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**SOCIAL ACCEPTANCE AND SECTION 377:
A CASE STUDY OF TRANSGENDER PEOPLE IN JAMMU CITY**

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Abstract: *The Supreme Court of India recently decriminalized section 377 of the Indian Penal Code to outlaw the unfair violence and discrimination against transgender people. The paper argues that despite the legal acceptance of Section 377, the discrimination and social exclusion of transgender people continue in the Indian public sphere. The method of Interpretative Phenomenological Approach has been used to analyze the interviews of five transgender people from Jammu city. The findings suggest patterns and relationships within the data which are useful for understanding various ways in which transgender people negotiate and contemplate their lives outside the known social network they resort to. By analyzing the interpretations of selected transgender people, the study reveals that they bear the brunt of social and economic exclusion due to their gender identity on day-to-day basis.*

Keywords: *Section 377, transgender, Jammu city, Interpretative Phenomenological Approach, public sphere, public space.*

1. Introduction

The term transgender “doesn’t just refer to people who have had or want a sex-change operation to make their bodies match their internal feelings [...] it applies to many different kinds of people who don’t fit neatly into society’s binary concept of gender” (Thompson, 2015, p. 7). In

other words, “[t]ransgender is an umbrella term [...] that include[s] people whose lifestyles appear to conflict with the gender norms of society” (Whittle et al., 2007, p. 6). It is also used to describe “Gender Variant people who have gender identities, expressions or behaviors not traditionally associated with their birth sex” (“Gender Variance,” 2001, available online). Further, Melendez and Pinto define transgender as “individuals whose sexual assignment at birth does not correspond with their current gender identity” (2007, p. 234). Davidson explains that transgender “refers to people whose gender identity differs from the sex they were assigned at birth” (2016, p. 2). Thus, transgender, as used in the current study, refers to all those people whose gender identity does not conform to the norms of heterosexuality which sees gender and sex as interrelated and complementary.

Unfortunately, transgender people¹ in the public sphere are pushed towards the margins of society due to their non-conformation to the gendered norms of heterosexuality. Heterosexuality is profoundly entrenched in the social structure to the extent that it is “imposed, managed, organized, propagandized, and maintained by force” (Rich, 2003, p. 26). In this context, Seidman argues that “[s]ocial institutions, laws, policies, and cultural representations, as well as daily practices of harassment, intimidation, and violence, enforce heterosexuality and gender binarism” (2009, p. 20). As stated by Priya and Kumar, “[t]he imposition of a majoritarian heteronormative worldview as the only acceptable position adds to the marginalisation of transgender people” (2020, p. 34). As a result, any departure from its norms leads to stigma, violence, humiliation, torture, and exclusion. Taking into consideration the condition of transgender people along with other sexual minorities in the Indian public sphere, the five-judge constitution bench of the Supreme Court of India registers the inception of the “equal existence of LGBT community as other citizens” (“Supreme Court Scraps Section 377,” 2018, available online), striking down the 1864 verdict of Section 377 of the Indian penal code, which stipulated that “[w]hoever 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 [...] which may extend to ten years, and shall also be liable to fine” (“What is section 377?,” 2018, available online). Justice D.Y. Chandrachud, as quoted in a newspaper article, states that criminalizing “consensual gay sex between adults, had consigned a group of citizens to the margins, due to which the members of lesbians, gays, bisexuals and transgender (LGBT)

¹ As stated by GLAAD, the term transgender “should be used as an adjective, not as a noun”. One should use a transgender person or people instead of transgenders or a transgender. (“Glossary of Terms- Transgender,” n. d., para. 21). Throughout the research, we prefer to call ‘trans’, transgenders, as transgender people.

community were relegated to the anguish of being closeted identities” (“Section 377,” 2018, available online). Moreover, penalizing sexual conduct by law denies sexual minorities the “equal protection of law guaranteed under Article 14 of the Constitution [which] violates the rights guaranteed to them under Article 21 of the Constitution of India” (Sikri, 2014, available online) and transgresses Article 15 which prohibits “discrimination on grounds of religion, race, caste, sex or place of birth” (“What is Section 377 of IPC?,” 2018, available online). The verdict, however, reestablishes the rights of the LGBT community as a social entity and promises the beginning of a new violence-free India for sexual minorities and even more so for transgender people.

One of the major objectives behind the decriminalization of Section 377 of IPC, in India, is the Supreme Court’s intention to ensure the inclusion of sexual minorities in the Indian public sphere. The public sphere, popularly known as Habermas’s bourgeois public sphere, constitutes “the sphere of private people come together as a public [...] to engage [...] in a debate over the general rules governing relations in the basically privatized but publicly relevant sphere of commodity exchange and social labor” (Habermas, 1989, p. 27). Habermas’ public sphere, constituted through “convivial discussion and rational-critical public debate” (Habermas, 1989, p. 45), emphasizes establishing the ultimate democracy where “equality was key to the public sphere” and “the principle of universal access was crucial” (Charles & Rohwer, 2015, p. 2); however, it has been criticized for “belonging to a privileged stratum of society who nevertheless felt entitled to claim that they were representing man in general” (Charles & Rohwer, 2015, 693). The interactions in the cafes and salons in the 18th century were “artificially democratic” in the sense that, inside those boundaries, the members dismissed the matters concerning their status and behaved as if they were equal. A public sphere is also connected with certain exclusions, with failing “to examine other, nonliberal, nonbourgeois, competing public spheres” (Loehwing & Motter, 2009, p. 220, 221).

The article hypothesizes that the legal inclusion of transgender people does not translate into social acceptance due to the heteronormative and exclusionary nature of the public sphere. However, the discrimination of transgender people is happening in the public space, which requires deliberation on the relationship between the public sphere and public space. Cassagard holds the position that the public sphere is “independent of place” (Cassagard, 2014, p. 691), as he argues that “[s]pace is not a necessary ingredient in it, since what matters in public deliberation is primarily what is said by whom, but not so much where” (2014, p. 690). He further finds public space existing in opposition to the public sphere and manifesting dissent, as it “offers a place to live and be heard for those who experience themselves as excluded from the public sphere” (Cassegard,

2014, p. 701). On the contrary, Low and Smith hold a different view, claiming that public spaces like “the street, the park, the media, the internet, the shopping mall [...] national governments, and local neighborhoods” (2006, p. 3) are not democratic places where a “diversity of peoples and activities are embraced and tolerated” (p. vii). A public space shares the inclusions and exclusions of a public sphere as “many constituents of public space are privately owned, managed, and regulated elements of the public sphere” (Low and Smith, p. 5). The idea is further supported by Amin, who argues that public space is central “in the formation of public and public culture” (2008, p. 5). Aubin also asserts that “they (public space and public sphere) may [...] coincide” (2014, p. 90). The present research aligns with the idea that the concepts of public sphere and public space overlap and that the public sphere rhetoric is put into practice in the public space.

As far as the Indian public sphere is considered, it carries into the public space the exclusion of the public sphere on the basis of the norms of acceptable conduct in the heterosexual society. In fact, the compulsory heterosexual norms of the public sphere cause discrimination against transgender people in the public space. “Compulsory heterosexuality as a concept is rooted in the structure of heterosexism that establishes the dominance of the hetero over the non-hetero, based on sexual orientation or sexual preference” (Sarmah & Bhuyan, 2019, p.1). As Chattopadhyay states, “[w]hen a baby is born he/she remains open to any kind of expression, irrespective of gender. But in course of the process of receiving the society’s direction [...] the baby becomes a gendered person” (2017, available online). Such gender construction normalizes the discriminatory practices against the third gender and segregates them from the category of ‘normal’. Moreover, the phenomenon of gender division, infiltrated in the whole social structure, aligns itself with the social, economic, political, and cultural views. Therefore, in an attempt to negotiate a place for the sexual minorities, the Supreme Court granted the full-fledged sexual citizenship to them, marking the end of the dichotomy in the law; thus, where “Section 375 permits consensual penetrative acts (the definition of penetration includes oral and anal sex), Section 377 makes the same acts of penetration punishable irrespective of consent” (Misra, 2018, available online).

Despite obtaining rights and throwing the legal shackles, the question of social acceptance and liberation of transgender people remains the most debatable issue. They face prejudice and violence regularly. It is true that a change in the law cannot bring fast changes in society, which can also be seen in other societies and contexts, for example in the case of *Brown v. Board of Education of Topeka* (1954) in the US. In spite of the Supreme Court decision, it took a long time for schools to desegregate and even after more than sixty years “the debate continues over how to combat

racial inequalities in the nation's school system" ("Brown v. Board of Education," 2020, available online). However, the law raises boundaries within which everyone has to work together on shared objectives and goals. The law obligates people to follow the legal norms via the process of reward and punishment. It is principally punishment that determines people to change their attitudes and practices prohibited by the law. Kelsen asserts that the law ensures "the desired social conduct of men through threat of a measure of coercion which is to be applied in case of contrary conduct" (1941, p. 79). The law as the means of social change not only supports social order but also gives certain categories the power to raise their voice.

Unfortunately, in the case of transgender people, the Indian society openly defies the law and its authority. Various agencies of the government itself, on the one hand, ensure the execution of the law and, on the other hand, defer its implementation in practice. This leads to the inefficiency of the law in the first place. The police themselves are responsible for delaying the end to discrimination, which hinders the equality of transgender people from being exercised in reality (Goldberg, 2010). Almost a month after the decriminalization of section 377, a 38 year old transgender woman, Uma from Delhi, faced police brutality because of her gender identity for "just sitting next to the Rajiv Chowk metro station", whereby she was abused and threatened by a policeman named Sachin (Manjunath, 2018, available online). Uma's case compels us to rethink the rights of transgender people in view of the Supreme Court's verdict especially the role of the police. Police as a legitimate law enforcement agency, preventer and protector of the general public and, specifically, of the minority groups, are themselves involved in creating problematic situations for transgender people. The reason behind the violent and negative approach of the police has been rightly explained by Reiner (2002 as cited in Johnson, 2015, p.3), who shows that "most police officers base their perception of social environments on the social structures that the police accept as normal and have used such perceptions as a guide when policing minority groups". Thus, the police follow the gendered frame of binaries, mistreat and neglect transgender people. Also, this is an expression of the gendered power which they exercise over transgender people. The action implies the non-acceptance of the Supreme Court judgment by the law enforcement agency. Though the judicial reform has provided a platform for transgender people to be rid of brutality, social reality does not always accept this. Bidisha Mohanta unveils her experience as "[h]ate crimes against the community have not gone away because the law has changed. It's as though there is a perception that we, members of the LGBTQ+ community, are antigens. We must be dangerous to the social fabric" (Ghoshal, 2018, available online). Rastogi observed that "[i]ncidents of

harassment and abuse against transgender or kinnara women appear to have escalated ever since the Supreme Court judgement against Section 377” (2018, available online). Thus, despite the existence of a wide range of anti-discriminatory laws and court rulings, transgender people and other sexual minorities are still struggling for social acceptance. As stated by Goldberg, “this is a long way of saying that law can change practices and attitudes, but only if it's part of a long term and intensive effort that addresses hearts, minds, and comprehensive ways of life” (2010, available online).

In this context, the research argues that although the favourable legal discourse on transgender people has been introduced into the public sphere, they still face a major thrust of discrimination on a daily basis, and, therefore, the goal of the research is to explore the social experience of transgender people in Jammu city after the decriminalization of Section 377, which could lead to the authentic portrayal of transgender specific problems. One of the reasons for transgender people’s exclusion is located in politics and religion, where dominant religious and political figures are engaged in presenting the contested view of the Supreme’s court ruling on 377. In any country, religion and politics play an authoritative role in regulating the ideology and affecting the social, domestic, legal, and cultural institutions of the country, thus managing “public opinion, dominant ideologies and consensual everyday practices” (Van Dijk, 1993, p. 8). Both politics and religion exert their control through society’s sentiments and, to some extent, they are quite influential in changing the mindset of the people. As stated by Van Dijk, since elites², among which dominant political and religious groups, “have the most control over [...] public discourse and communication, they also are most responsible for the cognitive or ideological reproduction” (1993, p. 28) of discrimination and exclusion against transgender people. Van Dijk also asserts that “the major functions of such discourse about minorities are persuasive, that is, speakers aim to influence the minds of their listeners or readers in such a way that the opinions or attitudes of the audience either become or remain close(r) to those of the speaker or writer” (1993, p. 30).

Although the ideology of certain dominant groups (mainly political and religious in the case analyzed here) cannot be generalized amongst all the social and political institutions, it holds the power to align “individual opinions with social attitudes, and individual text and talk with social, political, or cultural discourse” (Van Dijk, 2018, p. 38). Hall et al. call such representatives as “accredited”, not “because of their institutional power and position, but also because of their ‘representative’ status: either they represent ‘the people’ [...] or organised interest groups” (1978, p.

² Van Dijk refers to elites in general; the paper postulates that the dominant political and religious groups are part of the elites as they hold influential status and position in the public sphere.

58). In the public sphere, the majority discourse becomes a discourse of dominance. It holds the potential of “attack, marginalization, problematization, or inferiorization” (Hall et al., 1978, p. 30).

Before the decriminalization of Section 377, there existed narratives of criticism by the political and religious figures, which influenced and conditioned the people in the Indian public sphere. In December 2013, the political figure Yogi Adityanath, current Chief Minister of Uttar Pradesh, posited transsexuality as “dangerous to social morality” (Singh, 2018, available online). He alerted society on the upcoming threat, by stating that “[i]f social norms and boundaries are done away with, then there is not much difference between man and animal [...] It shouldn’t receive any constitutional status either” (Singh, 2018, available online). Additionally, Subramanian Swamy, BJP Member of Parliament in 2013 asserted, “[o]f course what happens in someone’s private life should not be of anyone’s concern, neither should they be punished. It is basically a genetic disorder, like someone having six fingers. Medical research must be done to rectify it” (“Homosexuality is a genetic disorder: Subramanian Swamy,” 2018, available online).

Moreover, religious figures also exert their influence via moral authority. They “embody the sacred and the divine, but their interests and influence extend well beyond the spiritual realm” (Busse, 2015, p. 2). Religious identities shape political decisions, by using elements of religious ideology, and activate the wider base of the gendered social structure. In this light, Yoga guru Baba Ramdev called transsexuality a disease, a mental problem that needs to be cured (Vij, 2018). Baba Ramdev’s Patanjali Center started selling medicines to cure transsexuality (Agarwal & Dam, 2018, available online). In a similar line, Naik, an Islamic preacher, stated “[b]ased on teachings of the Qur'an and Sunnah [...] homosexuals should be killed” (“Ten controversial statements by Zakir Naik,” 2016, available online). Such statements from religious figures reassert the normative nature of gender binaries in contemporary democracies and obscure the variety of ways in which the law regime institutes anti-discriminatory policies. It also gives an insight into understanding how the religious influencers’ abhorrence towards transsexuality gets transferred to the public in general.

Thus, both political and religious figures, alongside other elites in society, have a “leading role in shaping the production and interpretation framework underlying such conversations” (Van Dijk, 1993, p. 10). The involvement of such dominant groups influences the public sphere by restricting free thought and by turning people away from analyzing scientific findings. On the one hand, the law makes policies to safeguard the interests of transgender people, whereas, on the other hand, the political and religious figures are opposing legal discourse. By doing this, they are strengthening the already existing sentiment of exclusion and weakening the Supreme Court ruling.

As a result, they are maintaining the excluded position of transgender people in the Indian public sphere. Moreover, the stark differences in the legal and politico-religious policies impede the actual implementation of law 377 in society and empty it of meaning. Thus, transgender people and other sexual minorities face exclusion instead of inclusion in the Indian public sphere.

2. Background of the study and data collection

The study has been conducted in Jammu, the largest city in Jammu province of the Indian state of Jammu and Kashmir. Heterosexuality is assumed and largely enforced in Jammu district. It is viewed as natural and divergence is seen as unfavorable. Transgender people in Jammu are usually welcomed at the time of marriage and child-birth. They get their income either from performing in the ceremonies or by begging. They usually live on the outskirts of the city and are commonly known as *hijra*³, *khusra*, or *chakka*. They speak Dogri, Punjabi, and Hindi.

To explore the different experiences of social exclusion and discrimination, five transgender people have been interviewed. Among them, three were living within the community and the other two were living outside, but had strong ties with the community. All of them volunteered to participate. The self-identification of participants is biologically male and psychologically female. The location was chosen according to the participants' wish, so that they could talk comfortably. The interviews were conducted face-to-face to have a better understanding of the responses and to gain in-depth knowledge of the discrimination faced by them. The order of concerns kept changing as the respondents were narrating very personal events. The conversation was kept flexible. All the interviews have been transcribed word by word from the local language, which is Dogri, translated into English, and examined through a systematic qualitative analysis (see next section). To identify themselves, they used the term *hijra*. In order to support the data collected from interviews, the study referred to numerous articles concerning transgender people's social exclusion. Moreover, to ensure the privacy of the participants, the names have been changed.

The five transgender people interviewed are Jhumroo, Gudo, Rekha, Shabnam, and Babita. Jhumroo, a 60 year old trans-woman, is the Head. She lives with her *chelas* (pupil), namely Geeta, Twinkle, Payal, and Poonam. Jhumroo is born in a well-educated family of three brothers and two sisters, but none of them support her. Gudo, a 29-year-old trans-woman, started witnessing gender

³ The term *hijra* is assigned to those who are "neither men nor women" or as men who become women by adopting women's dress and behavior' ("Hijra," 2020, para.1, available online).

confusion when she was five or six year old. Everyone used to address her as a boy but she never felt like that. Rekha, a 40-year-old, was born in a conservative family. Boys used to tease her in school and call her different names. She finds that “society does not accept someone who is a transgender” (Rekha, personal interview, April 11, 2019). Shabnam was born as a male, but later got castrated. She is 50 years old and has a supportive family. She comments that, although transgender people have a very rich cultural heritage in the past⁴, these days they are stigmatized, abused, and discriminated against. She further adds that “the biggest sorrow in one’s life is that of being left unloved, and, unfortunately, the whole transgender community is facing that” (personal interview, April 11, 2019). Babita, a 30-year-old trans-woman was “born in one body with two souls” (personal interview, April 15, 2019). When she was in the eleventh grade, her father kicked her out of the house because he got frustrated with her feminine activities. She had to struggle hard for her living and has been begging in railway stations for the last 14 years.

The analysis has brought out various patterns and relationships within the data, which was useful for understanding the various ways in which transgender people negotiate and contemplate their lives outside the known social network they resort to. The process has helped to bring out similarities and differences between various interviews, which has further enriched the research findings. By examining the interactions of selected transgender people with the interviewer, the study reveals that they bear the brunt of social and economic marginalization due to their gender identity on a daily basis. Their responses are analyzed in the light of the discrimination they face despite the anti-discriminatory laws. Given the small number of interviews, however, our research is exploratory (for any generalizations, the study would have to be continued at a larger scale).

3. Methodological framework

The paper employs an Interpretative Phenomenological Approach to collect and analyze the data. IPA has its origin in psychology and focuses on understanding the encounters with the participants. As per Smith and Osborn, “[t]he aim of interpretative phenomenological analysis (IPA) is to explore in detail how participants are making sense of their personal and social world” (2008, p. 53). It enables the participants to freely recount their experiences and allows the researcher to capture those experiences by entering “into the lifeworld of the participant rather than

⁴ Transgender people had a strong presence in the Indian mythology and other religious texts such as *Ramayana* and *Mahabharata* (Michelraj, 2015).

investigate” (Willig & Rogers, 2017, p. 206). Moreover, the method appropriately goes with the goal of the research where the sample size is small, as “IPA studies... a small number of participants with the aim to reveal something of the experience of each of those individuals” (Smith et al., 2009, p. 3).

For carrying out the research, the researcher recorded and analyzed transgender people’s experiences in Jammu city. Semi-structured, open-ended, in-depth, one-on-one narrative interviews with transgender people were carried out. In IPA, specific “set questions [...] are not usually used, as the purpose of the research is to explore the respondents’ perceptions of what is important in relation to the phenomenon in question, rather than to look at what the researcher deems important” (Fade, 2004, p. 648). The research conducted is a qualitative study “mainly concerned with meaning (e.g., how individuals make sense of the world, how they experience events, what meaning they attribute to phenomena” (Pietkiewicz & Smith, 2012, p. 7). To allow “enough space and flexibility for original and unexpected issues to arise” and for a free flow of communication, no specific interview guide has been followed. Also, to analyze the content of the interviews, thematic analysis involving “identifying, analyzing, and reporting patterns (themes)” (Braun & Clarke, 2006, p. 79) within qualitative data has been adapted.

4. Findings and analysis

The findings suggest that the transgender people interviewed suffer collective deprivation and ostracism in the public sphere due to their gender identity. The interpretations of their experiences reveal that, despite the Supreme Court verdict, transgender people are still not treated as equals but as something different.

4.1. The issue of toilets

Despite the legal action in favor of transgender people, the problem of the use of toilets is still a battleground for their rights. The non-availability of gender-neutral toilets and trans-inclusive toilets signals the exclusion of transgender people from the wider public space. The lack of safe access to toilets is a routine struggle for transgender people. In this sense, Jones and Slater state that, “consideration of trans identities and experiences in toilets is not only a way of facilitating safety [...] but also a way of granting trans possibility: allowing trans people to be” (2020, p. 843). When the researchers asked Jhumroo about it, she emphasized it to be the most important element

of equality that she wants for herself: “I am stared at in a public toilet. They don’t let me use it or, even if they would, they would charge extra because I am a *hijra*” (personal interview, April 19, 2019). Addressing the problem of income, she says “[f]rom *tol-badhai*⁵ we earn minimal amount and that too we share between all the fellow *hijras* or we give it to our guru. When we give all our earnings to our guru, we are usually left with nothing” (personal interview, April 19, 2019). The experience of Jhumroo confirms that the public toilet (public space) is not an impartial space; rather, it is a place where power is executed. She narrates the experience of her fellow *hijra*:

One day I and my *hijra* friend, Neelam, were roaming in the market; in our routine of going to the shops and asking for money, my friend felt the urge to pee. We went to the nearest public toilet, the man outside the toilet shunned us away by saying that it is not meant for people like us. On insisting, he asked for Rs. 100 for using the toilet. As we didn’t have enough money, we went to a remote place where she peed in open (personal interview, April 19, 2019).

For Neelam, her gender identity prevented her from using the public property, evidence of institutionalized discrimination. She was compelled to open urination. Moreover, Neelam was asked to pay Rs. 100 for the place where a common man, conforming to gender binaries, would pay a rupee or two. This portrays the juxtaposition of being in the normative and non-normative sexed categories. Crucially, it also evaluates the powerful position that a guard holds in a social system that complies with the heterosexual norms, which gives him the right to shun Neelam because of her gender identity. By rejecting Neelam’s plea, society creates an oppositional public space which is against the legal decorum of the country.

As pointed out by Metropolis, “[r]acism, sexism, ableism, homophobia, and ageism often result in exclusion from, and/or discrimination in, public spaces” (Metropolis, 2018, available online). This stance is quite prevalent in Gudo’s experience; she states:

While roaming around, I felt the need to answer nature’s call. For that I went to a public toilet. While I was waiting for my turn, the woman started screaming and started scolding the guard for letting me in. I felt embarrassed and distressed (personal interview, June 21, 2019).

⁵ *Toli-badhai* is a custom in which transgender people “in India make congratulatory visits to homes on occasions of childbirth and weddings and make token monetary gains in return” (Roychowdhury, 2016, available online).

The incident reveals that “[e]ntering a public restroom becomes no simple matter for trans and gender non-conforming people” (Baird, 2015, p. 5). It makes Gudo conscious of the risk of violence in public washrooms and limits her right to equality. Also, it crushes the idealized notion of toilet as a public space, as for transgender people the right to use the ‘toilet’ is completely ignored and denied. Gudo’s right to use the toilet is abused because of the gender controlled power relations, which invoke the division between man, woman, and transgender people. The public spaces more or less have become a planned trap for gender non-conformers. Furthermore, Rekha avers that she has “reduced her water intake just for the fear of using the toilet and to avoid confrontation with people; however, it has affected her bladder and caused urinary tract infection” (personal interview, June 24, 2019). What Rekha expresses is fear and concern about her safety, which prevents her from using public toilets because they are dominated and controlled by the heterosexual gendered construct, making them a forbidden place for transgender people.

Shabnam expresses her sense of insecurity as she never gathers the courage to enter a public toilet for fear of people questioning her gender identity. She says, “I control my urge to use the washroom for as long as I can because I know I will be either mocked at or asked to leave” (personal interview, June 24, 2019). Therefore, she avoids being harmed by limiting her interaction with the public. Similarly, Babita states, “[i]t is expected from transgender people to conform to their biological sex and use restroom according to it; however, I consider myself a woman so how can I use male washrooms. That’s why I avoid going to public toilets” (personal interview, June 26, 2019). Shabnam’s and Babita’s narratives indicate the non-availability of the right to use public property and that, too, without knowing individual’s gender identity. Both statements exhibit the gendered nature of public space which upholds binary oppositions and the ideology of heterosexual dominance.

The narratives analyzed expose how transgender people are prevented from using public property and from feeling a sense of belonging and attachment to the public sphere in Jammu city.

5.2. Gender-division in shopping malls, office buildings, apartment houses and public transport

The “values and norms of the surrounding culture and society play a central role in determining and inculcating normative and acceptable behavior as well as gender ideologies” (Levant, 2011, as cited in Vanska, 2019). The socially instilled gendered values make transgender people feel ignored and worthless as citizens, with denied access to public spaces, including

shopping malls, office buildings, and apartment houses. Weisman asserts that “[e]ach group appears in public and claims and uses public space according to its socially prescribed roles” (1994, p. 67). Those who follow the dichotomy become powerful and those who do not are discriminated against and excluded. Thus, the concept of public space is not stagnant and means different things to different people. Spaces also contribute to the discrimination of transgender people in Jammu city. The design of space restricts and secludes transgender identities as it is constructed to cater to gender binaries. In this context, Jhumroo narrates her experience: “I was barred from entering the mall by the security guards” (personal interview, July 1, 2019). The public sphere constantly reminds transgender people to constrain and restrict their mobility, thus regulating their access by opposing their right to equality. Gudo further adds that “[i]n malls the first thing we go through is a security check. There are two queues, one for males and the other for females” (personal interview, February 2, 2020). Gudo wants to make a point that in the absence of a separate queue for transgender people, they are expected to legitimize their identity in any one of the queues. The non-arrangement of security checks for transgender people or the refusal by the authorities to frisk them limits their entry. This is because shopping malls and other public places in India are constructed and regulated based on the male-female binary.

This harsh reality is evident in Rekha’s narrative as she carries inhibitions in going to a shopping complex. She shares her thoughts: “nobody stopped me from entering a shopping complex but people over there started staring at me, so I came out” (personal interview, July 3, 2019). Experiencing discrimination as inevitable, Rekha seems to be conscious of having to take precautions and accepting the mechanisms in place, as she leaves the shopping complex instead of questioning the public domain. Her comment also indicates her fear of being assaulted if she dares to cross the defined boundaries. It also reveals that transgender people do not have the right to be out in the public space.

As stated by Chattopadhyay, “sex is assigned at birth, gender is assigned at the social and cultural level, and it is never a matter of choice” (2017, available online); rather, it is modeled upon the values of patriarchy. Additionally, Singh and Kumar explain that gender ideologies and patriarchy are deeply rooted in the Indian public sphere through the rhetorical processes that constantly translate into social practices (2019, p. 10). The patriarchal set of norms are mainly used for stereotyping and constructing gender binaries, which further denies the acceptance of gender non-conformers. In this regard, Gudo shares her experience of social exclusion:

I wanted to buy a saree for me. For that I went to a shop but the shopkeeper didn't let me in. I told him that I have the money but he directed his guard to tell me to leave. Instead he gave me money but I wanted to buy the saree. (personal interview, July 5, 2019)

It is out of the fear of being cursed that the shopkeeper gave her money. By giving Gudo money instead of the saree that she was asking for, the mainstream Indian public space equates denying her entry to a public place with monetary gain. Also, it validates the transphobia that exists in the Indian public sphere due to a lack of familiarity with transgender people.

Similarly, Shabnam never tried going to a mall because of the same fear of being rejected. It reveals the inferior position that Shabnam has in the Indian public space, which would essentially deny her entry. Her narrative implies the sense of discomfort in the public space due to her gender identity. On the contrary, Babita explains that "I was not refused to get inside a shop. In fact, once I was given a saree for free" (personal interview, July 9, 2019). This illustrates that transgender people are looked down upon as helpless and powerless. If there had been a heterosexual person in the same position, the shopkeeper might not have gifted them anything. By giving her the saree, the shopkeeper kept her in the place of someone "different" (other), therefore, in view of inclusivity, he actually keeps transgender people in the category of the excluded.

Further, Babita feels an increased sense of fear in office buildings. She narrates an experience of going to a government office for some work. The moment she entered, one of the officials said "Who allowed her to come inside, tell her to go out. This is not a place for such people" (personal interview, July 9, 2019). She further adds, "they threatened to call the police if I entered their office ever again" (personal interview, July 9, 2019). The incident shows that "[p]ublic buildings spatially segregate or exclude certain groups, or relegate them to spaces in which they are either invisible or visibly subordinate, are the direct result of a comprehensive system of social oppression" (Weisman, 1994, p. 35). It also evinces that instead of implementing the existing policies, government officials are themselves engaged in the prejudices against transgender people. The official's refusal to allow Babita's entry reveals the continuum of the structural exclusion of transgender person from public spaces like government offices. Along similar lines, Gudo describes the harassment transgender people face in obtaining accommodation. She says:

In a city like Jammu, people do not rent their houses even to single boys, let alone transgender people. People get confused with our gender, which is the basic reason for their refusal. However, we too prefer to live in our community because of the comfort that we get there. (personal interview, July 11, 2019)

Securing a house is considerably challenging for transgender people in Jammu. In view of the complete absence of accommodations in the city, transgender people are left to navigate their housing on their own, on the outskirts. Also, to ensure their safety and sexual respectability, transgender people themselves avoid the risk of being in a public place. Moreover, Shabnam argues that gender inequality can never end: “we are only welcomed and acknowledged in their home at the time of marriages and child birth. Even in these ceremonies, we are served the meal on segregated plates that are discarded by the family members” (personal interview, July 9, 2019). The statement highlights the hypocritical nature of the Indian public households⁶, which on the one hand welcome transgender people to weddings and birth ceremonies, signifying their inclusion, whereas, on the other hand, discriminate against them by creating a demarcation in one way or another.

Also, it is very difficult for transgender people to use public transportation like autos and buses. Rekha avers, “many a times, the auto drivers overcharge us” (personal interview, February 11, 2020). Shabnam adds, “we face a lot of staring, stigma, and discrimination while travelling in public transport. The moment we enter into any means of public transport, people start staring at us. Most of the times, the conductor directs us to sit on the last seat” (personal interview, February 17, 2020). The incidents expose the barriers that transgender people face while accessing public transport facilities. Though they pay the equal fare, they cannot choose their seat as they wish. In this regard, Babita shares the fact that once she was denied entry to a bus, though she had the money to pay the fare (personal interview, February 19, 2020). As a result, Rekha, Shabnam, and Babita avoid riding in public transport. Rekha, Shabnam, and Babita reveal how gender affects transgender people’s mobility in general and how the Indian public sphere alters and restricts the physical movement of transgender people in public transport.

Such contestations take the form of ‘othering’ and exclude transgender people. Even though each of the public spaces mentioned differs from each other in terms of their appearance and usefulness, they all standardize and communicate the privileges and penalties of binaries. This implies that the public sphere controls the public space “within each physical setting” (Weisman, 1994, p. 37). This also illustrates the fact that opposing the norms and making amendments in the law may not necessarily bring about change.

⁶ On the occasions like weddings and birth ceremonies, Indian households welcome everyone and become a kind of public space.

5. Conclusion

The research findings from the experiences of several transgender people suggest that, regardless of the decriminalization of section 377 of Indian penal code, the danger and the harassment against transgender people continue in Indian society. Transgender people are often denied using public toilet facilities, discriminated against in shopping malls, office buildings, apartment houses and public transport on a daily basis. It is also revealed that transgender people are demanding a human treatment in the form of access to public amenities which is incessantly denied to them. Though the laws and policies have been amended to provide a safer place for transgender people, to empower them, without the fear of being discriminated against, rejected or attacked, the measures taken have failed to achieve inclusiveness and acceptance in Jammu city. Also, the study reveals that access to the public sphere is influenced by the gender identity and sexual orientation. It is the sense of belonging that transgender people lack in the Indian public sphere.

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