

THE THIRD GENDER IN INDIA: INCLUSION OF TRANSGENDER MENSTRUATORS IN THE PERIOD POSITIVE MOVEMENT

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The social stigma and ostracization surrounding the transgender community persisting even in this era of technology and reformation is implausible since it is cogent that awareness about the community and hardships, they face have not reached heteronormative population yet. Any conversation about menstruation is centered around the majority, that is, cisgender women and does not seem to include transgender people that menstruate. The whole narrative of The Period Positive movement ignores an entire section of the menstruating population, transgender menstruators. The societal ideology that menstruation is something only experienced by cisgender women, hinders the inclusion of transgender menstruators and recognition of their problems with regard to menstruation. As a society, we have failed to normalize the conversation of menstruation with even women shying away from the conversation considering it taboo, and it is nearly impossible for transgender menstruators to engage in that very conversation. With menstruation products being marketed only to cisgender women via advertisements, an entire group of menstruating population are being ignored and trans visibility in mainstream media is also foregone. Cisgender people have been socialised to think that periods exclusively affect heteronormative women and girls, which just promotes the idea that they do not and will never affect men, which is particularly stigmatising for transgender men who menstruate. Spreading awareness that menstruation is a natural physical process rather than a cause of shame and humiliation is vital to build a more equal society. Steering clear of conversations regarding menstruation with respect to transgender menstruators means a quiet agreement with the culture that allows separate gendered domains to exist, thus validating the idea that anything outside the cisgender menstrual experience is abnormal. The

objective of this article is to shed light on menstrual health of transgender population thereby promoting inclusion in policy-making and the Period Positive Movement.

To a conventional country like India, the perception and acceptance of gender does not go beyond the pre-existing binary and any person that does not conform to this perception is shunned. The discrimination of the transgender community has been a constant problem and has only proven to be more counterfeit with time. Members of the transgender community are discriminated based on class and gender that make them one of the most disempowered groups in Indian Society. In a society such as this, any conversations made regarding menstruation are considered taboo, with even women retracting from participating in such conversation. While it is difficult for women to engage in such conversation and bring light to the problems faced by them, the minority community in the menstruating population find it excruciatingly laborious to just engage in such conversations let alone speak up about their issues. Transgender men and women in India face a variety of issues. So far, the community have been omitted from effectively participating in social as well as cultural life, politics, economy and decision-making processes. A primary reason and consequence of the exclusion is due to the lack of ambiguity in legal recognition of the gender status of transgender women and men. It is a key barrier that often prevents them in exercising their civil rights in their desired gender. So far, there is no single comprehensive source on the basis of which an evidence-based advocacy action plan can be prepared by transgender activists or possible legal solutions can be arrived at by policymakers.ⁱ Historically, the transgender community has been met with opposition when discussing their medical needs, spreading awareness of the problems faced by them with respect to their menstruation, is difficult to bring to fruition. While the period positivity movement aims to destigmatise and normalise menstruation, as well as dispel the shame related to it, this dialogue on menstruation is being had against the backdrop of a heavily gendered society with a cisgender woman-centric slant to the issue. Hopefully, the encouragement to be aware about our language will mean that the transgender community will gain greater awareness and acceptance of their experiences in relation to it being validated socially and medically. What could be a step towards transgender inclusivity in the movement of period positivity could be the use of sensitive trans-inclusive language in the conversation around menstruation, particularly by looking at topics such as the legitimacy of the problems transgender menstruators face when it comes to their periods. In terms of language, using the

term “menstruator” rather than “women menstruating” can be influential in changing the perception of menstruation.ⁱⁱ

TRANSGENDER AND TRANSEXUALITY- THE BIOLOGICAL VIEW

In order to understand the problems faced by the transgender community in the matter of menstruation, it is imperative to study the physical and biological attributes of a transgender person so as to steer clear of any ambiguities in the same matter. Those persons who identify as **transgender** are those who identify with a gender that differs from their assigned sex. Though the typical assigned sexes are “male” and “female,” often designated at birth, being transgender does not limit gender identity to these two categories. Importantly, transgender identity is independent of sexual orientation. The subset of transgender individuals who choose to undergo sexual reassignment surgery are often denoted as **transsexual**. The transgender identity has long been associated with poor mental health, particularly the diagnoses of “gender identity disorder” and “gender dysphoria.” However, the World Health Organization is actively working towards declassifying transgender identity as a mental disorder, a change partially prompted by a recent study uncoupling the mental and physical health problems experienced by transgender people from their gender identity. Rather, those who had suffered ailments could vastly attribute their afflictions to societal stigma, discrimination, and violence.ⁱⁱⁱ Scientific studies prove that gender certainly not just binary and may not even be a linear spectrum. Like many other facets of identity, gender can operate on a broad range of levels and may also operate outside of many definitions. Gender may not also be as static as we assume. At the forefront of this, transgender identity is complex, and several causes of that identity are biological. The psychological studies that have attempted to unravel the causes of transsexuality, on the other hand, have largely failed to gain traction in modern times. For many years, psychologists characterized transgender identity as a psychological disorder. Some, for instance, believed it was a coping mechanism to “rectify” latent feelings of homosexuality, or the result of environmental trauma or “poor” parenting. No studies have been able to demonstrate this, however, and these “findings” are considered outdated and have been highly criticized for their discriminatory implications. Other psychologists have attempted to differentiate groups of transsexuals based on factors such as IQ and ethnicity; similarly, these theories have been overwhelmingly rejected due to poor study design and issues with ethics.^{iv} These individuals are not suffering from a mental illness, or capriciously “choosing” a different

identity. The transgender identity is multi-dimensional and it deserves no less recognition or respect than any other facet of humankind.

TRANSGENDER COMMUNITY AND MENSTRUATION

Some transgender people and gender non-conforming people also menstruate. Transgender men are biologically born woman with female genitals, and identify themselves with the male gender. Since, they are born with a uterus, they experience menstruation as well. This can be psychologically conflicting to the individual, since the society's perception is that only women menstruate and all those that menstruate are women. Society views menstruation as something that only cisgender women experience, but that is simply not the case because not everyone who gets a period is a woman, just like not every woman gets a period.^v This is the main reason for the lack of awareness that some people in the transgender community experience menstruation as well. This lack of awareness in turn excludes any and all transgender menstruators from the conversation surrounding menstruation thereby excluding them from policy-making regarding this issue as well. These menstruators face a lot of hurdles ranging from lack of access to menstrual hygiene products to safety concerns. These hurdles are widely disregarded and not spoken of or take into consideration while policy-making. These issues are to be brought into light and proper measures must be taken to assist these menstruators. The following are issues faced by these menstruators:

RECOGNITION

At the international level there is no binding legal framework explicitly making reference to the principle of non-discrimination on the basis of sexual orientation, gender identity or sex characteristics. However, States' obligations to protect LGBT rights is clear under human rights international law. Specifically, two fundamental principles enshrined in the Universal Declaration of Human Rights: equality^{vi} and non-discrimination^{vii}. Moreover, United Nations human rights treaty bodies have repeatedly confirmed that sexual orientation and gender identity are included among prohibited grounds of discrimination under international human rights law.^{viii} In order to understand the legal status of transgender persons in India, it is fundamental to mention the judgment of the Indian Supreme Court in the case of *NALSA v. UOI*^{ix}, which was seminal in upholding transgender persons' right to their chosen, self-identified gender identity, as well as introducing important specific welfare measures. The

Court held that non-recognition of their gender identity denied transgender persons equality before the law, and that “gender identity” must be included within the “sex” category as ground of non-discrimination under the Indian Constitution (Art.16).^x Transgender persons are legally recognised in India and recently, the Transgender Persons (protection of rights) Act was passed in 2019. Although transgender people are legally recognised, they are yet to be completely recognised by the society, the unrecognition or inconsideration of these people as a part of the society, has made the cisgender population unaware of the menstrual experience and hurdles attached to it of the transgender menstruators.

ECONOMIC VULNERABILITY

The existence of a stigma against the transgender community fuelled by non-acceptance and non-recognition from family members, educational institutions and workplaces, have led to the poor economic conditions of these people. Lack of opportunities as a result relinquishment from educational institutions and families, have stooped the people of these communities to low income jobs that are inconsistent. These people experience poverty, unemployment and underemployment at a higher-rates. Most menstrual pads cost Rs 5-8 per pad, which is a luxury for most of these people. While education and adequate facilities are also needed to end period poverty and promote safe hygiene, more affordable menstrual products definitely won't hurt. re-usable menstrual products are expensive up front but in the long-run, they prove to be sustainable and affordable, and they needn't be replaced for a while since they are re-usable. This seems to be a rather simple solution to this conundrum. However, even if transgender menstruators that do not have a steady income somehow manage to purchase sustainable menstrual products, the accessibility to these products are very low. Moreover, the awareness of the existence of sustainable and reusable menstrual products is not vast in our society. Two main issues that rise from the economic vulnerability of these people are,

- **LACK OF ACCESS**

Since, the majority of transgender population are economically vulnerable, the menstruators in this community, do not have access to proper menstrual products as well. They either do not have the monetary ability to be able to afford them or their habitation does not permit them access to stores that bequeath menstrual products.

Some menstruators, even if they had access, are repudiating from purchasing, daunted by the society's shunning of them.

- **UNAVAILABILITY OF PROPER HEALTH CARE**

Unavailability of proper health care also stems from the economic vulnerability. Transgender menstruators do not have proper access to health care, either as a result of their economic position, or because of unsafe atmospheres. Some healthcare professionals are discriminatory towards the transgender community, which is a major reason for repudiation from the community of healthcare, even if it is available.

The lack of social recognition and under representation of the transgender people in policy-making, there are no such legislations, policies or norms to tackle the problems of transgender menstruators and enhance their menstrual hygiene.

JURISDICTIONAL COMPARITIVE ANALYSIS – INCLUSION IN THE PERIOD POSITIVE MOVEMENT IN OTHER COUNTRIES

Although India is quite backward on this issue of transgender experience with menstruation, countries like the United States of America and United Kingdom, have given these menstruators leverage through Government schemes and policies, campaigns and newspaper articles.

The Government of UK rolled out its scheme to provide tampons, sanitary pads and other menstrual products in January 2020. The Department for Education published guidance for schools which advised headteachers to store products in “communal areas such as libraries” so that “all learners, including those who would not use female toilets, can access the products”. It states that schools must make sure free period products are available in “communal areas” so they can be accessed by girls who identify as transgender boys. The guidance stated that “Girls, non-binary and transgender learners who have periods may all need to access this scheme”. It went on to explain that free period products should be available to “learners who do not identify as female but still have periods, for instance, transgender boys and non-binary learners”. The government has already pledged to remove VAT on sanitary products – the so-called “tampon tax” – when the UK leaves the European Union. Currently it channels the revenue it raises to good causes.^{xi}

To be more inclusive of transgender and nonbinary customers, Procter & Gamble Company on December, 2019 said it would be [removing the Venus symbol](#) — a circle and cross typically representing womanhood and the female sex — from the wrappers of Always sanitary pads. They said, they were set to have new design distributed worldwide by February, 2020. LGBTQ health experts said the decision is an ostensibly small change that may have significant consequences for trans and nonbinary people.^{xii}

In the USA, earlier this year, an Illinois bill attempted to require school districts state-wide to provide free menstrual hygiene products in “each bathroom of every school building,” which would include boys’ restrooms.^{xiii}

Added to these progressive steps, many transgender menstruators are coming forward in the USA to share their experience of menstruation, in order to give cisgender population, the idea of their struggle and an insight into their lives. These steps would surely have a positive impact on the upheaval of the transgender community and this a first step towards recognition and inclusion of the community in issues of the society.

THE PERIOD POSITIVE MOVEMENT IN INDIA

Menstruation is the periodic discharge of blood and mucosal tissue from the uterus. Also called ‘menorrhoea’, the time during which menstruation occurs is referred to as menses. In the context of India, menstruation has social, religious, cultural and gendered connotations attached to it. The taboo and stigma that revolves around menstruation leads to wrong interpretations, false beliefs, lack of informative discussions on menstrual and reproductive health, and major loopholes in accessibility and awareness about menstrual hygiene. The information young girls receive is riddled with myths about menstrual taboos, passed from one person and generation to another. Consequently, these myths hamper the self-esteem and confidence of girls from a tender age.^{xiv} This abysmal situation has led to the emergence of the Period Positive Movement in India. While the Period Positive Movement aims at shedding light on the woes of the menstruating population in order to normalise the conversations surrounding the menstrual experience, it also aims at ensuring the accessibility of menstrual products to the menstruators. The concept of menstruation is in essence, considered to be a facet of being a biological woman and more often than not, even cisgender women that do not experience menstruation due to underlying health conditions such as PCOS and Amenorrhoea are excluded from the

conversations surrounding menstrual health. In such a case, the transgender menstruators are extremely vulnerable. The shedding of light on the menstrual experience of the transgender community is imperative to make sure that they are being included in policy making and are provided with access to menstrual products as well.

The points stated and substantiated above denote that there is a lack of awareness of the biological prospect of transgender menstruators and most of the cisgender population are not familiar with the transgender menstrual experience. Lack of campaigns and Government policies or schemes clearly denotes that general public are either conservative and do not recognise the transgender community, or just unaware of the fact that some people of the transgender community also menstruate.

As far as the Government policies, public campaigns supporting or addressing the issues of the transgender menstruators go, they are low in number. These aspects must grow exponentially in order to garner the support of the public and prepare policies and schemes that will enhance their lives and enable them to thrive in the society as equals.

The transgender community, since time immemorial, have faced enumerable safety issues that are instilled by social propaganda acting against the community. As a society, we have failed to provide a safe environment for the people of this community. While other countries are progressively providing menstrual products in male restrooms as well, in India, it is impossible to ensure the safety of transgender menstruators in public restrooms.

CONCLUSION

While the stance that the awareness about the transgender menstruators is not present among the general public is substantiated, it is also proven that, if aware, majority of the cisgender population will be willing to support the community and accept them. The nature of support provided to the community, however, must also be in the form of legislations, campaigns and even support from the manufacturers of menstrual products. Upliftment of the community begins at inclusion. Transgender menstruators must be included in conversations surrounding menstruation and policy-making regarding the same. The menstrual products manufacturers must not just target their products towards cisgender women and rather include transgender menstruators as well and ensure that their products are accessible to all menstruators. The

menstruators must be heard and proper schemes must be put in place to ensure that their needs are provided for. Menstrual equity not just refers to equal accessibility, but also about reproductive health. Society must be educated regarding menstruation in transgender community to promote acceptance and remove any taboo whatsoever from their perception. Every menstruator must have the accessibility to menstrual product irrespective of their gender. Achievement of the same, is truly what will make the Period Positive Movement and the recognition of a third gender in India, a success.

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- ⁱⁱⁱ Katherine J. Wu, *Between the (Gender) Lines: the Science of Transgender Identity*, HARVARD BLOG (October 25, 2016) <http://sitn.hms.harvard.edu/flash/2016/gender-lines-science-transgender-identity/>
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- ^{vi} “All human beings are born free and equal in dignity and rights”, Art. 1 of UDHR.
- ^{vii} “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”, Art. 3 of UDHR
- ^{viii} See for example General Comments n. 18/2005, n. 15/2002, n. 14/2000 of CESCR; “Toonen v. Australia”, Communication No. 488/1992 of the CCPR;
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