

**A SOCIO-ECONOMIC ANALYSIS OF THE LGBT  
COMMUNITY IN PUNJAB REGION**

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**UNDER THE SUPERVISION OF**

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*Transforming Education Transforming India*

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**CHAPTER-I**  
**INTRODUCTION**

While there is no end to the list of the forms of discrimination faced by various people in the world today, India has been one of the many countries that have undergone immense discrimination on the basis of caste, creed, colour, race, age, employment status, income status, region, language, religion, gender and the list goes on. This thought of superiority has no other origin than the complex mindset of the people to satisfy their own ego and feel elated. However, after attaining independence from the last rulers, the English in 1947, India earned a name of democratic country with its diverse cultures, traditions, religions, languages, food, people with all types of skin colour or complexion, etc which India still boasts of and citizens, proud of. Yet with so much of a colour and proud variety it is very difficult to consider that people in India still face discrimination. Even though the country has been independent for seven decades it is hard to digest that this country still needs aggression, people in disharmony rallying on roads for freedom and justice, and people fighting for their basic rights on account of gender discrimination.

The term gender inequality has been generally known in the human history, however, not until start of the twentieth century has the revolution in the transformation of gender relations wound up noticeably to become one of the most rapid and significant social changes. The gender biasness that has been covered under research or has been protested for, till now, includes only the rift between males and females. The gender rights and gender equality are the issues in support of women only. We are well aware that we live in the world of patriarchy where male members in the family are the heads, while females have always been made to look inferior. But the gender discrimination has crossed the borders of the discrimination faced between the two major sexes. While there is other gender that though has been recognised but not acknowledged. These people are made to live off of the other people on account of their gender identity, just because they are different from the usual.

The people here talked about are the 'LGBT Community' or 'the Lesbian Gay Bisexual Transgender Community'; the sexual and gender minorities in India. Basically, LGB-Community falls under the discrimination faced on grounds of sexual orientation, the T-Community falls under the issue of gender discrimination or gender identity. The LGBT persons in India confront lawful and social hurdles that are not experienced by non-LGBT people. To define sexual orientation: it is the intrinsic quality of a person to get sexually attracted to another person irrespective of the gender identity, while gender identity is the

perception of a person to be of a gender which may or may not correspond to the sex assigned at birth. Sexual activity between people of the same gender is illegal, and same-sex couples cannot legally marry or obtain a civil partnership. Although things are taking a favourable turn towards this community, however, this study aims at collecting evidence whether such changes are actually being implemented or not. Therefore the main focus of the study is to understand the issues and problems that are still faced by the third gender or generally known as, the transgender (hijra) community and to know the perception of the people regarding them.

### **1.1. PUNJAB**

Punjab is a state in northern India bordered by the other Indian states of Jammu and Kashmir in the north, Himachal Pradesh in the east, Haryana in the south and southeast, Rajasthan in the southwest, and also by the Pakistan province of Punjab in the west. The state is divided into 22 districts. According to the 2011 Census, the state has a population of 2,77,04,236 people spread over 50,362 square kilometres, with a significant percent of 62.51 people living in rural area. It is twentieth largest state by area and sixteenth largest state by population.

As the Census 2011 was the first Census to introduce the transgender people count separately. It noted that 2% of the total transgender population of 4.9 Lakhs or approximately 10,243 dwell in Punjab. Further out of the total transgender people of 28,341 registered as voters, in Punjab only 293 transgenders registered as voters. While 4.9 Lakh is the actual figure, but considering the social stigma these people face on daily basis, transgender activists estimate the number to be six or seven times higher than accounted (Nagarajan, 2014) and the same maybe said for Punjab as well. (Government of Punjab, India)

Ludhiana is a city and a municipal corporation district of Punjab, which is not only the largest city north of Delhi but also the largest city in the state, with an area of 310 square kilometre and the population of 34,87,882 as of the 2011.

The city stands on the Sutlej River's old bank, 13 kilometres (8.1 mi) south of its present course. It is an industrial hub of northern India, and was referred to as India's Manchester by the BBC. (India's Manchester, 2014)

## **1.2. INTERPRETING TRANSGENDER**

Transgender is a person whose gender does not remain consistent with the gender assigned to them at birth. Their gender identity may not conform to traditional binary notions of male and female, but rather as a third gender. The term transgender does not suggest sexual orientation, hormonal makeup and physical anatomy. (Trans Student Educational Resources) The term ‘Transgender’ also includes those people who transition from one sex to the other.

The Transgender Persons (Protection of Rights) Bill, 2016 defines the “Transgender Person” as a person who is—

- (A) neither wholly female nor wholly male; or
- (B) a combination of female or male; or
- (C) neither female nor male; and whose sense of gender does not match with the gender assigned to that person at the time of birth, and includes trans-men and trans-women, persons with intersex variations and gender-queers.

## **1.3. NOMENCLATURE OF TRANSGENDERS IN INDIA**

The various terms are interchangeably used for transgender people only. There are regional variations in the use of terms for example ‘Hijras’ is used mainly in northern India especially in Punjab, Kinnars in Delhi and Aravanis in Tamil Nadu, etc. A few terms have a mythological significance, that is, they are derived from the Indian folklores that are indicative of presence of LGBT community.

**HIJRA:** A male who rejects his ‘masculinity’ and confirms to be either ‘a female’, or ‘not a male’, or ‘in-between a male and female’, or neither a ‘male nor a female’. (Chakrapani, 2010)

**KHUSRA:** Another term for transgender mainly used in Northern India. However, this term is considered pejorative by the transgenders as it is associated with impotence, incompetence and powerlessness.

**EUNUCH:** An individual who is conceived to be a man but gets neutered. The term Eunuch can mean same as the term Hijra, however many transgenders come across this term to as an insult as it signifies depriving the person of their vitality or power.

**KINNAR:** A local variant of the term Hijra used in northern India like Delhi, Maharashtra and the other parts of the country.

**ARAVANI:** A local variant of Hijra used in Tamil Nadu. ‘Thirunangi’ is another term that is preferred by some of the activists interchangeably with Aravani. However, Aravani is

mythological term that comes from folklore in Mahabharata, wherein Aravani was the son of Arjuna who voluntarily sacrificed himself for the victory of Pandavas. It is believed that from him is born the lineage of transgenders.

**KOTHI:** A male by birth, who behaves in a feminine manner. Some Hijras may confirm themselves to be 'Kothis', but not all Kothis recognize themselves as Hijras. (Chakrapani, 2010)

**SHIV-SHAKTHI:** Men who have feminine expression and at the same time are enthralled by a goddess, who then start to assert themselves as the wives of Lord Shiva, generally found in Andhra Pradesh are known as Shiv-Shakthis. However they don't face prejudice that other transgenders have to suffer, as they are considered to be fortunate. (Chakrapani, 2010)

**JOGTAS/JOGAPPAS:** Jogtas or Jogappas are those males who transition to female and are dedicated to the service of Goddess Renukha Devi (Yellamma), whose temples are present in Maharashtra and Karnataka. (Chakrapani, 2010)

**GURU/CHELA:** Many transgenders are abandoned by their families as they are unable to accept their transgender status, while others leave their home voluntarily and join transgender community. They come together to form a family-like bond where one asserts the role of a 'guru' – a leader or mentor to the others who act like disciples or 'chelas'. However, the chelas run a risk of being exploited, as the guru may charge some amount of money in exchange for providing them with her material support.

#### **1.4. TRANSGENDERS - A ROLLER-COASTER LIFE OF THE THIRD GENDER IN INDIA**

**ORIGIN:** In India, there is mention of transgender persons in its ancient history; in Hindu mythology, regional folklores, religious texts like in the epic texts of Mahabharata, Ramayana, Jataka stories, Vedic literature and the Puranas etc. These Indian folklores depicting LGBT community, do not mention them directly but give nuances that are indicative of their presence, such as Adhanari or Ardhaniswara, one of Lord Shiva's most popular avatar who is half-man and half-woman. The Vedic literature of kama sutra, too, mentions of the existence of queer community.

The LGBT community has also been recognised by western countries from the western mythologies, long time ago. The transgenders therefore are present throughout the world while India is estimated to have 4 million transgenders with communities recorded 4000 years back. Many Indian folklores have different conclusions regarding the birth or origin of

transgender community in India, which resulted in various terms or names for a transgender person that may differ in accordance with their regional existence and traditional values and beliefs.

Goddess Bahuchara Mata, worshipped by transgenders, was the daughter of Charan Bapal and Detha, who once travelling along with her sisters, is believed to be attacked by a bandit named Bapiya. In such situations both men and women of charan community announce Tragu, a form of self-immolation. The legend has it, that all the sisters cut off their breasts, with Bahuchara cursing Bapiya to a life of impotency unless he dressed and acted like a woman and worshipped her for the rest of his life. There are various other tales associated with Bahuchara Mata as a figure who is identified not only with impotency but also as a symbol of immense strength and protection to this community. (Dharmadhikari, 2015)

The tales in the Mahabharata, Ramayana and numerous other texts give insight not only of the existence of transgender people in the history but also of their origin, the various terms that they are referred by, their traditions, etc. For example Aravani is a mythological term that comes from the folklore in Mahabharata, wherein Aravan, was the son of Arjuna and Nagakanya, who voluntarily compromised himself to Goddess Kali for the conquest of Pandavas in Kurukshetra war. It is believed that from him is born the lineage of transgenders and so the Tamil transgenders call themselves Aravani.

In the epic of Ramayana, when Lord Ram was leaving for forest to fulfil the exile of 14 years, he asks his followers to return to the city by saying: ‘All men and women return to the city’. While only hijras among them decided to stay by his side and so, overwhelmed by their fidelity, Lord Ram bestowed them with power to confer benediction on people on blessed occasions like child birth, marriage and other inaugural programmes in which they perform their customary singing and dancing while conferring blessings.

While such stories are endless, where a few tales highlight the curse in their evolution, the others highlight their heroism. The foundational work of Hindu law, the Manu Smriti (200 BC - 200 AD) explains the biological origins of the three sexes: “A male child is produced by a greater quantity of male seed, a female child by the prevalence of the female; if both are equal, a third-sex child or boy and girl twins are produced; if either are weak or deficient in quantity, a failure of conception results.” (Michelraj M., 2015)



However, treating them unfairly, outcasting them from the opportunities that are supposed to be their basic rights, points towards our character as a human rather than theirs.

**DURING MUGHAL PERIOD:** At the time of the reign of Delhi Sultanate- a dynasty of Muslim rulers since 1192 AD, transgenders were believed to play a prominent role. They were called 'Khwajasaras', a designation that is accorded much respect and dignity. Since transgenders were castrated men, they were trusted to safeguard and defend palaces of women called 'harems', and hence came to be known as Eunuchs, a word that has its roots in Greek, meaning "Keeper of the bed". They were well aware of the secret workings of the Muslim households and so were they became trusted domestic insiders for the royal courts. Serving as watchmen, guards and messengers throughout the palaces and sometimes even advisors to the king they were highly revered, believed to bring prosperity and confer special potency influence. They also occupied high positions in Islamic religious institutions specifically in guarding holy places of Mecca and Medina. (Michelraj M., 2015)

**DURING THE ERA OF BRITISH RAJ:** With the advent of Colonial Rule in India in 1858 the perception of Hijras changed extremely. The British deemed Hijras as 'a breach of public decency' (Preston, 1987) and graded them as a 'criminal tribe' or 'criminal caste' under the Criminal Tribes Act 1871. Further, Section 377 of the Indian Penal Code which suggests, "Unnatural offences: Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for life, or with imprisonment of either description for term which may extend to ten years, and shall also be liable to fine." (Harris, 2013), was used as an instrument to torture and abuse against Hijras and transgender individuals. (Sikri A., 2013)

Such strategies account for the expulsion of Hijra communities, depriving them of their basic rights as a citizen of the nation. Since they were socially and economically discriminated, this prevented them from accessing education, healthcare, housing and employment facilities. So, they ended up becoming isolated and the most marginalised community who are still treated as untouchables. Abandoned by their own families in the fear of disgraced status in society they end up begging on streets or into abuse of prostitution. The abuse of prostitution has contributed to the high rate of HIV among them with statistics varying between 50%-80% of the people infected. Moreover, the term 'Hijra' itself came to be used with disrespect, as an offensive word, with such disdainful attitude still present today.

**CONTEMPORARY TRENDS:** With the efforts of various organisations, activists, inspiring struggle of transgenders themselves, which stirred the government into action, the past decade saw various developments in favour of the LGBT community, especially the transgenders. The Government of India launched various welfare policy schemes that include transgender count in the population census under third gender, government documents with the ‘Transgender’ or ‘Others’, issuing of the citizen identity cards, passports, other social-economical development and constitutional opportunities for the transgender people. The major initiative of the Eleventh Five Year Plans (2007-2012) was Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) which not only took care of the rural employment but also brought about the employment opportunities for transgender people.

All this started when in 2009, Naz Foundation, a non-governmental organisation working on HIV/AIDS and sexual health, based in New Delhi; filed a petition against Section 377 of the Indian Penal Code, calling it unconstitutional, that violates the fundamental rights provided by the Indian Constitution. The Delhi High Court upheld the decision in favour of Naz Foundation. Notwithstanding, the argument on 23rd February 2012, the Ministry of Home Affairs communicated its disagreement to the decriminalization of gay movement, expressing that in India, homosexuality is viewed as being unethical. (Mahapatra, 2012) But on 28th February 2012 the Central Government overturned its stand, declaring that there was no fallacy in decriminalizing homosexual activity. This highlighted the incompetence of the Central Government to come to a firm decision, making the mockery of the system. (Supreme Court pulls up Centre for flip-flop on homosexuality, 2012)

On December 11 2013, the Supreme Court did not consider the 2009 Delhi High Court verdict of decriminalising gay activity. (Nelson, 2013) According to the Supreme Court, orders on the impartiality of a law comply throughout India, and not just to the region of the state over which the high court has its legal bounding. Hence it was concluded that the decision regarding the same doesn’t fall under the judiciary but a legislative call.

The audit appeal made by the Central Government, NGO Naz Foundation and a few others, against its December 11 ruling on Section 377 of IPC on January 28th 2014 was again dismissed by the Supreme Court. In clarifying its decision, the jury said: “While reading down Section 377, the High Court overlooked that a minuscule fraction of the country’s population constitutes lesbians, gays, bisexuals or transgender people, and in the more than 150 years past, less than 200 persons have been prosecuted for committing offence under

Section 377, and this cannot be made a sound basis for declaring that Section ultra vires Articles 14, 15 and 21.” (Supreme Court refuses overruling its Verdict on Section 377 and Homosexuality, 2014) Yet on December 18, 2015, an effort to initiate the bill for the decriminalisation of Section 377 was made by Shashi Tharoor, member of the Indian National Congress, but the same gained no attention. (India parliament blocks MP's bill to decriminalize gay sex, 2015)

Further, Human Rights Watch expressed its worries, saying: “The Supreme Court's ruling is a disappointing setback to human dignity and the basic rights to privacy and non-discrimination”. (Apex court ruling disappointing: rights body, 2013) Human Rights Watch (HRW) is an international non-governmental organization that conducts research and advocacy on human rights. It has its headquarters in the New York City. The organisation pressurises governments, policy makers and human right abusers to abstain from abusing, and respect human rights. It often works in support of and on behalf of the rights of refugees, children, migrants and political prisoners. (Human Rights Watch)

The Naz Foundation (India) Trust again filed an appeal to the court to review its decision to which on February 2, 2016, the Supreme Court agreed to give a follow up to the same. However, the trial day is not yet decided. (Kalra & MacAskill, 2016)

### **1.5. EVALUATING THE THIRD GENDER RIGHTS IN INDIA**

Once the policy decisions have been identified it is important to address and evaluate their relevance. First of all, the Section 377 of the Indian Penal Code suggesting, “Unnatural offences: Whoever voluntarily has carnal intercourse ‘against the order of nature’ with any man, woman or animal shall be punished with imprisonment for life, or with imprisonment of either description for term which may extend to ten years, and shall also be liable to fine.” violates Article 14 of the Constitution, that promises every citizen “equality before the law”; Article 15, that forbids “discrimination on grounds of religion, race, caste, sex or place of birth”; and Article 21, which assures “protection of life and personal liberty”. In other words as criticised by Naz Foundation, the Section is totally unconstitutional and violates the fundamental rights of the Indian citizen.

Further, the Ministry of Home Affairs expressing its disagreement to the decriminalisation gay activity, stating that in India, homosexual activity is seen as being unethical. However, calling homosexuality immoral in India is simply a blinding and regressive statement to be

made in 21<sup>st</sup> century. It is a modern era where many taboos have been shunned, many superstitions ridiculed and yet the Home Minister does not want people to think rationally. It is high time when we stop criticizing people and their acts in the name of religion. It is religion that teaches, that all humans, in fact all living are the creation of God. If it were not God, how would LGBT Community even exist? Such statements would never let orthodoxy die.

It is disagreeable to say that the Supreme Court's dismissed to acknowledge the appeal, filed by the Central Government, NGO Naz Foundation, and several others; against its December 11 verdict on Section 377 of IPC. According to Supreme Court since less than 200 people have been prosecuted under Section 377, it is not a sufficient cause to claim the law violates Article 14, 15 and 21. But the question here is not whether anyone has been persecuted under the law or not. The question is why such a regressive law even exists. How can a few humans still be discriminated by other humans with the current advancement the world has seen? How can a community still be called inferior when they were not given an equal chance in the first place?

### **1.6. TRANSGENDER STATISTICS**

“First count of third gender in census: 4.9 lakh”, read loud and clear the headline of Times of India on 30<sup>th</sup> May, 2014. Although this statement was hailed, marking it as the foundation for the transformation and recognition of the once respected transgender community, which bore the brunt of ignorance for more than 250 years, but at the same time it reflected the ignorant and stigmatic mindset of the society, because this count was revealed only after three years of the census, pointing out the arduousness in bringing about reforms in the very fabric of the Indian society.

Delighted to find that 2011 census accounted for the third gender separately, (until then this community was being included in male population); which happened 3 years prior to the Supreme Court's legal recognition to the third gender. However, the transgender activists estimate the numbers to be six to seven times higher than the obtained, and yet are elated to find that such a large number of people acknowledged themselves to be belonging to the transgender category. Further, the most astonishing news was that, out of the total number of transgenders revealed by the census, almost 55,000 were in the age group of 0-6 years. This came as a huge surprise to the community as they did not expect so many parents to acknowledge their children belonging to the transgender category. (Nagarajan, 2014)

The state-wise census reported about 28% (highest) of the total transgender population to be from Uttar Pradesh followed by 9% from Andhra Pradesh, Maharashtra and Bihar with 8% each, Madhya Pradesh and West Bengal with over 6%, Tamil Nadu, Karnataka and Odisha with over 4%, 3% from Rajasthan and 2% from Punjab.

Another important thing pointed out then was that, over 66% of the population identified as third gender lived in rural areas, very close to the 69% of the overall population that lives in villages. However, in 2015 it was found that there is high degree of transgender migration from rural to urban areas, with 85 in every 100 transgenders moving to urban spaces. The highest concentration of the third gender persons in rural India is in Uttar Pradesh and Bihar with 12,916 and 9,868 trans persons respectively. In fact, the six states of Uttar Pradesh, Bihar, West Bengal, Maharashtra, Odisha and Gujarat together, account for over half of the total transgender rural population in the country which is approximately 37,443. While Puducherry and Sikkim have one each and Lakshadweep has three, it is Chandigarh, Daman and Diu, and Dadra and Nagar Haveli which have reported 'nil' transgender persons in rural areas. Among the northern states, Uttarakhand and Jammu and Kashmir have the maximum population of transgenders in villages of 483 and 477, respectively. Delhi has 346, Haryana 336, Himachal Pradesh 61 and Punjab 43.

According to the LGBT activists this data highlights two trends:

- (i) Transgender migration to urban areas is a reality,
- (ii) Transgender phenomenon is still a taboo in rural India with many persons from the third gender not reporting their sexual identities.

According to Abhina Aher, a leading activist and transgender herself, "Transgender persons are migrating from villages to cities in search of social acceptance and livelihoods. For transgenders, these are the two principal challenges. The mainstay of transgender livelihood is still sex work, which is available only in the peripheries of big cities like Bangalore, Mumbai and Delhi."

However, the activists like Yashwinder Singh feel the Census 2011 data on transgenders and now the rural Census data cannot be 100 per cent error free. They are dissatisfied about the tools used for enumeration and the questions they ask. They fear the agencies are only counting hijras who are easily spotted. (Tondon, 2015)

The census data also unveiled the low literacy level in the community, which is 46%, compared to 74% literacy in the general public. This is no surprise, considering the harassment and discrimination this community undergoes in educational institutes. The proportion of those working also are low i.e. 38% compared to 46% in the general public. Only 65% of the total working transgender population are the main workers; meaning, they are those who find work for more than six months in the year — compared to 75% in the general population. However, all this information is a stepping stone for the government to introduce such policies those would ensure equality and equity this community enjoys as any other citizen of this country. (Nagarajan, 2014)

### **1.7. COMMUNITY REPRESENTATION**

Like any other community LGBT community too has its own representative symbol. But before getting to the symbol for LGBT community one must understand the need for the symbol. When we go to school or any institute where we have a particular kind and colour of uniform, we get a sense of belonging and being a part of that school or institute. Similar is the reason why LGBT community too has a symbolic representation.

LGBT community is represented by a rainbow colour flag with the stripes flown horizontally and red colour on top as in a rainbow. Although this representation was first originated and acknowledged in San Francisco but today it is known worldwide as a symbol of LGBT pride identity, solidarity and social movements.

Rainbow flag was first developed by a gay artist Gilbert Baker from San Francisco in 1978, wherein he represented the flag with 8 stripes, each holding a specific meaning: Hot Pink for Sex, Red for Life, Orange for healing, Yellow for sunlight, Green for Nature, Turquoise for Magic/Art, Indigo for Serenity, and Violet for Spirit. Later on 1979 the two stripes from the flag were dropped and the flag with six colour stripes including: Red, Orange, Yellow, Green, Blue and Violet became the symbol which is pertinent even today.

Rainbow seems to be an acceptable and a true representative symbol for this community because Rainbow is a symbol of Peace and the colours also reflect the diversity in LGBT community. Moreover, history records men with a homosexual orientation wear a peculiar bright coloured thing with their everyday apparels as a way to show their different orientation. Before the Rainbow Flag became their symbol, there were many other representations for the homosexuals and transgenders. However, the most prominent symbol

for the transgenders that is used even today is a flag with five horizontal stripes: two light blue, two pink and one white in the centre; and is called ‘Transgender Pride Flag’. It was first created by American Trans woman Monica Helms in 1999, who described it’s meaning as:

“The stripes at the top and bottom are light blue, the traditional colour for baby boys. The stripes next to them are pink, the traditional colour for baby girls. The stripe in the middle is white, for those who are intersex, transitioning or consider themselves having a neutral or undefined gender. The pattern is such that no matter which way you fly it, it is always correct, signifying us finding correctness in our lives.” (Sankin, 2012)

### **1.8. EMERGENCE OF POSITIVE OUTLOOK IN INDIA**

India is one among the top fastest growing economies of the world. It has always received this global attention because it’s a huge economy with stable growth and India has always lived upto and beyond the expected mark. However, an economy’s development is not only credited to its tangible infrastructure but also includes the development of its laws and policies in regards to the social realms. Therefore, India has been showing a great progress recently in regards to the LGBT community. Even though the Supreme Court has not given any ruling in context of section 377, there are other developments on this front which are a welcome sign of progress.

The most hailed decision of the Supreme Court in favour of the community came on 15th April 2014, the Court officially proclaimed transgender community as a socially and economically backward community that must be deserving of reservations in education and employment. It also announced for the welfare schemes to be framed by the union and the state governments. (Supreme Court’s Third Gender Status to Transgenders is a landmark, 2014)

On 24th April 2015, the Rajya Sabha endorsed the ‘**Rights of Transgender Persons Bill, 2014**’ assuring rights and grants, reservations in education and employment (2% reservation in government offices), legal aid, pensions, unemployment allowances and skill development for transgender people. The bill furnished to ban discrimination in employment as well as prohibit abuse, violence and exploitation of transgenders. The bill specified for the setting up of welfare boards at the centre and state level and transgender rights courts as well. With all the positive attributes, the bill also had several abnormalities and lacked clarity and details regarding its implementation by the various ministries. (Rajya Sabha passes historic private



Bill to promote transgender rights, 2015) Further, Social Justice and Empowerment Minister, Thaawar Chand Gehlot assured on June 11th 2015 that the government would re-launch a comprehensive bill for transgender rights that would provide the transgender people with all privileges and grants that are presently sort by scheduled castes and scheduled tribes. (Bills on transgenders, disabled in monsoon session: Gehlot, 2015)

Even though, India records a history of transgenders participating in politics of the country, but the landmark judgement of Supreme Court, gave an official key to the community to taste every opportunity they could wish for. Madhu Bai Kinnar, became India's first transgender mayor of Raigarh, Chhattisgarh. (Alter, 2015) The Krishnagar Women's College in Nadia district, West Bengal became first to have a transgender Manabi Bandopadhyay as their on 9 June 2015. November 5th 2015 marked itself for the first transgender police officer, K. PrithikaYashini in the state of Tamil Nadu. (Janardhanan, 2015)

Then there are organisations like Sahodari Foundation, Naz Foundation, and Human Rights Watch who have taken a lead role to give this community a voice to raise their opinion and fight for their rights. Sahodari foundation is one of the leading organizations in India which has been working for the upliftment of this community since 2007. It was founded by Kalki Subramaniam, a trans woman from Pollachi, Tamilnadu. (Sahodari Foundation) While Naz Foundation is the one which appealed against the unconstitutional law Section 377 which violates Articles 14, 15 and 21 of the constitution providing for the fundamental rights of an Indian citizen. Since 1994, the Naz Foundation (India) Trust, a New Delhi-based Non-Governmental Organization (NGO) has been working on HIV/AIDS and sexual health issues. Their focus is to reach out to marginalized sections of the society infected by HIV so as to help them overcome the stigma, improvise their health, and empower families. They do not work directly for transgender people but since this community suffers from the problems of HIV and AIDS, they are trying to make things easier for them by supporting and spreading awareness about health care issues like these.(Naz Foundation (India) Trust) Established in 1978, Human Rights Watch is an international NGO known for its accurate fact-finding, impartial reporting, effective use of media, and targeted advocacy, which works in partnership with local human rights groups to protect the rights of marginalised communities.

With the centre and various other organisations working for the community, only two Indian states that of, Tamil Nadu and Kerala have taken an initiative to initiate transgender upliftment scheme. The transgender upliftment scheme includes, transgender's entitlement to



free sex reassignment surgery (SRS) in the government hospital (only for Male to Female (MTF)), free housing program, various documents proving their citizenship, admission in government colleges with full scholarship for higher studies, alternative sources of livelihood through formation of self-help groups (for savings) and initiating income-generation programmes (IGP).

A transitional change occurred when on February 12 2017, two transgender persons were designated by the Kolhapur District Legal Services Authority (KDLSA) as board members for the Lok Adalat (People's Court). (Lok Adalat impacts the world forever, selected two transgenders as specialist, 2017) Kochi Metro became the first government organisation in the nation to appoint transgenders; where 23 were to be at task on inaugural day of 17 June 2017. (Devasia, 2016) A turning point for the whole community was when in April 2017, the Ministry of Drinking Water and Sanitation ordered states to allow transgender people to use public toilet of their choice, which is still an apple of discord in various other countries.(India allows transgender people to use bathroom of their choice, 2017)

Apart from legal changes that have occurred, we see a greater social acceptability when India's first transgender beauty pageant conducted in northern Haryana, awarded Nitasha Biswas from Kolkata, Miss Transqueen India 2017. (Nitasha winner of India's first transgender beauty pageant, 2017) Further, a thoughtful decision from Chandigarh Administration to furnish for a independent, gender-neutral title, "Mx", in all the official forms and applications is an appreciable verdict in the honour of the city's community. (Upadhyay, 2017)

From all the nuances, we can see that India is one country that even though faces great cultural diversity is blooming when it comes to oblige its members with respect and dignity. Even though it is taking a lot of time but it is never too late to change. However, all is not achieved and so there is a long way to go as India is still in the budding stage of legalising the various norms that shall make the transgenders of India feel free, socially acceptable, equitable while expressing their identities and exercising their rights.

**CHAPTER-II**  
**REVIEW OF LITERATURE**

Rothschild (2004) critically examined the policies in context of gender and sexual minorities and concluded that a similar kind of ignorant situation or policy framework persists in the world. She apprehended that such a situation existed because cases of abuse and violence in relation to non-heteronormative sexuality were not recorded. To further it, human rights organizations did not integrate sexuality in their advocacy and research, as they themselves were afraid of being dejected and challenged by the government and society.

Gupta (2006) in his paper has argued against the scope and application of section 377 of Indian Penal Code, which may not directly but indirectly, declares the LGBT community 'Criminals'. He also featured that the absence of an assent based distinction in the offense makes gay sex synonymous to an assault and compares homosexuality with sexual perversity. In his opinion, mere presence of such a law develops fear of capture among the LGBT individuals. Therefore, he prompted decriminalization of this law which then should be able to maintain harmony and dignity of the community and promote freedom of expression and exercise of the civil rights by them.

Marks (2006) in her study examined the plight of the LGBT community across countries where the basic human rights for such minorities are denied on the basis of their sexual orientation. Understanding well the interdependence between Health and Human Rights (synonymous to humanity), she protested against the prejudices suffered by the LGBT group, invoking the actions of the authority for their protection.

Thaler (2007) in his paper has elucidated various examples of transgender people facing discrimination in various aspects of their daily life and at the same time denied any legal support. In fact their transgender identity is enough to stand against their right to attain any justice. Considering such a plight the author has appealed the transgenders to seek legal help from attorneys specializing in guaranteeing them justice, at the same time given a piece of advice to the attorneys dealing in such cases, to respect and listen to the transgenders with more of humanity rather than fulfilling it as a part of their profession.

Fried and Kowalski-Morton (2008) in their paper examined the access of the funds, disbursed to the various countries (India being one among them) by an international organization like The Global Fund, to prevent the epidemic of AIDS/HIV among the sexual minorities. They

realized that it is not the faulty functioning of the Fund that the epidemic is not wiped off entirely, but the legal, political, cultural and social environment of the countries that act as a greater obstacle for most noble worldwide achievement to come true.

Callahan (2009) describing the transgenders as making up the gray area for not fitting into the major two categories of male and female, calls upon the importance of the role of social workers in making transgenders accept their gender identity. The role may be played by theorizing the work i.e. in writing, through appealing i.e. requesting for legal action in courts or by performing other tasks that help transgenders ease out of the social stigma and accept the truth. However, to get positive results, both the targeted population and the activist need to be strong and determined to overcome the obstacles.

Weiss (2009) made a comprehensive comparative draft of the transgenders' legal and social recognition in various countries. In his work he has proved that there is more to what appears on the surface, meaning that there are countries that have legally accepted the transgenders but there is no social acceptance while in others, there might be social as well as legal acceptance but there are loopholes in implementation of the laws. Therefore, he urges that much research needs to be done and documented to evaluate the accomplishments of transgender social movement worldwide.

Thaler (2010) in his paper has examined various challenges that transgenders have to undergo because of their transitioning which lands them into gender crisis. Even though law practices include 100 plus gender identity jurisdictions yet, all those do not sufficiently guarantee freedom and equality of rights to this group. Since the world is widely divided into the two existing genders, for the law and policy-makers also it becomes a challenging issue with no evidence to their "realness" in context of gender.

Chakrapani and Narrain (2012) in their report conducted a comprehensive review of the current legal recognition of the transgender people in India as well as other countries only to find that the other countries have given them legal recognition supported by various Acts. They also did a qualitative field research in 5 major cities of India namely: Delhi, Kolkata, Bangalore, Chennai and Mumbai and concluded that the main reason for the increased HIV among trans people is the lack legal recognition of gender status which further hinders access to medical services.

Jana (2012) promoted the invaluable concept of community mobilization through Sonagchi project, conducted in West Bengal to curb the spread of HIV among the LGBT persons, who usually fall prey to this menace due to occupational obligation; to be undertaken in the rest of the regions of the country. However, he found that due to various legal and social barriers the effectiveness of such a project failed to bring the community mobilization elsewhere.

Beattie et al (2012) carried out focus group discussion with female sex workers, men who have sex with men (MSM) and transgenders in Karnataka, which included 302 participants, to know their understanding and access to the HIV testing and treatments. However, their results concluded that even with the high rate of HIV prevalence among these groups, their only obstacle to access these treatments were the psychological fear of testing positive for HIV as well as the social stigma of accessing these treatments.

Sharma and Pal (2014) have pointed out that most of the researches on this society have been done in North America and Europe, while only about 7% of the research has been done in Asian Societies. Quoting the United Nation Development Programme finding about transgenders being the most unaccepted and underprivileged society, who suffers from mental and suicidal tendencies, explained about the need for bringing in the awareness and sensitivity among people through law enforcements.

Badgett (2014) was very prudent to state that the equality and inclusion of LGBT people are also economic development issues, neglecting which may cause a huge loss to the economy in terms of underutilization of existing human capital. The loss is directly proportional to the size of LGBT population. All of this can be attributed to the lack of public health amenities provided to this community on account of stigma and exclusion due to homophobic tendencies.

Michelraj (2015) in his work has given a detailed draft of the origin and historical evolution of the transgender community. His paper highlights that Hinduism, Jainism and Buddhism; the Vedic culture recognized three genders. Not only limited to the religion, he ascertained that the third sex is also discussed in Hindu Law, the Puranas, medicine, linguistics as well as in astrology.

Soren, et al (2015) conducted a research in two regions of Odisha namely Cuttack and Bhubaneswar, only to find the inability of the State government to protect the constitutional rights of the transgender community who were still faced with verbal assaults and

discrimination even after the landmark judgement of the Supreme Court a year ago. Further their data revealed that the government did not provide any support to ensure employment, educational, health and basic infrastructural facilities to the community.

Thomas (2015) in her study has rightly claimed that India with a vast and respectful history with regards to transgender, or hijra communities in particular, was faced with the twin impact of colonization and globalization from the West and to maintain the pace with it, the traditional views regarding hijras were drastically altered. She also pointed out that since South Asian countries are most populous, and so are expected to harbor large number of such communities; many people have ended up bearing the brunt of Western gaze which demands change through greater awareness.

UNESCO (2016) published the report with an objective to document sexual and gender-based violence including homophobic and transphobic bullying, in education sector. The data was collected across all regions of the world with the aim to bring this issue to the notice of the policy-makers and stakeholders of education, so as to provide inclusive, safe and quality learning environment in education worldwide.

Katyal (2017) in her study tried to bring out the difference between assigned sex and gender identity, which till now had been considered synonymous. The basis of her work is the complexity of gender notions that act as an obstacle to the law-makers in making laws for transgenders. In her work she brought out a unique comparison between sex assigned and property (tangible and fixed concept), and gender identity and intellectual property (intangible and unfixed concept).

## **CHAPTER-III**

### **RESEARCH METHODOLOGY**

The present chapter deals with the research methodology that shall be applied for the analysis of the data.

#### **3.1. RESEARCH DESIGN**

This research is a quantitative and an exploratory study of the transgender in Ludhiana. It shall not only be conducted among the transgenders of Ludhiana but also among the general public, to know their views and understanding of the Transgender community. The focus of the study is to gain insight about the current situation of the transgenders in Ludhiana as well as to understand the perception of the residents about the third gender.

Then a comparison shall be made to know the gap as to why and on what grounds have the people exactly have segregated themselves on the basis of gender.

#### **3.2. DATA COLLECTION**

Two types of primary data shall be collected:

- (i) One, from the transgenders, to get the understanding of the problems, challenges and discrimination they face on daily basis.
- (ii) Second, from the general public to know and understand the perception of people of Ludhiana regarding transgenders.

For the collection of data, two different questionnaires shall be prepared, that would enable me to collect the relevant data to meet the first two objectives of the paper.

Otherwise there has been made the use of the secondary information that includes the existing facts and figures from the relevant and reliable online websites, newspapers, articles and journals.

#### **3.3. SAMPLE**

The sample size of the study will be of 100 respondents which shall consist of 100 respondents from transgender community and another 200 from the general public. The sample size may be varied in accordance with the requirement of the study.

### **3.4. SAMPLING TECHNIQUE**

The snowball and convenience sampling technique shall be used for collection of the data. This technique shall be applied because of the lack of information about exact location of transgender communities as well as paucity of time. There is also a high chance of using secondary category respondents because of the social stigma, hesitation and inaccessibility of the trans population.

### **3.5. METHOD OF DATA ANALYSIS**

The analysis of the data shall be made using descriptive statistical analysis. The data shall be analysed with the use of softwares like MS-Excel and SPSS.

### **3.6. OBJECTIVES OF THE STUDY**

- To identify the issues and challenges faced by people in India on account of their third gender.
- To understand whether Ludhiana is ready to become a gender compliant city.
- To propagate the need and importance of the change that needs to be brought about.

### **3.7. NEED OF THE STUDY**

Even after three years of legalising the transgenders as the third gender, the transgenders face discrimination. Making laws is a necessary condition but it is not sufficient. The implementation of the laws is not just important, but mandatory also and to keep a track whether the laws and policies are being implemented, this research shall play a key role in gathering the awareness of the people and transgenders themselves about the prevailing laws and policies.

Seldom, it is that the society realises the torture, anguish and hurt which the transgender community undergoes. They are often ridiculed and abused and if not that, people avoid them in fear of encountering their abominable curses. It is the mindset of the society that has not changed; in fact it's a moral failure on the part of society that they are unwilling to embrace different gender identities and expressions. Not just in public places like railway stations, bus stands, schools, workplaces, malls, theatres, is this community disregarded but even in hospitals and educational institutes they are ignored and treated disrespectfully.

The problem is not of gender inequality, but they have been simply denied of their fundamental rights; right to freedom, putting the party in question in a court dock as if they

are some kind of criminals. Those criminals who are not even sure what their crime is. The important thing is to bring about gender sensitization; breaking the taboos of considering the transgender as unnatural and different, while bringing in the equality. The equality for the people like us, who have been born like any other living being with no control over the gender they would like to be born in.

Although the laws have been made in order to protect the community, it is difficult to say that they are not discriminated, insulted or abused over their gender identity. Hence it becomes important to know the understanding of the society about this community and whether the time has changed.

### **3.8. RATIONALE AND SCOPE OF STUDY**

The study is significant as it aims at understanding the issues and challenges faced by the transgender community even when there are welfare policies and schemes to protect this marginalised community.

The study shall include the data pertaining to Ludhiana- a city in Punjab but its scope still remains quite relevant as the general problems faced by the T-community in any region of the country remains same. The basic mindset of the people of the country is similar in context of perceiving and comprehending situations, peoples, and other things and in India it is mostly done in a religious context. Hence the study aims at understanding the general psyche of the people to know whether they are aware and acceptable about the recent developments.

Further, the conclusions and the recommendations that would be made should be easily applicable irrespective of regional or religious barriers. This shall further allow the policy makers to make policies in way that they are not condemned for it.

However, the limitations to the study would be that, the study is restricted to the city where the population of T-community may not be as high as the other cities or other states, as the transgender population in Punjab is only 2% of the total population. As Ludhiana is one among the 22 districts in Punjab, this further reduces the number of transgender people in this area.

A primary survey shall be conducted on the transgender people to identify the issues and challenges faced by them in their day to day lives. To understand their knowledge about the existing government laws in their favour and the socio-economic opportunities available to



them which, in reality, may not be a bed of roses. Then, another primary survey shall be conducted on the people in general to gather their views regarding this community. What are the reasons according to them, that people are not acceptable towards this community? Whether it is really a problematic issue to allow them to mix with the society or that people are simply being paranoid because of the already existing orthodox views.

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