



EQUAL OPPORTUNITIES FOR TRANSGENDERS IN EMPLOYMENT WITH REFERENCE TO INDIA

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ABSTRACT-

This paper discuss how Indian corporations can consider and lead the way in providing transgender people with equal employment opportunities, which they have been entitled to for decades. The Transgender Persons (Protection of Rights) Bill, 2016 (the Bill) is an effort to provide legislative support for recommendations made by the National Legal Services Authority of India. Employers who hire transgender people can receive incentives from the government and employers can submit quarterly returns. Additionally, relevant amendments to specific laws may need to be revised to include transgender individuals. The legal system has much more room for improvement.

India still has a long way to go to achieve social equality for transgender people, who face discrimination and economic despair due to their gender identity and expression. Efforts must be made to normalize their inclusion in the workplace and treat them like any other human being. Research and knowledge production are needed to improve market conditions for the transgender community to ensure their safety and well-being.

Keywords: Transgender employment, discrimination at workplace, diversity at workplace, inclusion and diversity; transgender and policies, LGBT.

INTRODUCTION

According to the official definition, "of, relating to, or being a person whose gender identity differs from the sex the person had or was identified as having at birth especially:" of, relating to, or being a person whose gender identity is different from the sex they were born with or were told they were" to put it simply, it refers to anyone whose gender identity differs from their birth sex. For instance, a person might have been born male, but his nature was feminine, and he used to dress like a woman, apply makeup like a woman, and so on. The term "transgender" then refers to that person. It is often referred to as transgender, transgender male/female, or third gender, among other things. However, the terms "transgender" and "sexual orientation" are frequently misunderstood. While sexual orientation refers to romantic or sexual preferences,

transgender is a gender. Transgender people are one of the most discriminated (high risk community) individuals because they do not meet society's "normal" standards. In the past, they were exiled from society, began living in the suburbs, and established their own colonies. They were even tortured and killed in some countries. Many rights, including fundamental ones, were denied to them because society did not accept them. They had to deal with a lot of problems, like public restrooms that were gender-neutral, a lack of education, poverty, and not having jobs. But now things are different. By virtue of Article 14 of the Indian Constitution, transgender people now enjoy the status of human beings on an equal footing.¹ However, they are still subjected to workplace discrimination. A survey conducted in 2018 found that nearly 96% of transgender people, despite their qualifications, are denied employment and forced to work low-paying jobs or even disrespectful ones like sex workers and begging.

CURRENT CRISIS

How many years have passed since we last discussed the glass ceiling and women's right to equal pay? Why have we never discussed transgender people's right to employment? According to a survey that was carried out by the NHRC in 2017 and included 900 transgender people from four districts of Uttar Pradesh (UP) and Delhi-NCR, "three in four transgender persons in Delhi-NCR and 82% in UP were never in school or dropped out before grade X." Transgender people typically drop out of school due to severe harassment and negative experiences in school that are related to their gender. They are typically employed in low-paying jobs in the informal sector and, in the worst cases, as sex workers because of this lack of educational opportunities. "Nearly 15% had no jobs and 69% were working in the informal sector,² primarily engaged in singing, dancing, and 'blessing' (Transgender people from some communities are invited to give blessings at weddings or after childbirth," according to the same National Human Right Commission (NHRC) survey. This is a significant source of income for many people). 53% of respondents were earning less than Rs 10,000 per month, and three out of four were dissatisfied with their careers or income-generating activities. Also, another survey conducted by "Sangama," a human rights organization, interviewed 3,619 transgender people. The results showed that only 12% of the transgender people surveyed were employed, and half of the respondents made less than Rs 5,000 per month. As you can see, there is a strong need to pass laws that protect and encourage the transgender community to have equal rights.³

The Criminal Tribes Act of 1871, criminalized transgender individuals, leading to numerous laws denying them equal protection in the workplace. The Government of India has attempted to correct this discrepancy through landmark decisions, the Transgender Persons (Protection of Rights) Bill, 2016, and the establishment of the National Council for Transgenders (NCT). Additionally, it suggested taking action against those who break the rules. However, there were numerous flaws in this bill. These flaws included an ambiguous definition of the transgender person, ambiguous terms in the definition, differences in other international bodies' definitions, and other similar issues. The bill also left out transgender people's reservation and the penalties for crimes like rape, molestation, and sexual harassment, among others. versus them. As a result,

¹Badgett, L., Donnelly, C., & Kibbe, J. 'Pervasive patterns of discrimination against lesbians and gay men: Evidence from surveys across the United States.' Washington, DC: National Gay and Lesbian Task Force

² Badgett, M. V. L. 'The wage effects of sexual orientation discrimination' (1995) *Industrial and Labor Relations Review*, 48(4): 726–739

³ Barclay, J. M., & Scott, L. J. 'Transsexuals and workplace diversity—A case of "change" management' (2012) *Personnel Review*, 35(4): 487–502

despite 27 amendments, the bill was met with widespread criticism and did not satisfy the transgender community.⁴

THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019 was passed to make the nation more welcoming to transgender people. Most of the features were the same as in the previous bills. It included prohibiting discrimination in workplace-related matters, establishing a certificate of identity, and setting up a NCT. This time, it used a definition that was appropriate in accordance with international standards. The Transgender Persons (Protection of Rights) Bill was introduced to support the Act, but lacked essential measures such as reservation of transgender individuals in employment, severe penalties for offenses such as rape and sexual harassment, and self-identification. To ensure the safety of transgender people, amendments need to be made that include clear terms and severe penalties.

"Enjoyment of life by all citizens and an equal opportunity to grow as humans regardless of their race, caste, religion, community, social status, and gender" is the silver lining of the equality scheme outlined in the Indian constitution.⁵

The "right of choice and self-determination" is recognized and accepted as one of the equality scheme's fundamental principles, but Indian laws are largely binary. In the landmark case of National Legal Services Authority v. Union of India, the Supreme Court of India declared Transgender people to be the "Third Gender". This has led to the systematic rejection of equal legal protection and widespread socioeconomic discrimination and prejudice in Indian society and the workplace. The "Transgender Persons (Protection of Rights) Act, 2019" was recently passed by the Indian parliament as a response to the NALSA judgment. It is observed as "Transgender Day" and neither the government nor private businesses may discriminate against Transgender individuals in the workplace. The legislature has placed positive obligations on all stakeholders holding an interest in the form of guarantees (from Chapter II to Chapter VIII), recognizing the necessity of implementing social welfare schemes and actions that require a long-term approach and will result in a changed public perception. These obligations include the following:

Discrimination against Transgender people should be prevented, with the right and entitlement to obtain a certificate of identity from the relevant state authorities, creation, implementation, and facilitation of access to welfare programs, schemes, and programs for education, social security, healthcare, and productive social participation, measures for rescue and rehabilitation, and establishment obligations. The National Council for Transgender Persons was established to carry out the duties entrusted to it by the Act, including advising stakeholders on the formulation of policies, programs, legislation, and welfare measures, monitoring and evaluating the impact of policies and programs designed to ensure Transgender participation, and ensuring redress for Transgender Persons' grievances. Offenses against Transgender individuals carry penalties ranging from six months to two years and a fine. The "Transgender Persons (Protection of Rights) Act, 2019" is just a first step on the legislature's part and cannot be seen as completely inclusive legislation. It will be a gradual and taxing process to determine the extent to which the relevant stakeholders will consent to efforts to make Transgender people productive members of

⁴ Crow, S. M., Fok, L. Y., & Hartman, S. J, 'Who is at greatest risk of work-related discrimination—Women, blacks, or homosexuals?' (2012) *Employee Responsibilities and Rights Journal*, 11(1): 15–26

⁵ Irwin, J, 'Discrimination against gay men, lesbians, and transgender people working in education' (2002) *Journal of Gay and Lesbian Social Services*, 14(2): 65–77

society, as well as to compel inclusion and prevent non-exclusion. The Act, on the other hand, is largely silent on the consequences of non compliance and accountability on the part of the Stakeholders at Interest, and it does not lay out consequences of the newly acquired gender status on their rights and entitlements in various spheres and facets of life.⁶

EMPLOYMENT RELATED PROVISIONS IN TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019

The following are the most important employment-related provisions:

Section 3: prohibits transgender individuals from being treated unfairly in employment or other settings.

Section 10: prohibits employers from discriminating against transgender individuals in employment-related matters like hiring, promotion, and other related matters.

Section 11: creates an obligation on businesses to comply with the law and provide transgender people with the facilities they need.

Section 12: creates a requirement that any business with more than 100 employees must appoint a compliance officer to handle complaints about Act violations.

Section 15: creates a responsibility on the appropriate government to develop welfare programs to facilitate and support transgender people's livelihood, including self-employment and vocational training.

Section 17: provides for the Central Government to form a National Council with representatives from the Department of Labor and Employment and the Department of Legal Affairs, among others.

Section 19: enacts penalties and punishments in the event that anyone harms, injures, or puts a transgender person's life, safety, health, or well-being in jeopardy, or tends to do anything that causes abuse of any kind, including physical, sexual, verbal, emotional, or financial abuse.⁷

Despite the fact that all of these provisions appear to be extremely progressive and beneficial to the employability of transgender people, the Bill may not bring about the much-desired change if it is enacted because there is no provision for affirmative action in favor of encouraging transgender employment.

The level of discrimination and exclusion faced by the transgender community is demonstrated by instances in which a transgender principal in West Bengal was forced to quit her job because her employer and colleagues refused to work with her. Another transgender principal was also

⁶ Levine, M. P., & Leonard, R., 'Discrimination against lesbians in the work force' (1984) *Journal of Women in Culture and Society*, 9(4): 700–710

⁷ Schilt, K., & Connell, K., 'Do workplace gender transitions make gender trouble?' (1998) *Gender, Work and Organization*, 14(6): 596–618

forced to write to the President and request mercy-killing because Air India refused to hire her because of her gender.

It is interesting to note that the Act, in clause 18(d), ensures that a transgender person's health and safety are protected as well as that a trans woman is shielded from physical or sexual abuse. However, as the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 does not cover transgender individuals, this would necessitate modification. It is pertinent to note that the Bill was revised in August 2018 and now includes a provision that, depending on the severity of the offense, carries a sentence of up to two years in prison. In addition, it is unclear whether transgender women who adopt children are eligible for the benefits of the Maternity Benefit Act, 1961 (Maternity Act), and whether such a penalty would have a deterrent effect. Rights in India for the third gender with regard to marriage and partnerships have gained more recognition since the historic Supreme Court decision in *Navtej Singh Johar v. Union of India*. Because of this, it is absolutely necessary for the Bill to include provisions allowing employers to provide transgender people, particularly transwomen, with benefits under the Maternity Act.

Naturally, given that transgender men may also face sexual harassment or face the same problem when adopting a child, it remains to be seen if these individuals will receive certain benefits from changes to existing laws or the introduction of new laws.

It may be pertinent to note that the transgender status and information belonging to a transgender person were included in the scope of sensitive personal data (SPD) in the Draft Personal Data Protection Bill, 2018 (Data Protection Bill). If the Data Protection Bill were to become law, employers would have to adhere to more stringent regulations regarding the protection of transgender people's SPD.

Article 16(2) of the Indian Constitution states that no citizen shall be ineligible for, or discriminated against in respect of, any employment or office under the State on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them. However, only discrimination in the public sector is covered by these constitutional safeguards, and Indian LGBT employees have no recourse when private employers violate their rights. An Anti-Discrimination and Equality Bill was introduced in 2016 by Shashi Tharoor, but was rejected by the Lower House of Parliament.

In 2019, the Centre for Law and Policy Research came up with a comprehensive and inclusive Equality Bill to fill in the gaps left by previous initiatives. Sex, sexual orientation, gender identity, gender expression, disability, marital status, political beliefs, linguistic identity, and a variety of other "protected characteristics" are all protected from direct or indirect discrimination under this bill. A legal framework for the establishment of "Equality Courts," which are designated District Courts with exclusive jurisdiction and powers to address any violations of its provisions and provide civil remedies, is also included in the bill. These courts have the potential to contribute to the development and expansion of existing equality jurisprudence as well as the

filling in of precedent gaps if they are effectively implemented with judicial officers who receive prior training and sensitization.⁸

Employment practices based on "bona fide occupational qualification" are not illegal, but employers may misuse this exception if not properly scrutinized.

An employer with a majority of female employees might, for instance, state that pregnant women and young mothers are not required to work the night shift for a particular job role. Because same-sex adoption is not legal in India, this policy may unfairly disadvantage lesbian employees. In order to incentivize young mothers to return to work or to demonstrate that there are an equal number of non-LGBTs working the night shift, the employer must be able to demonstrate that such a qualification does not discriminate based on any protected characteristics and is reasonable in the circumstances. However, it is unclear what the "reasonable" standard is and how to balance the interests of employers and employees. As a result, there is a pressing need for clarity regarding the procedures for determining the burden of proof and the motives, as outlined in Chapter II, in instances of discriminatory behavior that is either apparent or indirect.

Poor people, primarily migrant workers, contract workers, healthcare workers, and transgender individuals, are particularly vulnerable to egregious forms of workplace discrimination due to the COVID-19 pandemic. Under Sections 2(m) and 2(o) of the Equality Bill, the terms "employee" and "employer" are expanded to include a variety of unorganized sector workers, such as domestic workers. Scholars, on the other hand, have expressed concerns regarding the protection of the rights of non-standard workers, such as self-employed workers, street vendors, and other gig economy workers. To support transgender people, for instance, numerous government welfare programs offer opportunities for self-employment. As a result, the bill's rights for these people are still a little bit hazy. The Equality Bill, if it becomes law, may aid in the fight against glaring disparities in private employment by addressing these issues.

INDIAN COMPANIES IMPACTING CHANGE

In today's world, numerous businesses consider LGBTQ inclusion not only from a humanitarian standpoint but also as a sensible business decision. "India's loss in GDP due to homophobia and transphobia up to \$32 billion, or 1.7% of our GDP," according to a World Bank report on marginalization and GDP loss, "India's loss in GDP due to homophobia and transphobia up to \$32 billion, or 1.7% of our GDP." Apart from capital, the current market is intensely engaged in the "war for talent," and if businesses do not update their diversity policies, they run the risk of losing talent. Companies all over the world, including Apple, H&M, Dell, Goldman Sachs, Google, IBM, Accenture, and others are making their workplace more inclusive and changing policies. As a result, in order for Indian businesses, particularly those in IT, to compete globally, they must accommodate employees from diverse backgrounds and consider their requirements. Even when they are shopping for tea or clothes, millennials and Gen Y want to be a part of something larger than themselves. Therefore, advertisements such as "Vicks Touch of Care campaign was centered around trans motherhood and featured trans rights activist Gauri Sawant" are LGBTQ-inclusive. By changing its policies and becoming more inclusive, a company can get

⁸ Agoramoorthy, G. and Hsu, M.J. 'Living on the societal edge: India's transgender realities'(2015) Journal of Religion and Health, Vol. 54, No. 4, pp.1451-1459

more press coverage, just like the Vicks campaign did to boost sales. Additionally, businesses that are committed to diversity are more likely to respond to the shifting requirements of their clients and customers, so they can utilize the insights of LGBTQ employees to comprehend the LGBTQ market. As a result, we make an effort to highlight some Indian businesses that are bringing about change in culture, particularly for transgender people.

TATA Steel: The Tata company decided that by 2021, they will have at least 5% LGBTQ employees, and they started this initiative from the ground up. Through gender sensitization training, the company first made sure that all employees were on board with the initiative and knew what was expected of them. Employee Resource Group, workplace integration modules that can be used at any time for other employees when someone comes out as transgender, and a special focus on training HRs to handle situations appropriately were developed for the LGBTQ population by the company. The company is implementing measures like gender-neutral restrooms, relocation to a different city for better social and medical support upon request, and special leave for employees who undergo gender affirmation surgery.

Because of their adherence to the "UN Business Standards of Conduct," the "Lalit Suri Hospitality Group" of hotels stands out in the service industry. An awareness program for LGBTQ people and acid attack victims is offered to all company employees. In every document of the company, gender is made a non-mandatory detail and third gender is given as an option. Gender-neutral restrooms are made, gender-neutral communication is used, and a strict anti-discrimination policy is used throughout the organization. The company's efforts to create an inclusive atmosphere are commendable. So far, the organization has hired 35 transgender employees and even put them in visible positions at their locations. The company has even partnered with ICICI Lombard to obtain Mediclaim policies for LGBTQ employees' partners and children.⁹

Godrej- "Nisaba Godrej, director, Godrej Consumer Products Ltd (GCPL)" was asked why the company had never discriminated against anyone based on sexuality or caste, gender, or religion for 120 years. The company became LGBTQ-inclusive in this five-minute conversation with her and Parmesh Sahani in the year 2010. The company changed its human resources policies to allow employees to choose a third gender, create gender-neutral infrastructure like restrooms, change the word "spouse" to "partner" in policies and extend benefits to them, give LGBTQ people a three-month break from primary care if they choose to adopt, allow same-sex partners in a committed relationship to access benefits like treatment at the group's hospital, and even reinstate health insurance. The company held a dancing queen event with transgender people to get rid of employees' fears and prejudices about the Hijra community. Many employees, like Kevin Lobo, say that these gender sensitization events changed their minds about the LGBTQ community.

VLCC - Lack of skills is one of the biggest obstacles to hiring transgender people, so the company trained about 25 transgender people as beauty therapists in 2018. They were prepared to work in a variety of positions at VLCC and other institutions related to beauty and health. a salary of Rs. They were also given the year 2000. This training was developed jointly by the

⁹ Government of Kerala 'State Policy for Transgenders in Kerala'(2015) Department of Social Justice, Trivandrum, India

VLCC Institute and the Humsafar Trust. At the SR Nagar, VLCC employees participated in a workshop on gender sensitization to design an inclusive workplace for their upcoming trans employees. “People— regardless of their gender identity or sexual orientation—can bring their authentic selves to work,” according to Infosys, a tech giant with a policy of zero tolerance for discrimination. It has set up an LGBT Employee Resource Group (ERG) to ensure that LGBT employees can connect with one another to start a conversation and share their concerns about the company's policies. In addition, the company organized gender sensitization workshops to ensure that workplaces were free of harassment. The company intends to make its HR policies and infrastructure more inclusive in the near future.

Tech Mahindra: To promote cultural assimilation and sensibilization, the company has established LGBT community groups called kaleidoscopes in various regions of the country. In addition, the business gives same-sex couples 12 weeks of paid adoption leave and allows them to work from home during the first year of parenthood. Additionally, it is working on incorporating gamification into its diversity and inclusion training and creating an immersive experience for all of its workers.¹⁰

Numerous LGBTQ-inclusive policies and benefits have already been implemented by some Indian businesses, including:

1. Benefits of a same-sex partnership: Benefits for same-sex partners are comparable to those provided to married couples.
2. Policy on equal opportunities: There is no discrimination in this policy when it comes to sexual orientation and gender identity.
3. Adoption leave that is gender-neutral: The primary caregiver will receive a three-month leave of absence.

Organizations that support trans workers should not wait for the courts to rule that trans people are fully protected by the law. Instead, they ought to take the initiative to incorporate gender-identity-specific nondiscrimination policies and procedures into all of their businesses. That entails two significant issues: increasing employees' understanding of and acceptance of transgender coworkers, as well as protecting and promoting the rights of people of all gender identities and expressions. In a meta-analysis that we conducted with Cheryl Maranto and Gary Adams, we discovered strong links between the job attitudes, psychological well-being, and disclosure decisions of LGBTQ+ community members and the degree to which employers implement these practices. Enrica Ruggs and her coauthors discovered in a separate study that the presence of trans-supportive policies was positively correlated with participants' openness about their identities and decreased experiences of workplace discrimination. However, only when leaders consistently demonstrate these policies through their words and actions will such effects likely occur. Additionally, it should be noted that all employees' productivity is positively impacted by effective diversity and equity practices.

¹⁰ Heredt, G. ‘Introduction: third sexes and third genders, in *Third Sex, Third Gender: Beyond Sexual Dimorphism in Culture and History*’ (1996) Zone, New York, pp.21–81

Adopt Basic Trans-Inclusive Policies

A lot of social psychology research shows that people are very sensitive to signals about how much others value them. We all have a fundamental need to belong in some way and a pre-wired, unconscious monitoring system that keeps track of the quality of our relationships. We experience negative emotions and a decrease in self-esteem when we notice signs of social devaluation, such as apathy, disapproval, or rejection. The exact opposite occurs when we observe indicators of social valuation, such as praise, affection, or admission to a desired group. As a result, trans employees receive important messages about their value as members of the organization from inclusive policies and practices, such as those regarding access to the bathroom, dress codes, and pronoun and name usage.¹¹

Access to the bathroom.

One important way to show trans employees that they are valued is to put gender-neutral bathrooms in place or to encourage them to use bathrooms that match their gender identity. When a transgender coworker is in the company bathroom, diversity trainings should educate other employees on the significance of being accepting and welcoming. "When I started using the men's room at work, a number of men didn't like it," said one of our participants, a trans man who works in business. I was extremely grateful to a cisgender engineer in his forties who didn't work with me directly who went out of his way to make me feel safe and welcome in the men's room.

Some people have said that allowing employees to use bathrooms that are compatible with their gender identity will make it more likely that women will be the victims of sexual harassment and assault. However, despite any gender-identity bathroom use policy, a 2018 report in *Sexuality Research and Social Policy* suggests that such incidents are uncommon. In fact, straight, cisgender males are more likely than not to harass or assault straight, cisgender females.

A dress code

Gender-neutral dress codes have begun to be implemented regionally by some businesses, including Accenture. Companies can contribute to the destigmatization of various gender expressions by explicitly stating that all employees can select from a variety of options, such as dress shirts, pantsuits, and skirt suits. By indicating that normativity is not expected, these policies may also help with recruitment and retention.

Use of the pronoun and name.

Paying close attention to trans employees' correct names and pronouns is another way to demonstrate to them that they are valued. The pronouns "he," "she," and "hers" are frequently used by transgender people who identify as either male or female on the conventional binary scale. However, a great number of other people who fall into the broad category of "trans"

¹¹ Taranowski, C. J. 'Transsexual employees in the workplace' *Journal of Workplace Behavioral Health*, 23: 467–477

as well, such as genderqueer, gender-fluid, and nonbinary people, use alternative pronouns like "they," "theyr," and "theirs," or "ze," "zir," and "zem."

Our conversations and research make it abundantly clear that trans employees are intentionally or unintentionally "misgendered" frequently at work. A single error, such as using the wrong pronoun for a coworker who has recently transitioned, may be regarded as an honest error. (One ought to express regret, move on, and ensure that they do it right the next time.) Regular use of appropriate pronouns and names can have a greater impact than one might anticipate. Many of our participants recalled instances in which a cisgender employee instructed others on proper pronoun usage when asked to reflect on courageous acts coworkers had performed in support of the rights of trans employees. A straightforward statement like "Katie uses "she" as a pronoun" or a gentle correction like "Has he been seen by you?" I did indeed observe her in the conference room.¹²

There are a number of options for employers to address this issue. First, they can keep track of the correct pronouns and preferred names of employees; This helps ensure that, whenever possible, appropriate terms, such as directories, email addresses, and business cards, will be used for administrative and personnel purposes. Second, exhort all employees to use name badges and email signatures with the correct pronouns and desired names; This raises awareness of coworkers' various gender identities and makes it possible for people to learn those names and pronouns. Thirdly, make it clear through training programs, onboarding initiatives, and the content of employee handbooks that using proper pronouns is an important part of creating an atmosphere where all employees feel valued and respected. For instance, Goldman Sachs recently launched an internal campaign to educate workers about the significance of pronouns and encourage them to actively share their pronouns with coworkers.

Support Gender Transitions Gender transitioning is not a one-time occurrence but rather a process that begins with a deeply personal choice that typically comes from years of soul-searching. The decision to disclose or come out at work is also difficult. People weigh the benefits of doing so (freedom from a "double life" and the ability to express one's true self) against the drawbacks (possibility of rejection and career consequences). "After nearly a year of soul-searching, research, therapy, support group attendance, and deep personal reflection, I 'came out' to my supervisor as transgender...I finished talking, paused, and waited for her response," one of our study participants, a trans woman working in the transportation industry, told us. I was choked up with my heart. I could not undo what had been said because I was aware that this meeting could alter her perception of me forever.

The woman then recalled the response of her boss: Her first words were, "We're not just a team here; we're a family, and this is your home," after a brief pause. You have the right to be treated with respect and dignity no matter who you are. I will do everything in my power to ensure that your transition goes as smoothly as possible. After that, she got to work scheduling meetings with the department head and HR head."

Whoever decides to transition decides how long the process will last and what it will look like. Surgery to confirm one's gender may be required during a transition (not all transgender people

¹² Wharton, A. 'The sociology of gender: An introduction to theory and research'(2005) Malden, MA: Blackwell

undergo medical procedures). As they constantly reinterpret and redefine themselves, some gender-fluid individuals spend their entire lives alternating between and within various gender expressions. Employers must devise a comprehensive strategy for managing gender transitions that places an emphasis not only on the employee but also on creating an atmosphere at work that is supportive of the transition.

First, assisting transitioning employees who choose to pay for medical procedures and ensuring that they have access to gender-specific health benefits can lessen the stress and anxiety associated with coming out at work. Trans employees receive a very positive message about their value from this level of commitment.

Second, it's critical that employees be asked what they need and how they want the transition to be handled. Employers can only ensure that individuals are not accidentally "outed" without permission or before they are ready by listening to them and working with them.¹³

Thirdly, if an employee approaches an HR manager, the manager can offer advice on where to find out more about treatment options, organizational support groups, and other resources, as well as strategies for managing work-life conflicts that may arise during the process. If the employee is comfortable doing so, including direct supervisors in such meetings can help foster empathy and assist in the development of adaptable, well-informed plans tailored to each individual's needs. Such initiatives have been implemented by Google, Cigna, and Chevron.

Fourth, and just as important, our research suggests that managers and leaders need to actively work to create a welcoming workplace. The transitional period is particularly delicate; Indeed, peers' ostracism or pressure to hide one's identity during this time can make people more prone to depression, anxiety, and even suicidal ideation. Additionally, the surgical team will inquire about any transgender patient's support networks, which are frequently required for patients undergoing gender-confirming procedures. As a result, one or more obstacles to providing care for trans employees will be removed by having plans and policies that are supportive.¹⁴

To foster a supportive environment, authoritative figures who consistently exhibit trans-inclusive behavior are essential. Many of our participants stated that if senior leaders and frontline managers had not shown support, which typically has a trickle-down effect on lower-level employees, they would not have felt comfortable inquiring about transition benefits, much less been successful in their transitions. This can be accomplished by top leaders in a number of different ways, such as by attending or presenting at conferences about trans-specific issues, by publicly advocating for initiatives to promote gender-inclusive dress codes and bathroom usage, and by using their proper names and gender pronouns.

a recent study with interview and survey data from 389 transgender employees. We found that those who were relatively far along in their transitions were more satisfied with their jobs, reported less discrimination, and felt a greater sense of "fit" in their workplaces than those who had not transitioned or were less far along in the process. The perception that coworkers had the same understanding of their gender as the participants did, or relational authenticity, was found

¹³ West, C., & Zimmerman, D. H 'Doing gender. *Gender and Society*' (2010) 1: 125–151.

¹⁴ Koushal S.K. and another versus Naz Foundation and Others(2013) SC Civil Appeal No. 10972

to be the explanation for this effect, as opposed to the participants' sense of consistency between their inner gender identity. Naturally, coworkers are also important. Larry Martinez, Enrica Ruggs, and Nicholas Smith conducted and their outward expression of gender (action authenticity). "There was a point where people started seeing me as just one of the guys," said one participant, a trans man who works as a museum curator. And I believe that's when I started to feel like I fit in much better. Coworkers are the ones who make that possible. A trans woman working in manufacturing gave the following touching account from a separate study: At a party, I made my first appearance in a dress. In front of everyone else, one of the housekeeping assistants grabbed my hand and dragged me onto the dance floor. His bravery in accepting me for who I was in front of our entire coworkers still makes me cry to this day.¹⁵

Work groups should be informed when transitioning employees will be out of the office, whether they will return part-time, and what work will need to be done while they are gone to foster supportive relationships. It is essential to emphasize the necessity of coworkers acting in a manner that supports their coworkers' emotional well-being, demonstrates sensitivity, and affirms their gender identity. People can, for instance, make it clear that they are available to discuss any issues related to gender expression or transitioning, while following the lead of trans employees regarding when and where to have those conversations. This method makes trans employees feel more supported and cared for, and it also makes it easier for them to talk openly with their coworkers. Employers can help alleviate some of their employees' anxiety by taking the aforementioned measures. Even employees with good intentions may be concerned about their capacity to assist a coworker during a transition.¹⁶

Develop Trans-Specific Diversity Training It is also essential to provide more general training on gender identity topics. Even though coverage in the media has made it easier to talk about gender identity and expression, corporate diversity training still needs work. Two suggestions are provided by us:

1. Make contact with transgender people from all over the spectrum.

A lot of research on the "contact hypothesis" says that giving people chances to connect with particular groups, hear their stories, understand their problems, and feel empathy for them, is important for changing people's attitudes and actions toward them. However, members of the LGBTQ+ community do not have to educate other people or be visible in this way; Only transgender employees who are willing to participate should be included in trainings. In the event that they are not, numerous LGBTQ+ nonprofit organizations and corporate training providers offer such instruction.

2. Work with cisgender employees to learn how to be informal advocates for transgender coworkers.

According to the findings of the research, a lot of people lack the knowledge and self-assurance to question prejudice. Because of this, some businesses have tried to give their employees, especially leaders, concrete ways to get out of their comfort zones and have "courageous

¹⁵ Ministry of Social Justice and Empowerment Government of India (2016) The Transgender Persons (Protection of Rights) Bill, 2016 [Bill No. 210 of 2016], Vol. 15, No. 210

¹⁶ Show, K.K. 'Human rights perspectives of the third gender in India' (2015) The Rights, Vol. 1, No. 2, pp.1-7

conversations" about hard diversity-related topics. An employee, for instance, is encouraged to respectfully but directly address biased behavior they observe. This might entail having coffee with someone to tactfully explain why a behavior was non inclusive or pulling someone aside to explain the potential harm caused by a biased comment. The CEO Action for Diversity & Inclusion coalition was started by the chairman of PwC to normalize discussions about diversity among high-level leaders in large corporations. Employees at Bank of America are encouraged to discuss gender, race, and other identity-related topics in a learning-focused and respectful manner.¹⁷

These efforts are rewarded. We will report in a forthcoming study that transgender coworkers receive an important message of inclusion from cisgender employees who challenge non-inclusive policies and behavior. According to our findings, there may be three related types of these behaviors: advocacy, such as showing public support for transgender causes; defending, like shielding transgender coworkers from criticism or hostility; and education, such as making the organization more aware of transgender issues. We found that trans people who had seen these things recently were more likely to say they felt more valued as members of the organization, were happier at work, and felt less emotionally drained by it.

When his assistant came forward after he had been mistreated by a manager, one transgender man working in government recalled feeling a great deal of gratitude toward her. He recalled, "This occurred while I was sitting at an empty chair at a lunch table." He jumped up like he was sitting next to a very large spider when he saw me sitting there. Twice, she (my assistant) said, "Scott, that was so rude!" I was relieved to find that island. This kind of bravery could have predicted a person's job satisfaction and well-being six weeks later.

Use Interventions to Build Resilience The idea that trans people can benefit from stress management interventions is also supported by research. In a recent two-week experience sampling study, we found evidence that trans employees can avoid emotional exhaustion the day after experiencing a stigmatizing event at work by practicing mindfulness, which is a state of nonjudgmental attention to present-moment experiences. A decrease in defensive, skepticism-based mental patterns, such as hypervigilance and ruminating, was found to account for this effect.

Sadly, it is not realistic to assume that workplace initiatives will quickly and easily eradicate prejudice against trans employees. These shifts take time. Even though formal diversity policies and practices should be the main goal of employers, it's also important to provide tools like mindfulness, cognitive behavioral, and self-compassion training to help marginalized populations avoid the negative effects of stigma.¹⁸

CONCLUSION AND SUGGESTIONS:

At work, people can only reach their full potential when they feel completely authentic and connected to their organizations. Transgender workers are not exempt. However, very few businesses have been able to establish an environment of inclusion at work for people who do

¹⁷ Rafeek, M. (2015) 'Transgender and human rights – current situation and potential options of development in India', *The Right*, Vol. 9096, No. ii, pp.1–7, http://yir.co.in/wp-content/uploads/2015/12/mohd._Rafeek.pdf(last visited on Jan 15,2023 at 4:00pm).

¹⁸ Sharma, G.K. 'Rights of transsexual genders, the new emerging field of law: a research paper'(2013) *Uttarakhand Judicial & Legal Review*, Vol. 1, No. 1, pp.29–56.

not identify with gender norms set by society. We anticipate that the research and proactive measures we have outlined will contribute to a change in that. Employers who execute this correctly demonstrate more than just business acumen. In addition, they are creating a corporate legacy in which employees' well-being and human dignity are regarded as essential to success.

India is still adjusting to the societal shift of including and embracing transgender people. This significant shift in society will undoubtedly take time. The legislature, the judiciary, and social activists are working together to improve the transgender community's status. It is essential to establish a trans-inclusive workplace for both the development of the profession and the elimination of stigma. The Act merely places the burden of proof on employers to include members of the transgender community in employment applications.

The transgender community has been subjected to discrimination despite efforts. While the discrimination may not be as well-known, there is definitely some covert bias on the part of organizations when it comes to hiring people of the third gender. The lack of education and social acceptance of the third gender as equal are the primary causes. However, by making workplaces more transgender-friendly and reducing the discrimination faced by the community, the corporate environment has the potential to significantly contribute to the empowerment of the transgender community.

SUGGESTIONS

Preparing the Indian workplace to be more trans-inclusive will be a monumental task due to India's slow but steady societal change in this area.

To combat transgender workplace violence and discrimination, the Department of Social Justice and Empowerment issued the following recommendations:

- Transgender issues must be brought to the attention of employers and employees in the private sector.
- Anti-discrimination policies must be established and meaningfully implemented in the hiring, retention, promotion, and benefits procedures for employees.
- Transgender people should be included in workplace sexual harassment policies.

Empowering the Transgender community in the workplace would go a long way toward reducing social stigma and also boosting their economic well-being. Upliftment of the Transgender community must be a collective effort. The following are some of the actions that businesses can take to make the workplace more welcoming to trans people:

Education and sensitization: It would be essential for businesses to educate their workforce on gender inclusivity and greater corporate acceptance of transgender people before making any changes to the system. Transgender people should be considered for discrimination in the documentation, hiring, and recruitment processes. Employees should be aware of the bullying and harassment policies, as well as what behaviors fall under this category and how to report them if they see or experience them. The organizations' leaders should also be evaluated on the basis of their efforts to include everyone.

- Protection of privacy: The applicant's privacy ought to be of paramount importance. The candidate must decide whether or not to discuss their transgender status and past. Because for

some trans people, their history is a part of their past and it is up to them to decide whether or not to disclose it, there should be protection against non-consenting disclosure. There should never be a reason to fire someone for making or not making a disclosure.

- Through HR, active trans hiring efforts: They should actively work toward hiring transgender people for their company. The affirmation that an organization is inclusive and nondiscriminatory must be promoted. Avoiding gendered language and pronouns is one way to accomplish this. The inclusive and nondiscrimination policies of the company ought to be posted on the company website and in newspaper job announcements. The following gender categories may be included on the applicant's initial job application: Male; Female; Trans; ‘ I prefer to refer to myself as. It is up to the job applicant to indicate their gender identity. Gender is not a requirement for positions at Infosys or Goldman Sachs.
- Review of Policies: Policies and manuals that are already in place must be reviewed and revised. To ensure that the policies reflect an organization's approach to the Third Gender, it would only be beneficial to include suggestions from members of the Transgender community themselves. Policies on harassment in the workplace ought to be gender-neutral. Benefits for same-sex partnerships and gender-neutral adoption leave ought to be made available as well. Benefits should not be denied on the basis of gender expression or identity. Any violation should be investigated thoroughly and dealt with appropriately.
- Policies to prevent harassment: For harassment complaints, organizations must establish adequate grievance redressal mechanisms, just as the POSH Act requires.
- Bathrooms that are gender-neutral: Employees should be able to use restrooms that identify them. When transgender people are forced to use non-preferred restrooms, they are repeatedly humiliated and harassed.
- Dress code guidelines: Workers ought to have the right to dress in a way that reflects their gender expression and identity.
- Sensitization Prior to Placement: It's possible that introducing transgender people to the workplace will cause a culture shock. There are a number of considerations that would otherwise go unnoticed. Sensitization through a workplace preplacement program is necessary to avoid this kind of shock.
- Employment: Transgender people have been subjected to years of discrimination that has resulted in social, economic, and skill backwardness, so recruitment criteria must be revised accordingly. Additionally, organizations must strive to offer training programs that build on existing knowledge and abilities.

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