Political Participation of Transgender in India

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Abstract - It is time that the transgender community in India gets political representation, be it Parliament, State Legislative Assemblies and at the level of Panchayati Raj. However, the cis- gender heterosexual society will take time to come to terms with the fact that the transgenders have the same rights as them and that they are human beings too.The issues of the transgender community need to be highlighted better as issues cannot be appropriately represented by the cisgender and their issueshave remained underrepresented for years now. Political presence from the community is an absolute must for any concrete policy changes. Unless the transgenders do not have a medium or a platform to voice their demands and opinions, the policies thus formed won't be effective. It is a vicious cycle in which policy changes for the transgender can be only brought about if they have political representation and no one is ready to give them a chance to participate politically. The present paper highlights the need and important challenges in the political participation of the transgenders in India.

Key words – Political Presentation, Transgender, Parliament, Stigma, Rights

Introduction - There is no formal definition of third gender in India, but people who identify as neither man or woman are commonlyreferredto as Hijras or transgenders. It was only in April 2014 that the Supreme court formally recognised the existence of third gender. While transgenders have existed as an integral part of their society, they have not been completely mainstreamed yet. The people and the political parties are not open to the idea of a trans person as their representative due to wide ranging reasons. A stigma is attached to them and the society is yet to accept them to the position of power or to trust them as their political representative. They are

subjected to the rigid stereotypes and continues to deny them equal access to opportunities like education and employment opportunities. Even if a few individuals make it through and attain education, become competent for a job, their story is not highlighted. Indian society likes to look at the community through a lens of pity and treat them as destitute.

An urgent need for representation

Transgenders have been given a place in our mythology and epics and have enjoyed a special place in ancient India. It was only due to the discriminatory policies of the British that they were criminalized. As a result, they have been seen as different from the mainstream till date. They lack proper education and mostly enough inclusionary schemes are not available to them to get educated or to learn skills to get a job or employment opportunity. As a result, they have no other option to survive except begging, dancing and prostitution.

Various Legislations regarding Transgender - There have been some major judicial and legislative changes in the past decade or two — the NALSA (National Legal Services Authority vs Union of India) judgment was pronounced on April 15, 2014.It was a landmark decision where the apex court legally recognised third gender/transgender persons for the first time and discussed "gender identity" at length. The Court recognised that third gender persons were entitled to fundamental rights under the Constitution and under International law. Further, it directed state governments to develop mechanisms to realise the rights of third gender/transgender persons. It also directed the Central and State Governments to take several steps for the advancement of the transgender community, including:i.Making provisions for legal recognition of "third gender" in all documents ii. Recognising third gender persons as a "socially and educationally backward class of citizens", entitled to reservations in educational institutions and public employment. iii. Taking steps to frame social welfare schemes for the community. This is a landmark decision because it is the first to legally recognise non-binary gender identities and uphold the fundamental rights of transgender persons in India. (Centre for Law and Policy Research,2014).
Then came Transgender Persons (Protection of Rights) Act, 2019which was criticised for its lack of sensitivity and was later revised. In spite of these legislations, the transgender continues to face stigma and social exclusion in the society. Though legislations are an effective way of addressing the issues of transgenders, it is yet to make a potential social impact on their lives.

Issues pertaining to Political Participation of Transgenders -

The cisgender heterosexual patriarchal society will take time to get accustomed to the fact that the third gender has the same rights as them (Das, 2021). Anjali Guru SanjaanaJaan, a transgender, submitted her nomination form to contest elections from a ward reserved for women. The Returning officer of the Election Commission rejected her nomination because she was a transgender stating that there was no ward reserved for transgender persons in the village elections. The petitioner approached Aurangabad bench of the Bombay High Court stating that she has a right to self-perceived gender identity, (Anjali Guru SaanjanaJaan Vs. State of Maharashtra and org) in which the court held that the transgenders have a right to self – identify one's gender as per NALSA V Union of India. It also cited section 4(2) Transgender Persons (Protection of Rights) Act, 2019 that permits a transgender individual to have a right to self-perceived gender identity. The Court held that the returning officer was ignorant of the law and permitted her to contest the elections. While Jaan got to contest the election, the number of transgender candidates who have contested in any Indian election so far is negligible. According to the 2011 Census, there are 4,87,803 trans- individuals in India (anumber that is most likely to have increased considerably since) but their representation in politics has been close to non-existent.

Very few trans-individuals have braved all odds and contested elections but fewer have succeeded. Shabnam Bano aka Shabnam Mausi won an assembly seat in the Madhya Pradesh State Legislative Assembly in 1998 and was in office till 2003. A film was also made based on her life. After Shabnam, Kamala Jaan from Raigarh in Chattisgarh became the Mayor in 2000 and Madhu Kinnar won the same post in 2015. But there has been no representation from the community in the Parliament to date.

What keeps the Transgenders away?

The social stigma and exclusion in the society has kept most transgenders from actively participating in politics. Political representation of the transgenders is hurdled with several questions that must be addressed before transgenders will be able to lead the way. Those who are interested in contesting elections do not get the support of the political parties to enable them to contest elections the lack of willingness on the part of the society, to be more accepting. No party wants to field them as a candidate, as they don't see them getting a vote bank. According to Shree Ghatak Muhuri from West Bengal, the first transwoman to get her marriage certified, "Because we don't feature in their target vote bank. Why would they care about us? The only time a trans-individual is given a ticket is to taunt the opposition that you will be contesting a 'hijra'," said Ghatak. "What I

have understood over these years is that people do not care much about the issues. They look at the people they are voting for and search for someone they relate to or know — thus actors, public figures are fielded as candidates. Why will they field a trans person as a candidate?" she asked.Though fighting an election without a party's support is not impossible it brings down your chances of winning significantly as fighting an election is an expensive affair, right from nomination fees to campaigning.

M Radha contested the Lok Sabha Elections from the Chennai South constituency in 2019. Though she lost the elections we need more like her to represent the transgenders. According to her, "Transgenders have the bravery of men and the compassion of women. I wanted to do something for all the people, especially transgenders and ensure people get what they're owed from government schemes," added Radha.

So, while the issues of the transgender community need to be highlighted better, their issues cannot be appropriately represented by the cisgender and therein lies the major issue of representation. Unless the transgenders do not have a medium or a platform to voice their demands and opinions, the policies thus formed won't be effective.

Conclusion -

In India, we have a spiritual and mythological inclusive history associated with the Hijras. But all these things a took a back seat due to the regressive policies of the Britishers. While the National Legal Services Authority (NALSA) vs Union of India judgment was a progressive judgement but the Transgender Act took it a few steps back as it had initially asked individuals to prove before a board that they are transgenders. The issues of the transgenders are not highlighted as much among the community even though they are an integral part of the larger community. This highlights the need for political representation all the more. Inclusion and sensitivity are the key to move towards a more transgender friendly society and grant them the same rights as the cisgender heterosexuals.Political presence from the community is an absolute must for any concrete policy changes. It is a vicious cycle in which policy changes for the transgender can be only brought about if they have political representation and no one is ready to give them a chance for political participation.

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