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The Violence against The Third Gender: Concerns and Safegaurds

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Abstract: There is no official "third gender" definition, as it encompasses a broad group of people who may or may not want to be associated with the term. Until very recently, gender was viewed solely as a binary. You're either one of two things: male or female. This model, however, is considered by many as severely limiting, as it does not encompass the wide variety of people who identify within (or even outside of) the vast spectrum between male and female. The NALSA prescribes punishment for these offences to create deterrence among the wrong-doers.As a result of the NALSA case, the idea that the third gender is a separate category gained importance. It is imperative to acknowledge that the transgender community has experienced prolonged periods of suffering, humiliation, and anguish. They remained silent and faced hardship. Our history has given them due importance and respect, society has always considered them auspicious for blessings, the Constitution has given them all the rights and protection at par with the other binary gender of man and woman. It is now our responsibility to give them their due.

Objectives: 1.To deep dive into the concept of the "third gender".
2. To discuss the Third Gender sexual abuse experiences.
3. To propose that the real change depends on the prevailing attitudes of society.
4. To discuss the significance of proactive implementation of the legislative safeguards.
5. To insist upon the requirement of creating public awareness about the difficulties faced by the third gender

Introduction: The phrase "third gender" is hotly contested and has a long cultural history. The idea of the "third gender" needs to be thoroughly examined, from the definition of the term to the groups that have been given this designation. Since the term "third gender" refers to a wide range of individuals who may or may not desire to be affiliated with it, there is no formal definition. Gender was only seen as a binary until quite recently. either a male or a female. However, many believe that this paradigm is extremely restrictive because it does not take into account the diverse range of individuals who identify inside (or even outside of) the large spectrum between male and female. In a bid to recognize those who identify as neither male nor female, academics sought to introduce the concept of a "third gender".

The term "third gender" is not widely accepted. Its hierarchical, and hence patriarchal, nature is one of the primary criticisms leveled at it. Critics question which genders belong in the first and second gender categories if there is a "third gender." For transgender individuals, who are frequently misinterpreted as not being fully male or female, the concept of a "third gender" also causes issues. Advocates contend that the existence of a "third gender" category enables institutions to further marginalize transgender individuals and prevent them from occupying significant locations that correspond with their gender identity. The case for separating transgender men and women from other athletes in order to prevent them from competing is a good illustration of this **www.lgbtqnation.com (2022).**

In addition to being mentioned in holy writings like the Ramayana and Mahabharata and works like the Kama Sutra, third gender people were also a part of our magnificent past until the British arrived in India and purposefully organized the third gender society and enacted laws against them.In favor of the rights and protection of the third gender, the State of West Bengal published the first report on transgender issues in 1999. In the 2014 NALSA ruling, the Supreme Court of India proclaimed transgender individuals to be the third gender, equal to the binary genders of man and woman in terms of all the rights and protections listed in the Indian Constitution.
The Transgender Act [The Transgender Persons (Protection of Rights)] No. 40 of 2019 was then created in 2019 to list the rights and protections specific to transgender individuals. Nonetheless, the transgender community continues to have complaints, claiming that the aforementioned 2019 Act is backward in contrast to the progressive NALSA ruling **Saumya Agrawal (2015)**.

The Historical Background of Third Gender: The Transgender Act [The Transgender Persons (Protection of Rights)] No. 40 of 2019 was then created in 2019 to list the rights and protections specific to transgender individuals. Nonetheless, certain members of the transgender community continue to have complaints, claiming that the aforementioned 2019 Act is regressive in comparison to the progressive NALSA ruling. The Supreme Court of India recognized the rights granted to transgender people and declared them to be a third gender. The Legislature, the Executive branch, and civil society must now work together to grant them the long-overdue rights and protections guarantyd by our constitution.According to Section 18(d) of [The Transgender Persons (Protection of Rights)] No. 40 of 2019 **blog.ipleaders.in (2021)**. In the 1940s, non-transgender practitioners continued to write the majority of the literature on third gender, treating gender nonconformity as a sickness and basing their study on client case studies. The notion that those who identify as gender non-conforming have any kind of psychopathology was challenged by some of the doctors. The term "transvestites" was first used by Magnus Hirschfeld, who concentrated on people who were passionate about dressing in a gender other than their biological gender. In his 1910 book Transvestites, he highlighted how transvestites experienced joy, contentment, security, and tranquility when dressed as the opposite sex. He claims that they are neither masochists nor fetishists, nor do they suffer from psychopathology. In 1946, transgender British physician Michael Dillon stated in "Self: A study in Ethics and Endocrinolog" that nonconforming gender people were not mentally unwell and that therapy could not alter their sense of self. Third-gender people started recording their own lives and communities at this time. They began penning their autobiographies. Additionally, some anthropologists investigated and analyzed people of the third gender. In her research, Anne Bolin came to the conclusion that members of MTF transgender groups accepted a greater variety of potential gender identities. Aaron Devor wrote a book titled "FTM: Female to Male Transsexual Society" after conducting research on the lives of transsexual men.

A fresh viewpoint known as queer theory surfaced in the 1990s. It emerged from the concurrent study of feminist studies and gay and lesbian studies. It questions conventional sexualities. According to queer theory, a person's sexuality can change during their life and is a fluid, fractured, and dynamic collectivity of potential sexualities. As was previously mentioned, several trans-academics and activists challenged Judith Butler, Diana Fuss, Eve Kosofsky Sedgwick, and Teresa de Lauretis for deconstructing gender and examining its performative aspect. They contended that the method was created by cisgender academics, disregarding the real-life experiences of several transgender people.In order to trace the history of transsexual males, it is necessary to include transgender persons in theoretical viewpoints. Sexualities

attempted to comprehend the reasons behind cross-gender behavior **Dr. Ambika Bajpai (2021)**. In her 2002 book "Transgender History," historian Susan Stryker examined transgender political and social action in the United States from the middle to the end of the 20th century. She examined how certain prominent lesbian feminists, the police, the legal system, and members of the medical community have discriminated against transgender people and how these individuals have responded. In the US, Joanne Meyerowitz's book "How Sex Changed: A History of Transsexuality" had an impact on how people understood sex in everyday life, popular culture, science, medicine, and legislation. In the West, there is a continuous effort to make room for the history of transgender people **Saumya Agrawal (2015)**.

The Sexual Abuse Experiences of Third Gender : Surprisingly high rates of sexual abuse and assault are revealed by The Numbers, statistics detailing the experiences of transgender people with sexual violence. The statistics of the ordeal of sexual violence experienced by transsexual people are where the Buck ends. Over half of transgender people have experienced sexual abuse or assault at some time in their lives. According to some statistics, up to 66% of transgender people may have experienced sexual abuse, frequently in conjunction with physical violence. These individuals constantly worry about becoming victims again. The fact that there are no laws other than [The Transgender Persons (Protection of Rights)] No. 40 of 2019 that protect these people against such abuses and assaults is more concerning than the statistics. Police and courts would not take cognizance of any sexual abuse, assault, or other offenses against such people because the laws of the land do not recognize any gender other than the binary gender of man and woman, neither as a perpetrator nor as a victim **Saumya Agrawal (2015)**.

Anyone who endangers a transgender person's life, safety, health, or well-being—whether mental or physical—or who engages in acts such as physical abuse, sexual abuse, verbal and emotional abuse, or economic abuse faces a minimum sentence of six months in prison, a maximum sentence of two years, and a fine. However, no specific behaviors that would constitute sexual harassment are mentioned in the definition of sexual harassment that applies to transgender individuals. This non-mentioning is in itself harassment for the transgender people, as to whether a particular act would amount to sexual abuse/harassment will be decided by the police as per their understanding which may be arbitrary **blog.ipleaders.in (2021).**

Legal Provisions for Third Gender Safegaurd: The Indian Constitution provides a strong foundation for protecting the third gender's fundamental rights, including as equality and nondiscrimination. By prohibiting discrimination on the basis of gender and sexual orientation, the Constitution safeguards third-gender individuals' right to a life of dignity. Despite these fundamental protections, the third gender minority has always faced systematic discrimination and marginalization. The Transgender Persons (Protection of Rights) Act, 2019 is a significant piece of law that addressed the welfare and rights of transgender individuals. The Act prohibits discrimination, recognizes transgender identity, and ensures equality in the workplace and in school. The Act defines "transgender people" and prohibits discrimination against them in the healthcare system, the workplace, and other settings.It also provides welfare benefits like healthcare, social security, and educational possibilities. The Act mandates that the Central Government create a National Council for Transgender Persons (NCT) to oversee, monitor, and evaluate policies pertaining to transgender people. Resolving transgender people's complaints is one of the Council's other duties. The Statute now covers offenses including forcing transgender individuals to work, preventing them from using public facilities, abusing them physically, mentally, or sexually, and other

related offenses. In order to discourage wrongdoers, the Act stipulates penalties for various offenses.The notion that the third gender is a distinct category gained traction as a result of the NALSA case.

It is critical to recognize that the transgender community has endured protracted periods of pain, humiliation, and agony. Although they endured hardship and kept silent, the transgender community's situation has eventually improved as a result of this ruling. This decision has a big impact both domestically in India and internationally. When transgender people are excluded from society, it constitutes a serious violation of their human rights. India upholds a democratic system that includes every person, irrespective of their physical or mental condition. All people must be treated equally and have their fundamental rights legally protected if we are to uphold the standards of the Rule of Law. India has made great strides in formally respecting and safeguarding the rights of the third gender, but more has to be done to enable society to embrace these rights **Sireesha Jaddidi and Gunjan Sharma (2021)**.

Steps for Third Gender Social Acculturation: The actual shift is contingent upon societal attitudes and the aggressive use of these legal protections. In order to create a society that is more equitable and fair for all, it is critical to acknowledge third gender identities. We must first recognize the multiplicity of gender experiences and identities in order to question traditional notions of gender and strive toward creating an environment where everyone may live truthfully and without encountering prejudice. In order to dispel myths and encourage tolerance and acceptance of different gender identities, education and awareness-raising programs must be put into place. Workplaces, healthcare facilities, and educational institutions have a big responsibility to create welcoming spaces where people can openly express their gender identity without fear of violence or discrimination. For transgender children, free education up to the twelfth grade is necessary. Encourage pupils to respect one another and put strict safeguards in place to stop harassment of third-gender individuals. Tell the police about the prejudice and harassment that transgender people experience. This will assist in resolving the issues that these individuals are facing. When third gender people are the target of disparaging or dishonorable remarks, strict legal action must be taken. In order to raise public awareness and enhance third gender people's ability to exercise their rights, it is crucial that issues related to their human rights be brought to the public's notice through the media and other public venues.Third gender persons must no longer be stigmatized. It is the duty of physicians and other medical professionals to address the unique needs of transgender people **Swechha Malik (2024)**.

Conclusion: Raising public awareness of the challenges encountered by members of the third gender is necessary. More education is required for society's members regarding the acceptance of children with gender variances. For laws, regulations, and programs to be implemented effectively, third-gender people must be treated fairly. Third gender persons will be able to live dignified lives provided a "friendly" atmosphere is created for their overall growth. Determining whether or not the laws and policies created by the legislature and executive branch are appropriately carried out is essential. It is advised that third-gender individuals receive free legal aid in order to improve their social lives.To guaranty that third-gender children receive equal respect and worth in society, the education sector, including schools and universities, should actively support them. There ought to be more legislation addressing the health issues third-gender individuals confront. A major issue that needs to be addressed by educating the public about transgender people's human rights is their lack of awareness of the problems they experience worldwide. Create commissions or specialized organizations to oversee the application of laws pertaining to third

gender rights and to offer workable solutions when laws are broken.The Constitution grants them all the same rights and protections as the other binary gender of man and woman, and our history has accorded them the respect and importance they deserve. Society has traditionally viewed them as auspicious for blessings. Giving them what they deserve is now our duty.

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