Framing an Inclusive agenda for rights of Transmen in Kerala: Improving Dignity and standard of living.

Shifa Sadiqe

Introduction

Sexuality is one of the ways in which individuals are expected to find themselves and their place in the world. Even though sexuality and sex are two different terms, it is common place to use it interchangeably at the popular and even official realms. It is one of the means to confine a person to the gender roles prescribed by the society.

The whole idea of transmen must be discussed under the spectrum of Queer Theory. Through the works of Michel Foucault Queer Theory has got prominence in the mid 1980’s. During that time there grew a theoretical interest in sexuality. Along with that the term ‘queer’ was adopted or used by gay and lesbian activist groups such as Queer Nation, ACTUP, and Outrage in the USA and Europe. It was a deliberate loot of a term used scathingly and homophobically in the past in order to facilitate more radical declarations of gay and lesbian visibility. Queer has come to be associated with a determined push for visibility and a celebration of the transgressive.

It is a stance that denies and interrogates the privileges of heterosexuality and tries to openly question dominant ideas of normalcy and appropriate behavior. Queer Theory in academia helped to bring the aspects of lesbian, gay, transmen and transgender along with other postmodern theoretical writing. It questions of usefulness of gendered binary distinctions and re-examines their role in the centralization of heterosexuality. Judith Butler’s Gender Troubles (1990) made a profound impact in this field, with her idea that ‘gender is masquerade’. These are some historical narratives on Queer theory and gender in general.
Transmen.

Transgender is an umbrella term used to incorporate people of various gender identifications, including transsexual, drag queens, drag kings, masculine women, feminine men and other who violate normative gender laws but who do not necessarily seek and/or obtain surgical and medical treatments. Transsexual is typically used to describe individuals who use both hormonal and surgical therapy to augment their bodies. A female to male (FTM) was labeled female at birth, and chooses to identify as male, whether or not he receives transgender medical treatment. Many transmen chose to undergo sex reassignment therapy. There are many sites in the internet like ‘transguys.com’ help to make their life better. Most of them wanted to change their appearance in a way that aligns with their gender identity or to alleviate gender dysphoria.

There are evidences that most transgender men identify themselves as heterosexual, transmen like cisgender men, can have sexual orientation of a homosexual, gay, polysexual or asexual. Some of them consider that the traditional and conventional labels are inadequate or inappropriate for them.

Transsexualism through the Ages

Indian mythology has in it, many references to altered sexual states. The name Ardhanarishwara refers to God, who is half man and half woman, an androgynous deity. In various versions of Ramayana, there is reference to King Ila, who spent half his life as man and half as woman. In Mahabharata, Arjuna, one of the fiercest warriors of his time, spent a year of his life in intersexed condition. There is also reference to King Bangasvana, who was changed into a woman by Lord Indra, whom he had offended. Another reference during Mahabharata is to Shikhandini. He
was born female, but raised like a man and trained in warfare. After an encounter with a Yaksha, Shikhandini came back as a man, was called Shikhandi and fathered children.

The transsexual phenomenon has been mentioned from time to time in recorded history. First historical account of transmen: Hatshepsut (C1479-1458 B.C) was one of the Egypt’s successful pharaohs, ruling almost 22 years leading Egypt into a period of peace and prosperity. She used a male title since no word existed for a female ruler. At that point of history pharaoh means male ruler. She wore men’s clothing with a fake golden beard. Historians have claimed that her concern for preserving tradition was behind her male presentation, and she never gave up on her likings of jewellery and make up. Her fluid gender expressions is often regarded as one of the first transman life experience. But in many instances, the gender identity of historical transmen has been ignorantly or deliberately disregarded as ‘stolen histories’. Many of the historical accounts regarding the reign of Hatshepsut’s rule was erased in a calculated effort.

King Henry III of France in 16th century frequently cross dressed and was often referred to as ‘Her Majesty’ by courtiers. In 17th century, Queen Christina of Sweden gave up the throne, cross dressed and renamed herself ‘Count Dohna’. In 1673, French explorers, Louis Joliet and Jacques Marquette, discovered a group of Illini Indians, who dressed and lived as women. The Illini termed these men Ikoneta, while the French called them Berdache. Chevalier D'Eon, a famous spy and ambassador in 18th century was born as a male (Charles) but lived a significant part of his/her life as a woman, thus giving rise to the expression ‘eonism’. Billy Lee Tipton (born Dorothy Lucille Tipton, 1914-1989) was an American Jazz Pianist and Saxophonist. He became a subject of interest posthumously when it was revealed that this thrice married musician, who had two adopted sons was in fact, a female. Transsexual people differ from transvestites who merely wear the clothing of an opposite sex. They also differ from Hijras as found in the Indian society, as these mostly suffer from childhood castration, there being rare cases of intersex.
In 1932, ‘Man into Woman’, the story of Lili Elbe's life, male to female transition and sex reassignment surgery was published. She was born as Ejnar Mogens Wegener in Denmark. She underwent five operations including ovarian and uterine transplants and probably died due to complications from rejection process. She underwent most likely, procedures with no scientific backing. In 1945, Sir Harold Delf Gillies widely regarded as the Father of Modern Plastic Surgery, together with Ralph Millard carried out the first scientifically performed sex change procedure of a woman Laura Dillon to man. He was renamed Michael Dillon. Later he did the UK's first male to female operation (Robert to Roberta Cowell). In 1967, a change in British Laws allowed Charing Cross Hospital to begin performing the sex change surgery. In 1972, American Medical Association sanctioned sex change surgery as the treatment for transsexualism. Japan allowed first legal sex change operation from female to male in 1998.

Harry Benjamin (1885-1986) recognized transsexualism, treated hundreds of patients and established the modern scientific management of this condition. He wrote many books, especially ‘The Transsexual phenomenon’ in 1966. Many of his patients went on to become celebrities. These included April Ashley, Christine Joregenson, Coccinelle and Roberta Cowell. Norman Fisk in 1973 coined the term ‘Gender Dysphoria Syndrome’. In 1979, Harry Benjamin's International Gender Dysphoria Association (HBIGDA) was founded. They established the transsexual Standards of Care (SOC’s) and established the criteria for diagnosis, management and surgery. This was periodically revised and the most recent version (sixth) was published in February 2001. HBIGDA itself is presently known as ‘World Professional Association for Transgender Health’ (WPATH). In 1980, American Psychiatry Association listed transsexualism as an official disorder in DSM-III. The diagnosis was changed to ‘gender identity disorder’ in DSM -IV. The disorder is now likely to be removed from DSM and considered a variation of normal. In 1998, Brain material provided by the Netherlands Brain Bank demonstrated transsexualism to be a pre -birth medical condition and not a state of mind.
In 1968, International Olympic Committee first started to test the chromosomes of athletes to prevent transsexuals from competing. In the famous Corbett versus Corbett judgment (1970), April Ashley's marriage was declared null and void despite having undergone sex change surgery. In 1976, Tennis Ace Renee Richards was barred from entering women's tournament. She won the following legal battle. Christine Goodwin versus the U.K. case (1999 -2002) paved the way for Gender Recognition Act to become U.K. Law. The transsexuals were now legally allowed to marry. In 2003 IOC allowed transsexuals to compete in Athens Olympics as the members of their new sex provided, they were legally recognized, had undergone sex change operation, and had received at least 2 years of hormone therapy. Felicity Huffman won a Golden Globe Award (2006) and was nominated for Oscar for her role in the movie ‘Transamerica’.[5,27] She played the role of male to female transsexual Sabrina Bree Osbourne, who while in the midst of her transition, discovered that she had fathered a son earlier from a one night stand. Her psychiatrist asked her to deal with this situation before permitting her to complete her procedure. It portrays many of the problems faced in everyday life by transsexuals. Some female to male transsexuals who interrupt hormone treatment and have functioning ovaries can become pregnant. Thomas Beatie chose to become pregnant as his wife was infertile. He was registered as a male in state of Oregon. Thus, he became the first legal male pregnancy on record, although Matt Rice bore a child by artificial insemination way back in 1999.

**Present Indian Scenario of Transmen**

Dr. Lavina Nanda, who has been a therapist for trans-men, said to Indian Express (December 17, 2018), “The social construct and acceptance in our country is different when it comes to female-to-male transitions. There are some societal classes in India which accept their decision in the beginning and classify it as tomboyish behaviour. Problem begins in situations like when the individuals want to transition, have surgeries or want to have a partner etc.” The present Indian scenario of transmen can be found from these words.
Rituparna Borah, co-founder of Nazariya, a queer feminist organization spoke to IndianExpress.com on the plight of the trans-men. “Transmen do not have alternate support systems like the hijra community. So many of them who are experiencing gender dysphoria or questioning their own gender, they don’t even know that trans-men exist. There is an invisibilisation of the community.”

The invisibilisation of the trans-men community spills over to the legal arena as well. The Transgender Persons (Protection of Rights) Bill, 2016 does little for them. The Bill defines transgender as “one who is partly female or male; or a combination of female and male; or neither female nor male. In addition, the person’s gender must not match the gender assigned at birth, and includes trans-men, trans-women, persons with intersex variations and gender-queers.” The bill neither defines trans-men nor addresses any of their specific concerns that arise due to their sex or gender. It doesn’t even acknowledge the blatant ostracisation of the community. The word ‘trans-men’ is just used once in the entire bill.

Moreover, the Bill takes away the right to self-determination that was provided by the Supreme Court’s historic NALSA judgement. While the NALSA judgement had ruled that trans people could identify their own selves, the Bill introduced by the Ministry of Social Justice and Empowerment states that a District Screening Committee would be required to issue a certificate of identity stating whether the said person is trans or not. Also, there is no provision to challenge the Committee’s decision.

The government offices too seem to be unclear on the protocol. There have been multiple instances wherein the officers have refused to change the individual’s sex on paper because according to them, the rule is only for the Hijra community and not trans-men. (Indian Express, 17/12/2018)

We can clearly look in to the case of Kabeer (Indian Express, 17/12/2018) where we can find the clear evidence that in Indian community trans feminine is more ridiculed than trans masculinity. Kabeer did not face any physical violence in his childhood like since people labelled his choices as
a ‘tomboy phase’ which was acceptable in the fairly privileged class he belonged to. “They expect that the tomboyish phase will die out once it comes to matters like marriage,” he said.

Speaking to IndianExpress.com, another trans-man, 34-year-old Karthik Bittu, an Associate Professor of Biology and Psychology at Ashoka University, said, “Employability is the biggest issue. The names and gender on our certificates are different from what we identify. Thus, employers do not often hire us. The process of changing the ID proofs is a struggle for transmen since they mostly go alone as compared to trans-women who usually go in groups.”

Patriarchy is a big factor behind all this. For the ones who are assigned male at birth, there are a lot of privilege. The society is more concerned with males. There are more privileges like access to better education and healthcare. Because of patriarchy, transwomen also find it difficult to access education. However, we all know how most of the times, anything that relates to male assigned at birth gets greater importance. For instance, even the doctors doing SRS (Sexual Reassignment Surgery) for male-to-female transition are better equipped than the ones doing female-to-male transition. Our medical industry could have developed better techniques for ‘female’ bodies. The surgeries for transmen too are much more complicated and expensive.

Major barriers faced by the transmen to get a dignified life.

- The literature is deficient in its ability to define their gender and sexuality.
- Cost of sex reassignment surgery.
- Sexual violence.
- Psychological impacts before and after the surgery.
- Lack of employment.

These are the Indian scenario. Even though we can claim that Kerala is different from the Indian scenario, there are many things that must be done for the better prospectus of transmen. Kerala is one of the first states in India, which has given care at policy level to the transgender community.
Kerala is one of the first states in India which has given care to transgender people at the policy level. Kerala Transgender Policy 2015 is largely acknowledged as an inclusive policy, but it must be noted that trans men and trans women should have different policies, since their social and psychological needs are entirely different. Kerala Transgender Policy suffers such lapses in its inclusiveness.

There are so many legal procedures related to the Gender Affirmation Surgery (GAS).

Before undertaking a GAS, certain conditions must be met and criteria satisfied. These are:

A firm diagnosis for the transsexual condition. The criteria for these are:

A)

1. A sense of discomfort and inappropriateness about one's sex.

2. A wish to be rid of one's genitalia and the desire to live life as a member of the opposite sex.

3. This discomfort/disturbance has been continuously present for a minimum of 2 years and is not limited to a period of stress.

4. An absence of physical intersex or genetic abnormality.

5. Absence of a mental disorder such as schizophrenia.

Differential diagnosis for the condition may be- B)


2. Gender dysphoria syndrome, (formerly effeminate homosexuality)

3. Gender dysphoria syndrome, (formerly transvestitism)

4. Gender dysphoria syndrome, psychosis.

5. Gender dysphoria syndrome, psycho -neurotic sociopathy.

6. Gender dysphoria syndrome, inadequate and schizoid personality.
If the final diagnosis of a patient is ‘Classic Transsexual’, he/she may be a candidate for GAS. The management of transsexuals is guided by Harry Benjamin International Gender Dysphoria Association's (HBIGDA) standards of care (SOC's) sixth version published in February 2001. HBIGDA itself is now known as ‘World Professional Association for Transgender Health’ (WPATH).

**Requirement of referral letters from mental health professionals**

C)

1. **Letter from one mental health professional is required for instituting hormone therapy, or for breast surgery.**

   One letter from a mental health professional, including the seven points mentioned in point D, written to the physician who will be responsible for the patient's medical treatment, is sufficient for instituting hormone therapy or for a referral for breast surgery (e.g., mastectomy, chest reconstruction, or augmentation mammoplasty).

2. **Letters from two mental health professionals are required before carrying out Genital Surgery.**

   1. Genital surgery for male to female transsexuals includes - orchiectomy, penectomy, clitoroplasty, labiaplasty or creation of a neovagina.

   2. Genital surgery for female to male transsexuals includes - hysterectomy, salpingo-oophorectomy, vaginectomy, metoidioplasty, scrotoplasty, urethroplasty, placement of testicular prostheses or creation of a neophallus.

**The documentation letter from mental health professional should mention these seven points -**

D)

1. A description of patient's general identifying characteristics.

2. Initial and evolving gender, sexual and other psychiatric diagnoses.

3. Duration of professional relationship with the patient, number of consults, the type of psychotherapy or evaluation that the patient underwent.
4. Specifying the eligibility criteria that have been met and the rationale for prescribing hormone therapy or surgery.

5. Degree to which the patient has followed the Standards of Care till the time of writing, and the likelihood of future compliance.

6. Whether the mental health professional is part of a gender team.

7. That the mental health professional would like to receive a phone call from the gender team confirming the authenticity of this letter.

**An appropriate period of hormone therapy**, usually 6 months. In many transwomen (M to F), a formal breast augmentation is not required as sufficient hypertrophy occurs on hormone therapy.

**E)**

**a) Why is hormone therapy required -**

Trans-sex hormonal treatments are important for a smooth gender transition, both physically and psychologically in selected individuals with gender identity disorders. In the absence of indigenous source, hormone therapy is medically necessary for a satisfying role in the patient's new sex. When physicians administer androgens to biologic females and estrogens, progesterone, and testosterone - blocking agents to biologic males, patients feel and appear more like members of their preferred sex.

**b) Eligibility criteria for hormone therapy -**

Administration of hormones is not to be taken lightly because of associated medical and social risks. The criteria are -

1. Age 18 years or above.

2. In depth knowledge of what hormones can achieve medically, their social benefits and risks.
3a. A documented real-life experience of at least 3 months prior to the administration of hormones or

3b. A period of psychotherapy of a duration specified by the mental health professional after the initial evaluation (usually a minimum of 3 months).

**Consent Forms** - It is advisable to convert the b, c and d (written below) into affidavits by paying the Notary or Court Fee and getting the counter signatures of a Notary or Magistrate, respectively. This means that now the state is a witness.

**F)**

1. Procedure - specific consent form: It includes a description of the surgical procedure. It also mentions the surgical and anesthetic complications that may occur. This also includes an estimate of the procedure.

2. Waiver of Liability Form (Figure 1): It contains a waiver of liability from the change in sexual appearance, long term use of hormones and permanent, irreversible change in current sexual functioning.
Figure 1
Waiver of liability form

3. Spousal Release Form (figure 2): This is used if the patient is married.
4. Parental Consent Form (Figure 3): This is used if patient is less than 20 years of age.

Currently the management of transsexuals is not started before the age of 18 years except in
the Netherlands (due to the pioneering work of Dr. Cohen Kettenis) and otherwise under exceptional circumstances.

Figure 3

Parental consent form. Used if the patient is above 18 years and below 20 years of age.

Post-Operative Issues Concerning the Patient
1. Change of Name
2. Change of Name and Sex in various certificates
3. Change of Name and Sex in Identity Cards and Passport.

Legal Issues Regarding the Gender Affirmation Surgery in India

In India, though there is an increasing incidence of GAS, there is no legal precedent.

GAS involves changes in identity and sex of the person. Consequently, the existing laws in their present form are inadequate when dealing with the rights of transsexuals. Some years back, the sex change operation of Aparna to Ajay Mafatlal, brought some of these issues into prominence. The following laws may require modifications -

a) The Penal Code 1860:

1. The definition of ‘rape’ may require a change.
2. Section 377 IPC, dealing with unnatural offence. Now it is scraped
3. The definitions of ‘wife’, ‘husband’, ‘adultery’, as incorporated in Sections 497, 498 and 498A IPC.
4. The definition of ‘wife’ as contemplated in Section 125 CrPC and Laws regarding maintenance.

b) Personal Laws:

1. Hindu Marriage Act and all personal Laws relating to marriage. The present Laws will not be adequate in questions of maintenance, grounds for divorce and custody of children.
3. Hindu Succession Act, especially Sections 8, 14 and 23.
c) Taxing Statutes:

Various beneficial provisions like tax exemptions available only to women, under the Income Tax Act.

These are some aspects of legal and surgical procedures of Transgender people including transmen.

I have interviewed 4 trans men in Kerala to study their life and the pros and cons of Kerala Transgender Policy

**Experiences of Transmen in Kerala**

- My first interview was with Ishan K Shan, who created a history by being the first transgender couple of Kerala. He is the member of Oasis, a trans-self-help group and also a part of Transgender Justice Board, Trivandrum. He undergone a Gender Affirmation Surgery in 2017 and his dream to marry Surya, a well-known transgender, became true on May 2018. Even though he faced many hurdles being a transmen, he was determined to have a clear vision of his life.

  During his conversation with me, he was concerned Transgender Persons (Protection of Rights) bill, 2018, which is opposite to the NLSA v/s Union of India (2014). NLSA v Union of India is a landmark judgment by the Supreme Court Of India, which declared transgender people to be a third gender, affirmed that the fundamental rights granted under the Constitution of India, will be equally applicable to transgender people and gave them the right to self-identification of their gender as male, female or third gender. The newly passed bill denied the right for self-identification of gender and requires a certificate from the expert committee formed at the district level. It will have a greater impact on the life of transgender people including transmen, who has got lesser visibility in the society. He also expressed that there should be separate policy, for the upliftment of transmen people, since the biological and
emotional needs of trans men and transwomen are entirely different. He also said that the media should focus the life of transmen along with transwomen.

- My second interview was with Praveen Nath, who recently (2018) enrolled in Maharajas College, Ernakulam for his graduation in English Literature. The other two transgender people who enrolled are Daya Gayathri and Theertha Sarvika. Praveen Nath was happy to share about his vibrant campus, where he faced no humiliation and discrimination.

The Kerala Education Department on July 3, 2018, issued a circular directing the reservation of two additional seats for transgender applicants in all courses in universities and affiliated arts and science colleges. The order came on a petition by the three students to the District Transgender Welfare Committee. It was forwarded to the Education Minister’s office on priority.

Praveen Nath faced a lot of hurdles after revealing his identity. He was expelled from his house and became a refugee. He didn’t get any support from his home and seek the help of self-help groups for his surgery. He also aspire to venture out into social work. He was a student of NSS College, Nenmara, but discontinued his studies after facing a lot of humiliation. He is more concerned of the Sex-Reassignment Surgery. He faced a lot of trouble in finding the money for surgery.

- My third interview was with Sidharth, who owns a fruit shop at Kakkanad. He is happy about his newly confident life. He is living with his wife, (a woman) and his mother. He is of the opinion that there are lot of positive development happening in the society and should wait for its results. He argues that if the Kerala Transgender Policy implemented strongly, that we can expect a lot of positive impacts.

- I had an interview with Sanjo, who is a post-graduate for U.C College, Aluva. He says that even the government officials are not aware of the difference between trans men
and trans women. He says that the awareness is the key of progress in the field of transgender study. He narrated the incident that people working for the Social Justice Department in Kerala does not have an idea regarding the trans men. He went to entrepreneurship training program where the faculty couldn’t identified them as trans men. She was a well experienced faculty with highly desirable qualifications. But the educational background could not help her in empathizing with these people.

- I had my last interview with Atharv Mohan, who is from Alapuzha working at Ernakulam. His concerns were regarding the shelter homes. He firmly believes that if shelter homes were provided properly, transmen will have the find the money needed for their living and surgery on their own

**Analysis of Kerala Transgender Policy 2015**

- It highlights articles 14, 15 and 16 of the Indian constitution and prohibits discrimination.

- Kerala is the first state in India which put forward a policy for transgender people.

- It is to avoid the social, political and economic discrimination against them.

- Transgenders face many problems which include access to capabilities, economic opportunities, assets and services, right to dignity, freedom from violence and right to expression.

- Even though it covers all the categories of transgender including male to female and female to male, it fails to address their real problems separately. It does not recognize their needs differently.

- It ensures equal access to social and economic opportunities, resources and services, right to equal treatment under the law, right to live without violence and equitable right in all decision making bodies.
- It also recommends the setting up of a Transgender Justice Board with state minister for social justice as its chairperson. It was not formed till 2017. But after a lot of protest it was formed in 2018. But the identity card issued by the board does not have any benefit to the transgender people since it does not carry any official government emblem.

**Conclusion**

- When we analyses the Kerala Transgender Policy 2015 and the awareness level of people regarding the transgender, they know more about the trans women but less or zero level of awareness regarding the trans men.
- The issues of transwomen and transmen should be addressed differently in separate policies since their needs are entirely different from each other.
- Transmen are born in the body of a women and it again possess a difficulty for them to express their identity since women are expected to keep a particular decorum in the patriarchal society.
- The state should have awareness campaign regarding the gender fluidity at school level. It will help the children who are gender fluid to continue their education and also to build up their confidence level.
- The transgender policy must be revised annually and should have officials who are expert in the domain of gender.
- The cost of Sex Reassignment surgery must not stand as a burden for the gender fluid people. Companies like Godrej are giving financial assistance for the SRS. Government should take initiatives to encourage more organizations to be a part of such ventures.

These are my observations regarding the trans men community in Kerala. The social and medical literature concerned with transmen identity fails to acknowledge the blatant
political and social ostracism the person face. They do not have a support system like traswomen and face gender dysphoria and question their own gender identity. Even though cyber platforms and recently held photo exhibitions in Kerala (December 14, 2017) helped a lot in their visibility they are not free from violence and decimation.
Reference


