

Transgender And Education: Scope, Challenges Ahead In Pandemic Times

Dr. Sonika bhardwaj

Associate Professor

Department– School of Law

Christ (Deemed to be University)

Central Campus Bangalore India

sonikabhardwaj@christuniversity.in

Ms. Bhargabi baruah

Research Scholar

Department– School of Law

Christ (Deemed to be University)

Central Campus Bangalore India

bhargabi.baruah@res.christuniversity.in

Abstract:

The term 'transgender people' is generally used to describe those who transgress social gender norms. The Transgender often face discrimination and are deprived of rights and privileges which heterosexual person enjoys. The legal system of a country should be such that it provides equal opportunity to all person “irrespective of their religion, belief, political opinion, race, sex, nationality, heterosexual or homosexual orientation or civil status. The Transgender face a variety of issues like social stigma exclusion, lack of education, poor health conditions, and unemployment issue. Lack of education leaves them extremely vulnerable denying them employment and a social status in the society. Right to education is a basic right of every citizen in a country .Education is an important tool for the growth and development of a nation. Education and empowerment are the two sides of the same coin and it is only through education empowerment is possible. Majority of this community is either not educated or less educated due to which they are not able to participate fully in social, cultural, political and economic activities. In order to include the Transgender to the main stream society empowering them is very essential. Despite of the Right to Education Act and the Supreme Court’s order for inclusion of Transgender in education, reservation quota as OBCs, the issues like access to education and retention in educational institution is still very challenging.

There is an urgent need to address the community’s concern in education sector. It is essential to ensure equal opportunities at all level without stigma and discrimination. Schools and colleges should play a supportive role on the fulfillment of the constitutional mandate of providing education to all the citizen including the transgender community. The Government needs to review the existing education and training schemes such as Sarva Shiksha Abhiyan, Rashtriya Madhyamik Shiksha Abhiyan (RMSA), Jan Shikshan Sansthan (JSS) as they are not inclusive and have not addressed the concern of the community

INTRODUCTION

The term 'transgender people' is generally used to describe those who transgress social gender norms. Transgender is often used as an umbrella term to signify individuals who defy rigid, binary gender constructions, and who express or present a breaking of culturally prevalent stereotypical gender roles. (Chakrapani, 2010) A generic definition of transgender person is that who chooses to identify himself/herself with a gender different from the one assigned at the birth.

The Transgender often face discrimination and are deprived of rights and privileges which heterosexual person enjoys. The legal system of a country should be such that it provides equal opportunity to all person “irrespective of their religion, belief, political opinion, race, sex, nationality, heterosexual or homosexual orientation or civil status. The Constitution of India in bold letter has enshrined the concept of equality which is antithesis of arbitrariness. The Transgender face a variety of issues like social stigma exclusion, lack of education, poor health conditions, and unemployment issue (Philip, 2018). Lack of education leaves them extremely vulnerable denying them employment and a social status in the society.

Right to education is a basic right of every citizen in a country. Education is an important tool for the growth and development of a nation. Education and empowerment are the two sides of the same coin and it is only through education empowerment is possible. Education helps in achieving knowledge, skills, employment and active involvement with society. Empowerment on the other hand is an important process to enhance one’s dignity, quality of life and effective use of rights.

The transgender in India are highly marginalized and are seriously lagging behind on human development indices mainly in the area of education and employment. Majority of this community is either not educated or less educated due to which they are not able to participate fully in social, cultural, political, and economic activities. In order to include the Transgender to the main stream society empowering them is very essential. It is imperative to raise the literacy level among the Transgender in order to provide them better life and to include them in the society.

Despite of the Right to Education Act and the Supreme Court’s order for inclusion of Transgender in education, reservation quota as OBCs, the issues like access to education and retention in educational institution is still very challenging. They face a huge amount of discrimination in educational institutions as a result they quit education.

There are several legal provisions in India to protect and promote Right to Education .On International level the UDHR and several other Convention and treaties such as ICESCR, CEDAW, Conventions on rights of Child protects Right to Education. The Indian Constitution provides enormous rights with regard to education which are enumerated in Art 21 A, Art 45.

Moreover the global pandemic has a severe impact on every sector and the entire education system is going through a transformation. It has affected every individual’s life but the most victimized is the marginalized class. The transgenders are already lagging behind in the field of education and pandemic has bought further more challenges.

There is an urgent need to address the community’s concern in education sector. It is essential to ensure equal opportunities at all level without stigma and discrimination. Schools and colleges should play a

supportive role on the fulfillment of the constitutional mandate of providing education to all the citizen including the transgender community. The Government needs to review the existing education and training schemes like Sarva Shiksha Abhiyan, Rashtriya Madhyamik Shiksha Abhiyan (RMSA), Jan Shikshan Sansthan (JSS) as they are not inclusive and have not addressed the concern of the community.

RESEARCH METHODOLOGY

The research has employed doctrinal and descriptive method. The research has examined the legislation and policies relating to education with special reference to transgender. The researcher has examined the legislative and judicial standpoint on the issue to ascertain the scope and ambit rights available to transgender. The research has also examined the impact of covid on education system to understand the burden passed on transgender within education system. The research highlights the scope and challenges ahead in matter of education for transgender community in India.

RESEARCH QUESTION

1. What is the status of Transgender in matters of education?
2. Whether Transgender are given equal opportunities in matters of education in India?
3. What are the major challenges faced by Transgender in India?
4. Whether Transgender children are covered under the Right to Education Act?
5. What is the role of education in empowering the Transgender.

JUDICIAL VIEWPOINT

After the Nalsa judgment it is reaffirmed, everyone is entitled to enjoy all human rights without discrimination on the basis of sexual orientation or gender identity (Dutta, 2014). Discrimination on the basis of sexual orientation or gender identity includes any distinction, exclusion, restriction or preference based on sexual orientation or gender identity which has the purpose or effect of nullifying or impairing equality before the law or the equal protection of the law, or the recognition, enjoyment or exercise, on an equal basis, of all human rights and fundamental freedoms. Discrimination based on sexual orientation or gender identity may be, and commonly is, compounded by discrimination on other grounds including gender, race, age, religion, disability, health, and economic status.

The Supreme Court further has imposed obligation on the States. It held firstly held that legislative action must be taken to ensure equality and non-discrimination in both public and private sphere at both national and state level. Secondly to provide secure environment for advancement of gender diverse individual to enjoy equality and grow within spheres of society. Thirdly to take active measures to ensure availability of quality training and education support to increase awareness and eliminate the substantial bias prevalent in society.

Despite the affirmative action by the Supreme Court the disparities remain substantial among the transgender community in India. Majority of the population is uneducated or undereducated thereby excluding them from participating in social, cultural, political and economic activities. Transgender

community continue to face discrimination and exclusion from the society which has attributed to the poor participation of transgender persons in educational activities. (Rajkumar, 2016)

TRANSGENDER AND EDUCATION

Education is important for the growth and development of a person and its mental capacities. The term 'education' has been interpreted by different researchers in various ways. Individuals differ in their perspectives and viewpoints regarding education. Some individuals refer to it as formal schooling or lifelong learning. Some refer to it as acquisition of knowledge, and skills. (McKibbin, 2017) When individuals recognize the significance of education, they are able to sustain their living conditions in an efficacious manner, meet livelihoods opportunities and turn out into moral and ethical human beings.

The transgender population had never been counted before 2011 census. Unfortunately, in Census 2011 first time transgender persons were put on count and the total population was estimated approximately in range of 4-9 lakh in our country. The census data also revealed that the literacy level in the community, just 46 percent, compared to 74 percent literacy in the general population (Chandra, 2017). It is quite evident from the reports that the transgenders are lagging in the field of education. Sadly, there is no adequate data to at present time to analyze educational status, literacy, literacy in different age groups and dropout at different levels of education.

The transgender community due to a variety of reason are denied basic education which ultimately leads to their exclusion in the society. There are many factors responsible for the low level of education of this community, but main reasons are exclusion from family/society, poverty, social stigma and discrimination, insensitive attitude of teachers/staff, violence, and sexual abuse vulnerable.

Following are the reason which has led to the exclusion of Transgender in education sector

- High level of stigma and physical, sexual, emotional violence leading to most of them dropping out of their studies
- Exclusion from family and society
- Insensitivity of the teachers and fellow students towards them
- High dropout rate and low average of school years
- Low level of education either push them to other occupations like sex work making them more vulnerable to HIV/STI, or force them to take sub optimal jobs like begging.
- Social structure of transgender community
- Lack of skill based education opportunity

As they are poorly educated, they lack in knowledge and are unskilled making it hard to find any employment opportunities. Due to lack of education, they are unaware of their rights and thus vulnerable resulting into exclusion.

TRANSGENDER AND RIGHT TO EDUCATION ACT 2009

The Right to education Act ensure that all the children should have access to education, irrespective of their caste, creed, sex, religion or gender. The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE) makes education a fundamental right of every child between the ages of 6 and 14. This Act provides the scope to pursue and complete the elementary education without any kind of fee or charges or expenses. It is the responsibility of the government of every respective states to ensure the implementation of this act. Moreover it is an inclusive act which recognizes the right of the children of every community irrespective of gender identity or orientation but sadly speaking the dropout of transgender children from schools are very high. This dropouts are due to the discrimination and abuse by the teachers and the fellow students. Sensitizing the problems of the transgender children by the teachers may help them in inclusion .The teachers need to be trained to handle such children's with outmost care. Along with the teachers cooperation is required from the fellow students in order to maintain classroom dynamics, creating adequate motivating learning environment and in attaining the learning goals. It should be the outmost focus to create stigma free class room environment or schools for better learning of transgender children.

A most common problem faced by the Tran's children in schools are lack of proper infrastructure. Most of the schools do not have proper rest room facilities separately for trans children which makes them feel uncomfortable Education for transgender children are equally important like others, but the main problem is our schools and colleges lack the facilities for inclusion of the Tran's children. It is the duty of the management of the school to provide an environment where they are comfortable and don't face any stigma

It is also seen that the present educational and training scheme like Sarva Shiksha Abhiyan, Rashtriya Madhyamik Shiksha Abhiyan (RMSA), Jan Shikshan Sansthan (JSS) don't address the concern of the transgender. The Sarva Shiksha Abhiyan which is a vehicle for implementation of RTE Act, do not have separate training program for the teachers to deal with the transgender children's. A different mode of training and pedagogy should be prepared to train the teachers to deal with tran's children.

It is the need of the hour that States should include transgender children among disadvantaged group so that they are also admitted in private schools under section 12(1) (c) of the RTE Act and they are no longer denied education.

IMPACT OF PANDEMIC ON TRANSGENDER EDUCATION

The global pandemic has made an impact on every individual's life but it needs to be acknowledged that this pandemic has hit the poor and the most vulnerable the hardest .The pandemic has further highlighted the inequalities prevalent in all regions of the world. It has further aggravated the problem of social exclusion, violence, stigma, and discrimination towards the transgender (Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, 2020)

In India the National Human Rights constituted a Committee on Experts on "Impact of Covid 19 on Human Rights and the future responses" with the objective to assess the impact of the Covid 19 pandemic on human rights on the marginalized and vulnerable. The objective of the commission is to advice the central ministry and states in ensuring promotion and protection of the transgender.

There are clear indications that transgender community has suffered in various ways such as unemployment, lack of livelihood, poverty, poor health condition (Pandya, 2021). Due to lockdown they are forced to stay with their family who are not supportive of their sexual and gender identity. Furthermore in the field of education it is clearly seen that the transgender are clearly lagging behind and the pandemic has amplified the issue.

There are various changes and challenges that the pandemic has brought in the field of education. Education system itself is going through a transition as it has become digitalized (Schleicher, 2020). The lockdowns in response to COVID-19 have interrupted conventional schooling with nationwide school closures and the only alternative method available was learning through online platforms. This crisis has exposed the many inadequacies and inequities as learning will be confined to students from privileged backgrounds, supported by their parents. The transgender students will face a variety of challenges in online learning such as access to computer, broadband which is a minimum requirement for online learning. While the educational community have made concerted efforts to maintain learning continuity during this period, children and students have had to rely more on their own resources to continue learning remotely through the Internet, television, or radio (Schleicher, 2021). Learners in the most marginalized groups, don't have access to digital learning resources.

Moreover online learning needs a supportive environment whereas most of the transgender lack the support of their families which will ultimately lead to the high dropout of the student from educational institution.

With the change of education system the role of teachers are also changing. Teachers also had to adapt to new pedagogical concepts and modes of delivery of teaching, which must be inclusive and must be effective towards the transgender student. Proper training is required to cope up to the current situation.

The covid has accelerated the gap between transgender student and education and which needs to be tackled very wisely by the Government.

THE WAY FORWARD

This historic judgment of the Hon'ble Supreme Court of India on 15 April 2014 upheld the Constitutional rights of Transgenders (TGs) by emphasizing the fact that they ought to be treated as equal citizens in every sense of the term. The judgment has also directed the Central and State governments to extend all help to the Transgenders by considering them as OBCs for the purposes of education and employment in order to lead a life with dignity in society

The Transgender Person (Protection of Rights) Act 2019 which has been passed by the Parliament is a welfare legislation and has specific provision deals with the matters of inclusive education without discrimination. As per as the direction given by the Supreme Court several positive steps have already been taken by many states to accommodate the issues of the Transgender. It is also collective responsibility of every state to adopt the following steps which will help the trans student to avail fundamental right to get basic minimum education.

The following policy will help the Transgender student to pursue their education without any social discrimination.

I. Identification of the Transgender students in schools and colleges is essential .The educational institution should be extremely careful in managing their special needs and create an academic ambience congenial to them.

II. Equal opportunities have to be provided to transgender students so that they can efficiently compete with heterosexual students. The schools and colleges should be open to admission to all students irrespective of their gender identity

III. The schools and college have to provide a safe environment for the transgender students. Colleges should implement anti-ragging laws for the protection of TG students. Counseling Centre should be there in every institution.

IV. The transgender should be provided with entitlements and scholarships. They should be provided admissions by reserving seats to them in all courses with scholarships. Hostel facilities should be provided in Colleges/University at subsidized rates.

V. Schools and colleges should provide for transgender friendly infrastructure. Educational institution should have special washrooms and rest rooms to TG students

VI. Awareness programs should be conducted in educational institution on issues related with transgender. The teachers and the non-teaching staff should have proper training to deal with the issues of transgenders.

The transgender community already faces multiple challenges and social exclusion practices. The Right to Education Act, 2005 is important legislation to initiate the change and secure the minimum right of trans children. Further policy initiatives must focus on impact and skill enhancement learning and special schemes focused on transgender communality. The legislative intervention to secure sufficient number of opportunities at micro unit level will help the endeavor. The following is essential to channel the investment made in education to gainful employment and independence. The education structure must be closely linked and tracked with future employment availability. There must be additional focus on ensuring inclusivity to truly make the community integral part of society.

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