came up with a pilot project involving transgenders in the cleanliness campaign. The impact is now visible. In Naandini village, each of the 131 homes now has a toilet. In the remaining 11 villages, toilets have been built in 80 percent of the houses.44

“Transgender Persons Bill will help protect and empower India’s transgender population, but the government needs also to address the bill’s shortcomings. With the input of the transgender community, the government should ensure that a new law lays out a strong legal framework in line with the constitution and international law, and provides effective enforcement.”45

The transgender community is actively seen taking part in order to sensitize the society with regard to AIDS and other health issues. On December, 2016 about 200 people took part in a march led by members of the transgender community in Kalyan (West) and volunteers working for the rehabilitation of children of commercial sex workers staged street plays in the city on Thursday to mark World AIDS Day.46

---

43 “Transgenders entitled to head of household status: Allahabad High Court” NDTV, Apr. 19, 2015. The court said the law needs to travel beyond non-discrimination, by recognising an affirmative obligation of the state to provide access to social security. Food security lies at the foundation of it. Transgenders must have both. Food security means no less to a transgender than to other segments of society. Impoverishment and marginalization have been endemic to the transgender population, a division bench of Chief Justice DY Chandrachud and Justice Shree Narain Shukla observed while disposing of a Public Interest Litigation (PIL) which sought a direction to make available food security and ration cards to transgenders. Available at: http://www.ndtv.com/india-news/transgenders-entitled-to-head-of-household-status-allahabad-high-court-756329 (last visited on Mar. 20, 2017).

44 Siddharth Ranjan Das, “Transgenders bring government and villages together to build toilets” NDTV, Nov. 19, 2015. Ms Singh, 30, a transgender, runs an NGO for her community. When the Madhya Pradesh government requested the NGO, Mitra Shringaar Samiti, last year to be a part of the Swacch Bharat Mission, she happily agreed. It is now the team's mission to campaign from door to door for better sanitation in the villages. Seeing the impact of the work done by the team, the administration is thinking of taking its help in 40 more villages. Available at: http://www.ndtv.com/india-news/transgenders-bring-government-and-villages-together-to-build-toilets-1245264 (last visited on Mar. 20, 2017).


46 “Transgender March to spread AIDS awareness” The Hindu, Dec. 02, 2016. The two-hour-long march from the Commissioner’s Bungalow to Birla College was organized by local NGO Navodaya Movement with Birla College and Kinnar Asmita, an organisation working with the transgender community. The march expressed solidarity with people living with AIDS, called for efforts to intensify HIV prevention and highlighted issues that prevent transgenders from being part of mainstream society.
Seldom has it occurred that an advertisement foregoes the opportunity to coin a slogan to get the message across the globe. Transgender are a group that often witnessed a negative portrayal in the Indian Cinemas, but Indian advertisements have come forward and actively participated in taking up the social issues, and there is a growing sensitivity in the present era.  

In April, 2017 the recent Vicks advertisement does both as till the very end it assiduously keeps the brand out of the advertising film. It appeals to fine human instincts, and joins a well-intentioned cause – all of this wrapped in a message of caring to signal the brand position. This advertisement of ‘touch with care’ goes a step further in portraying a transgender as a mother, thereby putting these transgender communities in the mainstream so that their social and fundamental rights are not deprived to them.

Ever since the Supreme Court in its 2014 landmark judgment called for equal treatment, and the third gender category was created in education and employment, thereafter various brand campaigns have built on themes inclusive of the transgender community. Among these are Brooke Bond Red Label tea, which joined hands with Y Films to create one-of-its-kind transgender music band, Six-pack band; and sari-maker Red Lotus.

**CONCLUSION**

After analyzing the discrimination, it is revealed that the transgenders along with other person have been conferred the following rights, that is, right to equality, equality of opportunity, fundamental freedoms, right to life which includes right to live with human dignity and right against exploitation.

---

47 Padmini Prakash became India’s first transgender television anchor; Kamla Jaan became the world’s first eunuch mayor but was asked by the HC to step down, as the post was reserved for a female candidate. She was the mayor of Katni district for two and a half years since January, 2000; Shabnam “Mausi” Bano was the first transgender Indian to be an elected member of the Madhya Pradesh State Legislative Assembly from 1998 to 2003; Kalki Subramaniam is India’s first entrepreneur.


50 Available at: https://video.scroll.in/833873/watch-this-tamil-lesbian-anthem-is-a-challenge-to-all-those-who-are-illiberal-about-love (last visited on Apr. 07, 2017).
These rights include the basic and inalienable rights and such deprivation excludes hijras from the very fabric of Indian civil society. India is walking towards a better future with a positive mindset as gradually it has started recognizing the rights of the unheard through the golden doors of judicial activism.

The Supreme Court's landmark 2014 judgment recognised transgenders as the third gender, assigning them their own identity and directing the government to provide them with quotas in jobs and education. Thus, the transgenders can make their own choices of profession, helping many dreams come true. They can be doctors, chefs, police inspectors, lawyers. They can now be anything they want.

The transgender community has come into a limelight as a result of which last year in 2016, a private member bill was placed in the House of Parliament for giving legal recognition to the rights and status of transgender community.