



COVID 19 Pandemic Voices from Margins Webinar series

Webinar 29: Transgender Persons Act: Lockdown Fallouts and Lessons

Date: August 19, 2020

Minutes

Profile of Panellists

Thenmozhi is a transwoman from Chennai. She has been a social activist and a trainer for Grammiya Kalaingar for over a decade. As a Transgender rights activist, she has been working with transgender's community from Chennai helping them avail several government schemes for self-employment and has started up to 7 self-help groups. Currently, she has been working as Counsellor for the Tamil Nadu Aravanigal Association in Chennai supporting several transgender persons on health and legal issues.

Gomathi is 48 years old and she works at a community-based organisation of transgender persons. She has been working with transgender community for 25 years. She is an active member of Tamilnadu Transgender Association. In COVID-19 she has helped around 300-400 transgender persons to avail of welfare measures.

Yoga Nambiar (born Sreelesh Nambiar, May 09, 1984) is a Choreographer, Performing Artist, Speaker, Feminist and a Social Activist known for her famous performance "Ardhanareeshwara". She does awareness and sensitization on HIV, Women Rights, Child Rights and Transgender Rights through Dance, Theatres, street plays and by conducting sessions in government schools, colleges, and for corporates.

Priya Babu currently works as Regional Program Manager in 'SWASTI'. She is a social activist, researcher, writer and columnist for various publications. She also played a role of Policy advocacy trainer and College advocacy trainer. In 2009 she received the "su. samuthiram Best Marginalized Community Writer" Award from the Tamil Nadu progressive Writer Association and "life Achievement Award" from Tamil Nadu writers Association.

Rachana Mudraboyina is acting director of Human Rights Law Network on LGBT issues. She is a self-identified sex-worker, Independent activist and founding member of an unregistered and an unfunded collective viz. Telangana Hijra Transgender Samiti. Board member of Aman Vedika – work for homeless children and Need for shelter, Board member of Bhumika a women organisation which runs Sakhi help centres for women in the twin cities of Hyderabad and Board member of Human Rights Law Network (HRLN)

Mona Mishra works as an independent researcher and activist. As a researcher, her work focuses on issues of justice especially in the context of gender, and sexual health and rights. As an activist, she works with grassroots organisations led by members of marginalised communities, helping them connect their crises of survival with national and global policies.

She has held various staff positions with the UN in India over the past 2 decades and continues to work with UNDP offices in Asia and Africa as a senior advisor.

DISCUSSION

Tom Thomas the CEO of Praxis said that the issue with the modern society is that it is overly obsessed with the binaries. The status or purview of viewing things only as good-bad, male-female, upper caste lower caste, married unmarried etc., And in society, we are able to witness the growing emphasis on binaries and for a society that needs to go beyond binaries we seem to be going back on it. The common terms used against the binaries such as “you’re either with us or you’re against us” or “nationalist or traitor” “Hindu or non-Hindu” “with Modi or not with Modi”. As to which the binaries are a big problem in today’s society. We would imagine that with the growing progress and knowledge we would go beyond the binaries but we seem to be taking more steps back into binaries and not celebrating the diversity. Transgenders as an identity symbolises a rebellion against binaries at its very core. Rather than celebrating this diversity, we seem to be scorning and relegating at it. To be scorning at non-binaries is a problem with the views of the individual than a problem itself.

Thenmozhi elucidated on the struggles faced by transgender persons during the lockdown. Most Transgenders were affected drastically as they were daily wage earners and were only into begging and sex work, With the lockdown in place, their problems were exaggerated with increasing rent and lack of societal acceptance. Generally, for transgender’s persons, the rent collected by the house owners is high compared to others and with no means to income or work, they were unable to pay rent nor afford food. Most transgender persons do not have a ration card and this has always been there before and after COVID. Although the government offered free ration most transgender persons have not received it as they did not have a card. The government does not take responsibility nor recognises transgender persons as a part of the society but their lives have been showcased on media as if they’re being supported. Truth be told, in reality, they do not receive any basic benefits and undergo a lot of mental pressure as they have no support. The Transgender Protection Act of 2019 has been announced but not all transgender persons are aware of the act. Only a very few leaders are aware of it and the transgender persons at the grassroots level do not know that the act aims to abolish sex work and begging. With lack of unawareness and no support from families, they have no support. Even though most of the transgender’s that had protested and struggled against the act none of their struggle was recognised. They have only been neglected more than usual. transgender persons have to be considered as a part of society and as a third gender.

Gomathi emphasised on the importance of employment for Transgender persons. In Chennai and other places very, few Transgenders are a part of a CBO or an organisation but the government has portrayed that everyone has a source of employment. During the lockdown, most of the Transgenders were affected badly as they were not able to go out for collecting money or sex work. The government has been clouded by the assumption that with providing employment that issues of Transgenders can be resolved but that’s not true. Transgenders have to be placed in jobs that are long term and also based on their educational qualification such as office assistants, clerks or receptionists.

In 2019 at the CMBT Bus stand in Chennai a market was opened. A police officer had offered to help transgender persons as he offered Rs. 2000 and a place to sell vegetables but no customer had approached the transgenders there. They were unable to sell any of the vegetables. But this would not have been the same if the officer had given a shop and has supported us like the others then people would have approached us.

The government had allotted quarters for transgender persons in a very distant place but most of them had jobs elsewhere so people were unable to commute the long distance. During the lockdown, transgender persons were only sported with relief from various voluntary NGO’s

and CBO's but other than that government hasn't done anything in particular. Even transgender persons working in CBO's or NGO's would be around 400 but all the rest have been only engaged in Sex work or begging.

Priya Babu highlighted the issues on The Transgender Protection Act of 2019. With various protests and struggles few requests were submitted to the government for their help however only a few people have benefitted from this. The transgender community does not have a proper ID card and that's one of the biggest issues and to avail any benefits during the lockdown, documents are important however no bills or legislations have been helpful in his context.

The bill spoke about the representation of the community much however the bill proposed by the government was totally against the community. Imposing punishments for begging, not allowing to stay with Transgenders are few of the provisions proposed in the bill.

Only through extensive research, I was able to understand that these provisions were brought in by the government through The Criminal Tribes Act which also referred to the transgender community as criminals. The act restricted the movement of transgenders and documentation of their properties. As to which the bill proposed by the government also reflects the same provisions. The transgender community is not aware of this Act and the entire act is in English the community is thus not able to understand the provisions of the same. This law should have been translated into regional languages and taken to the community. Otherwise, this will remain restricted only to the activists, leaders and states etc., The provisions of the Act look good in wordings as it talks about the prohibition against discrimination however a lot of things are against the community. For example, the transgender certification one has to go to the Magistrate. Who are magistrates to certify us? Self-identification should have been given prominence. In the present norm, there is no community representation and the entire right rest with the Magistrate which by itself is an absolute Human rights violation.

The Tamil Nadu government had a screening system for providing IDs to transgender however the current act has no community representation. It is only the Magistrate who can provide us certificate there is no community representative allowed in this process. The law requires medical certification to be obtained from a medical supervisor pertaining to surgery certificate. There is a need to fight against it as the law is mandating surgery. The authorities say if we get a medical certificate only then we will be able to attain a transgender Identification. The way they examine screen is humiliating. After obtaining ID card an individual can change only their first name however in our transgender community we do not believe in caste/religion as we all belong to one community. As the surname can remain this as it is seeming to be like encouraging caste. The law also mandates transgenders to stay with family or immediate relatives. In such case staying with family can be problematic as many face discrimination / abuses within their families. The act talks about prohibition discrimination however what about affirmative action? These are important things to think of and consider.

During COVID-19 a lot of people from our community are facing problems as they do not have ID cards. Now, who will be responsible for this? The act talks about NTI Council but it does not talk about the council at the district or state level. There is no mention of the power of the community. Will these ID cards be identified by the government? These are important things to discuss and take it forward.

Yoga Nambiar highlighted about the medical treatment of transgenders. Many transgenders have approached me before going to the doctor. The doctor is not clear whether they will shift to male/female ward and the treatment at the government hospital is not well. Not only the doctors show reluctance in care but also the support staff behaviours remain the same. Even if the surgery has been completed in good hospitals again, they have to come back to the normal hospitals. 95% of the transgender face urinary issues/infections after surgery. The

implants in private hospitals cost around 1 lakh but in government hospitals, it costs mostly around Rs.30,000. But in that case, one has to make later expenses to deal with the after complications of the implant. Still, the mentality of health care providers is regressive. After reaching to hospitals they have denied and delayed treatment and in one such case, - an HIV infected transgender person was kept in a corner and nobody was willing to attend. After many arguments, the transgender person was provided with the bed. Suicide rates are high among transgender persons and seeking treatment and counselling is a challenge for them. The mental health is severely impacted and many at times it drives them into situations of activities the vicious circle of suffering starts.

Rachna spoke about a fact-finding study that had been facilitated on the Right to Food among Transgenders in the state of Telangana. It was found that 95% of the transgender persons don't have ration cards preventing their access to avail ration. Those who have do not have in the gender which they identify themselves. The food card is the basic id for TGs as it is linked with other schemes and benefits. Thus, once they have ration cards it becomes easier to link with other schemes. So due to non-accessibility to ration card TGs are excluded from several benefits. Under the Arogya scheme, the white ration cardholders can get the benefit for several treatments.

Post-2014 judgement the SC directed many state and central govt to help the TG community to get access to schemes. In TN there is a welfare board which is in operation since 2009 and later at 2014 Kerala also formed aboard and has been working towards linking Transgenders with several welfare schemes. To implement the 2014 judgement many activists took this cause forward from several states. Activists had to go to the high court's multiple times for proper implementation of 2014 judgement. Right to food and livelihood has been badly impacted due to COVID-19. The Transgenders do not have savings in the bank they have savings in liquid form cash or gold. Due to COVID-19 they had to spend their savings and accessing rations and medicines was another challenge. After engaging with NAACO provisions were made to deliver ARTs at home. The pandemic has exposed the vulnerabilities that transgender can be subjected and the violation to Right to Food has been explicit in cases of transgender people.

Right to food is linked with Right to livelihood and Transgenders who are in transition faced problem in terms of hormonal changes due to unhealthy and unsafe transitions took place during the pandemic. ART is very important especially for HIV positive Transgenders which if not taken on time then there is a higher vulnerability to COVID-19 as well. Many ART centres were shut thus it was becoming tough to access that as well. Right to housing in the Transgender Protection Act 2019 is in contradiction to the 2014 judgement. We all resisted against the notification of these rules during the time of pandemic as we were not able to consult the community, the language is also a barrier for many to understand the provisions. After which we got some period to conduct some consultations which were then submitted to the Ministry of Social Justice and empowerment. Post-2011 there has been no census of Transgenders community. The Ministry of Social Justice suggested Direct bank transfer of Rs. 1500 as the kit amount. Only 5000 people have been benefitted from this which is 1% of the total Transgenders population. States like Manipur were able to benefit those who did not have any bank accounts. The Trans Rules had a few non-constitutional provisions. The provision of rescue and rehabilitation has also become part of the rules. The local authorities and police have been given the power to do the rescue of those Transgenders who are found in the bonded labour situation

However, there is a higher chance of misuse of these provisions by the police. The only support we have is Transgenders community but if there are attempts to break and end this community this is an inhumane treatment to the Transgenders community.

- Transgenders should get a subsidised ration card in all the states as Right to Food is a constitutional right
- Provide linkage to the welfare schemes as per the identity they identify themselves with
- The need for linkage of social entitlements with gender identity. There is a need of synchronized system so that the illiterate and those living in the remote areas can benefit from the welfare schemes

Mona Mishra During COVID-19 inclusion and exclusion aspects in the society has become very clear. The Transgenders have been completely left out. The data shows that only 5% have documents and ID cards. It is very important to understand why there is so much emphasis on legal documents and papers. There is a need for discussion on problems faced by people due to not having these papers and documents in place. The welfare boards that were formed for Transgenders is a precursor to the judgement. The welfare boards are not operating well and they have not received proper support from the government. Advocacy should be done clearly and unitedly. It is being noticed that the Transgenders networks are not strong and there is a lack of unity thus there is a need for ground-up advocacy. Maybe a separate meeting can be called with the networks for chalking out a common agenda. If the networks are strong and strengthened the cause cannot be ignored at all. Those who have been involved in advocacy have done it without support had they received any support the advocacy would have been limitless. Forming an agenda building up a national vision may help in long term duration.

Q&A Session:

Identity and rights

Question: Courts can place TG Persons in 'rehabilitation centres if they are not accepted by families. What would be their status post this? how long can they be accommodated there?

Answer (Rachana Mudraboyina): The Trans Rules had a few non-constitutional provisions. The provision of rescue and rehabilitation has also become part of the rules. The local authorities and police have been given the power to do the rescue of those TGs who are found in bonded labour situation. However, there is a higher chance of misuse of these provisions by the police. The only support we have is TG community but if there are attempts to break and end this community this is an inhumane treatment to the TG.

Question: The act presently does not address issues about marriage (either before issuance of Certificate or in case of a change in gender after issuance of the Certificate), inheritance, parenthood and adoption. Given that these are basic human rights and that the Judgment recognizes the fundamental rights of TG Community how can this be approached?

Answer (Priya Babu): - In TN a TG got married to a man and was registered under the Hindu Marriage Act so it is important to see whether it is same-sex marriage or the opposite. There is no provision related to adoption so far.

(Rachana Mudraboyina): In TN the HC delivered a judgement which stated TG bride who identifies as Hindu can register under the Hindu Marriage Act. There are a lot of layers in this. We have to see if we are asking for our rights under which law are, we are seeking for. Concerning marriage and adoption rights, it seems we have to take up a separate battle for the same.

Question (Gautham Karthikeyan): Transmen and gender non-binary voices are in general overseen during discussions of trans rights how do we amplify their voices too?

Answer (Rachana Mudraboyina): TGs should get a subsidized ration card in all the states as Right to Food is a constitutional right. Provide linkage to the welfare schemes as per the

identity they identify themselves with. Need for linkage of social entitlements with gender identity. There is a need of synchronized system so that the illiterate and those living in the remote areas can benefit from the welfare schemes. Measures should be taken to ensure the trans person claim their rights.

Services and relief

Question: From Kavya Menon to Everyone: 04:30 PM

Also, I want to know if and how are various NGOs providing their services to the community, especially for their mental health

Answer (Thenmozhi): - NGO's had helped us with provisions during the lockdown. In specific to health care, we didn't receive any support.