



Social Entitlements for the Transgender Community: A Case Study in Karnataka

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By **Deepa Krishnappa** and **Tasneem Mewa**

Edited by **Ambika Tandon**, **Gurshabad Grover**, and **Rajesh Srinivas**

The Centre for Internet and Society, India

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Contents

Summary	03
Note on research methodology	03
Background	04
Findings and discussion	05
Respondent demographics	05
Access to identification documents (ID) and social entitlements	06
Sex reassignment and discrimination	07
Barriers to accessing institutional and legal support	09
Conclusion	10
Works Cited	10

Summary

This report discusses access to social entitlements and sex reassignment surgery (SRS) among the transgender community in Kolar, Karnataka. We discuss the barriers to accessing gender-affirmative documentation, which in turn poses challenges to welfare entitlements and public healthcare. The data collection for the report was undertaken by union leaders affiliated with Sangama in the months of June to August 2018. The report seeks to demonstrate both the resilience of and discrimination against transgender peoples by individuals (family and friends) and access to health, legal, and social services. We conclude that the inability to exercise one's rights is demonstrative of circuitous and exclusionary social systems.

Note on research methodology

This project is designed and implemented by non-researchers who are members of the transgender community in Karnataka, have personal relationships with their respondents, and face similar obstacles due to their identities. Based on the aim and the methods, the project seeks to create knowledge that minimises extraction and exploitation in its production and gives a platform to voices that are often left unheard.

In 2018, Deepa Krishnappa, a trans person from Kolar affiliated with Sangama, carried out surveys in her community collecting data on systemic discrimination faced by transgender persons in their interaction within social spheres and the healthcare system, as well as access to welfare entitlements and gender affirmative identity documents.

She surveyed transwomen and Maraladis regarding their access to government documentation, access to financial services (i.e. whether respondents could open bank accounts), and sustained access to affordable physical and mental healthcare services. By asking these questions, the researchers aim to ascertain how social and societal challenges coexist and exacerbate one another. The survey, which has a total of 33 respondents from the Kolar district, was administered in Kannada and translated in English.

The data was reviewed and summarised by Tasneem Mewa, a researcher affiliated with the Centre for Internet and Society. She is a Canadian cisgender heterosexual brown woman, and

has, to the best of her ability, summarised the findings while retaining the voices of the respondents. However, her distance from the lived experience of the community could have shaped the writing of the report.

Background

Existing literature in this field, published primarily by Western researchers and institutions, examines structural and societal barriers faced by transgender people and their experiences with discrimination and transprejudice (Winter, 2009). Common trends observed across South and Southeast Asia regarding the challenges faced by transgender persons include: a) the absence of gender-affirmative healthcare, b) the forceful adoption of unsafe alternatives, c) facing difficulties formalising gender changes in official documents, and d) limited employment opportunities (ibid.). From an international human rights perspective, references to the rights of sexual minorities are limited and insufficient (ibid.).

Where sex reassignment surgery (SRS) is concerned, there are vast differences between in what these medical procedures should constitute, and how they are carried out. In India, SRS involves castration and penectomy, but not necessarily the construction of female genitalia (ibid). Moreover, finding qualified professionals who are sensitive to and knowledgeable about health experiences specific to transgender persons is rare.

Further, if transgender people visibly manifest their gender identity (via physical changes or their appearance), they may be subject to police violence, as has been in the case in Karnataka in which police misinterpret and abuse public decency laws. In fact, violence and harassment is widespread in both the public and private sphere with reported instances of entrapment and rape (ibid.).

A policy brief written by the Centre for Sexuality and Health Research and Policy (C-SHaRP), India and the Alternative Law Forum (ALF), Bangalore in 2012 argues that the primary factor driving the exclusion of transgender people from active citizen participation is the ambiguity of the legal definition of their gender identity. Their absence from legalese disjoins their ability to exercise legal rights, including the right to marry, education, right to education, voting rights, and access to welfare (Chakrapani & Narrain, 2012).

In 2014, the Supreme Court of India included transgender as the third gender within the legal ambit, with the acknowledgement that recognition of one's gender identity and sexual orientation is integral to personal dignity and freedom (Sawant, 2017). This judgement led to the Rights of Transgender Bill, which underwent several revisions since 2014, and was finalised and passed in the form of the The Transgender Persons (Protection of Rights) Act, 2019. The Act serves to define who can qualify as a transgender person and prohibits discrimination specifically in education, employment, and healthcare, and criminalises forms of abuse against transgender people. Some of the more contentious clauses include requiring a certification granted by District Magistrates and screening committees as proof of one's transgender status (Sawant, 2017). Requiring proof of transgender identity violates the right to self-declaration, and may restrict legal rights to only those transgender persons who have chosen to and gotten access to SRS.

Many scholars have analysed this 2014 judgement and its repercussions. Redding argues that this judgement is a "legalised operation of the political emotion of disgust," rather than respect and acceptance (2017).

Findings and discussion

Respondent demographics

The majority of survey respondents are in their 20s and 30s. Two respondents live alone, another with their partner, while the majority of respondents live with their families, or the owner of the property they reside in. Some respondents have lived in Kolar since birth. Such respondents were more likely to be living with family whereas the respondents who were migrants to Kolar were likely to live with their partners, a single family member, or rent out a living space. 31 out of 33 respondents had active mobile numbers.

For the most part, respondents identified themselves as transgender. There is variation in the choice to undergo SRS due to the institutional, legal, social, and employability challenges attached to the procedure. Respondents spoke of several pros and cons to undergoing SRS, depending on their socioeconomic circumstances. Older respondents were less likely to undergo SRS due to heightened vulnerability to adverse health effects and the unavailability of treatment. Additionally, respondents with families or spouses were hesitant to physically

transition to their preferred gender identities to protect themselves from disapproving family members, societal stigma, or to maintain access to socioeconomic benefits from their family.

Access to identification documents (ID) and social entitlements

Deepa inquired about a variety of documents, including voter ID, ration card, PAN card, passport, caste certificate, Aadhaar card, and income certificate. She also inquired about access to bank accounts and personal loans as well as any skill training undertaken by respondents.

One of the most common obstacles to acquiring identification and affiliated benefits was accessing information on its existence and the procedure to obtain it, especially for self-employment loans and skills training. There emerged no clear correlation between having a mobile number and access to identification documents and social entitlements. One respondent stated that they have no information on any of the IDs listed in the survey instrument, while another respondent said they do not have any of the IDs. Another respondent stated they do not require social entitlement documentation because they are “staying in one place” and had some support from their family. This could be a result of low levels of literacy, combined with the government’s failure to dispense comprehensible information about the procedure to acquire ID. Among all the social entitlements and documents individuals can avail of, passports were the least desired - most persons claim to have no need for a passport and are not willing to expend financial resources to acquire one.

Respondents who were migrant workers were less capable than others to use their disposable income (if any) on getting or renewing their documentation. Many did not have the financial resources to pay for extraneous or related costs such as legal support and paying for a formal education. Moreover, most of the respondents who were wage labourers also faced difficulties in availing government services when they moved from one district to another, regardless of the number of years they have resided in Kolara. One respondent had been in Kolar for 4 years and expressed that most of her problems (inability to access services or legally change gender and name) arise because her documents remain in her home village. Some may refuse to go back home due to travel costs, stigma, or family violence. Fear of various forms of violence, lack of information, and financial barriers were

acutely present for most participants. Moreover, there were no institutional or legal pathways in place to ameliorate any of these challenges.

Some respondents had chosen to undergo physical or symbolic changes (such as SRS and name changes) while others chose or were forced to not undertake these changes. For some, having to change their name on all their ID was too burdensome. Respondents who were able to change their names faced challenges in changing it across various government databases and were therefore unable to access benefits. For example, one respondent reported that they did not have a bank account because most of their documents were in their old name. This also prevented them from applying for any loans. Another individual who tried to seek out a loan for self-employment was rejected because they did not possess a name change certificate. The respondent reported the inability to seek a name change certificate because they did not have access to legal or institutional support to attain it. In this context, mandating SRS and certification can lead to the denial of welfare services for potential beneficiaries.

As a result of informational, societal, familial, and institutional barriers, many respondents expressed that they did not wish to go through the process of changing their name. The respondents linked the name change process to undergoing physical changes. The reasons for not choosing to receive SRS are discussed in the next section. For some, this was because they did not undergo any physical changes, they did not know this was an option they could pursue, they were bound to their domestic identities and relationships, or felt safer being treated as a cis man rather than having to face the stigma and dangers that come with openly identifying as transgender.

Sex reassignment and discrimination

All 33 respondents struggled with gender dysphoria at some point in their lives. Within this sample size, there was variation in each respondent's embodiment of their gender, and the challenges they faced in this process. Each of these decisions also had implications for their access to healthcare and welfare. Regardless of their individual choices, they faced difficulty in accessing gender-affirmative healthcare due to the unavailability of or stigma associated with their identities.

For 2 respondents, their families were entirely unaccepting. When they revealed their identity to their family members, they were asked to leave their homes. Within the context of the private sphere and domestic relationships, this is an example of one of the more extreme consequences that respondents have experienced as a result of openly identifying as transgender. Fearing these outcomes, 3 respondents chose to keep their gender identity confidential, especially from their families. On the other hand, 7 respondents, did not face any discrimination from their families; and some families that were initially unsupportive learned to tolerate and ultimately accept the respondents' gender identity.

A small number of respondents also stated that they did not face any stigma or social challenges within their domestic environments or in their immediate social surroundings. Immediate social systems were highly influential in an individual's decision-making process to openly identify with their gender, especially in the form of surgical changes.

Among those respondents who chose to receive SRS, some had received the procedure 15 to 20 years before this survey was conducted, while some had received it as recently as one year prior. The institutions they received the procedure in varied by region and state. A majority of respondents sought out hospitals and centres in Mysore and Bangalore in Karnataka, while others had traveled to Tamil Nadu or Pune in Maharashtra.

Some of the respondents who went through physical transformations were physically and mentally healthy, while others faced challenges. Wellbeing depended on how they reacted physically and mentally to the surgery itself, whether they were able to get treatment, and how they were able to cope with their social circumstances. Certain persons reported "feeling happy because they are treated like women" and feel as though they have a "good place in society." Additionally, for some, check-ups had been frequent and they weren't experiencing any pain or discomfort.

However, even in scenarios where individuals reported mostly positive outcomes, one respondent noted that some people were "teasing" her and "want to physically [enjoy] her body." Furthermore, several individuals noted that they were being teased or abused by their colleagues, their families, and or their doctors; depending on the conditions surrounding their surgery and their ability to access post-operative care. Respondents stated that this abuse was detrimental to their physical, mental, and social wellbeing as they began their

individual processes of becoming “a complete woman.” This abuse is especially disheartening because government circumstances, as they stand, force trans peoples to submit confirmation of a gender change surgery to gain legal status (Pathak, 2019). Yet, even after conforming to societal and regulatory mandates, the discrimination and unequal treatment does not cease.

Of the 33 respondents, 16 reported choosing to not undergo SRS. Reasons cited included fear of potential outcomes, some of which have been discussed. In another manifestation of the stigma associated with the transgender identity, some respondents chose not to make any openly visible changes to their body in fear or consideration of their spouses, children, or parents, or a desire to get married or get their children married.

Many of the other obstacles mirror the obstacles that are attached to accessing ID and social entitlements; demonstrative of the correlated and pervasive nature of the discrimination respondents faced. These obstacles include not having information about or access to the procedure and facilities that offer it, fear of repercussions for health and the burden of post-op care and adverse effects, and not having sufficient financial resources to support the procedure and related costs. Another barrier was the certification of this change for purposes of documentation, which will be discussed further in the next section.

Beyond these immediate obstacles, one of the respondents stated that they preferred to keep their gender identity concealed and continue being perceived as a man in society as they face much less abuse and harassment. This also points to the degree of impact of social norms and stigma on the presentation of gender identity among our respondents.

Barriers to accessing institutional and legal support

One of the respondents stated, “all of my problems are because of my documents.” Another respondent reported that their lawyer was unsupportive in finding ways to help them procure government documentation nor did the lawyer provide any support in acquiring a gender change certificate. These statements surface the challenges in accessing social entitlements and ID, including arduous procedures to acquire name change certificates and gender certificates. The biggest obstacle respondents faced was not being able to access their documents; documents required to obtain a name-change certificate. Documents become inaccessible due to lack of information, the difficulty of documenting gender change,

or physically not being able to access them. Thus, the name change process becomes arduous for transgender folks given these circumstances. In fact, some respondents deemed these avenues unnecessary or unmanageable. Others, depending on their location and the facilities they had access to, could get social entitlements because officials perceived and accepted them as women. On the flip side, even if an individual had gone through a physical transformation and was taking steps to prove their status legally, some facility members continued to treat them as males and disallowed them their legal entitlements.

Conclusion

Gaining legal status is one end of a vicious cycle: from not being able to access documents for a wide range of reasons, to facing harassment in the choice to undergo physical transformations or not, to facing barriers to obtaining legal status as a result of missing documentation. It becomes evident that the legal recognition of transgender rights at the level of jurisprudence has failed to translate into protection of rights and access to government welfare and services on the ground.

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