AN ANALYSIS OF THE MENTAL HEALTHCARE OF TRANSGENDER IN INDIA

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ABSTRACT

As we know, transgender people are those who do not conform to their biological sex by birth. Their gender identity is dependent upon inner psychological feelings. Most transgender people feel anxious and depressed during the period of transition. Several researchers have found that there is some connection between mental illness and the inner conflict of gender identity because they feel anxious and experience peer pressure due to gender incongruence. However, this is not the only cause of their mental problems. Rather, their mental issues are affected by multiple reasons, such as societal discrimination, anxiety, marginalization, and exclusion from mainstream society. In this situation, their struggle to get proper mental healthcare becomes a complex issue. Hence, the analysis is being conducted in light of the Mental Health Care Act 2017. It will be interesting to know, despite several legislations for transgender individuals, whether they are contributing towards accessibility and availability of mental healthcare for transgender individuals, or if there is still a long way to go. In addition to that, we will also consider barriers to mental healthcare because mental problems are often termed taboo in Indian society. India is also a signatory to ICD-11. The legislator adopted a human rights approach to making laws; hence, it is a progressive law. However, unless it's properly implemented, we cannot say that we have achieved the sustainable goal of 3.5.

Keywords: Transgender; mental health; discrimination; accessibility; rights.

1. INTRODUCTION

Gender is a core aspect of any individual. One can say that gender and biological sex by birth are similar, but there is a huge difference between the concepts of gender and biological sex by birth. Gender is a social construct or behavior exhibited by any individual, whereas the sex of a person is defined by birth; therefore, our identity is largely dependent on our biological sex. Unfortunately, our society strongly recognizes the binary concept of sex, which is either male or female. Until the NALSA Judgment by the Supreme Court, Indian society was not inclusive, but slowly, inclusivity became evident in most areas dominated by males or females.

As we know, transgender people are people whose assigned sex by birth is different than their psychological feeling. That means they feel gender incongruence with their biological sex. In other words, we can say a female trans feels like a man and a trans man feels like a woman; their sexual orientation can be versatile. All these feelings through the journey from childhood to adulthood are vivid, and these experiences affect their mental health.

Legally, they have all the rights like cisgenders, but practically, they are struggling to have their basic human rights like life, education, livelihood, freedom of speech and expression, and lots more yet to be explored. Among the above-mentioned rights, mental health is the most ignored right of transgender individuals due to two reasons: first, people think that transgender individuals are mentally sick because of their different sexual orientation; second, mental illness is associated with a taboo. In Indian society, people think that those struggling with psychological problems are necessarily mentally ill patients. Therefore, prejudice and judgmental behavior make them susceptible to mental health conditions.

In India, we have the “Mental Health Care Act 2017”, enacted in May 2018. According to MHCA 2017, ‘mental illness’ is defined as a substantial disorder of thinking, mood, perception, orientation, and memory that impairs judgment, behavior, capacity to recognize reality, or ability to do the ordinary household work of life, and mental conditions associated with the abuse of alcohol and drugs. Common mental disorders such as anxiety, depression, and psychoses come under mental illness.

Budget allocation for mental health in India is less than 1%, which is inadequate for providing

mental healthcare services to the stakeholders.[1] The Government of India established the Central Mental Health Authority, but state-wise establishment is pending, and district-level mental health rehabilitation boards are yet to be established. So, practically, the implementation of the Act seems a difficult task. Therefore, it is evident that the implementation of laws and policies is very important to bring change to the old concept that a gender-deviant person is mentally sick.

1.1 Difference Between Biological Sex, Gender Identity, and Gender Expression

Biological sex means a person is born with a particular sexual identity. Generally, our society recognizes the binary sex that is either male or female. Society is not liberal enough to include other genders, and this is the root cause of discrimination, stigma, victimization, violence, and mental trauma or stress.

Gender identity means a person's intrinsic feeling of being male, female, or other. In the broader sense, a person can identify with any type of gender depending on how they feel internally about it.

Gender expression refers to how a person communicates gender identity with others through external appearance, like dressing, voice, hairstyle, or behavior. As we know, gender is a social construct and depends on the person in the case of transgender individuals. Transgender individuals possess different sexual orientations, so their community is grouped under a sexual minority group, like LGBTQ+. In this group, transgender alone is an umbrella concept and may include genderqueer, androgynous, multigendered, gender nonconforming, and third gender.

After knowing the differences, one can infer that transgender people and their identity issues are related to the core value of their existence. The question "Why are they different?" haunts them starting at an early stage of their life. The fact that they are not similar to other cisgender people is enough to give them mental anxiety, depression, loneliness, and prolonged stressful conditions that push them towards mental disease.

[1] Hans Gagan and Sharan Pratap in the article titled Community based Mental Health Services in India: Current status and Road map for the future.

1.2 Is Transgender Identity Itself a Mental Condition?

According to DSM-5 (Diagnostic and Statistical Manual of Mental Disorders), transgender people who experience gender incongruence persistently can have Gender Dysphoria.[2] Now, the term "gender dysphoria" has been changed to "gender incongruence" by ICD-11 (International Classification of Diseases), which is less stigmatizing and clearly indicates that the diagnosis is not related to a mental health condition.

Before DSM-5, society's prejudice was that those who identify with other genders, like transgender, were mentally sick because the binary concept of gender was prevalent at that time. People generally associate their psychological feeling of being different with divergent feelings from accepted gender norms. That means they were not allowed to express their gender. They were discriminated against instantly because they were different. They expressed, behaved, and followed unaccepted norms of society, and eventually, they were alienated from mainstream society. Due to their invisibility in an open society, they were further marginalized and victimized for no fault of their own.

The overall status of transgender people from ancient times to the present 21st century has not changed much, as was expected, because of several reasons. Their health, particularly mental health, is ignored and considered taboo in Indian society. Legally, the present Mental Health Care Act of 2017 shows a paradigm shift in approach that focuses on human rights-based care. Earlier, those admitted to mental care institutions were treated in inhuman conditions, like electric shock treatment, unhygienic living conditions, and prolonged stays without any proper reason. Rehabilitation of the patient was not proper, and post-care guidelines were not followed by caregivers. They were simply treated as mental prisoners rather than human beings who needed care and the right diagnosis for mental health.

The journey of accessing mental health care for transgender people is not easy. Getting proper human rights in society is not impossible, yet they are struggling for basic human rights because they were suppressed and suffered from marginalization, discrimination, exclusion, and even criminalization in pre-independent India. Post-independence, things have not changed so much for them. They are struggling to get a dignified life and human rights. In colonial India, the Criminal Tribes Act of 1871 criminalized the whole transgender community. Without any

[2] Article published by American Psychological Association under the title of 'understanding transgender people, gender identity and gender expression available at https://www.apa.org.

logical explanation, they were tagged as habitual criminals because they did not fit into the binary gender concept of society.

Recently, in May 2025, the WHO approved a resolution to remove gender identity disorder as a mental condition. That means being transgender does not mean possessing a mental disorder. Instead of removing stigmatization, it is now categorized in sexual health. Our society refrains from discussing any mental issues as health problems. Not every psychological condition should be categorized as a mental illness. Unfortunately, transgender health issues are related to some psychological feeling of one's gender, which means the idea is not clear whether gender incongruence is later developed into a mental health condition because it is related to individuality or core identity issues, or they face gender dysphoria because of some mental illness.

We will discuss the problem in light of the minority stress theory. The obvious reason is that this theory truly explains the effect of external as well as internal conflict on the mental health of transgender people. We need to understand that every psychological condition does not lead to mental illness, and the second point is that the prejudice of society on mental health issues harms more than one can ever imagine. There is no dedicated framework for mental health laws internationally, but it is recognized as an integral part of health and fundamental human rights.

1.3 Key Elements of the Mental Health System

1. Right to accessible mental healthcare
2. Quality mental healthcare
3. Protection from abuse and exploitation
4. Promotion of inclusion in the community

Four areas determine whether the status of mental healthcare of transgender people in India is in a progressive state or whether any reform is needed. These elements are present in the Mental Health Care Act 2017. Mental illness is one of the conditions mentioned in the Convention on the Rights of Persons with Disabilities 2006. India is considered the world’s suicide capital

because 2.6 lakh people die by suicide in a year.[3] According to the WHO, 13% of the global burden of mental disorders is on India.[4] Similarly, the Global Burden of Disease (Study 1990-2017) estimated 197.3 million people had a mental disorder in India, meaning 14.3% of the total population of the country suffers from a mental disorder.

In 2003, Meyer gave the minority stress theory, which explains that stigma and discrimination cause stress in marginalized people. Transgender people experience minority stress in the form of homophobia, discrimination, hate crimes, exclusion, gender non-conformity, and violence. Minority stress theory explains how proximal and distal stressors cause mental health issues.[5]

1. EXTERNAL VS. INTERNAL CONFLICT:

We know that society is not the same for transgender individuals as it is for cisgender individuals. They struggle in society to obtain basic human rights. Their struggle is multidimensional, beginning at home and extending to society's perception. Their internal conflict arises in the form of gender dysphoria. Unlike cisgenders, they find it difficult to accept themselves the way they are.

Meyer, in his work, describes two types of stressors: distal and proximal stress processes. Distal stressors, linked to society's reaction towards transgender people, originate from individuals and institutions that affect transgender individuals adversely. These can take the form of stigma, discrimination, victimization, marginalization, or unemployment, and even loneliness can be a type of stressor.

Proximal stressors include the fear of rejection in society, hiding their transgender identity, and dissatisfaction with their gender, causing internal conflict or issues of individuality. Collectively, these stressors negatively impact transgender mental health.

Most of the studies have been conducted in European countries and the U.S.A. The theory of minority stress has been extended by different researchers to establish the relationship between external and internal stress and its impact on the mental health of transgender individuals. In India, society is not inclusive, and during colonial rule, transgender individuals were

[3] Article published in Times of India, available at https://timesofindia.indiatimes.com
[4] WHO Report
[5] Frost M David, Meyer H Ilan article titled minority stress theory: Application, Critique, and continued relevance. Published in PMC 11Dec 2023

suppressed for a long time because their gender identity was alleged to be associated with criminal activity. The Criminal Tribes Act of 1871 harmed the transgender community like never before. This resulted in the confinement of the community within its own sphere, completely aloof from society. In addition to that, the stigma of being mentally ill is associated with mental healthcare, which further escalates the issue, making it difficult for them to access mental healthcare.

2. Challenges Present in Accessing Mental Healthcare in India:

1. Stigma associated with mental illness
2. Social discrimination
3. Lack of qualified professionals
4. Inadequate infrastructure
5. Less awareness of mental health
6. Complex nature of data collection
7. Lack of integrated physical and mental health care
8. Economic constraints
9. Lack of early diagnosis of mental issues
10. Exploitation and human rights violations

These lists are not exhaustive, as accessing mental healthcare by transgender individuals also depends upon the confirmation of their gender identity. Their mental health problems are multidimensional. Proper diagnosis of mental issues is not easy due to a lack of training in the health conditions of transgender individuals, co-morbidity factors, and other associated aspects. Therefore, an analysis of separate legislation like the Mental Health Care Act 2017 is necessary to understand the loopholes in the legislation, as well as its efficiency in addressing the mental health problems of transgender individuals.

From the above discussion, it becomes clear that the minority stress theory rightly establishes the relationship between stress and the mental health of transgender people. In Indian society, gender is mostly considered in binary terms, and any deviation from accepted norms is considered a mental illness. People directly link mental illness with a person’s sexual

orientation. Not only that, but they also exclude transgender individuals from society on that basis. Transgender people did not have any legal recognition before the NALSA Judgment of 2014.[6] This was the first judgment recognizing them as a 'third gender'. The Supreme Court also directed the government to treat them as a socially and economically backward class. Yet, they are still not categorized as a backward class.

There is the 'Mental Health Care Act 2017' and the 'Smile' policy for transgender individuals, but there is no exclusive legislation for the integrated health of transgender people. Similarly, fundamental rights are available for all citizens of India. India is a signatory to the CRPD and ratified it on 1st October 2007 (United Nations Convention on the Rights of Persons with Disabilities – 2006). Recent legislation has emphasized human rights, non-discrimination, community-based care, and informed consent. Yet, transgender individuals hardly receive proper diagnosis and treatment due to multiple reasons. Therefore, implementation of legislation and policy is the only way to uplift the status of transgender individuals with regard to their mental health. Making laws for the upliftment of marginalized communities is a progressive decision, but without effective implementation, the status of transgender individuals cannot be improved in terms of their accessibility to mental healthcare.

Indian laws and policies are progressive compared to Western laws, and internationally, the WHO has initiated a Global Action Plan for the prevention and control of non-communicable diseases (2013–2030).[7] Its agenda is extended to achieve Sustainable Development Goal Target 3.4. Despite many legislations for health, healthcare facilities are still unavailable to transgender individuals. Affordability and accessibility are both distant dreams for them. Due to a lack of data about the mental health of transgender individuals, the exact number of transgender patients with mental health conditions is unknown.

Data related to mental disorders in transgender individuals reveals that not all transgender people have mental illnesses. For example, Grant and others conducted research on 6,540 transgender individuals about the effects of discrimination on their mental health. 41% of respondents had attempted suicide compared to 1.6% of the overall population. 19% had refused medical treatment because of their gender identity. 16.6% faced discrimination.[8]

[6] National Legal services Authority V. Union of India, 2014 5 SCC438.
[7] Implementation roadmap 2023-2030 for the Global Action Plan available at https://www.who.int.
[8] Grant JM, Mottet L, Tanis JE & Others a report titled injustice at every turn; A Report of the national transgender discrimination survey. National centre for transgender equality, 2011.

Depression and anxiety are two major causes of mental distress and are likely due to social rejection.[9] Lack of family support could be another cause of depression among transgender individuals.[10] Several other studies also supported that 44% of transgender people suffer from depression, and 33% experience anxiety symptoms. (Bockting et al. & Grant et al.)

Not only do factual data and societal pressure indicate that accessing mental healthcare is a difficult task, but legal complexities in the Mental Health Care Act 2017 also add to the challenge. For example, the absence of Mental Health Review Boards (MHRBs). In India, most states have not established Mental Health Authorities or Mental Health Review Boards. Even the guidelines for mental health institutions have not been prepared in many states. So, in the absence of MHRBs, violations of rights cannot be redressed. The second issue is insufficient budget allocation. Institutions are understaffed, and service providers are not well-trained. The third is the lack of community-based services. Section 19 of the Act emphasizes the non-segregation of mental patients from society. Yet, accessing rehabilitation remains complicated.

Therefore, from the above discussion, it is evident that although India has progressive laws for mental healthcare, due to ineffective implementation, access to mental health services remains a distant dream for transgender individuals. India has taken initiatives to make mental healthcare available to every citizen through the Kiran Helpline, the MANAS Mobile App, and Manodarpan. From the above discussion, it is also clear that transgender people experience different behavioral and psychological feelings. In addition to that, they struggle individually, within their families, and in society. Their mental issues can be triggered in various ways. In short, their mental health problems are multidimensional. Recently, the Punjab and Haryana High Court directed the state government to implement legislation and guidelines to provide mental healthcare for all. Poor implementation leads to violations of their human rights and makes it difficult to include them in mainstream society.

CONCLUSION

Mental health issues are as important as physical health, and in India, laws are being enacted to give value to human rights. However, simply making laws cannot solve the problem of accessibility and availability of mental healthcare. Effective implementation through state

[9] Hajek Andre, Koing Helmut-Hans & others Article titled prevalence and determinates of Depressive and anxiety symptoms among transgender people: Results of a survey.
[10] Ibid

agencies and awareness programs can change the present status of transgender mental healthcare in India. As we know, the mental health problems of transgender individuals are multidimensional, so an integrated approach must be followed in healthcare settings. This means that for the transgender population, physical and mental healthcare should be integrated, as their inner self-identity process often requires psychological counselling before the diagnosis of mental issues.

From the above discussion, we understand that not all psychological problems are mental conditions, but careful diagnosis and the eradication of social taboos attached to every psychological problem are necessary for a proper understanding of transgender mental healthcare needs.

As India is a signatory to ICD-11, to achieve Sustainable Goal 3.5, the state should implement the provisions of the Mental Health Care Act 2017.