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Transgender Bill: A Battle against Ideological Barriers

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ABSTRACT

The transgender community in India is ignored and faces discrimination in every field. The community is not provided with health facilities, employment, education etc. Without the proper opportunities available and facing abandoned by their families they are left with no other choice than to beg in order to make a living and survive in this cruel world. The harassment, violence and discrimination faced by the community still remains unnoticed. The Supreme Court as well as the Constitution of India provides various rights prohibiting the discrimination against them, however, the ambiguity relating to the concept of gender and the rights of the third gender still persists.

After the Hon'ble Supreme Court's verdict in NALSA, there has been significant attention drawn towards the rights of the third gender community. Despite some positive steps and recognition of their sufferings the major problems that are faced by the community still remains unaddressed. This Research Paper seeks to examine the position of transgender community after the introduction of Transgender Bill and the recent developments and opportunities provided to them by the Government.

Keywords: Transgender, Discrimination, Constitution, Equality.

I. INTRODUCTION

The distinction between human gender into male and female is done based upon their genitalia which are biologically designed. Although, in reality, there are many people who do not fit into the specified categories of male and female and defy the biological binary. These are called the Transgender people. The LGBTQ group is referred to as 'Lesbian, Gay, Bisexual, Transgender, and queer community' which includes those with gender dysphoria and associate themselves under different sexual orientation. Transgender people are the most marginalized and vulnerable group within the LGBTQ community who have faced and are facing a range of discrimination from their own loved ones, the State, and the citizens. The society, has criminalized, discriminated and given inhuman treatment to the transgender community². The

¹ Author is a student at Christ Academy Institute of Law, Bangalore, India.

² Safety off shore for transgender people in India <https://www.outlookindia.com/national/why-safety-is-still-a-distant-shore-for-transgenders-in-india-magazine-223472>.

transgender community bear the brunt of criminal threats, sexual and physical violence and even killed due because of their gender choices³. In India some of the regional terms are used to represent the community such as 'Kothi' which signifies a range of feminine identified people, who have been assigned male gender at birth. The other prominent trans-regional identities representing this community are Hijras, Aravani, Jogtas, or Jogappas, and shiv-Shaktis.

The Supreme Court on 15th April 2014 in NALSA⁴ judgment was a ray of hope for the community which gave a definition that define the transgender person as one whose gender identity, gender expression or behavior does not conform to their biological sex. Thus, it could be said that the transgender is a blanket term which is used to refer people with identities that do not get along with the strict dual categories of man and woman. Their gender identity and countenance differ from the conservative norms expected from their birth sex. The Judgment gave recognition to transgenders as a "third gender" relying on the definition in the Yogyakarta Principles and clarifying the distinction between gender identity and sexual orientation. The Hon'ble court addressed the two central questions, first, that the recognition of a third gender category for hijras or equivalent cultural identities in order to facilitate legal rights. The second that transgender persons, for the purpose of law, should be able to identify the gender of their choice, which could be male or female or third gender category. The court also addressed the fact that transgender people are being deprived of many of the rights and privileges which the general public enjoy as citizen of the country.

The transgender people face serious problems of human rights violation in the field of education, health care and contesting elections and regarding their personal freedom, legal protection, family marriage etc. the community is left to harassment in public places, violence and sexual assault at home, in jails, also by the police. Further, in case of Navtej singh Johar v Union of India, Hon'ble Supreme court introduced the concept of the Doctrine of Progressive realization of rights which mandates that the laws of a country should be in consonance with the modern ethos, which should be sensible and easy to apply. The state is under an obligation to take necessary measures for the progressive realization of economic, social and cultural rights.

II. THE GLOBAL VIEW AND LGBTQ COMMUNITY

The world has made a significant progress towards the recognition of gender identity rights.

³ Tripura: Transgender persons face assault, abuse, FIR lodged. <https://www.eastmojo.com/tripura/2022/10/09/tripura-transgender-persons-face-assault-abuse-fir-lodged>.

⁴ National Legal Services Authority v. Union of India & Ors, (2014) 5 SCC

However, in reality the transgender community still suffer some form of violence and discrimination in the absence of concrete laws. The United Nation has passed various resolutions that recognizes the rights of transgender persons and the forms of violence that they suffer. It also mentioned about the extrajudicial killings because of their gender identity.

The International human right conventions do create obligations for the states however, they make no explicit mention of LGBTQ+ community whose identities have been simply interpreted into the original text of Human Rights Council through general comments. The ICCPR's Article 26 prohibits discrimination against any person and provides equal protection to all persons before the eyes of law. The inclusion of transgender persons has been interpreted under the category of "sex". Similarly, Article 9 of the same deals with right to liberty available to "everyone" which through interpretation includes all persons belonging to LGBTQ identity⁵.

The Committee on the Anti-Torture Convention requires special measure to protect transgender persons from torture and provide effective redressal mechanism for the victims of torture. The LGBTQI+ rights are at the mercy of interpretation system which robs them of their voice.

In Denmark, an amendment was passed in 2014 where the people were allowed to obtain new documents changing their identity by few simple administrative steps⁶. Denmark is the first country to implemented a right approach to enforce the right of self-identity. In 2012, Denmark repealed the Act on Registered Partnerships and was replaced by a gender-neutral marriage law defining marriage as between "two persons of different sex or two persons of same sex". The Danish same sex couples are also treated on an equal footing on matters concerning adoption and assisted reproductive technology⁷.

In United states of America, the transgenders enjoy civil and basic constitutional rights. The US Supreme Court in *Lawrence*⁸ has relied on amicus curiae statement that homosexuals and heterosexuals forms a normal part of sexual identity. There is also a ban on discrimination by schools based on gender identity and also recognizes rights to access separate sex programs and facilities which are in consonance with the gender identity. The United States provides safety and protection to the transgenders and their rights.

The Preamble of the Indian constitution mandates justice for all with respect to social, political

⁵ AJ Agrawal, "Need for Recognition of Trans Rights in International Human Rights Law", Centre for Law and policy Research, April 9th, 2020. Available at- <https://clpr.org.in/blog/need-for-recognition-of-trans-rights-in-international-human-rights-law/>

⁶ 'Landmark Transgender Law enforced in Denmark' <<https://www.equalrightstrust.org/news/landmark-transgender-law-enforced-denmark>> accessed 24 June 2020.

⁷ Over the Rainbow? The Road to LGBTI Inclusion, June 2020. Available at- <https://www.oecd.org/denmark/OECD-LGBTI-2020-Over-The-Rainbow-DENMARK.pdf>.

⁸ 2003 SCC online US SC.

and economic equality of status for all. Article 14 and 21 of the Constitution also grants equal protection to all. In addition to that, the Supreme Court also decriminalized adult consensual same sex relationship in Section 377 of Indian Penal Code. The section mentioned a sexual activity in same sex would be “against the order of nature” was illegal. On 6th September 2018, the Hon’ble court ruled that the application of section 377 to consensual homosexual sex between adults was unconstitutional was totally irrational, indefensible, and manifestly arbitrary”. The Court stated that the sexual orientation is natural and discrimination based upon the sexual orientation is a grave violation of the freedom of expression⁹.

Some Indian states have shown their acceptance and acknowledgment towards the rights of the transgender people. In 2008, Tamil Nadu shaped the transgender welfare board that provided social security requirements for the transgender people. In 2015, Kerala turned into the main state that have approach towards the discrimination faced by the transgender people and incorporated Kerala Social Justice Department 2015. The board prescribed the setting up of transgender Justice Board with state minister for social Justice as its Director. The state also made accessible the free sex reassignment medical procedure for transgender people in Government clinics in 2016¹⁰.

III. LEGISLATION FOR TRANSGENDER RIGHTS IN INDIA

The Transgender community is often treated like untouchables and are ridiculed and abused. The community has to undergo with a lot of trauma and pain that we as a society provides them with. The issues relating to transgender community ranges from social stigma to various governmental documents. For this purpose, the Transgender Persons (Protection of Rights) Act, 2019 was passed in the parliament with the objective of providing protection and welfare of transgender community in India.

The first transgender bill was introduced in parliament as a private Bill by Tiruchi Siva, Member of Parliament from Dravida Muunetra Kazagham party. The Bill was passed in Rajya Sabha in 2015 but faced an unexpected delay in discussion of the same in Lok Sabha and as a result of which it remained pending in the Lok Sabha¹¹. After the NALSA Judgment where the hon’ble supreme court recognised transgenders as third gender, and had directed the Ministry

⁹ Navtej Singh Johar v Union of India (2018) 10 SCC 1

¹⁰ Riyaa Singh, “Analysis of Transgender Persons (Protection of Rights) Bill, 2019, Legal service India Available at- <https://www.legalserviceindia.com/legal/article-3199-analysis-of-transgender-persons-protection-of-rights-bill-2019.html>

¹¹ Anuvinda P and Tiruchi Siva, “A Story of Two Bills”, The Indian Express, October 28, 2016, <https://indianexpress.com/article/opinion/columns/transgenders-persons-bill-rajya-sabha-private-member-bill-3195872/> accessed 15 October 2020.

of Social Justice and Empowerment to constitute an Expert committee addressing the issues relating to transgenders and conduct detailed research to understand the needs of the trans community¹². The Expert committee published its report in 2014 following which the government introduced the Transgender Persons (Protection of Rights) Bill 2016 on 2nd August 2016¹³. The bill faced a lot of criticism for being regressive and inferior as compared to 2014 private bill and also had defied many suggestions or recommendations given by the expert committee.

The Bill faced various protests from the community itself as well as the lawyers and was sent to standing committee in September 2016. A new bill was introduced in 2018 which was subsequently passed in December ignoring the various recommendations of the standing Committee. The Parliament passed the bill on 26th November 2019 which came into effect since 10th January 2020. The Act failed to stand up with the expectations as it had various loopholes and neglected the recommendations of the Standing Committee and also defied the NALSA, Navtej Singh Johar judgment and was severely criticised for being poorly researched and executed¹⁴.

IV. LOOPHOLES IN THE TRANSGENDER PERSONS ACT, 2019

The Act loosely used the terminologies of transgender and intersex persons. The Act defines transgender persons in two parts. Under section 2(k), part I defines transgender persons as the ones whose gender does not align with such person's biological gender. Part II deals with the intersex variations, within the ambit of the definition. The definition is problematic as an intersexual persons may or may not identify as a transgender. The Standing Committee report explicates that in 2016 bill it does not include or address the interest of the intersex persons as concerns of transgender persons. However, the ministry gave a clarification that re-wording the title of the Bill would not serve any purpose as the Bill uses the Transgender as an umbrella term which is applicable to the intersex persons as well.

The Act becomes problematic from the fact that it was passed in the Rajya Sabha only just after three days of the debate and discussion without any amendments and additional changes made

¹² Radheshyam Jadhav, "Steps to empower transgender community", Times of India, August 7, 2014, available at <https://timesofindia.indiatimes.com/city/pune/Steps-to-empower-transgender-community/articleshow/39831957.cms> accessed 15 November 2020

¹³ Ministry of Social Justice and Welfare, "Transgender Persons (Protection of Rights) Bill, 2016", available at <<https://www.prindia.org/billtrack/transgender-persons-protection-rights-bill-2016>> accessed 16 November 2020

¹⁴ Sanjana Ghosh, "Transgender activists sore over passing the bill in RS", The Hindu, November 27, 2019, available at <<https://www.thehindu.com/news/cities/Madurai/transgender-activists-sore-over-passing-of-bill-in-rs-madurai/article30099378.ece>> accessed December 08 2020

to the Act. It ignored the right of self-determination of identity and confers power upon the District Magistrate to issue certificate of identification to claim benefits under the Act. If the District Magistrate denies to provide the certificate to any persons there is no provision of redressal mechanism where the person can approach and seek justice. The mandatory requirement of medical certification rests on the fact that trans individuals suffers from the psychological disorders. However, the bill proposed to establish screening committee to identify transgender person. It is mandatory of the trans person to apply for the issuance of certificate. The District Magistrate would rely on the medical professional while granting the certificate.

If the person has undergone a sex change surgery, then such person is required to apply for the revised certificate to the District Magistrate. The trans person has to provide a certificate from the medical superintendent or Chief Medical officer of the institution where the surgery took place to the District Magistrate and only after checking the correctness of the certificate will the revised certificate be issued. As per 2011 census there are nearly 488,000 transgender persons in India. However, of 9064 applications were received for the issuance of certificate and ID cards. As per the data of National portal of transgender persons, June 20, 2022 1995 (22%) cases are pending and 1,164 (13%) have been declared not eligible, 16.5% of the applications have been pending for the last 7 to 12 months¹⁵. The trans individuals are also harassed and assaulted by the medical professionals at the hospitals. The transgender community faces harassment and insensitive behaviour due to their gender identity¹⁶.

The Punishment for the sexual exploitation committed against transgenders is also not satisfactory. According to the National Coalition of Violence Group report in 2012, the transgender people are two times more likely to get harassed and abused in relationships¹⁷. The Transgender Protection Act only provides minimum of 6 months and maximum of 2 years punishment along with fine. The Indian Penal Code 1860, also provides for minimum punishment of three years for assault or criminal force used against women with the intent to disrobe her¹⁸. This Discrepancy leaves transwomen vulnerable. The punishment should be

¹⁵VANDANA BANSAL, "WHY ONLY 236 TRANS PERSONS VICTIMS OF CRIMES WERE RECORDED IN INDIA IN 2020", INDIA SPEND, JUNE 23RD, 2022. AVAILABLE AT- [HTTPS://WWW.INDIASPEND.COM/GENDERCHECK/WHY-ONLY-236-TRANS-PERSON-VICTIMS-OF-CRIMES-WERE-RECORDED-IN-INDIA-IN-2020-823034](https://www.indiaspend.com/gendercheck/why-only-236-trans-person-victims-of-crimes-were-recorded-in-india-in-2020-823034).

¹⁶ Tamaghna Banerjee, "Complainant officers designated at medical colleges in West Bengal to deal with the issues of Transgender Community", The Times of India, April, 13th, 2022. Available at- <https://timesofindia.indiatimes.com/city/kolkata/complainant-officers-designated-at-medical-colleges-in-west-bengal-to-deal-with-issues-of-transgender-community/articleshow/90823075.cms>.

¹⁷ Darrick Ing & Tiffany Woods 'Why Talking About Domestic Violence in the Transgender Community Matters, Transgender Law Center' <<https://transgenderlawcenter.org/archives/9392>> accessed 23 June 2020.

¹⁸ Indian Penal Code, Section 354 B.

increased keeping in consideration the history of sexual abuse and sufferings of the community. Even in the situation of rape, the traditional norm makes man as a perpetrator and a woman as a victim of the assault. The maximum punishment for rape under the IPC may include capital punishment for very heinous cases. However, under section 18 of the Transgender Persons Act, 2019, physical, emotional, sexual abuse of a transgender person is punishable merely up to two years with fine. The Act fails to cater the gender gap in the existing rape laws.

In the Justice J S Verma Committee report 2013¹⁹, it recommended amendment to the criminal law to ensure quicker trials and enhance punishments in case of sexual assault cases. The committee said that people of all sexual identities are entitled to protection under the law and possibility of sexual assault on men, homosexuals, transgenders and transsexual is a reality²⁰.

The Transgender Persons Bill, 2014 provided for reservation for the transgenders. However, the current Act is silent on the matter of reservation and does not fulfil the expectations of the community. The Bill of 2014 provided for 2% reservation for the trans people in government and government aided schools for primary, secondary and higher education. They were also provided for reservation in the Government establishments. The NALSA judgment had held that the transgender community should be treated as socially and economically backward and on basis of that should be provided reservations. The High Court of Madras in the case of *Swapna v Chief Secretary*²¹ also directed the state to formulate a scheme for reservation of transgenders. The issue before the court was that only 3328 transgender persons in the state of Tamil Nadu were issued the identity cards. The plea before the court was that instead of giving reservation as part of MBC category, it may be useful by giving a percentage or a post-based reservation which is at least one post in an office made available in different categories. The court looked into the same and directed the other party to take decisions with regards to the same. The court recognised the shortfall of including the transgender persons under the MBC category.

The Department of Social welfare, women and child development of Chandigarh administration had held their 10th meeting of the Transgender Welfare Board discussing the provisions of Transgender Persons (Protection of Rights) Act, 2019 and Transgender Persons (Protection of Rights), Rules 2020 and ensuring various actions to be taken on various issues

¹⁹ Report of the Committee on Amendment to Criminal Law. Available at- https://adrindia.org/sites/default/files/Justice_Verma_Amendmenttocriminallaw_Jan2013.pdf.

²⁰ JIGYASA MISHRA, "RAPED, MOCKED BY POLICE FOR SEEKING JUSTICE: INDIA'S RAPE LAWS DO NOT COVER TRANSWOMEN", ARTICLE 14, JULY 7TH, 2022. AVAILABLE AT- <https://article-14.com/post/raped-mocked-by-police-for-seeking-justice-india-s-rape-laws-do-not-cover-transwomen--62c65919a04a3>.

²¹ Writ Petition No. 31091/2013 5th July 2016.

related to the welfare of the community²². Recently, the Patna Governor had stressed the need for ensuring the higher education facilities being available for transgender community. The Governor stressed upon the importance for providing opportunity to the community and their struggle in getting enrolled for higher studies in the universities²³. The Jharkhand Government had also announced that the members of Transgender Community who were above 18 years of age and carries an elector's card of the state will be provided 1,000 Rupees per month as a social security pension²⁴.

V. TRANSGENDER MARRIAGE IN INDIA

The Constitution of India under Article 14 provides for the right to equality, whereas, Article 15 prohibits the discrimination on the grounds of religion, race, nationality, gender or place of birth. Article 21 protects the right to life and personal dignity of the citizens. The Universal Declaration of Human Rights protects all the people, irrespective of their sex, sexual orientation or gender identity are entitled to enjoy the protections provided for by international Human rights law, including in respect of right to life, security of person and privacy, the right to be free from torture, arbitrary arrests and detention, free from all forms of discrimination.

With all the protection provided to the transgender community both at international and at national level it lacks enforcement. In the case of *Arunkumar v Inspector General of Registration*²⁵, the court dealt with the question of right of transgenders relating to marriage. In the present case the transgender woman identified by the name of Sreeja, wished to marry a man by the name Arunkumar. The Inspector General of Registration denied the registration of the marriage under the Tamil Nadu Registration of Marriages Rules, 2009²⁶, because the bride under the Hindu Marriage Act 1955 needs to be a woman and in the present case shreeja was not a woman. The Madras Court diverged with the assessment of the registrar and said that there is one premises or grounds that is to be understood prior to determining whether the transgender woman can marry a man in the current legal scenario of the country. In the matter

²² "UT officials discuss welfare of transgender community in meeting", The Times of India, July 15th, 2023. Available at- <https://timesofindia.indiatimes.com/city/chandigarh/ut-officials-discuss-welfare-of-transgender-community-in-meeting/articleshow/101771979.cms>.

²³ Simrah Khursheed, "Guv: will ensure higher edu for transgender community", The times of India", July 27th, 2023. Available at- <https://timesofindia.indiatimes.com/city/patna/guv-will-ensure-higher-edu-for-transgender-community/articleshow/102155078.cms>.

²⁴ Madan Kumar, "Transgender People in Bihar to demand pension for community adults", The Times of India, July 10th, 2023. Available at- <https://timesofindia.indiatimes.com/city/patna/transgender-people-to-demand-pension-for-community-adults/articleshow/101622089.cms>.

²⁵ *Arunkumar v. Inspector General of Registration*, (2019) SCC Online Mad 8779.

²⁶ Tamil Nadu Registration of Marriages Rules, 2009, R. 5(1), Tamil Nadu Government Gazette, Extraordinary, Part III Section 1(a).

dealt Sreeja who was a transgender woman, an intersex person who was assigned as female, however, in her school records she is a male and in her Aadhar card it is mentioned as the third gender. Sreeja had the option to choose whether she identified herself as a male or female for the purpose of marriage. The Court said that the term bride under the Hindu Marriage Act cannot have a static meaning and must be interpreted in the light to the current legal scenario. Through this judgment there are justifications pertaining to transgender woman to be considered as a bride under Hindu Marriage Act.

The court relied on Article 16 of the Universal Declaration of Human Rights which includes the right to marry as a human right. This was also reiterated in case of *Shafin Jahan v Asokan K.M and Ors*²⁷ where the right to marry any person was held to be the integral part of Article 21 of the Constitution of India. The court also took reference of *Obergefell v Hodges*²⁸ in which the Hon'ble court noted that it would be a contradiction in respect of recognizing right to privacy with respect to other matters of family life and not with respect to the decisions to enter the relationship which happens to be the foundation of the family in society. The transgender community cannot be denied benefits of social institutions that are already in the place of mainstream and are covered under the ambit of the constitution.

The gender identification will have to be put through the bureaucracy of the system, in the absence of which the fate of the transgender people will always remain uncertain. The Special marriage act can play an important role through its interpretation, done in a manner that would be devoid of the premise of heterosexuality of marriage.

VI. ENTRY OF TRANS IN SPORTS

The inclusion of transgenders in the field of athletic competitions has been a debate all over the world. The main issue is the men masquerading themselves as women and taking part in the elite competitions that are only for women. The debate of allowing transgenders is based upon the biological difference in the bodies of both the male and the female. The performance disparities between the male and female are based upon their assigned sex at birth, which does not appear until after puberty. The transgender women do have a muscular advantage while competing with the cis women. However, there is a lack of data which shows that the increased level of testosterone is related with the improvement in the athletic performance.

It has been recognised that the testosterone drives muscle mass and as a reason there exists a clear sex difference. Also, the bone structure and the bone length changes and progresses in

²⁷ (2018) 16 SCC 368, AIR 2018 SC 1933.

²⁸ ET AL. (2015), No. 14-556.

both male and female during puberty. The estradiol and testosterone have a very important role in the bone growth. The effect of testosterone is stronger as there is 10% increase in the bone mass and density and the larger and longer bones seen in the post- pubertal males. These differences provide males with increased fulcrum power, improving jumping, throwing, and other movements that requires explosive actions. The sex difference in bone shape that is driven by early life testosterone exposure can affect athletic performances. Noting everything, the transgender woman athlete should not get any advantage from her prior testosterone driven physiology. It is clear that the male physiology cannot be reformatted or changes to female physiology simply by gender affirming estradiol therapy²⁹.

VII. ENTRY OF TRANSGENDER COMMUNITY IN THE ARMED FORCES

The Standing Committee on Personal, Public Grievances, Law and Justice to Rajya Sabha on 3rd August presented a report and proposed that the Ministry of Home Affairs should consider the matter of extending the reservation benefits to transgender people in the Central Armed Police Forces and implement measures to facilitate their recruitment. The report addressed that the transgender community has been marginalised and has faced social discrimination in various occasions. However, the proposed inclusion of transgenders in armed forces has raised discussions and debates over this matter.

In 2019, the former Chief of the Army Staff, General Bipin Rawat, expressed his views on the LGBTQ community and stated that homosexuality in army is seen as “Unacceptable”. According to him the army, as an institution holds a conservative outlook and has not undergone any modernization in this regard and acknowledges that certain rights afforded to civilians may not be extended to members of the armed forces³⁰.

There also persist an argument that the transgender people are unfit for the services. However, there is no practical evidence that supports this argument. The Kerela High Court in the case of Hina Haneefa v State of Kerala³¹ took a progressive approach and gave a verdict that whoever fulfils the legal requirements should be eligible for the enrolment in the NCC unit as per their self- perceived gender identity. Justice Anu Sivaraman gave this landmark verdict stating that the transgender person has the right to be recognised as per their self- perceived

²⁹ ALISON K HEATHER, TRANSWOMAN ELITE ATHLETES: THEIR EXTRA PERCENTAGE RELATIVE TO FEMALE PHYSIOLOGY, THE NATIONAL LIBRARY OF MEDICINE, AUGUST, 2022. AVAILABLE AT- [HTTPS://WWW.NCBI.NLM.NIH.GOV/PMC/ARTICLES/PMC9331831/](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9331831/).

³⁰ PRIYA KUMARI SHUKLA, “THE 360° UPSC DEBATE | INCLUSION OF TRANSGENDERS IN THE ARMED FORCES?”, JUSTICE NEWS, AUGUST 24TH, 2023. AVAILABLE AT- [HTTPS://WWW.JUSTICENEWS.CO.IN/THE-360-UPSC-DEBATE-INCLUSION-OF-TRANSGENDERS-IN-THE-ARMED-FORCES/](https://www.justiceneeds.co.in/the-360-upsc-debate-inclusion-of-transgenders-in-the-armed-forces/).

³¹ W.P.(C).No.23404/2020

identity and the NCC cannot by any means deny their enrolment just based upon their identity. This decision enabled the opening for the transgender individuals in the military that would constitute a significant change and advancement towards achieving equality. In India, the state of Tamil Nadu was the first state to appoint the first transgender Police Officer back in 2015. The central state of Chhattisgarh was the first to actively recruit the members of transgender community in its police force. The guidelines for recruiting the LGBTQ community members in the police were kept unaltered and the same rules were applicable for recruiting the transgenders for the police force³².

The Indian Army implements the rigorous set of regulations to govern the behaviour of the army personnels in service. The issue of rejecting the possibility of admission of transgenders in serving the army needs to be addressed and that transformation ought to originate internally. The modernisation of the Indian army should not only be limited to the weapons but also including the enhancement of their perspectives and perceptions.

VIII. CONCLUSION

The Transgender community in India, today, still faces the intolerance, stigma, discrimination and violence against them. It is the duty of the state to provide them with a safe space and protect their rights. There needs to be a legislation that deals exclusively with their rights and provide them opportunities. Affirmative actions should be taken to deal with the matter of discrimination faced by the community and wipe out the stigma. The awareness of gender diversity and educational equity is a dire need. The government should implement policies and practises that promote the health and safety of the community and provide them equal opportunity in the field of availing education, job, health care facilities etc. it is hence necessary to make laws or implement laws for the upbringing of the transgender community to the basic podium of human dignity and enhance the consciousness of every individual towards the third gender and change the outlook of the society towards this community.

³² “Chhattisgarh becomes the first state to recruit transgenders in police force”, Times Now News, May 4, 2018. Available at- <https://www.timesnownews.com/india/article/chhattisgarh-becomes-the-first-state-to-recruit-transgenders-in-police-force/224444>.