CHAPTER I

INTRODUCTION

True concerns about sex and gender were a feature of the present century in promoting egalitarian participants in the society. Gender is a complex social construct based upon biological sex, but it is not the same as sex. It can also be argued that gender alone drives and that sex is an incidental feature. Gender facilitates sexual interaction and reproduction. Gender is intertwined with identity, expression, presentation, relationships, child-rearing, societal role and structure, pairing, games, and eroticism. Human race is a sexually dimorphic species, where physical appearance is one component of gender marker. Gender becomes fixed in infancy, but it remains remarkably fluid, full of twists and surprises.

Gender Equality means that the rights, responsibilities and opportunities of individuals will not depend on whether they are born male, female or a transgender. Equality does not mean ‘the same as’. Promotion of Gender Equality has both a quantitative and a qualitative aspect. The quantitative aspect refers to the desire to achieve equitable representation, increasing balance and parity refers to achieving equitable influence on establishing development priorities and outcomes wherein equality involves ensuring that the perceptions, interests, needs and priorities to be given equal weightage in planning and decision making.

1.1 Transgender

‘Transgender’ an umbrella term coined in the 1970s, includes persons whose gender identity, expression or behavior does not conform to societal gender norms associated with sex at birth and they are grouped by their gender as Male-To-Female (MTF) and Female-To-Male (FTM). In addition to those who seek to be recognized as being of the gender different from the one they were assigned at birth and even pursue surgical options to align their anatomy. With their gender-identity, some may consider themselves to fall ‘between’ genders, may not identify strictly to one gender or the other and may identify themselves as neither fully male nor female.
The contemporary term ‘transgender’ arose in the mid-1990s from the grassroots community of gender-different people. In contemporary usage, transgender has become an ‘umbrella’ term that is used to describe a wide range of identities and experiences, including but not limited to transsexual people; male and female cross-dressers (sometimes referred to as ‘transvestites’, ‘drag queens’ or ‘drag kings’; intersexed individuals; and men and women, regardless of sexual orientation, whose appearance or characteristics are perceived to be gender atypical. In its broadest sense, transgender encompasses anyone whose identity or behavior falls outside of stereotypical gender norms. That includes people who do not self-identify as transgender, but who are perceived as such by others and thus are subject to the same social oppressions and physical violence as those who actually identify with any of these categories. Other current synonyms for transgender include ‘gender variant’, ‘gender different’, and ‘gender non-conforming’.

Transgenderism is not about clothing and surgery; it is about core identity, presentation, and expression. Some children proclaim to be the opposite gender practically as soon as they can talk, but they are extremely rare. Rare too are adolescents who protest being in the wrong body. Most transgendered persons are simply variant from the average gender norms. They must live in a state of denial and secrecy, until internal pressure finally forces them to resist societal pressures such as shame and guilt in order to decide who they are. The unwanted rewards for being transgendered include deep depression, suicidal tendencies, and a sense of loss and not belonging.

Transgender people may live full or part-time in the gender role 'opposite' to their biological sex. In addition to respecting the preferred term to be used by the transgender women, it is increasingly recognised that transgender people have unique needs and concerns, and that it is better to view them as a separate group.

Transgender people are individuals of any age or sex whose appearance, personal characteristics or behaviors differ from stereotyped behaviour on how men and women are ‘supposed’ to be. Transgender people have existed in every culture, race, and class since the origin of human life has been recorded. Only the term
‘transgender’ and the medical technology available to transsexual people are new. In its broadest sense, transgender encompasses anyone those whose identity or behaviour falls outside of stereotypical gender norms.

1.2 Transgenders and Religion

The world's religions display great diversity and their interpretations of and reactions to transgender people demonstrate equal diversity. Even within one specific religion, Christianity, different groups have very different interpretations of gender identity and socio-cultural gender roles as well as very different attitudes towards and reactions to transgender people.

Chinese religious beliefs

Eunuchs, male-bodied people castrated for royal services, existed in China from 1700 BC until 1924 AD. This social role had a long history, with a continuous community, and a highly public role. Before being castrated a Chinese eunuch would be asked if he ‘would ever regret being castrated’ and if the answer was ‘no’ then surgery would take place. It is not clear to what extent eunuchs were transgender or otherwise gender-variant, but the history of eunuchs in Chinese culture is important to its views on transgender people.

African religious beliefs

The Akan people of Ghana have a pantheon of gods that includes personifications of celestial bodies. These personification manifest as androgynous of transgender deities, and include Abrao (Jupiter) Aku (Mercury), and Awo (Moon). The mythology of the Shona people of Zimbabwe is ruled over by an androgynous creator god called Mwari, who occasionally splits into separate male and female aspects.

Australian Aboriginal religious beliefs

The indigenous population of Australia has a shamanistic religion, which includes a pantheon of gods. The rainbow serpent god Ungud has been described as androgynous or transgendered.
Transgender and Hinduism

In the Hindu narrative tradition, stories of gods and mortals changing gender occur. Sometimes they also engage in sexual activities as different reincarnated genders. Hindus commonly identify with and worship the various Hindu deities connected with gender diversity such as Ardhanarīśvara (the hermaphrodite form of Shiva); Aravan (a hero whom Krishna married after becoming a woman) Bahuchara-devi (a goddess connected with Tran’s sexuality and eunuchism.

The traditional religion of the Indian subcontinent, Hinduism has long standing historic robust identity for gender variance that functions as a kind of caste. The general term is Hijras but different regions with completely different languages have other terms for roughly homologous cases with details that vary, for example another caste that works the same way is Aravani.

In some parts of India these castes have special legal status whereby their members are the only people in the population who may legally engage in prostitution – and they are, in some senses, expected to earn their living this way. Hindu philosophy has the concept of a third sex or third gender (Tritiya-Prakriti – literally, ‘third nature’). This category includes a wide range of people with mixed male and female natures such as transgender persons, homosexuals, transsexuals, bisexuals, the intersexed, and so on. Such persons were not considered fully male or female in traditional Hinduism. They are mentioned as third sex by nature (birth) and were not expected to behave like ordinary men and women. They often kept their own societies or town quarters, performed specific occupations (such as masseurs, hairdressers, flower-sellers, domestic servants, etc.) and were generally attributed a semi-divine status. Their participation in religious ceremonies, especially as cross-dressing dancers and devotees of certain temple gods/goddesses, is considered inauspicious in traditional Hinduism. Some Hindus believe that third-sex people have special powers allowing them to bless or curse others. However, these beliefs are not upheld in all divisions of Hinduism. In Hinduism, the universal creation is honored as unlimitedly diverse and the recognition of a third sex is simply one more aspect of this understanding.
Hindu Deities and the Third Sex

In Hindu and Vedic texts there are many descriptions of saints, demigods, and even the Supreme Lord transcending gender norms and manifesting multiple combinations of sex and gender. These include male, female, hermaphrodite, and all other possibilities. In Hinduism, God is recognized as unlimited and untethered by any gender restrictions. For the purpose of enjoying transcendental pastimes (Lila), the Supreme Lord manifests innumerable types of forms—just like an actor on a stage. The following list of Hindu deities provides interesting examples of saints, demigods, and incarnations of the Lord associated with gender transformation and diversity.

These include:

- Deities that are hermaphrodite (half man, half woman)
- Deities that manifest in all three genders
- Male deities who become female, or female deities who become male
- Male deities with female moods, or female deities with male moods
- Deities born from two males, or from two females
- Deities born from a single male, or from a single female
- Deities who avoid the opposite sex, and
- Deities with principal companions of the same gender

All of these different examples demonstrate the remarkable amount of gender-variance found within Hinduism. In India, people of the third sex—homosexuals, Transgenders, bisexuals, hermaphrodites, transsexuals, etc. identify with these deities and worship them with great reverence and devotion. In traditional Hinduism, such people were associated with these divine personalities due to their combined male and female natures. They were included in the various religious ceremonies and viewed as auspicious symbols of peace, good fortune and culture.
Sri Arjuna: In Vedic narratives Sri Arjuna manifests all three genders—male, female, and hermaphrodite. He is most popularly known in his male form as the heroic warrior of the Mahabharata, the disciple of Sri Krishna in Bhagavad Gita and the husband of Draupadi. Arjuna enters the city as Brihannala, a most unusual transgender woman with masculine features but an exceedingly effeminate gait, manner of speech, and attire. After Brihannala requests the king, Maharaja Virata, for employment, he grants her service in the lady’s chamber as a teacher of dancing, singing, music, and hairdressing—typical occupations for people of the third sex during Vedic times. It is also said that during this one-year period, Brihannala performed all of the traditional duties of the shandhaby dancing and offering blessings at wedding and birth ceremonies.

Sri Bahucara-Devi: Goddess of Male Castration

Transgender and Christianity

The New Testament is more ambiguous about gender-variant identities than the Old Testament is. Eunuchs (Greek eunochos, similar to Hebrew saris) are indicated as acceptable candidates for evangelism and baptism. Jesus, while answering questions about marriage and divorce, says that “there are eunuchs, who have been so from birth, and there are eunuchs who have been made eunuchs by others, and there are eunuchs who have made themselves eunuchs for the sake of the
kingdom of heaven.” There has been discussion about the significance of the selection of the Ethiopian eunuch as being the first gentile conversion to Christianity: the inclusion of a eunuch, representing a sexual minority, similar to some included under today's category of transgender, in the context of the time.

Some Christian denominations accept transgender people as members and clergy. The Unitarian Universalist Association was the first denomination to accept transgender people as full members with eligibility to become clergy, and the first to open an Office of Bisexual, Gay, Lesbian, and Transgender Concerns. United Church of Christ General Synod called for full inclusion of transgender persons in 2003. In 2008, the United Methodist Church Judicial Council ruled that transgender pastor Drew Phoenix could keep his position. At the UMC General Conference the same year, several petitions that would have forbidden transgender clergy and added anti-transgender language to the Book of Discipline were rejected. The Church of England has ordained a transsexual woman as a priest

Transgender and Islam

In Islam, the term mukhannathun is used to describe gender-variant people, usually male-to-female transsexuals. Neither this term nor the equivalent for ‘eunuch’ occurs in the Qur'an, but the term does appear in the Hadith, the sayings of Muhammad, which have a secondary status to the central text.

A mukhannath is the one (‘male’) who carries in his movements, in his appearance and in his language the characteristics of a woman. Iran carries out more sex change operations than any other nation in the world except for Thailand. The government even provides up to half the cost for those needing financial assistance and a sex change is recognised on the birth certificate.

Transgender and Buddhism

In Thai Buddhism, being katoey (an umbrella term that roughly maps to a range of identities from MtF transsexuality to male homosexuality) is seen as being part of one's karma if it should be the case for a person.
1.3 Transgenders in Indian Epics:

**Mahabharata**

In the Mahabharata, the hero Arjuna takes a ‘vow of eunuchism’, that is, to live as the third sex for a year, another important character, Shikhandi, is born female, but raised as a boy. Sihkandi's father, King Drupada, had begged the god Mahadeva to give him a son, to which Mahadeva replied: "Thou shalt have a child who will be a female and male”.

**Manu Smriti**

The Manusmriti, which lists the oldest codes of conduct that were proposed to be followed by a Hindu notes the biological origins of a third gender: ‘A male child is produced by a greater quantity of male seed, a female child by the prevalence of the female; if both are equal, a third-sex child or boy and girl twins are produced; if either are weak or deficient in quantity, a failure of conception results’.

**Kama Sutra**

The Kama Sutra is the earliest extant and most important work in the Kama Shastra tradition of Sanskrit literature. It was compiled by the philosopher Vatsyayana around the 4th century; the author describes techniques by which masculine and feminine types of the third sex according to the Kama Sutra: "There are also third-sex citizens, sometimes greatly attached to one another and with complete faith in one another, who get married together."

**Others**

The Sushruta Samhita, a highly-respected Hindu medical text dating back to at least 600 B.C., mentions Transgenders (sandha – men with the qualities, behavior and speech of women). It also states that men who behave like women, or women who behave like men, are determined as such at the time of their conception in the womb.
1.4 The Status of Sexual Minorities in India

Most human rights organizations in India have not begun to address the question of rights of gays, lesbians, bisexuals, transgender. Sexuality is sometimes viewed even in liberal and radical circles as a frivolous, bourgeois issue.

Though sexual minorities have always existed in India sometimes in forms, which are culturally sanctioned (such as the hijra) and at other times in invisibility and silence, their issues have never seriously been articulated. It is only recently that the rights of sexual minorities as an issue have been taken seriously in India by various civil society organizations.

In India there are a host of socio – cultural groups of transgender people like hijras/ kinnars, and other transgender identities like – shiv-shaktis, jogtas, jogappas, Aradhis, Sakhi, etc. However, these socio-cultural groups are not the only transgender people, but there may be those who do not belong to any of the groups but are transgender persons individually. Though an accurate and reliable estimate of transgender people is not available, it cannot be denied that their number is miniscule compared with the total population of the country.

With the founding of India’s first gay magazine *Bombay Dost* in the late 1980’s and the starting of a lesbian collective in Delhi called *Sakhi*, lesbian, gay and bisexual issues were first articulated in a public forum. Since those early beginnings, the fledgling sexual minority rights movement has grown increasingly vocal and articulate. Society looks at sexual minorities with disgust and hatred and values them as less than human beings. The violations by the state can be further subdivided into violations by the law and by the police. Societal violence is inflicted through the various sites like the family, the medical establishment, workspaces, household spaces, public spaces and popular culture. Both societal and state violence impinge strongly on the individual person’s dignity.
Hijra Communities

Hijras have a long history, culture and tradition in India, which would not be evident or which might be overlooked when using the catch-all term 'transgender'. Though some Hijra activists may also identify as 'transgender' for outsiders or in the global platform, they prefer the label 'transgender women' to be applied to those transgender women who are not part of the Hijra communities. However, some other Hijra/Aravani (Hijras in Tamil Nadu) activists may identify as both 'Hijras/Aravanis’ and 'transgender woman'.

Hijras as a community express a feminine gender identity, coming closest experientially to what would be called in the West a transsexual that is ‘a female trapped in a male body’. It is a socio-religious construct marked by extreme gender non-conformity in the sense that there is no correlation between their anatomical sex and gender identity. For most hetero sexuals and many homo sexuals, if their anatomical sex is male, their gender identity is male. For Hijras, though their anatomical sex is male, their gender identity is female. The Hijra role attracts persons with a wide range of cross gender characteristics and accommodates different personalities, sexual preferences, needs and behaviors. The most well-known third-gender group in India is perhaps the Hijra of northern India.

The Hijra is the only sect that practices castration, a custom introduced during Muslim rule around the tenth century A.D. Male castration is not recommended in the Vedas and is not a traditional Hindu practice. There are an estimated 50,000 Hijra in northern India. Many of them undergo sex reassignment surgery, while some of the Hijras are born hermaphrodites. While Hijras are despised, punished and pushed beyond the pale in most societies, they are supposed to have a sanctioned place in Hindu society (especially in weddings, births and festivals) as a viable and recognized ‘third gender’, accommodating gender variation, ambiguity and contradictions. It could also be argued that Hijras are
generally visible, ‘out’ and part of an organized community unlike other sexual minorities who still remain closeted.

In South India generally, the Hijras do not have the cultural role that they do in North India (where they predominate) and take up sex work & begging as their way to earn a living.

It is a demeaning and dangerous profession, as they are often subjected to the depredations of brutal customers, many of them ‘rowdies’ and the unscrupulous police. Human rights has been extended to include hitherto marginalized communities at the global level, a similar movement is a slow process in India. In fact, most human rights organizations in India have begun to address the question of rights of gays, lesbians, bisexuals, transgender, Hijras and others who are oppressed due to their sexuality.

Generally, issues of poverty and gender, class and caste oppression are seen as more important than that of sexuality. But this ignores the fact that sexuality is integrally linked to ideologies and structures of social oppression such as patriarchy, capitalism, the caste system and religious fundamentalism. Hence, the struggle for sexuality rights cannot be separated from the broader human rights struggle for economic, political and social liberation.

The Jogappa

A lesser-known third-gender sect in India is the jogappa of South India (Karnataka and Andhra Pradesh), a group similarly associated with prostitution. The jogappa are connected with Yellamma-devi, a popular Hindu deity of Durga, and include both transwoman as well as transmen. Both serve as dancers and prostitutes, and they are usually in charge of the temple devadasis (maidservants of the goddess who similarly serve as dancers and female courtesans). Large festivals are celebrated at the temples wherein hundreds of scantily-clad devadasis and jogappas parade through the streets.

The jogappa do not practice castration. One can become a ‘Jogta’ (or Jogti) if it is part of their family tradition or if one finds a ‘Guru’ (or ‘Pujari’) who accepts
him/her as a ‘Chela’ or ‘Shishya’ (disciple). Sometimes, the term ‘Jogti hijras’ is used to denote those male-to-female transgender persons who are devotees/servants of Goddess Renukha Devi and who are also in the hijra communities. The term ‘Jogti hijra’ differentiates them from ‘Jogtis’ who are biological females dedicated to the Goddess. However, ‘Jogti hijras’ may refer to themselves as ‘Jogti’ (female pronoun) or Hijras, and even sometimes as ‘Jogtas’

The Sakhi-Bekhi

The sakhi-bekhis are prominent throughout Bengal, Orissa and Uttar Pradesh although their numbers have diminished in recent years. Members of this sect typically dress themselves as women in order to reinforce their identity as sakhis or girlfriends of Lord Krishna and to attain the esteemed spiritual emotion known as sakhi-bhava. Such people are not always transgender or homosexual. Neither group practices castration.

Usually, Shiv-Shakthis are inducted into the Shiv-Shakti community by senior gurus, who teach them the norms, customs, and rituals to be observed by them. In a ceremony, Shiv-Shakthis are married to a sword that represents male power or Shiva (deity). Shiv-Shaktis thus become the bride of the sword. Occasionally, Shiv-Shakthis cross-dress and use accessories and ornaments that are generally meant for women. Most people in this community belong to lower socio-economic status and earn their living as astrologers, soothsayers, spiritual healers and some also seek alms.

1.5 The Status of Sexual Minorities in Tamilnadu

In the year 2008, the state of Tamil Nadu the first time in India has officially recognised the third gender as Aravani or Thirunangai. Civil supplies department giving in the ration card a provision for a new sex column as 'T', distinct from the usual 'M' and 'F' for males and females respectively. Aravanis –meaning the "brides" of Aravan.

The most numerous third-gender sects (estimated at 150,000) is the Aravani or Thirunangai of Tamil Nadu in southern India. The Aravanis are typically
transgender and their main festival, the popular Koovagam or Aravan Festival celebrated in late April/early May, is attended by thousands – including many transwoman and transmen.

1.6 Social status of the Transgenders

Identity Crisis

Changing gender in the context of relationships with children may be charged with emotion and confusion. Despite these difficulties, relationships of transgender persons with their children have been formed in which finding novel ways of dealing with gender-variant living are a source of pride and distinction. In the process of transitioning, transgender persons typically sift through their friendship network, largely avoiding those individuals anticipated to be critical toward their newly celebrated core gender.

The mental state (and mental health) of transgender persons is affected by the extent to which transgender identity is incorporated in social relationships and supported (or not supported) by relationship partners. Informing parents about transgender identity is described as critically important. The failure of parents to acknowledge the legitimacy of this identity is viewed as an obstacle to achieving a sense of self-acceptance among transgender persons.

Identity-affirming relationships with parents, when they occur, are described as a type of ‘symbolic rebirth’. Among Trans woman, parents were ‘the source of their birth and nurturance as males and symbolically can be the source of their rebirth and nurturance as females’. Some siblings, caught between their beliefs about proper gender roles, and their personal loyalties to a brother or sister, have been described as dismissive and hostile to transgender persons. When it occurs, acceptance by siblings is described as vitally important; it may represent a type of ‘retroactive credibility’ for a Tran’s identity.

Identity awareness

‘Keeping the secret about one’s transgender identity from others may in itself, understood in terms of four general processes
1. **Contribute to emotional distress.** Disclosing emotionally significant aspects of one’s self concept to others has long been suggested as contributing to mental health.

2. **Identity performance:** If a transgender identity is revealed to others, a failure to act upon it in the context of the relationship may negatively affect mental health. Behavioral expressions of transgender identity, such as ‘cross dressing’, may produce a sense of well-being.

3. **Identity congruence:** If others are aware of transgender identity (identity awareness), and this identity is acted upon in the context of the relationship (identity performance), a failure of relationship partners to respond in terms of this identity may be disconcerting. A reciprocation of transgender identity (identity congruence) may contribute to mental health.

4. **Identity support:** If relationship partners respond in terms of a transgender identity (identity congruence) the content of this identity is critical. It may vary from ridicule and devaluation (identity rejection) to acceptance, positive reinforcement, and behavioral reciprocation (identity support). The type of behavioral response (rejection versus support) is seen as critically significant for the well being of transgender persons.

**Jamaath System**

In the Indian sub-continent transgender people are called Kinnar, Hijras, Khusra, Jankha, Paavaiyaa or Aravani in various regions. Hijras is the commonly used neutral term, while Ali and Chakka are derogatory terms used in the subcontinent. In English, transgender people are also called eunuchs.

Male-to-female transgender people in India are highly stigmatized, starting from their biological family and later from society at large. This has made the transgender community isolated from mainstream life and a non-biological kinship system has risen called Jamaath, with elder transgender people as Gurubhai and their younger disciples as Chela.
The Jamaath system has created a closely knit network, which enables the community to stay well connected and to provide support between themselves. The pervasive stigmatization of the male-to-female transgender community in India has prevented transgender people from seeking health care.

**Transgenders and the family**

The moment a person decides to assert their gender identity as a Hijra, the family casts them out of the house. The family’s rejection is often conditioned by the wider societal intolerance towards gender non-conformity. General Problems there are no sufficient role models available in regional language media for poorer, non-urban sexual minorities to draw upon, so that they go through life suffering the social stigma of homosexuality in silence and shame.

Sexual minorities from lower caste sometimes feel a double bind where they have to hide their lower caste status along with their sexual minority status.

**Mobility Status**

The transgender population is mobile, traveled outside the State of Tamil Nadu during their life time and stayed outside the State of Tamil Nadu for at least six months, usually in Mumbai, in the State of Maharashtra, which was about 640 miles (1030km) by road. Mumbai, a city where a majority of participants had temporarily moved to, is one of the commercial sex capitals of Asia and provides many opportunities for transgender people to enter the sex trade.

**Marriage**

Everybody in Indian society thinks that the only security for women is obtained from a marital relationship with a man. This becomes inevitable, in the case of Transgenders also. They live with Life partners, casual partners and paid partners. Among those with casual and paid partners, the number of such partners ranged from a minimum of two to a maximum of ten different individuals.
Public Spaces

Public spaces are not only gendered but also heterosexist. Men have more access to public spaces than women, society too oppresses sexual minorities. Ironically, the public areas, lacking the privacy and protection of a home, are also places where they are most prone to attack not only by the police but also by goondas and hustlers who take advantage of their vulnerability and stigmatized existence to freely hound and rob them. Given their social invisibility, information about such attacks does not easily become public and hence is difficult to investigate and act upon.

Transgenders and Workplaces

Most sexual minorities dare not be open about their gender change at their workplace for fear of ostracism at best and termination of employment at worst. Thus what is normal heterosexual social interaction (talking about husbands and wives, women and men one finds attractive, etc.) becomes impossible as sexual minorities disguise the ‘he’ for the ‘she’ and vice versa. In addition to this hidden psychological violence, which most sexuality minorities suffer, some have suffered direct discrimination too and find it extremely difficult to get suitable employment of their choice. Due to social discrimination in employment most of them are forced into sex work.

Changing one’s gender presentation in the workplace is a unique challenge. ‘Turning over’ (changing genders) in the context of existing employment is not infrequently associated with strained relationships with co-workers and supervisors, which frequently results in loss of employment. In sum, the social relationships of transgender persons appear to be a complex array of both negative and positive experiences, in the context of different relationships, which frequently change over time.

Transgender and Household Spaces

Due to societal intolerance it is very difficult for hijras to get suitable housing. As a result, most of them end up staying in localities where they have
traditionally been staying. If they do try getting accommodation in other localities, they are turned away. The hijras we spoke to felt that their neighbors were accepting of them, as they knew them at a personal level. However, though there might be a certain safety in the locality, they reported a number of abuses committed

**Common symbol for the transgender community**

A common symbol for the transgender community is the transgender pride flag, which was designed by Monica Helms, and was first shown at a pride parade in Phoenix, Arizona, United States in 2000.

The flag consists of five horizontal stripes, two light blue, two pink, with a white stripe in the center.

The light blue is the traditional color for baby boys, pink is for girls, and the white in the middle is for those who are transitioning, those who feel they have a neutral gender or no gender, and those who are intersexed. The pattern is such that no matter which way one fly it, it will always be correct. This symbolizes to find correctness in One’s own life. Other transgender symbols include the butterfly (symbolizing transformation or metamorphosis), and a pink/light blue yin and yang symbol.

Asian countries have centuries-old histories of existence of gender-variant males - who in present times would have been labeled as 'transgender women'. India is no exception. Kama Sutra provides vivid description of sexual life of people with 'third nature'.

India, people with a wide range of transgender-related identities, cultures, or experiences exist – including Hijras, Aravanis, Kothis, Jogtas/Jogappas, and Shiv-Shaktis. Often these people have been part of the broader culture and treated with great respect, at least in the past, although some are still accorded particular respect even in the present.
1.7 Violations against Sexual Minorities in India

Though sexual minorities have always existed in India sometimes in forms, which are culturally sanctioned (such as the Hijra) and at other times in invisibility and silence, their issues have never seriously been articulated. It is only recently that the rights of sexuality minorities as an issue have been taken seriously in India by various civil society organizations.

The support structures provided are painfully inadequate with few or no such organizations for lesbians, bisexuals and Hijras. The sexuality minority population due to lack of resources, personnel, government support and extreme societal/state discrimination are side lined still.

The violations by the state can be further subdivided into violations by the law and by the police. Societal violence is inflicted through the various sites like the family, the medical establishment, workspaces, household spaces, public spaces and popular culture. Both societal and state violence impinge strongly on the individual person’s dignity.

The transgender are deprived of social and cultural participation, are shunned by family and society, have only restricted access to education, health services and public spaces, restricted rights available to citizens such as right to marry, right to contest elections, right to vote, employment and livelihood opportunities and various human rights such as voting, obtaining Passport, driving license, ration card, Identity Card etc. The transgender community is treated as a legal non-entity in violation of Article 14, 15, 16 and 21 of the Constitution of India.

Sexual minorities are subjects who have become fit as per Human Rights Violations against Sexual Minorities in India PUCL-K, 2001 to be harassed, but are invisible when it comes to themselves being right holders. Oppression by the police turned out to be one of the major concerns of the gay, bisexual and transgender people. Legal recognition of the gender status of Transgender People is also critical for the right to contest and right to vote in the elections. The Election Commission has introduced the option of ‘other’ in the
voter’s identity card and indicated that 'Hijras' can vote or contest as ‘other’. However, the legal validity of this executive order on the right to contest is not clear. Hijras had contested elections in the past. It has been documented that the victory of a transgender woman who contested in an election was overturned since that person contested in a seat reserved for women and according to the judgment of the Madhya Pradesh High Court the person was not a woman but a ‘Hijra’.

Transgenders, though human beings are not recognized as persons in violation of human rights as they are deprived of their fundamental rights as well as also other civil rights. The lack of recognition isolates transgenders, especially eunuchs, in the matter of civil rights.

The Constitution of India prohibits discrimination on the basis of sex. Since gender is taken to mean only male and female, the eunuchs and transgenders cannot effectively exercise or avail the benefits of constitutional rights and avail of facilities and benefits available to the male and female genders.

So far as criminal liability is concerned, transgenders cannot escape punishment when they are accused of committing crimes. General Clauses Act means all human beings. Persons who can be punished for committing offences include transgenders, though they are consciously deprived of their civil rights.

**Extortion**

This appeared to be one of the most common forms of oppression. The police often stop transgender people in the cruising areas, threaten them and take their names and addresses and extort money from them. It is difficult to estimate the number of cases of extortion suffered by the community, as there are obviously no police records. Since FIRs are almost never recorded it appears to be one of the easiest ways for the police to make easy money as the transgender people are so scared of being ‘outed’ to wider society that they will part with whatever they have with them.
Illegal Detention

Another technique used by the police is illegal detention. The police take transgenders in for questioning and detain them in the lock up for periods of time varying from overnight to a few days. They do not file a First Information Report (FIR) and keep no documentary evidence of the person’s detention. Due to the lack of such evidence, these cases do not come to the attention of the public.

Abuse

Sexual Minorities feel about police abuse as another form of oppression. The police often abuse the men using filthy language, beat them up and even subject them to sexual abuse. When this happens there is no recourse for the largely underground population of male gays/bisexuals as any reporting would mean that the anonymity is shattered. The systematic abuse suffered by sexual minorities is brought out in a revealing remark like ‘the police were very nice they beat me only once’. Such a remark shows the degree of internalization of self-hatred wherein the person believes that he actually deserved to be beaten up. This is a serious psychological consequence of abuse.

Transgender and Police Treatment

Hijras reported that the police not only regularly raid to collect their bribes, but abuse their official authority by having non-consensual sex with them. In such cases, the hijras cannot seek help from the police whose protection favors those with economic and social power. Hijras have to live with an ever-present fear of serious physical and sexual abuse and hence prefer to go out as a group rather than alone.

Every transgender person’s process or transition differs. Because of this, many factors may determine how the individual wishes to live and express their gender identity. Finding a qualified mental health professional who is experienced in providing affirmative care for transgender people is an important first step. A qualified professional can provide guidance and referrals to other helping
professionals. Connecting with other transgender people through peer support groups and transgender community organizations is also helpful.

1.9 Transgender and Discrimination

The invisibility and silence which surrounds the existence of sexual minority lives, produces its own order of oppression and creating many impression that they are the only ones ‘cursed’ with such desires in the world.

Process of self-abuse in transgender people leads to cycles of depression and self rejection, ending up in attempts to suicide and sometimes-actual suicide. This is especially true for an adolescent for whom there is confusion about one’s sexuality and sexual identity. Transgendered persons suffer most of the same types of discrimination as other members of the GLBT community, such as being denied equal rights for employment and housing, being damned by political and religious extremists, and vitriolic hatred from loved ones and family. However, some types of discrimination is far more prevalent against transgendered people than any other group of people.

Discrimination against sexual minorities is embedded in both state and civil society. Any proposal for social change would have to take into account this complex reality. A greater respect for sexual minorities as people would depend upon a variety of factors, including a change in gender relations and class relations.

Change would also crucially hinge upon overturning the existing regime of sexuality that enforces its own hierarchies, (e.g. heterosexuality over homosexuality), exclusions (e.g. hijras as the excluded category) and oppressions. Despite the importance of social change, one still has to redress the ongoing human rights violations against sexual minorities.

Social Exclusion and Transgenders

Social Exclusion Framework is increasingly used in highlighting the issues and problems faced by disadvantaged and disenfranchised groups. It provides a
multidimensional and dynamic framework that focuses attention on both the causes and consequences of social disadvantage. Social Exclusion Framework is seen as having particular salience in addressing the barriers to meeting the Millennium Development Goals, particularly where these relate to exclusionary social relations and institutions. Adapting the Social Exclusion Framework to Hijras/TG women, one can understand how TG communities have been excluded from effectively participating in social and cultural life; economy; and politics and decision-making processes.

1.9 Health Status of Transgenders

Studies outside India have provided data on sexual practices and the prevalence of STIs and HIV among male-to-female transgender people. A review of 307 studies conducted between 1988-2006 among transgender people in the United States reported an average HIV prevalence of 27.7%; with 31.7% reported having multiple sex partners, 44.1% reported practicing unprotected anal receptive intercourse and 39.3% reported sex under the influence of alcohol, in contrast only 15% perceived themselves to be at risk for HIV (Jeffrey and Herbst, 2008). In Indonesia, HIV prevalence among transgender people has been estimated at 22%, with 59.3% of transgender people reported having unprotected anal intercourse (Pisani et al., 2004). In Pakistan, HIV prevalence among the transgender community has been estimated at 2%, while rates of other STIs has been estimated to be much higher with Syphilis 62%, N. gonorrhea 29% and Chlamydia 18%.

Health Status of Transgenders in India

In India, very few studies have reported the prevalence of sexual practices among male-to-female transgender people. A recent study reported 12% HIV prevalence among transgender people in Tamil Nadu (Brahmam et al., 2008) and 18.1% (Kenagy et al., 2005) as India prevalence.

India, reported that 40% of transgender people were HIV positive, 25% were VDRL reactive, 85% reported receptive anal sex, 49% had more than 10 partners and 64% had sex work as occupation (Kumta et al., 2006). Prevalence of HIV was
associated with HCV and Syphilis among male-to-female transgender people in Mumbai, India (Kumta et al., 2002). There remains a gap in data linking sexual practices to prevalence of STIs and HIV among male-to-female transgender people in India. The data on Sexually Transmitted Infection (STI) prevalence and the risk behaviors associated with STIs may assist with estimating the number of male-to-female transgender people at risk for HIV.

A cross sectional study was conducted to document the demographic characteristics, educational patterns, occupations, substance abuse and high risk sexual practices that make the transgender community in Chennai. The study says that (i) sex under the influence of alcohol would be associated with multiple partners and/or casual partners and/or paid partners rather than exclusive life partners, (ii) positive HIV status would be associated with presence of bacterial and/or viral STIs and receptive anal sex practice. Considering the presence of risk factors such as alcohol use, multi-partner sex and inconsistency in condom usage among this study population, future interventions should focus on prevention, early detection and treatment of all STIs and HIV. In addition, vaccinations for HBV should be considered as one of the risk-reduction strategies to minimize the vulnerability to HBV and thus reduce the viral STI burden among male-to-female transgender people.

**HIV and STI prevalence among transgender population in India**

The estimated size of MSM and male sex worker populations in India (latter presumably includes Hijras/TG communities) is 2,352,133 and 235,213, respectively. No reliable estimates are available for Hijras/TG women. Until recently, Hijras/transgender people were included under the category of MSM in HIV sentinel sero surveillance. Recent studies among hijras/transgender (TG) women have indicated a very high HIV prevalence (17.5% to 41%) among them.

A study conducted in a Mumbai STI clinic reported very high HIV zero prevalence of 68% and high syphilis prevalence of 57% among Hijras. In Southern India, a study documented a high HIV zero prevalence (18.1%) and Syphilis
prevalence (13.6%) among Hijras. A study conducted in Chennai documented high HIV and STI prevalence among Aravanis: 17.5% diagnosed positive for HIV and 72% had at least one STI (48% tested zero positive for HSV-1; 29% for HSV-2; and 7.8% for HBV).

Published data on sexual risk behaviors of Hijras/TG women are limited but available data indicate high risk sexual behaviors. Survey in the year 2007 conducted in select districts of Tamil Nadu reported that among Hijras/TG, the condom use during anal sex with commercial male partners and 81% with non-commercial male partners is 85% and 81% respectively. Also, the survey documented low level of consistent condom use among Hijras/TG women - 6% with commercial male partners and 20% with non-commercial male partners.

1.10 Sex Reassignment Surgery

The earliest identified recipient of male to female sex reassignment surgery was Rudolf. He took the first step towards changing his sex in 1921, when he had himself castrated. As a result his sexual instinct was enfeebled, but the homosexual tendency, as well as his own feelings, remained the same. This step, however, was not sufficient for him, and he tried to obtain a still greater degree of femininity in his sexual parts. Finally, in 1930, the operation which he himself had attempted at the age of six was performed upon him, that is, the removal of his penis, and six months afterwards the transformation was completed by the grafting of an artificial vagina.

How do transsexuals make a gender transition?

Transitioning from one gender to another is a complex process and may involve transition to a gender that is neither traditionally male nor female. People who transition often start by expressing their preferred gender in situations where they feel safe. They typically work up to living full time as members of their preferred gender by making many changes a little at a time. While there is no “right” way to transition genders, there are some common social changes transgender people experience that may involve one or more of the following: adopting the appearance of the desired sex through changes in clothing and grooming, adopting a
new name, changing sex designation on identity documents (if possible), using hormone therapy treatment, and/or undergoing medical procedures that modify their body to conform with their gender identity.

**Sex Reassignment Surgery in India**

**Feminising Procedures and Sex Reassignment Surgery (SRS)**

The Indian legal system is silent on the issue of sex change operation. According to Section-320 of the Indian Penal Code (IPC), 'emasculating' (castrating) someone is causing him 'grievous hurt' for which one can be punished under Sec 325 of the IPC. Thus, technically speaking even if one voluntarily (with consent) chooses to be emasculated, the doctor is liable for punishment under this provision and the person undergoing emasculation could also be punished for 'abetting' this offence. However, under Section-88 of IPC, an exception is made in case an action is undertaken in good faith and the person gives consent to suffer that harm. The section reads: ‘Nothing which is not intended to cause death is an offence by reason of any harm which it may cause or intended by the doer to cause any person whose benefit it is done in good faith, and who has given a consent…to suffer that harm, or to take the risk of that harm’. Given the legal stand for SRS in India, there are no India-specific medical guidelines for sex reassignment surgery.

Only in the state of Tamil Nadu free SRS is performed in select government hospitals. Majority of Hijras/TGs could not afford to pay private plastic surgeons who charge heavily. Thus, most Hijras resort to unqualified medical practitioners for undergoing 'emasculating' (removal of entire male external genitalia). Getting 'emasculated' by a senior Hijra (called Thaammama in Tamil Nadu) seems to be rare now. Due to bad surgical procedures adopted by unqualified medical practitioners (or quacks), many Hijras develop post-operative complications - especially urological problems. These complications would have been avoided if free or affordable sex reassignment surgery had been offered in the government hospitals. Even those Hijras who approach urologists for treatment of post-operative complications often have bad experiences; they report not receiving proper and prompt treatment even for post-operative (post-emasculating) wound infections.
1.11 Mental health of Transgenders

Mental health needs of Hijras/TG communities are barely addressed. Some of the mental health issues include depression and suicidal tendencies, possibly secondary to societal stigma, lack of social support, HIV status, and violence-related stress. Transgender people, especially youth, face great challenges in coming to terms with one's own gender identity and/or gender expression which are opposite to that of the gender identity and gender role imposed on them on the basis of their biological sex. They face several issues such as: shame, fear, and internalized transphobia; disclosure and coming out; adjusting, adapting, or not adapting to social pressure to conform; fear of relationships or loss of relationships and self-imposed limitations on expression or aspirations.

1.12 Transgenders and Media

Films and books in English

The last decade has seen a spurt of films on issues relating to sexual minorities, such as ‘Fire’ and ‘Bombay’ and the recent documentary by the young Delhi-based filmmaker, Nishit Saran on coming out to his mother, called ‘Summer in my veins’ As for writing about sexual minorities, some prominent studies are: Shakuntala Devi’s The World of Homosexuals (1977); the path breaking survey, Less than Gay (1991); ArvindKala’s somewhat sensational and prejudiced account, Invisible Minority (1992) by Giti Thadani’s important study of lesbianism in the Indian tradition, Sakhiani(1996) and Ruth Vanita and Saleem Kidwai Same Sex Love in India (2000). Suniti Namjoshi, Shyam Selvadurai, and Firdaus Kanga are some of the noted fiction writers exploring issues of different sexualities. In 1999, Penguin published anthologies of gay and lesbian writing in India edited by Hoshang Merchant and Ashwini Sukthankar respectively, which had a good reception, on the whole. The portrayal of sexuality minorities in the English language press has become more and more positive in the last decade.
**Print Media**

Newspapers and news magazines such as Times of India, India Today, Sunday, The Week, Bangalore Monthly (now Weekly) and Asian Age have been carrying articles with a positive slant. Some newspapers such as Asian Age and Times of India support gay rights more than others. One common stereotype sees homosexuality as a form of sex work and gays as people who are pushed into homosexuality for economic reasons. A typical article is Gautam Machaiah’s piece titled ‘The Gay Kingdom’ with a box item “They made me a gay” (Indian Express 20 February 1994). S. Seetalakshmi also plays on the same stereotype: “Though many people deny the existence of homosexuality in India, a large number of young boys and girls are lured into it for various reasons including money and jobs”. (Times of India, 25 October 1997).

Another article titled, ‘Students take to the gay way to make money’ replays the same stereotypes and notes that young students pick up elderly men to make money (Times of India, 2 June 2000).

**Other Media**

Apart from books and newspapers, other forms of media construct dominant images of sexual minorities. English satellite channels provide considerable news and information on sexual minorities and show many films about them. The Internet has become the easiest medium to get information on issues relating to same sex relationships; e-mail groups (listserves) link hundreds of Indian lesbians, gays and bisexuals.

**1.13 Challenges faced by Transgenders**

Transgender people in India face a variety of issues. So far, these communities perceive that they have been excluded from effectively participating in social and cultural life; economy; and politics and decision-making processes. A primary reason (and consequence) of the exclusion is perceived to be the lack of (or ambiguity in) recognition of the gender status of hijras and other transgender people.
It is a key barrier that often prevents them in exercising their civil rights in their desired gender.

So far, there is no single comprehensive source on the basis of which an evidence-based advocacy action plan can be prepared by transgender activists or possible legal solutions can be arrived at by policymakers. Reports of harassment, violence, denial of services, and unfair treatment against transgender persons in the areas of employment, housing and public accommodation have been discussed in local media, from time to time.

1.14 Tamil Nadu Transgender Welfare Board (TGWB)

A landmark initiative

In a pioneering effort to address the issues faced by transgender people, the government of Tamil Nadu (a state in South India) established a transgender welfare board in April 2008. It is the first of its kind by any state government in India. Social Welfare minister serves as the president of the board. This effort is touted to be the first in India and even in the whole Asia-pacific region. The board would potentially address a variety of concerns of transgender people that includes education, income generation and other social security measures. As a first step, the board has conducted the enumeration of Transgender populations in all 32 districts of Tamil Nadu and in some places identity cards - with the gender identity mentioned as ‘Aravani’ - are being issued. The government has also started issuing ration cards (for buying food and other items from government-run fair-price shops) for transgender people. In addition, Tamil Nadu government issued a government order in May 2008 to enroll transgender people in government educational institutions and to explicitly include ‘other’ or ‘third gender’ category in the admission forms. Furthermore, only in the state of Tamil Nadu, in collaboration with the Tamil Nadu Aravanigal Welfare Board, free sex reassignment surgery is performed for Transgenders in select government hospitals.
The transgender communities, generally known as ‘Hijras’ in this country, are a section of Indian citizens who are treated by Society as unnatural and generally as objects ridicule and even fear on account of superstition.

All human beings are born free and equal in dignity and ought to be entitled to enjoyment of human rights without discrimination on the basis of sexual orientation or gender identity. Everyone is entitled to equality before the law and equal protection of the law without any such discrimination. Transgenders are also part of society and have equal, rights as are available to other persons. The discrimination based on their class and gender makes the transgender community one of the most disempowered and deprived groups in Indian society.

1.15 Programmes and Benefits available for Transgender People in Tamil Nadu

- Self-employment grants (up to INR 20,000) to small business entrepreneurs
- Vocational training (e.g., jewellery-making, tailoring)
- Material support for self-employment (e.g., sewing machines)
- Short-stay home for TG people in crisis
- Individual grants
- Access to employment opportunities by registering in state government ‘employment exchange’
- IAY (Indira Awaas Yojana) – Subsidies or Grants for constructing houses
- Education grants
- To support education of TG youth
- Free health insurance
- Free sex reassignment surgery (SRS) in select government hospitals
- Ration/Food cards (Public Distribution System)
TG representatives need to be involved in planning and formulation of schemes to ensure that they address the priority needs of the communities. Community agencies and other non-governmental agencies working with TG people can be involved in implementing the schemes and/or for dissemination of information about the welfare schemes. A mechanism needs to be developed to get periodic feedback directly from the grass-root level TG people. Redressal mechanisms need to be in place for problems related to accessing and using schemes or entitlements. TG representatives can be used as volunteers or part of the evaluation team who convenes feedback sessions with the communities.