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Homelessness, Poverty and Transgender Persons: Qualitative Evidence from the Garima Greh of Rajasthan under the SMILE Scheme, India³

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Abstract

Sexual and gender minorities in India have been victims of homelessness and poverty post-independence. Studies have shown that these factors have often found the transgender persons in a state of marginalization and also become subjects of Crime. The Indian government post the Transgender Persons' (Protection of Rights) Act, 2019 has established shelter homes for providing skill and livelihood opportunities to the transgender persons for a short term. This study delves into the working model of the Garima Greh of Rajasthan. The transgender persons find these shelter homes safe, learning space and a second innings to their lives. Such establishments have helped the community members to come out of homelessness and acquire skills for leading a better life ahead. Despite of becoming a success from the inception year itself, it has been studied that these homes are struggling due to lack of regular financial and administrative support by the government.

Keywords: transgender persons, homelessness, victimization, shelter homes, skill development.

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Bezdomność, ubóstwo i osoby transpłciowe – dowody jakościowe z Garima Greh z Radżastanu w ramach modelu SMILE w Indiach⁴

Streszczenie

Mniejszości seksualne i płciowe w Indiach są ofiarami bezdomności i ubóstwa po uzyskaniu niepodległości. Badania wykazały, że czynniki te często powodowały, że osoby transpłciowe znajdowały się w stanie marginalizacji, a także stawały się ofiarami przestępstw. Rząd indyjski po uchwaleniu ustawy o osobach transpłciowych (ochrona praw) z 2019 r. ustanowił domy schronienia w celu zapewniania osobom transpłciowym umiejętności i możliwości utrzymania przez krótki okres. To badanie zagłębia się w model roboczy Garima Greh z Radżastanu. Osoby transpłciowe uważają te domy schronienia za bezpieczne, przestrzeń do nauki i drugą rundę w swoim życiu. Placówki takie pomogły członkom społeczności wyjść z bezdomności i zdobyć umiejętności pozwalające na lepsze życie w przyszłości. Pomimo tego, że od samego początku odniosły sukces, zbadano, że domy te borykają się z problemami z powodu braku regularnego wsparcia finansowego i administracyjnego ze strony rządu.

Słowa kluczowe: osoby transpłciowe, bezdomność, wiktyimizacja, domy schronienia, rozwój umiejętności.

⁴ Badania wykorzystane w artykule nie zostały sfinansowane przez żadną instytucję.

Introduction

The transgender community in India has earlier strived to get their basic legal recognition in the post-colonial world until the last decade where the major legal battle for their existence reached the doors of the Indian Judiciary that changed the way the Indian laws looked at gender, sex and sexuality through the decriminalization of Section 377⁵ of the Indian Penal Code and protected the individuality and rights of the *lesbian, gay, bisexual, and transgender* persons, and other sexual minorities.⁶ The battle now is social acceptance and inclusion. Meanwhile, the Indian Supreme Court broadened the definition of the term *sex* beyond the binaries and included gender identity and sexual orientation in the Constitution. Though laws have finally paved pioneering steps towards their inclusiveness and dignity, the social acceptance through socio-economic and structural discrimination is still a long path to cover.

Though the human rights activists and lawyers across the globe have been long advocating for battling the violence and discrimination against sexual minorities, even today when tested against the litmus of human dignity their lives continue to remain odious.⁷ Soon after they come out to their families, they are either forced to leave their homes at an early age or pressured to live a life that they do not connect with, which becomes even more traumatizing for them.

Literature review

Judson Adams et al. highlight that the unbearable storm faced by transgender persons for decades is not just confined to the states in the Global South such as India, rather it is something which is prevalent in rem including superpowers like the United States⁸. The authors through their work have presented a holistic view in regard to the rights of the Transgender in the United States diverging from

⁵ (2014) 5 SCC 438 (NALSA Vs. UOI).

⁶ U.J. Loh, transgender identity, sexual versus gender 'rights' and the tools of the Indian state, "Feminist Review" 2018, 119, <https://www.jstor.org/stable/26776500> (access: 22.04.2023).

⁷ Lennox C., Waites M., *Human Rights, Sexual Orientation and Gender Identity in the Commonwealth*, Humanities Digital Library, 2018.

⁸ J. Adams, H. Edwards, R. Guy, M.S. Robnett, R. Scholz-Bright, B. Weber, *Transgender Rights and Issues*, nd.

workplace discrimination to healthcare, housing, identity documents to violence. The paper aims on gaping the issues to India by laying special impetus to the schemes introduced by the government in aiding the issues faced by the transgenders globally.

Divan et. al. rightly remark that the institutional, social, economic, political, and legal forms of discrimination have left a huge vacuum in society for this community, which has been exacerbated by prejudice at workplaces and educational institutions, leaving them with even fewer resources to survive. The authors through the current work shall delve into the execution of the policies at the grassroots introduced by the government and analyse these policies better by understanding the responses from the members of the community themselves who have been at the suffering end from many decades.

This brings up clear and immediate needs for equating transgender inclusion in the society, especially educational institutes and workplaces on a priority basis, and set the right rationale for studying trans people as an emerging agency (2020).

It is noteworthy that when the entire world today is overwhelmed in gay and lesbians rights, the eunuch still find a narrow scope through the peek hole of social justice and acceptance⁹. Mendoza critiques in his blog that the pandemic has moreover compounded their crisis in countries where their rights were held back because they did not have any legal status which is vital for accessing any aid.¹⁰ Mendoza presents an in-depth analysis of the issues faced by the community and the authors through this work shall focus on the mechanisms built by the government to address the issues faced by the marginalized community.

After the punitive Criminal Tribes Act of 1871 was passed, the once-celebrated group on Indian land had to endure a protracted period of suffering, derision, and social rejection.¹¹ Under this law, the transgender population was automatically labelled as a criminal. Although it was repealed post-independence in 1948 but Section 377 in the Indian Penal Code, 1860 continued even post-independence, which was another innately discriminatory provision that denied self-expression

⁹ S.M. Marks, *Global Recognition of Human Rights for Lesbian, Gay, Bisexual, and Transgender People*, "Health Hum Rights" 2006, 9, pp. 33–42.

¹⁰ C. Mendoza, *Evicted from homes, transgender community fights for survival amid coronavirus lockdown*, 2020, <https://www.cnbctv18.com/healthcare/evicted-from-homes-transgender-community-fight-for-survival-amid-coronavirus-lockdown-5723661.htm> (access: 22.04.2023).

¹¹ D. Ganesan, S. Dadoo, *Confinement at the Margins: Preliminary Notes on Transgender Prisoners in India*, "NUJS Law Review", <http://nujlawreview.org/2020/09/10/confinement-at-the-margins-preliminary-notes-on-transgender-prisoners-in-india/> (access: 23.04.23).

and identity,¹² leading to absolute violations of the most prominent provisions of Articles 14, 19 and 21 of the Indian Constitution.

In her work, Faria clearly states that a livelihood must be able to manage stress, bounce back after it, and preserve its assets both now and in the future to be sustainable.¹³ She elaborates on the schemes introduced by the government to aid the community with livelihood support and employment opportunities specifying policies in the state of Tamil Nadu. She also highlights that Tamil Nadu has the maximum number of economic development schemes for the transgender. The Tamil Nadu Welfare Board protects the interests of their transgender, including housing, employment, and education requirements.¹⁴ The present work shall bridge the gap to other states' policies as well as analyse the recent policies that have been brought by the central government to address the concerns of the community members.

The Navtej Singh Johar case¹⁵ decriminalized Section 377 and conferred on the community their legal status and existence after years of endurance of societal atrocities.

Research problem

The transgender persons have lived a marginalized life with rare acceptance by their family members and the society. This has pushed them to the margins of poverty and homelessness with most of the times no means of earning a livelihood or skills. This has led them to a state of victimization. The current study delves into how victimization leads to homelessness and how homelessness further leads to victimization from living in the state of homelessness for the transgender persons.

Methods

We used a qualitative, exploratory approach to the research given the dearth of prior studies available to inform our work. The current research has involved an in-depth interview method for collecting responses from the respondents. It is based on the methodological principles of Multifactorial (study based on the influence of many factors), Outcomes (based on the result) and Continuity (identification of

¹² V. Prasad, *The Respectable Indian Queer Unmasked*, 2020, <https://www.thecitizen.in/index.php/en/News-Detail/index/7/19424/The-Respectable-Indian-Queer-Unmasked> (access: 23.04.2023).

¹³ K.N. Faria, *Constitutional Right to Livelihood of Transgenders In India*, nd.

¹⁴ Ibidem.

¹⁵ AIR 2018 SC 4321.

the recent trends and development of new schemes based on requirements). All the 20 transgender persons who had been the part of the second batch (2022–2023) for Garima Greh Jaipur have been interviewed for the purpose of this research.

Acceptance by family, education, inclusion and acceptance in workplaces, income, affordability of basic needs such as housing, food and clothing are the Multifactorial elements that play an important role in the current study. The study shall look into the effectiveness (outcome) of the scheme of introducing shelter homes in 9 states as a pilot study by limiting the scope of the study to the State of Rajasthan. There is only one shelter home established under the said pilot project in Jaipur in the State of Rajasthan. The other schemes that are introduced to support the livelihood opportunities of the transgender community in the state of Rajasthan shall also be analysed as a Continuous factor affecting the said research.

The author through this work aims at doing policy research on providing the transgender community with skills and a decent livelihood opportunity and provide them a way out of their homelessness and poverty. For the study, the researchers have done a focused group-based interview with the current members and residents at the shelter home in Jaipur, Rajasthan. The study shall be an attempt to analyse the livelihood opportunities, including food, shelter, rendering skill trainings and other amenities such as medical services, counselling etc. of the transgenders after the introduction of the SMILE scheme by the government in 2022. The data was collected through a personal interview with the transgenders at the shelter home and with few, telephonically. A total of 20 (entire strength) respondents who have been part of the second batch at Garima Greh, Jaipur, Rajasthan were interviewed.

The research becomes significant to analyse the gaps in the policy and its implementation and suggest necessary measures for effective implementation of the Garima Greh in India. The scheme of introducing Garima Greh is an important step towards the acceptance and inclusion of the transgender community in the Indian society by providing them with a place of livelihood that also upskills their economic opportunities. Such inclusion has brought out the transgender persons from the state of homelessness. By enabling economic inclusion with the right set of skills, the social inclusion for the community shall follow.

Results

The respondents who were interviewed were from Jaipur (60%) and other areas in Rajasthan (about 40%). Around 80% respondents have had completed their primary education, 40% graduated and 5% respondents have completed their

post-graduation. 98% of the respondents mentioned that the transgender/*hijras* status was not accepted by their families and as a result they were forced to leave their parents' house, because of this 60% were drop-outs between secondary and senior secondary education, and 20% remained illiterate. 20% of the respondents were living in a state of homelessness before coming to the Garima Greh and the remaining 80% have lived with a guru but did not have access to any economic opportunities except *badhai* and prostitution. Nearly 25% of the transgender persons disclosed that they have been victims of crime but did not record their cases. For some of them the police did not register their cases and some did not know that they have been victims of crime. Almost all the respondents have registered themselves under the SMILE Scheme under the Ministry of Social Justice and Empowerment. 100% of the respondents find themselves comfortable with the facilities provided by the Garima Greh. 40% of the respondents are currently earning of living. 80% of the respondents want to apply for jobs after completing their term at the Garima Greh. 20% of the respondents are staying at the Garima Greh for lack of shelter and basic amenities of life only. 95% of the transgender feel that the skills they are learning at the shelter home are helpful for them.

Objective

The objective of the study through focused in-depth group interview method is to underscore the condition of the transgender who have enrolled themselves with the shelter homes, known as 'Garima Greh' under the SMILE scheme introduced by the government on 12 February 2022 and understand its implementation gaps in comparison to the policy laid by the government.

The study shall also look into the effectiveness of the scheme by analysing the economic opportunities that are available to the residents after the completion of their tenure at the shelter home.

Homelessness, Poverty, Crime and the Transgender Persons

The study looks into understanding the needs of sexual and gender minority people experiencing homelessness requires consideration of the impact of criminal justice system involvement. Being members of the transgender community, it gets easier for them to fall into the nets of the criminal justice system, as the criminal laws are yet not clear enough to protect the transgender people from false charges.

The study also looks into the aspect from another perspective where on one hand lack of documentation for transgender persons hinders justice to them.¹⁶ As per the reports of the National Crime Records Bureau 2020, only 236 cases from transgender persons as complainants were registered with no registered cases of rape or sexual abuse have been recorded. On the other hand, transgender persons with no basic amenities like a shelter will not be even financially able to report a case, especially when they do not have access to basic facilities like a home!

The other side of the coin is that homelessness combined with poverty can lead to an increase in crime rates among the transgender community because poverty and homelessness are frequently criminalized and because criminal justice system involvement leads to economic and social marginalization, which increases the risk of homelessness.

Moreover, it has been noted from reports from other countries that sexual and gender minority people in general are overrepresented to be involved in the criminal justice system up to 3 times as often as straight and cisgender people are.¹⁷ Overall, the research indicates that it is crucial to address the multiple effects of homelessness, engagement in the criminal justice system, and minority identity in housing policy and programmes. Due in part to the inadequate research base and in part to the negative health consequences of chronic homelessness, the effects of supportive housing interventions on long-term health and service utilization outcomes are less visible.¹⁸ Nevertheless, the need to invest in supportive services and provide adequate livelihood opportunities for this population becomes even clearer from such reports.¹⁹

A livelihood comprises the capabilities, assets (including both material and social resources) and activities required for a means of living.²⁰ The marginalized communities are at the risk of more vulnerability and social exclusion leading to

¹⁶ V. Bansal, *How lack of documentation of transgender persons in India is hindering justice for them*, <https://scroll.in/article/1026766/how-lack-of-documentation-of-transgender-persons-in-india-is-hindering-justice-for-them> (access: 6.07.2023).

¹⁷ A. Jones, *Visualizing the unequal treatment of LGBTQ people in the criminal justice system*, 2021, <https://www.prisonpolicy.org/blog/2021/03/02/lgbtq/> (access: 7.07.2023).

¹⁸ National Academies of Sciences, Engineering, and Medicine; Health and Medicine Division; Board on Population Health and Public Health Practice; Policy and Global Affairs; Science and Technology for Sustainability Program; Committee on an Evaluation of Permanent Supportive Housing Programs for Homeless Individuals, *Permanent Supportive Housing: Evaluating the Evidence for Improving Health Outcomes Among People Experiencing Chronic Homelessness*, Washington (DC): National Academies Press (US), 2018.

¹⁹ Ibidem.

²⁰ S. Bhattacharya, *The Transgender Nation and its Margins: The Many Lives of the Law*, *South Asia Multidisciplinary Academic Journal*, 2019.

strangled livelihood opportunities.²¹ In both Article 11.1 of the International Covenant on Economic, Social, and Cultural Rights (1966) and Article 25 of the Universal Declaration of Human Rights, the right to appropriate housing is acknowledged as a component of the right to an adequate standard of living.²²

To implement these conventions across all signatory countries, the articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights should demand the universality of transgender rights.²³ Every person's humanity and dignity are shaped by their sexual orientation and gender identity, and these factors cannot be used as an excuse for prejudice or mistreatment. An international treaty is necessary to make the extension of rights imperative and not a subject of interpretation.²⁴

Transgender people have been included in the definition of *sex* under the interpretation of Article 26 of the ICCPR, which forbids discrimination and guarantees equal protection to all people before the law.

According to Article 9 of the ICCPR, 'everyone' has the right to liberty, which includes all LGBTQ individuals. According to one interpretation of Article 12 of the ICESCR, transgender people have a right to health and are a vulnerable group in need of strong state protections.²⁵ Similar to this, the Committee on the Anti-Torture Convention mandates particular safeguards for transgender people under Article 2 and adequate complaint procedures for transgender torture victims under Article 14 of the Convention.²⁶

The Yogyakarta Principles of 2007 and 2017 are ground-breaking because they are the first international comprehensive list of universal human rights standards that specifically address LGBTQI+ issues. They are supported by the courts of Brazil, India, and Nepal, and they frequently appear in regional and international human rights reports, but the UN has not yet formally acknowledged them.²⁷

²¹ E. Dwyer, L. Woolf, E. Carnaby, J. Saladoka, I. Vulavou, C. Sterrett, J. Worthington, J. Pilkinton, R. King, A. Aftab-Schroers, A. Trembath, J. Podelsak, L. Gardener, S. Settecasce, L. Hogan, S. Mebrahtu, n.d., *Oxfam Research Reports*.

²² *The human right to adequate housing*, OHCHR, <https://www.ohchr.org/en/special-procedures/sr-housing/human-right-adequate-housing> (access: 24.04.2023).

²³ International Bill of Human Rights, OHCHR, <https://www.ohchr.org/en/what-are-human-rights/international-bill-human-rights> (access: 20.04.2023).

²⁴ BJIL, *Charting Transgender Rights on the International Human Rights Map*, BJIL, 2022, <https://www.berkeleyjournalofinternationallaw.com/post/charting-transgender-rights-on-the-international-human-rights-map> (access: 20.04.2023).

²⁵ United Nations Human Rights, New York – Geneva 2012, <https://www.ohchr.org/sites/default/files/Documents/Publications/BornFreeAndEqualLowRes.pdf> (access: 24.04.2023).

²⁶ *Need for Recognition of Trans Rights in International Human Rights Law*, Centre for Law & Policy Research, <https://clpr.org.in/blog/need-for-recognition-of-trans-rights-in-international-human-rights-law/> (access: 20.04.2023).

²⁷ *Ibidem*.

The transgender population in India was marked to 4.88 lakhs and the population of transgender in Rajasthan was around 16,500 as per the census of 2011.²⁸ Prior to this, as a nation, we did not hold any official statistics on the transgender population. After that, in joint mapping with the UNDP, it was found to be approximately around 22,517 in Rajasthan.²⁹ However, it is expected that the population now has reached around 75,000 people.³⁰

The transgender community has been classed as marginalized community³¹ and have been deprived of opportunities – social, economic, political to such an extent that even to gain their self-recognition and perceived identities legally, they had to pave through their legal battles of gender-recognition until 2017. The NALSA judgement can be seen as the official recognition of sexual minorities' rights of the transgender groups in India by the Indian state and judiciary.

The Indian Constitution has become a harbinger of the protection of minority rights and acts as a safeguard mechanism for all against any arbitrary action by the state.³² While the Fundamental Rights guarantees to ensure protection against any discrimination for the socially and economically weak citizens, the transgender community has been on the receiving edge of such discrimination on a routinely basis and escapes protection most of the times. Only a handful of those in the community who can reach the doors of justice are heard even after the passing of the Transgender Persons' (Protection of Rights) Act, 2019.³³ The socio-economic disparity only gets reinforced and accentuated further when access to resources, which could prove to be social equalisers, is cut off.³⁴

Despite the existing differences even amongst the transgender groups on grounds of cultural and regional differences, they are united through their neglect and suppression. The Indian democracy has remained ignorant over the rights of the transgender groups for a long time, despite their continued presence in the

²⁸ A. C., M, S.G., S, K., R, I.V., Pathiyil, M.M., Shreyavarshini, *A cross sectional study to assess the discrimination faced by trans genders in health care facilities – Chennai, Tamil Nadu*, "International Journal of Community Medicine and Public Health" 2018, 5, pp. 662–666.

²⁹ S. Sarkar, *Here's All You Need to Know About Rajasthan Government's Transgender Welfare Fund, 2022*, <https://thelocalindian.com/trending/heres-all-you-need-to-know-about-rajasthan-govts-transgender-welfare-fund-38176> (access: 19.06.2023).

³⁰ Ibidem.

³¹ (2014) 5 SCC 438 (NALSA Vs. UOI).

³² Golaknath v. State of Punjab (1967 AIR 1643).

³³ The Transgender Persons (Protection of Rights) Bill, *PRS Legislative Research*, <https://prsindia.org/bill-track/the-transgender-persons-protection-of-rights-bill-2019> (access: 24.04.2023).

³⁴ M. Padhi, P.A. Mohanty, *Securing Transgender Rights through Capability Development*, 2018, <https://www.epw.in/engage/article/securing-transgender-rights-education-finance> (access: 23.04.2023).

society from time dated back to the mythological era.³⁵ The community had restricted access to education, healthcare and public places due to deprived social and cultural participation infringing their right to equality, discriminating them on the ground of gender and violating Art. 14, 16, 19 and 21 of the Constitution of India.³⁶

The Right to Equality as preserved through Article 14³⁷ now protects the transgender through the gender status of 'Others' and further asking the states to strive to bring them at an equal footing with other sexes and prohibit discrimination of all sorts. Article 15 prohibits any kind of discrimination by the state on any of the grounds of religion, race, caste, sex, place of birth. This status of equality has been granted to 'All Person', regardless of being 'Natural' or 'Artificial', 'Citizen' or 'Non-Citizen' and simply because of being a 'Person' as conferred under Article 14. The provision of non-discrimination on the ground of sex has been more elaborately made clear by the recognition of the 'Third Gender' in the Navtej Singh Johar case. It clearly paves an understanding that no person recognizing themselves as a third gender shall be discriminated against by the state through any of its policies and the state shall also proactively work towards the welfare and upliftment of them.

Article 16 prevents any sort of discrimination by the state in job related opportunities. Article 19 provides the community with freedom to express themselves as they are and live with dignity in the society. Article 21 through its diversified segments provide them with rights and opportunities to live a decent livelihood with all basic amenities. Rights such as hygienic food, shelter, clothing etc. are all basic to live a decent life. Measures are being taken across the globe now through various stakeholders to provide the transgender community with these basic rights and opportunities.³⁸ The authors shall later delve into the various schemes and initiatives taken by the state and other private shareholders into the development and empowerment of livelihood of the community in India.

The Transgender Person's (Protection of Rights) Act, 2019 read with the Rules, 2020 is a legislative enactment, first of its kind in the country to concretely legislate towards the protection and promotion of this community. After a long period of being in the pipeline and after seeking opinions and comments from diverse groups, the Act was enacted on 5 December, 2019 but saw massive dissatisfaction

³⁵ N.K. Gupta, *Ruptures and resurgences: Marking the spatiality of transgender identity in India since the enactment of Transgender Persons Act 2019*, "Frontiers in Political Science" 2022, 4.

³⁶ (2014) 5 SCC 438 (NALSA Vs. UOI).

³⁷ Constitution of India; Part III Fundamental Rights.

³⁸ L. Mkhize, *"And in those days to be gay was not on": Narratives of older LGBT+ people in South Africa*, 2022.

amongst the target group themselves.³⁹ It can still be commented that the Act, 2019 and the recent measures taken up for the empowerment of the community is a break from the stereotypes and trans-identity that can be inked for so long.

For anyone to lead a dignified life with satisfaction, basic amenities like food, shelter and housing should not come after a struggle. These necessities are every person's basic right for being a 'Human'. For a community that has been marginalized to such margins that even their existence to the Indian society and laws was recognized after a long battle, these necessities have also been witnessing their own share of struggles for all these years of struggle. Through this chapter, the authors shall be focusing on the legal rights of every transgender to such basic amenities like food, shelter and economic opportunities that formulate the basis of their livelihood. The authors shall also critically evaluate the welfare schemes introduced by the governments, both at the state and central level with special emphasis on the policies introduced by the State of Rajasthan for uplifting the livelihood opportunities of this marginalized community.

The SMILE Scheme – A Ray of Hope?

Reports from countries who have better kept statistics about the transgender community it has been observed that as compared with the straight, cisgender majority, Sexual & Gender Minority adults are 2–4 times more likely to experience homelessness because of exclusion from housing access, economic marginalization, and greater physical and behavioural health problems.⁴⁰ In India, it has been interviewed that there are plenty of handicapped transgender person amongst whom there are also acid attack survivors who have sustained such injuries that leave them with no opportunity to find and sustain an accommodation.⁴¹ Given these issues, equitable access to housing is an important policy goal for promoting sexual and gender minority health.

Following the passage of the Transgender Persons' (Protection of Rights) Act, 2019 and Rules, 2020, the Ministry of Social Justice and Empowerment has made some modest moves.

Section 8 of the Act, 2019 states that the government shall take necessary measures to rescue, protect and rehabilitate the Transgender community members by address-

³⁹ A. Singh, *Reflections on Queer Literary Representations in Contemporary Indian Writing in English*, "Journal of International Women's Studies" 2022, 24(2).

⁴⁰ M.V.L. Badgett, S.K. Choi, B.D.M. Wilson, *LGBT Poverty in the United States*, [in:] J.A. Reich (ed.), *The State of Families*, Routledge, Routledge Books, New York 2021, pp. 385–387.

⁴¹ *For Indian Transgenders, Getting a Shelter Home Is an Uphill Task*, NDTV.com, <https://www.ndtv.com/india-news/for-indian-transgenders-getting-a-shelter-home-is-an-uphill-task-1426837> (access: 6.07.2023).

ing the needs of them all. In line with the said legislative provision, the Central Government has furthered its welfare measures towards the community through some efforts.

The Ministry has launched a scheme called *SMILE – Support for Marginalized Individuals for Livelihood and Enterprise* on 12 February 2022.

12 shelter Homes, called Garima Greh have been established by the Ministry as a pilot project in 9 states including Maharashtra, Gujarat, Delhi, West Bengal, Rajasthan, Bihar, Chhattisgarh, Tamil Nadu, and Odisha.⁴² Manipal, being the 10th state, had returned the funds back, expressing their inability to set up the same owing to the pandemic and other reasons. These Garima Greh will be a joint effort between the central and state governments to provide these groups with essential amenities including housing, food, health care, and recreation with a focus on skill development.

Even though these shelter homes have been established in 9 states and actions have been taken to advance the welfare of community members, it is necessary for anyone enrolling in these shelter homes to first register as a transgender person through the National Portal for Transgender Persons. This registration can then be monitored by the Primary Monitoring Committee, which may also certify that a given person is to be admitted to the Garima Greh. The registration process does not require for any legal document as an identity and has been made quite simple to access. Additionally, the Committee can help people obtain their passport, Aadhar, PAN, the Ration Card, and other legal documents.

For this study, the researchers have focused upon the State of Rajasthan with a Transgender population of 16,517 and 48.34% literacy, which is amongst the top ten states in India out of the total population of the targeted community spread across the country.⁴³

By October 2022, 91 applications had been submitted to the portal in Rajasthan, out of which 45 certificates had been issued and 46 were still pending.⁴⁴

In August 2016, the State of Rajasthan established its first Transgender Welfare Board with members from the community for their upliftment.⁴⁵ The Board was also tasked to spreading awareness of the various schemes and policies introduced by the state and central government for the transgender community in rem.

⁴² A. Kumar, N. Page Vidya, *A Study on the roles of Kudumbashree and Kerala Social Justice Department in uplifting the transgenders*, "Journal of Research in Humanities and Social Science" 2021, 9, pp. 2321–9467.

⁴³ *TransGender/Others – Census 2011 India*, <https://www.census2011.co.in/transgender.php> (access: 20.04.2023).

⁴⁴ Supra 32.

⁴⁵ DoSJE Website, <https://sje.rajasthan.gov.in/commissions/SPA/> (access: 23.04.2023).

The Ministry has launched an online portal in the name of the National Portal of Transgender Persons on 25 November 2020. This portal has made the application and access to government schemes and initiatives more accessible to the community specifically. A transgender can apply for the certificate and identity card through this portal. The identity card and certificate have been kept as mandatory provisions for availing any of the welfare schemes and measures by the government. These provisions are currently both a boon and bane for the lack of literacy and access to the internet to all the persons in the marginalized group.

The Ministry along with the National Institute of Social Defence (NISD) functions towards empowering the community and creating awareness on the Transgender Persons' (Protection of Rights Act), 2019, the National Portal for Transgender Persons and the SMILE scheme through webinars and regional consultations and attempted to sensitize the local administration, police and prison functionaries, and medical professionals.

The SMILE scheme, through one of its sub-components, has provided for scholarships for the transgender students from ninth grade to post-graduation levels to help them with their educational expenses.

NISHTHA (National Initiative for School Heads' and Teachers' Holistic Advancement), a programme under Samagra Shiksha to train teachers in the teaching learning process for relevance in gender dimensions, will help teachers adopt and employ learning methods to increase gender sensitization in classrooms and schools.⁴⁶

Moreover, the Union Government has approved the National Education Policy on 29 July 2020, which aims at the 'universalisation of education' by bringing gross enrolment ratio to a complete 100%.⁴⁷ This would mean that all persons, irrespective of caste, sex, gender, place of birth or any other discriminatory bias would be enrolled in a school and should have completed their secondary level of education by 2030. Under this target, the transgender children are classed as a socio-economically disadvantaged group.⁴⁸ In order to achieve this target, the government has set up a 'Gender Inclusion Fund' which shall provide equitable quality education to all girls and transgender students.

Under the *Pradhan Mantri Kaushal Vikas Yojana (PMKVY)*, *Jan Shikshan Sansthan (JSS) Scheme and National Apprenticeship Promotion Scheme (NAPS)*, the Ministry has launched short-term skill development training and long-term training programme for a craftsman training scheme targeting the youth including the transgender

⁴⁶ National Portal For Transgender Persons: Ministry of Social Justice and Empowerment – Government of India, <https://transgender.dosje.gov.in/> (access: 23.04.2023).

⁴⁷ *NEP 2020: A holistic roadmap to universalise education*, <https://businesseconomics.in/nep-2020-holistic-roadmap-universalise-education> (access: 1.02.2023).

⁴⁸ *Ibidem*.

persons across the country.⁴⁹ According to statistics regarding ‘Skill Development of Transgender Person under Skill India Mission’, dated 2nd February 2022, the total number of transgender persons who have been imparted with the skills under the PMKVY 2.0 and PMKVY 3.0 (as per SIP reports until 31 December 2021) is 18 in Rajasthan and 481 across the targeted states of India.⁵⁰

Rajasthan Skill and Livelihoods Development Corporation (RSLDC) offered to offer skill development training to enhance the livelihood circumstances for transgender people in November 2017 at the request of the Rajasthan Transgender Welfare Board. Due to funding issues and a shortage of transgender ID cards, the programme was unable to be implemented. Transgender activists are asking the government for money and infrastructure, but they have not received any of it yet. However, it was quite a comfort to find that transgender was listed as a category in the gender field of the RSLDC registration form. Those who are aware of RSLDC may profit by registering themselves on the web portal, and knowledge is the only difficulty.⁵¹ As per the conversation with the members of the Rajasthan Transgender Welfare Board, even Style and Scissors salon in association with RSLDC has given training to fifteen transgender persons since 2016, out of whom one has even been retained by the salon as a beauty therapist.

Transgender children have been victims of discrimination from their early years in schools, due to which literacy level amongst the community is very weak.⁵² To encounter this, the Rajasthan government has taken a commendable step by directing the Directorate of Secondary Education to enrol the transgender students under the ‘transgender’ category. Thereby, the move acknowledges their different status and correspondingly recommends punitive action for violators.⁵³ Such measures are modes for creating a strong foundation for a dignified livelihood (“Securing Transgender Rights through Capability Development,” 2018).⁵⁴ Other states too should take up such measures to strengthen the livelihood opportunities from the roots for the community.

⁴⁹ *Salient Features of NEP*, <https://pib.gov.in/pib.gov.in/Pressreleaseshare.aspx?PRID=1847066> (access: 23.04.2023).

⁵⁰ *Skill training for transgender persons – The Hindu*, <https://www.thehindu.com/news/national/kerala/skill-training-for-transgender-persons/article65300137.ece> (access: 23.04.2023).

⁵¹ Khan Sh., *Rajasthan to train transgenders in livelihood skills sets*, “The Times of India” 2018, <https://timesofindia.indiatimes.com/city/jaipur/rajasthan-to-train-transgenders-in-livelihood-skills-sets/article-show/64983094.cms> (access: 23.04.2023).

⁵² *Fatal Violence Against the Transgender Community in 2018 – Human Rights Campaign*, <https://www.hrc.org/resources/violence-against-the-transgender-community-in-2018> (access: 23.04.2023).

⁵³ AIR 2018 SC 4321.

⁵⁴ M. Padhi, P.A. Mohanty, *Securing Transgender Rights...*

As per reports, the Rajasthan government had earlier promised to reserve 2% houses for transgender in all housing schemes to be launched by the Rajasthan Housing Board (RHB), UTI and Development Authorities on 20 August 2018.⁵⁵ It has been realized and later verified by visiting the official website as per some reports that officials from the JDA and RHB did not have any idea about this kind of scheme.

Recently, the Rajasthan State Government has introduced the Rajasthan Homeless Upliftment and Rehabilitation Policy (2022) with a vision that by 2025 each and every resident in the state shall have access to adequate and appropriate housing facilities. Special Shelter/Home for Assisted Living under Clause 7.6 of the Act of 2022 very specifically includes the transgender persons. This Act can be considered as the foundational law that shall allow the transgender persons to live in a rented accommodation or special shelter spaces as designated by the state as a welfare measure realizing the significance of safe and affordable housing as a right to dignity.⁵⁶

The judiciary has provided a strong backing to the Transgender Persons' (Protection of Rights) Act, 2019 by asking the government to bring strong policies to add teeth to the current provisions of the statute and implement it in letter and spirit by enabling appropriate policies as iterated in a recent case of Anjali Guru Sanjana Jaan Vs. State of Maharashtra and Others⁵⁷ where the nomination of the petitioner for the Panchayat elections was rejected because she has filed her nomination in the 'Female' category and self-perceived herself as one, violating her right under Art. 21.⁵⁸

In Shanavi Ponnusamy Vs. Ministry of Civil Aviation and Another,⁵⁹ where a transgender woman sought employment as a cabin crew in Air India in the female category. The petitioner was not selected because she has identified herself as a transgender. The Supreme Court once again reiterated that incidental to their fundamental right to live with dignity under Article 21, is the right of equal access to all facilities to achieve full potential as human beings, including proper education, social assimilation, access to public spaces and employment opportunities.⁶⁰

With the aid of the consortium of three partners namely, Lakshya Trust, Amitie Trust and Shaan Foundation, community clinics popularly called the Samarth community clinics have been established in five cities in India to provide and ensure health and HIV testing for the MSM and transgender community. Noida, Jalandhar, Vadodara, Hyderabad and Hooghly are the five cities which currently

⁵⁵ *Rajasthan to reserve 2% houses under govt schemes for transgenders*, "The Times of India", 20 August 2018.

⁵⁶ <https://sje.rajasthan.gov.in/siteadmin/Uploads/202301041245104706.pdf>

⁵⁷ (2021) 2 AIR Bom R 378.

⁵⁸ Protection of Life and Personal Liberty, Part III, Constitution of India.

⁵⁹ 2022 SCC OnLine SC 1581.

⁶⁰ (2014) 5 SCC 438 (NALSA Vs. UOI).

have these community clinics. Rajasthan does not have access to any such community clinic currently.

Access to basic amenities like health, food and shelter are the primary needs that should be met out by the State as the Right to Life for any person. The recent initiatives, programmes and schemes introduced by the government aimed at helping the transgender groups with the languishing struggles of their everyday life has seen some results. Efforts by private volunteer groups, NGOs and other organizations have brought some better results, as they have induced a higher number of the transgender groups with facilities such as providing private shelter homes, health facilities, training and soft skills required for recruitment to lead a more dignified livelihood.⁶¹

The Voices of the Unheard

The Garima Greh in Jaipur has been established as a part of the Central Government pilot project. They have come together with an NGO that works for the welfare of the transgender community named 'Nai Bhoj Sansthan' headed by Pushpa Mai. During the preliminary meeting with her, she shared that it was not easy finding a rented residential accommodation for the transgender people as they would be most of the times shun away or faced hostility by the locality members. This scheme has come up as a rekindled ray of hope for the community members.

An empirical approach was used by the researcher to undertake the study. Twenty individuals who identified as 'transgender' from the Garima Greh of Jaipur, were recruited for the purpose of this personal interview with consent through purposive sampling. In-depth interviews were conducted with the selected respondents in person using a pre-designed interview schedule. Their responses were recorded with their due consent. The descriptive research design was used in this study to gain more elaborated insights into the lives of the transgender at the shelter home in Jaipur, Rajasthan. Transgender people of the shelter home of Jaipur formed the universe of the study, and each transgender is a unit of data collection for the said purpose. An interview schedule was designed to collect data regarding their experiences at the shelter homes. The study shall weave into the interests and challenges of the transgender persons in getting sustainable and economic livelihood opportunities. The total number of transgender currently in the shelter home is 20 due to shortage of funds to accommodate more number. From the first two

⁶¹ V. Divan, C. Cortez, M. Smelyanskaya, J. Keatley, *Transgender social inclusion and equality: A pivotal path to development*, "Journal of the International AIDS Society" 2016, 19.

batches, around 35 transgender showed their interest in working. As per the details from the project coordinator at Garima Greh, Jaipur 2 transgender got recruited in Hindustan Zinc and 2 were recruited in Tata Steel in the department of accounts and pathology, respectively. Lack of technical knowledge and acumen have been cited as the reasons for non-acceptance of others.

Out of the 20 transgender who were interviewed it was noted that during their schooling and higher education, they faced body shaming until they did not come out as transgender and massive social discrimination and exclusion in groups and public places after they came out. Due to coming out as transgender in the early years of their life and forced to move out of their homes, leaving them homeless, primary education has also been a distant dream for most of the respondents. The study clearly exhibits that they have not been accepted by their family, friends and peers at institutions and workplaces leaving them at the thresholds of poverty and homelessness.

As they were forced to leave their homes at early ages, they lack financial support and have struggled to get a decent housing space. Education has been possible for only those who did not reveal their identity in their growing up years. One of the respondents who is currently residing in the shelter home is pursuing her Bachelor of Arts degree.

Most of them already had a guru from whom they got to know about the establishment of the shelter home at Jaipur or through their other community members. Lack of social media awareness and computer literacy makes most of such information of any such schemes and initiatives out of their immediate reach.

The establishment of the shelter homes has given an opportunity to learn skills and activities while providing them with a residential opportunity. These are comfortable spaces where they feel accepted and loved to stay amongst their own peers.

Out of the total respondents interviewed, 2 of them have had an experience into working at private jobs prior. One recently quit her job due to the humiliation and discomfort faced while working at a renowned café in the city. She dreams of opening her own café one day as she is fond of cooking! Another one is working for a back-office job but denied revealing her place of work. The remaining opt for *badhai* and other household chores at their guru's homes to make their ends meet because they do not have requisite education qualifications for taking up any job. Few of them also believed that they can earn more through *badhai* than the low-paying informal sector jobs.

During the conversation with the project head, Pushpa Mai, it was discussed that the shelter home is now facing issues and crisis due to no funds being provided

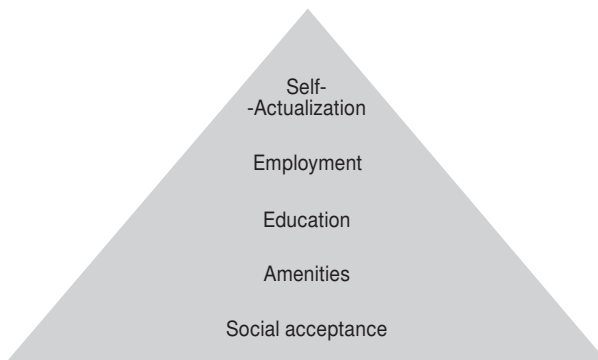
by the centre to them from last 6 months.⁶² They are finding it extremely difficult to run this initiative without any means provided to them. For them, to sustain a livelihood of around 35 people (20 transgender + other house helping staff and trainers) with all facilities is a huge crunch currently.

The Sanstha mentioned that in 2020, the Jaipur Municipal Council provided Rs. 3500 from the Social Justice Department and the Labour and Employment Department to nearly 600 Transgender and Rs. 1000 in 2021. The National Institute of Social Defence on its part gave each transgender Rs 1,500, both in 2020, and in 2021.⁶³

They also cited that this year (2022–2023) they could only enrol 20 of such transgender students as compared to the targeted 25 as per the Ministry's plan due to no financial assistance from the Ministry since last March, 2022.

The understanding and the desires of the respondents led to the creation of the Trans-Inclusion Model citing similarity with the Maslow's hierarchy of Needs as shared in Fig 1. From the responses received from the respondents under the survey, it has been observed that family home and acceptance forms the most important and primary need for the transgender community that shall help them move up the development ladder. Social acceptance followed by basic amenities like adequate housing, food, health facilities coupled with education and employment will truly help them achieve the stage of self-actualization where they can lead a normal life.

Figure 1. Trans-Inclusion Model



Source: own elaboration.

⁶² S. Mohan, "No Funds for 11 Months": How Govt-Run Shelters for Trans Persons Are Struggling, *The Quint*, 2022, <https://www.thequint.com/neon/gender/garima-greh-transgender-persons-shelter-home-delhi-no-funds> (access: 1.02.2023).

⁶³ A. Pareek, *Garima Greh provides a safe space for the transgender community in Jaipur, Rajasthan*, <https://en.gaonconnection.com/garima-greh-yojana-transgender-jaipur-rajasthan-ashok-gehlot-social-justice-empowerment-skills-election/> (access: 19.06.2023).

After years of horrific struggles, with the passing of a legislation that paves way for family acceptance for the transgender, provision of basic amenities, education and employment opportunities without any discrimination, India has surely step-up in the recent years towards the transgender development. With this, now we need more of policies that support the development for the community coupled with social acceptance for the transgender members to benefit from at the grass-roots level.

Conclusion

The transgender community in India has seen a troublesome time from the colonial period. Their struggles went unnoticed for a long time. Eventually after becoming the research area in the recent times, it has been seen that private organizations, specialized groups, NGOs are amongst the key pioneers to the transgender activism and development. Besides, the State too has laid down the stepping stones in the way to transgender empowerment in India. With the introduction of the SMILE scheme and the measures under it, a study has been taken on the shelter home in the state of Rajasthan to understand the effectiveness in the implementation of such a welfare measure for the marginalized community.

It has been observed that the number of admissions has been consciously reduced due to lack of funds received by the Garima Greh to meet the everyday expenses of the 25 enrolled transgender in the first batch. In the second batch the number has been reduced to 20 transgenders.

It has been understood during the interview that almost all the transgender who stay at the Garima Greh are in a more content state of mind and feel better about themselves after moving in the Garima Greh. They find this shelter home a safe place where they are with their 'own' people and that gives them a sense of belongingness which most have feel deprived of from a long time in their lives. Moreover, as the community lacks Secondary and Higher education for most of the Transgender Persons, it is difficult to introduce them to the Corporate world without adequate qualifications and skills.

The Shelter homes have been good experiences for them as they provide them with skill development facilities and assistance to learn and perform chores that are significant in everyday life. In the first batch of 25 transgenders itself, 2 transgenders have got placed with corporate houses. The skills learnt by them during their stay at the Garima Greh has been very significant, says the recruited transgenders.

The second batch has been successful as well in providing some exposure to the transgender persons of the corporate world. Even corporate India has started

to become more inclusive and took some steps towards the inclusion of LGBTQ+ persons in a more positive manner. Such measures have started to help some members of this community to come out of their homelessness and further breaking the vicious cycle to poverty and crime in the society.

Moreover, in a recently cited judgement by the Madras High Court while appreciating the model of these Shelter Homes, it has been directed to the Union Government to cover all the members of the LGBTQIA+ under the scheme of Garima Greh and not transgenders alone.⁶⁴

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⁶⁴ S. James, *Transgenders Only a Fraction of LGBTQIA+”: Madras HC Directs Extension of Shelter Home Scheme to All, Requests Media to Follow Draft Glossary for the Community*, 2021, <https://www.livelaw.in/top-stories/madras-high-court-garima-greh-scheme-for-entire-lgbtqia-transgenders-media-press-draft-glossary-for-addressing-community-188446> (access: 2.1.23).

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