

**ROLE OF MEDIA IN HUMANIZING TRANSGENDER RIGHTS: ISSUES AND CHALLENGES****Pushpinder Kaur**

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**Cite This Article:** Pushpinder Kaur, "Role of Media in Humanizing Transgender Rights: Issues and Challenges", International Journal of Interdisciplinary Research in Arts and Humanities, Volume 3, Conference World Special Issue 1, Page Number 40-44, 2018.

**Abstract:**

Transgender people are individuals of any age or sex whose appearance, personal characteristics, or behaviour differs from stereotypes about how men and women are 'supposed' to be. The 'third gender' which has long been marginalized and deprived of their identity and true representation in the social and cultural milieu of society deserves critical attention. In the light of 21<sup>st</sup> century, this paper deals with the current status of Transgender community in India and throws light on the Supreme Court's historic verdict of 2014 which legally recognised Transgender as 'Third Gender' and the active role that media can play in combating the gender discrimination and violence against the individuals based on their sexual orientation and gender identity. Transgender is a general term applied to a variety of individuals, behaviours and groups who tend to diverge from the normative gender roles. The term transgender itself is the symbolic representation of crossing boundaries and it has been derived from two different languages; the Latin word 'Trans' and the English word 'gender'. We are constantly bombarded by media messages. Media messages have subtle influence on society's way of thinking. The over-saturation of gender stereotypes in the media accounts for the misrepresentation of gender roles which gets embedded in the human mind and is passed on from generation to generation as an acceptable view. The Universal Declaration of Human Rights promises a world in which everyone is born free and equal in dignity and rights. Yet, it is a shallow promise for many hailing from transgender community who are confronted with hatred, violence and intolerance on daily basis. This paper urged the media to play a more active and significant role in promoting human rights culture across all spheres of society. The paper also stresses on the need for protecting gender rights of the sexual minorities, and making all sections of society more aware of what they were entitled to as per the rights under the Indian Constitution and the Indian Penal Code (IPC).

**Key Words:** Human Rights, Marginalization, Media, Third Gender & Transgender

**1. Introduction:**

One of the most common sights in metropolitan cities in India particularly at the traffic signals-is a group of transgender women, hijras attired in Indian traditional sarees, aggressively begging from those in cars-asking for more when given just coins, blessing those who give them money, cursing those who do not. Many give them cash to avert being touched or cursed by them-their touch pollutes and their curses come true, according to the beliefs. We may encounter them on the train too. Most people see the transgender from just the perspective of their aggression in begging and nothing else. Little attention is paid to their dismal lives.

It is shocking to see how our society has ignored, sidelined and punished another human being on the basis of their sexuality. As a human being it is important to understand the world beyond binary, the whole spectrum of sexualities, the need to be accepted and given equal social and political space and ultimately right to be free in ones skin with dignity. The Transgender community, also known as sexual minorities in India, are at the crossroads where public opinion spans a range of supportive and opposing views on assertion of their identities and rights in the larger Indian context. The mass media, like newspapers and television, has played a key role in the discussion visibility, assertion and activism around the sexual minorities. The mass media has played a two pronged role in this regard: firstly by bringing to the forefront, issues and concerns pertaining to the community; secondly, through a discussion on the rights and application of those rights. In both ways, how sexual minorities are represented becomes extremely important.

While the prevailing societal, cultural and religious values and norms influence public opinion, it is the mass media that exposes people to rest of the world and gives space to new ideas and marginal views. Hence, it is very important that there should be correct, representative and balanced portrayal of sexual minorities in the mass media. There is a gap, especially in the regional language media, pertaining to not just an understanding of basic terms and terminologies but also of the issues involved. It is being observed that either directly or indirectly, personal opinion of media personnel affects objectivity of the reporting. This has also led to introspection amongst organizations working for the sexual minorities on 'have we tried to change things for better in media?'

**2. Some Key Terminologies:**

**Transgender:** A transgender person is someone whose gender expression does not correspond with the socially expected gender roles and performance attributed to one's sex at birth. Transgender male to female is referred as 'trans-woman' and female to male as 'trans-man'.

**Third Gender:** The term third gender and third sex describe individuals who are categorized (by their will or by social consensus) as neither man nor woman as well as the social category present in society that recognize three or more genders.

**Transition:** When a person is undergoing the sex reassignment process, that state is called transition.

**Hijra:** Hijras are biological males who reject their "masculine" identity in due course of time to identify either as woman, or "not-men", or "in-between man and woman", or "neither man nor woman".

**3. Research Objectives:**

- ✓ To study the role of media in combating gender discrimination and violence in India.
- ✓ To study the role of media in protecting Transgender rights.
- ✓ To study the coverage of issues related to Transgender people in media.

**4. Research Methodology:**

The research paper is written on the basis of case study done on the various issues related to Transgender community and the interventions of the media for the inclusion of these sexual minorities in India. For this purpose the coverage of issues related to transgender community in media have been studied. To some extent their reasons have also been tried to find out. The research paper is written on the basis of secondary data collected from various articles, journals, publications, books and online sources.

**5. Fight for Acceptance and Social Inclusion:**

Transgender people are individuals of any age or sex whose appearance, personal characteristics, or behaviours differ from stereotypes about how men and women are 'supposed' to be. Transgender community in India is the most backward community which is rejected and socially excluded from participation in any social activity. They are forced to live on the fringes of Indian society. They are rejected, ridiculed, ostracised wherever they go and any relation with them is seen as taboo. They earn their livelihood by singing "badhai" (blessing) songs on ceremonial occasions and occasionally engage in sex. Though we talk of equal rights for every individual in democracy, the transgender had no right of their own till 15 April 2014, when the Supreme Court of India declared 'transgender' to be the 'third gender' in Indian law and asked the government to provide them legitimate space in India. 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 appreciate the innate feelings of the members of the transgender community, especially of those whose mind and body disown their biological sex" (2014:1).

Any individual effort by them to get a job other than their accepted profession of begging or singing "badhai" is thwarted by stating that they are destined to remain as they are by God. Their everyday experience is filled with discrimination, shame and harassment leading to a strong rejection of their identity which further makes them extremely vulnerable to violence, sexual assault, molestation and rape as no cases are reported in police stations because of their silence against such happenings. Their enrolment in educational institutions is near zero and same is the case with their employment. They never avail essential services like healthcare due to fear of rejection and discrimination. Their access to public places like cinemas, malls, restaurants is very limited and the use of public toilets is a big problem as there are no separate toilets for the transgender community.

From hiding to pride, from passing to what some dismissively call flaunting, the shift in visibility of lesbian, gay, bisexual, and transgender lives in India over the past several years is nothing short of revolutionary. It began perhaps, with the creation of an HIV infrastructure for India in the 1990s and the public controversy over the film 'Fire' in 1996. It gained momentum over the next decade, as activists built organisations and publications, and the community gained the collective confidence. The most significant indicator of its progress had been the July 2, 2009, ruling of the Delhi High Court. As an outcome to this, now people could gather in private parties and public spaces without the fear that the police would raid them. Underground organisations could make their work more visible, community businesses could emerge, events could be publicised. Gender and sexual minorities have had a troubled existence in the Indian subcontinent. The genderqueer identities of gay, lesbian, bisexual and transgender communities are discriminated against because of the provisions that exist in law. Section 377 of Indian Penal Code ensures that any sexual activity by homosexuals and the transgender is 'against the order of the nature' and hence punishable under law. Criminalisation of the gender minorities began with the advent of the British and colonialization of India. Section 377 was enacted during the 19<sup>th</sup> Century. The over 150-year old law (the law was passed in 1861) has ensured persecution of gender and sexual minorities (Joseph 1996). Particularly harsh was the treatment meted out to the transgender communities that could not hide their sexual/gender identity. They were included in the list of Criminal Tribes and their very existence was criminalised in 1871. Persecution were in the form of criminalisation of the entire community and harassment by the state (PUCL 2004). It violates their right to life, autonomy, dignity guaranteed under Article 21, right to equality under Article 14 and their right to expression and freedom under Article 19. However, on Feb 6, 2016, it was decided by the Chief Justice of India T.S Thakur that it will be reviewed afresh by a five-member constitutional bench.

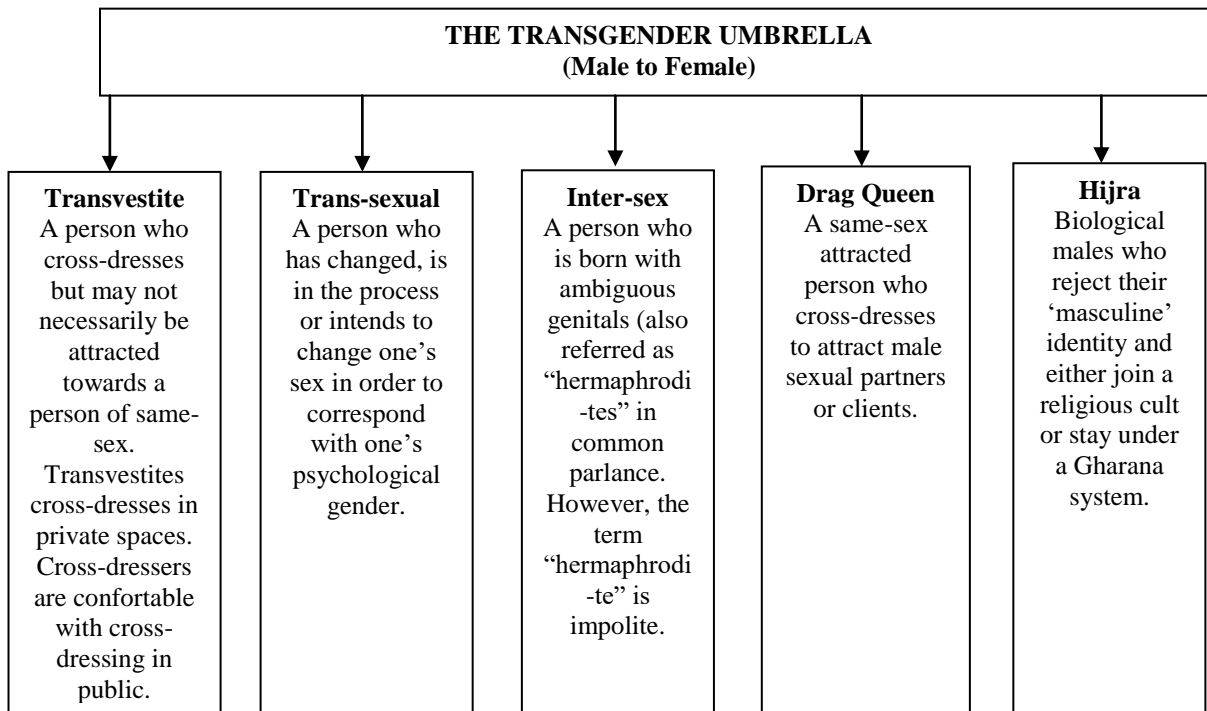
The situation for the sexual/gender minorities was not always this harsh. The existence of the transgender community has been acknowledged even in the ancient epics of the Hindu religion dating back to at least the 3<sup>rd</sup> millennium BC. The Mahabharata has several references to the transgender in the form of the characters 'Brihannala', the form of Arjuna during the 'Ajnatavasa' or the period of exile that the Pandavas ( Arjuna being one of them) have to undergo when they have to live incognito for an entire year, and 'Shikhandi', a woman who is 'reborn' as a man. These two characters are central to the rendition of the Mahabharata (Rajagopalachari, 1958). Some of the transgender communities trace their origins to the Mahabharata. The Aravanis of Tamil Nadu look to Ahiravan or Iravan, a character in the epic as their progenitor (Narain, 2003). The beginning of discrimination that transgender communities face today could be discerned from the reading of the epics too but they were still part of the society and were not marginalised or relegated to the fringes.

It's been more than three years since the Supreme Court formally recognised transgender people as the 'third gender', the community is still braving a battle against inequality and injustice. India got its first transgender mayor, Madhu Bai Kinnar, in Raigarh, Chhattisgarh, who also happens to be from the Dalit community and also hired its first transgender college principal, Dr. Manobi Bandopadhyay, who unfortunately resigned from the post yesterday blaming the staff of 'non-cooperation'. The community is also fighting for their basic needs-like separate toilets to start with. So far, the community has received the much-awaited acceptance from the Indian Railways and IRCTC, Bollywood and fashion industry, and on the education front; but then, are these small steps a giant leap for mankind, or just some straws in the wind that indicate a gradual change in the society.

It is been observed that media does not take up their issues in a constructive way. Media should stop making cheap programmes that show them in a bad light and help them get more TRPs for their channels. There is 'selective' media coverage that shows sexual minorities in a 'bad' light. There must be better engagement between the media and sexual minority groups. They are being denied education and jobs due to persistent discrimination despite progressive laws in the country to prevent such bias. The transgender community is one of the most misrepresented community in our country. Most transgender people are usually stereotyped as sex workers, beggars or criminals. Being openly transgender is a very brave thing to do in our society, because it's not easy. Transgender is an umbrella term used for people who belong to various gender identities like trans- men,

trans-women, transsexuals, Genderqueer, Hijra, Gender Fluid etc. In India, due to lack of awareness, people often call anyone who is a little effeminate Hijra. Even gay people have often been called Hijra in our country. Most of the times, it is done with a negative intention. It's not wrong to be Hijra, it's just very wrong to stereotype all transgender people as Hijra and burden them with cultural identities he or she does not identify with.

Gender-based violence has always been a blind spot for the mainstream media as it requires a dismantling of hierarchies present in the mind. But more egregious is the complete erasure of such brutality on LGBTQ bodies, be it by the way of street harassment, sexual assault, abuse due to section 377, rape or murder. Many people hailing from the LGBTQ community feel safe neither on the streets, nor in the custody of law. It's high time that we change this.



## 6. Transgender Rights and Laws in India:

Human Rights are in fact, basic necessities in the form of certain claims of an individual recognized by the society and the state, without which one cannot live as human being. Every individual has, therefore, certain rights which are inherent in all individuals irrespective of their caste, creed, sexuality, gender etc. Human rights are integral to all the genders: male, female and the third gender. D.D. Basu defined Human Rights as those minimum rights which every individual must have against the state or other public authority by virtue of his being a member of human family, irrespective of any other consideration. The basic idea of human rights movements emanated after the Second World War and the atrocities of the Holocaust culminating in the adoption of Universal Declaration of Human Rights in Paris by United Nations Assembly in 1948. The case of transgender or the hijra community is totally opposite in this regard as in India though they are given the status of 'third gender', still they are looked down with ridicule and disrespect. The situation of human rights in India is a complicated one, as a result of the country's large size and tremendous diversity, its status as a developing country and a sovereign, secular, democratic republic, and its history as a former colonial territory. The contentious *Transgender Persons (Protection of Rights) Bill, 2016* was introduced in the Lok Sabha by Thaawarchand Gehlot, the Minister for Social Justice and Empowerment in August 2016. The bill seeks to:

- ✓ Define a transgender person
- ✓ Prohibit any discrimination against transgender person
- ✓ Confer right upon transgender person to be recognized as such, and a right to self-perceived gender identity
- ✓ Issue of certificate of identity to transgender person
- ✓ Provide that no establishment shall discriminate against transgender person in matters relating to employment, recruitment, promotion and other related issues
- ✓ Provide for grievance redressal mechanism in each establishment
- ✓ Establish National Council for Transgender
- ✓ Punishment for the contraventions of the Bill

The transgender community is however upset with the bill as it identifies transgender as being "*partly female or male; or a combination of female and male; neither female nor male*". This definition which draws a clinical caricature is a departure from the intention of the original Bill to cleanse society of the stigma it placed on transgender. Moreover, to be recognised as a transgender, an individual have to undergo a medical examination by a District Screening Committee. This is in contrast to the 2014 Bill which gives individuals the right to self-identify their sex. The anti-discriminatory clauses of the Bill are extended to education, healthcare and social security. The provision of earmarking jobs for transgender which was central part of 2014 Bill has been lost in translation.

## 7. Suggestions for Media:

**Consent and Confidentiality:** It is an ethical journalistic practice to seek prior consent of people who are quoted /interviewed /featured in a paper /magazine and in the electronic medium regarding revealing their names and/or publishing their images. Also,

after an interview/or article is written, it is best practice to share it with the respondent and seek their approval before publishing. Confidentiality of transgender people must never be compromised. Mentioning real names, place of work, residence can jeopardize the safety of a person, if done without the person's consent.

**Dramatization of Events:** Unnecessary dramatization of events, especially pertaining to elopement of transgender people, marriages, court cases and disputes should be avoided. While reporting a same-sex marriage, journalists tend to dramatize the event and mention 'garland exchange', 'vermillion application' and so on even where untrue, these events can trivialise the transgender relationship.

**Sting Operations:** Sting operations are in the grey area of journalistic practice. Journalists must not take a righteous, moral stand by engaging in 'sting operations' against transgender people simply because they are transgender. Due to the stigma around being transgender, transgender people may meet, socialise in uncommon venues, use specific signs and code language with each other. Finding out about these venues and signs and code through unscrupulous means and then revealing the hidden community through 'sting operations' may attract eyeballs but this would not only be demeaning to the community people but could also be life-threatening. Also, it can drive a population of the community underground, making it difficult for health workers to reach out to them.

**Identify an Appropriate Spokesperson:** It is important to identify a good individual/representative from the transgender community to get insight into the issues.

**Transgender and Crime:** While reporting crimes, journalists need to ask themselves, is a crime treated objectively or a crime more serious /grave if it is committed by a transgender person? Would you reveal a criminal's sexuality if he/she is a heterosexual? Even if same sex relationship is responsible for a 'crime of passion' or a crime is committed by people who are gay, transgender the headlines and phrases like 'gay crime', 'gay murder', 'gay love angle', 'gay gang', 'gay thieves' and 'terror of Hijras' is not just abuse of the rules of language but also generate an impression that somehow differences in sexuality and gender orientation are interlinked with criminality.

#### **8. Check for Frames Across Media:**

| <b>Frame</b>  | <b>Typical Argument in Support</b>   | <b>Nature of Frame</b> |
|---|--|------------------------|
| 1.Homosexuality is against the Indian culture             | Homosexuality is an import from foreign country, it is against Indian culture, none of the religions allow it.   | Negative               |
| 2.Homosexuality is unnatural                              | How can two men or two women be in love or make love? What is the need for this type of relationship?  | Negative               |
| 3.Homosexuality is responsible for the spread of HIV/AIDS | Homosexual men spread HIV/AIDS due to their insatiable appetite for partners with whom they engage in sex.   | Negative               |
| 4.Homosexuality leads to disturbance in social set up     | Homosexuality can spread/affect young minds and thus is detrimental to society.  | Negative               |
| 5.Scientific approach                                     | Reference to removal of same-sex behaviour from the diagnostic and statistical manual of mental disorder in 1973.                                      | Positive               |
| 6.Rights approach   | Irrespective of their orientation, people have equal rights; LGBT people are also entitled to fundamental rights enshrined in the Indian Constitution. | Positive               |
| 7.Acceptance approach                                     | Relationship stories, stories of coming out, stories of gender identity.   | Positive               |
| 8.Historical approach                                     | Homosexuality has existed in Indian and other cultures since ancient times.  | Positive               |
| 9.Hijras as troublemakers, social nuisance                | Hijras extorting money from people (assuming it's a verifiable fact).  | Objective              |
| 10.Crimes and LGBT  | Crimes committed by or committed against LGBT.   | Neutral                |

#### **9. Conclusion:**

There are countless issues associated with the gender identity of transgender community including discrimination, stigma, lack of educational facilities, unemployment, lack of shelter, lack of medical facilities like HIV care and hygiene, depression, hormone pill abuse, tobacco and alcohol abuse and problems relating to marriage, property, electoral rights, adoption, alienation from family and society, absence of sensitivity, insecure life, forced sex work and begging. With the advancement in media and communication technology people are getting to notice the presence of transgender community. Indian media should make efforts to sensitize people and break the stereotypes associated with this community and represent them in a more mature way so that they are socially accepted by the society. Various Ngo's are working for the rights of the transgender people across different states in India. The transgender people have formed groups to organize protests for their human rights. Unless the basic demands of the transgender community are met, unless the ostracising acts are checked and controlled and unless the welfare programmes reach out to all the people belonging to the community, inclusion of the transgender community cannot be achieved completely. The engagement of the Transgender community –be it with the political class, be it art or films- needs to be proactive. Unless they go out and demand it of the political parties to support them, they will not be able to achieve equal rights. Why is there this silence when we talk about sexuality? Why do one have to hide his/her sexual orientation? One doesn't have to hide if one is a heterosexual, they why does one have to hide if one is transgender. This is something which is primary to human existence, to leading one's life with dignity. This silence is not going to help the community and has to end. Being out matters!

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