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EMBRACING IDENTITY: A CASE STUDY ON TRANSGENDER LIFE IN KERALA

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Abstract: This paper explores the lived experiences of a transgender individual in Kerala, India within the broader context of the LGBTQ movement. This paper delves into the life of Deepu, a transman from Kerala, to shed light on the personal and social challenges faced by transgender individuals. Based on an in-depth interview, Deepu's story is presented as a reflective narrative that highlights his journey through gender identity, social stigma, family dynamics and personal resilience. The paper also focuses on the transgender rights and the initiatives undertaken by the government of Kerala such as the 2015 Transgender policy to promote transgender welfare and inclusion.

Key words- Transgender- transman- social stigma- queer- LGBTQ

The term 'Queer' which was once a slang word that referred to a person with homosexual orientation, has now become an umbrella term that is used to authorize people with sexual orientations other than the dominant privileged heterosexual one. Apart from this there is a new theory called the Queer theory that designates the collective area of gay and lesbian studies together. In addition to this, it also covers the theoretical and significant writings about all modes of deviance such as cross dressing, bisexuality and transsexuality from what society has perceived as normative or natural form of sexual identity, orientation and behaviors. The presence of lesbian, gay and bisexual people is visible from the beginning of the history of mankind itself. The book of Hindu Code of Conduct, *Manusmriti*, *The Arthashastra*, Vatsyayana's *Kamasutra* have mentions about homosexuality. The *Bible* and The *Quran* carry references about the punishment received by the people of Sodom and Gomora for their homosexual practices. But it made its presence in the recorded history only in the late nineteenth century as a new wave of cultural freedom. Today Lesbian Gay Bisexual Transgender Queer Intersex (LGBTQI) history is a significant research topic around the world and the subject is being taught in colleges and universities.

Queer theory emerged from Lesbian and gay literary theory which became prominent only in the 1990's even though it commenced earlier in 1960's and 1970's as liberation movements. The essential feature of lesbian or gay criticism is to make sexual orientation a primary category of analysis and understanding. It is formed as a resistance to homophobia and heterosexism. Gay/lesbian studies do for sex and sexuality what women studies do for gender. While lesbian/gay studies focused largely on questions of homosexuality, queer theory expands its realm of investigation. It breaks the supposedly stable relation between chromosomal sex, gender and sexual desire. The queer theorists themselves have taken up many tasks out of which two are very important. The resort to the deconstruction of the binary unstable opposites heterosexual /homosexual where the first is given privilege and is considered mainstream and the second is marginalized and is relegated to the margins. Their second task is to challenge the essentialist assumption that heterosexual and homosexual are universal and independent of cultural difference. They realize this task by proposing that both are constructed by the society and is subject to change.

But even after the efforts of queer theorists and the people, who work for the sexual minorities, the horror and prejudice against homosexuality still lingers on and talks concerning sexuality are a taboo. Though LGBTQ is a subject discussed openly and casually in the west, India, with its innumerable forms of gender identities and sexualities is still lingering on with its prejudices about all the other sexualities other than the dominant heterosexual ones. Regardless of the unapologetic homosexuality of the *Kama sutra*, the temples of Khajuraho, the Mugal emperors and the Sufi saints, the introduction of the *Colonial Antisodomy Statute, Section 377* into the Indian Penal Code by the Law Commission under Lord Macaulay made carnal intercourse against the "order of nature" an offence.

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 a term which
May extend to ten years, and shall also be liable to
Fine.(Vanitha,15)

It took the Indian Supreme Court more than a hundred years to finally scrap *section 377* (1860 -2018) granting the sexually marginalised communities the right to dignity and equality. Justice Indu Malhotra, one of the five judges of the court who passed a landmark verdict on the decriminalization of homosexuality remarked that all of us owe an apology to the queer community

History owes an apology to the members of the LGBTQ community and
their families for the delay in providing redressal for the ignominy and
ostracism that they have suffered through the centuries. The members
of this community were compelled to live a life full of fear of
persecution. This was on account of the ignorance of the majority to
recognize that homosexuality is completely a natural condition, part of
range of human sexuality (<https://www.ndtv.com>)

Earlier in the year 2014 the Supreme Court of India recognized transgenders as the *Third Gender* affirming the community's freedom from discrimination. During the British rule, legislation was enacted to supervise the deeds of Hijras/TG community, called the Criminal Tribes Act, 1871, which deemed the entire

community of Hijras as innately 'criminal'. The Act provided for the registration, surveillance and control of certain criminal tribes and eunuchs and had penalized eunuchs, who were registered, and appeared to be dressed or ornamented like a woman, in a public street or place, as well as those who danced or played music in a public place. Such persons also could be arrested without warrant and sentenced to imprisonment up to two years or fine or both. Act has, however, been repealed in August 1949.

In 2014, the Transgender Rights Bill 2014 was introduced as a private member bill and in a rare moment of the history of parliament a private member bill was passed by the Upper House for the first time in 45 years. The Bill had 58 clauses in 10 chapters dealing with different aspects ranging from social inclusion, rights and entitlements, financial and legal aid, education, skill development to prevention of abuse, violence and exploitation. However, the Bill never became a law. In December 2015, the Ministry of Social Justice and Empowerment brought out a draft of the Transgender Persons Protection of Rights Bill, 2016. It was severely criticized by activists. The 2016 Bill provided for a district screening committee led by a district magistrate to certify a person's third gender identity which was found unacceptable by members in the discussion. The 2016 Bill removed the clause, provided in Private Member Bill, which proposed for the setting up of National and State Transgender Welfare Commissions. The government's bill envisions the National Council for Transgender Persons which would be a massive bureaucratic structure without enforcement abilities, rendering it powerless to be a protector of rights. The 2016 Bill had also dropped the provision for reservation in education and employment to transgender persons, which was directed by the Supreme Court.

The 2016 Bill also did not guard against police violence although cases of physical and sexual violence by the police against transgenders have been extensively documented. Further, it avoided discussing the pertinent issues including the right to marriage, inheritance and adoption among others. Eventually, the 2016 Bill that was moved in the Lok Sabha with 27 amendments was passed in 2017.

In 2019, the legislature passed the Transgender Persons (Protection of Rights) Act 2019, with the objective of protecting the rights of transgender persons and their welfare. As per the Act "transgender person" means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans- woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, gender queer and person having such socio-cultural identities as kinnar, hijra, aravani and kothis. A TG Person is entitled to make an application to receive a certificate of identity that can be modified if the TG person changes gender as a male or female. As per the act a TG person cannot be discriminated against in the matters of education, employment, healthcare, right to purchase / reside / occupy property, right to movement, opportunity to stand for public or private office, access to Government or private establishment etc.

The Act provides for constitution of a National Council for Transgender Persons which is composed of at least 30 persons. Of 30 only 5 are from the transgender community. Further, the persons would be nominated by the Central Government, compromising significantly the autonomy of the persons on board.

Kerala, celebrated for its high levels of social development, be it education, sex ratio, mortality rates, sanitation, health, it is very much conservative in matters concerning sexuality except for a very few open minded people. Since queer and marginalized sexualities are a new area of study the society has no idea still of these kind of orientations and therefore the Kerala society is very much homophobic. Even the highly educated people find it difficult to digest these hitherto obscure people who have found the courage to 'come out' in the wake of decriminalization of section 377 which was inserted in the Indian Penal Code by Lord Macaulay in 1860.

In 2015 the state of Kerala became the first state to introduce a transgender policy for the well being of the transgenders. It included free Sex Reassignment Surgery, introduction of 'Gender taxi' along the lines of 'she taxi', school for transgenders in kochi, employment opportunities in the kochi metro, vocational skill training etc. The policy has the provisions for protecting the community by providing equal access to social and economic resources. However these measures will not be adequate in protecting the transgenders if the attitude of the society is not changed for good. The life of Deepu, a female who became a male (transman) in

the state of kerala is an example. Since the person is a transman , I will be using the name Deepu, the name the person adopted upon his coming out and the pronoun 'he' in the whole paper.

Born in a remote village in Alapuzha, Deepu's household consisted of his father, mother, sister and three brothers. Deepu lived a large part of his childhood believing himself to be a boy playing with boys, dressing and behaving like one. That is, until reality struck in the form of menstrual cycle while studying in the 6th grade. With this revelation came a realization-he was sexually attracted to girls and girls alone. Within the body of this genetic female was a psyche that was purely male. Deepu was shattered and afraid. He could never tell anyone in his family about this for they were far too conservative. He feared his father's anger above all. He failed in 10th and decided not to study further he started working in a factory on daily wage basis. There he met Sajini. It was her stone necklace that first caught his eye. And the next thing he knew, he was falling in love with her. He went up to her and revealed his feelings. This confused and angered her. She told him to stay away or else she would tell his family. He did as he was asked. A few days later Sajini came up to him and asked him why he wasn't speaking to her. Sajini then said that she couldn't take his silence anymore and that she had realised her love for him. From then on they started spending their whole time together in the factory together. Their relationship came under the scrutiny of their co-workers who reported their suspicions to their respective families. They were prevented from seeing each other. One day the two of them met at a friend's place and spent the whole day with each other. Sajini told him that she wanted to spend the rest of her life with him but that nobody would allow it. She said that only death could bring them together. They decided to commit suicide the same day at 12 o'clock at their respective homes. On returning home Deepu felt he didn't want to die. Rather he wanted to live with her at any cost. It was already 11:30 pm by then. He tried calling her home but the phone was out of order. He tried her brother who said that he was on a trip. He had no option left so he slit his wrist. He woke the next day in the hospital to the news that Sajini had kept her word and that she left him behind forever. She had hanged herself. She had written his name all over her body and there was a photo of him and a thaali(wedding chain) in her pocket. Her family realized the truth. Deepu was shattered.

He went into a depression. In a bid to cure him, his family members sent him to his paternal uncle's home. There he met a girl who was a lot like Sajini in appearance. But he no longer felt anything. His uncle wanting very much to cure him asked the girl to show him some love and care. This went on and Deepu was coming out of depression, and with it she was falling in love with him. They started spending a lot of time together going to the town for movies, coffee etc. When the elders butted in, they ran away. They travelled by train to Chennai and back three times for they had no place to go. The third time, a co-passenger who was a staff at Sahayatrika, an organization in Thrissur for LGBTQI people, gave them the card of the organization and asked them to seek refuge there. On seeking the Thrissur office they were told that since the organization did not have accommodation facility, they should go on to their sister organization in Bangalore, which they did. On reaching Bangalore Deepu realized the change in her partner. She started an alliance with a driver there. When Deepu confronted her, she said that all she wanted was to get out of the house and village. She had never wanted to live there.

Once more he was left bereft and heart-broken. Deepu's family did not try to search for him. But on the complaint filed by the girl's father, the police came searching for him. The police couldn't identify Deepu because he had cut his hair short like a man and had begun to dress like a man. When asked to return home with them, he said he did not want to go back. Deepu spent the next five years of his life in Bangalore. He returned after years. By then his father had died and his siblings had gotten married. His youngest brother did not like his return but his sister was fine with him. The family insisted him to get married but he blatantly refused. He had made his choice and wanted to live that way.

He became a member of Sahayatrika. He had had three lovers during that period. He had started taking hormone injections and his body had started to change into that of a male's. He wanted to do a surgery to remove his breasts and ovaries but was not able to do so because of the cost involved. When I met him he had changed his name to Deepu, the hormone injection had started to change him and he had a partner. And not before a month of our meeting he committed suicide. The day before doing so he called me and my friends who by then had become so close and told us that he was at the railway station going a faraway place and we can't meet again. Feeling a note of sorrow in his tone my friends and myself talked to him for a long

time. He told us that he is feeling very much lonely and therefore we should talk to him everyday. Promising us that he would call the next day he disconnected the phone never to call again. After two days we came to know of his death. Someone found him in the railway track the next morning. Till today we do not know what happened- whether he killed himself or was killed by someone, probably his new partner's family. He left the world leaving behind a mystery, that it seems that since he is a transgender nobody is interested in unfurling it!!

The situation in kerala forces us to think about the transgender people in the other states only with a tinge of fear. Mere policies will not help in the progress of their situation. Though the struck down of section 377 and the constitutional recognition of Right to Privacy is matter of elation, the need of the hour is the enforcement of the right to equality. The designation of a "third gender" should not be forced upon them as we cannot really explain which one is the "first" and the "second gender". The LGBTQ people should be provided with rights that other people enjoy. Same sex marriage should be legalized in India. Like every 'normal' couples the sexual minorities living as a family should be given adoption rights provided they have the capacity to bring up a child. The capacity of transgenders to get themselves educated and employed should be enhanced by providing educational loans and scholarships. Instead of separate schools they should be allowed to study in the ordinary schools without the fear of discrimination. People should be made aware of their situation as a different orientation rather than a mental illness. Children should be taught to see these minorities as one among them.

From Criminal Tribes Act, 1871, which deemed the entire community of TG persons as innately 'criminal' and 'addicted to the systematic commission of non-bailable offences' to recognizing them as separate gender in the Transgender (Protection of Rights) Act 2019 and from criminalizing the consensual sexual act between two adult same sex persons to getting it decriminalized, the modern Indian society and its legal system, has traveled a very long road of change with regard to the rights of LGBT community but there is yet a longer road to travel. Coming out is a long process. Its only the beginning. We should run away from the mental slaveholder, prejudice.

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