



ISSN: 3049-2017

IJMH 2025; 2(1): 98-101

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www.themultijournal.com

Received: 14-02-2025

Accepted: 24-02-2025

Publish : 26-02-2025

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Breaking Barriers: Transgender Inclusion and Equality

Dipankar BarmanDOI: <https://doi.org/10.5281/zenodo.22996233>**Abstract:**

Transgender individuals have existed in every society, nation, culture, and class since ancient times. Unfortunately, their rights began to receive attention in the modern world and remain largely unprotected. They face discrimination in various aspects of life. This discrimination arises because their identities do not align with the socially recognised gender binary. A major section of the world population does not recognise transgender individuals as equal to humans; accordingly, this section has developed a mindset that denies trans people the minimal treatment that every human being deserves. The principle of equality is often denied to them. Even when such sentences like ‘all humans are equal’ are aired in a society to unite people of different sections, transgender individuals are usually not counted as members of the class of humanity. All such activities, along with such psychological conditions, cause dehumanisation of transgender individuals. This raises an important question about the justifiability of all such actions that dehumanise trans individuals within the purview of the principle of equality. This paper aims to explore and answer this question.

Keywords: Sex, Gender, Equality**Introduction:**

In today's society, discrimination continues to manifest across various aspects of life. Discrimination refers to “any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment” (“Discrimination (Employment and Occupation) Convention”) in areas such as education, employment, occupation, administration, and others. At its core, discrimination is synonymous with inequality. One form of this inequality is gender discrimination, which states the unequal treatment of individuals based on their sex, gender identity, or gender expression. This discussion focuses on the gender discrimination faced by transgender individuals. Traditionally, human beings have been socially bifurcated as male or female, based on bio-physiological characteristics such as reproductive anatomy and chromosomal makeup. However, this binary classification fails to acknowledge the existence of intersex individuals and the complexities of gender identity. This oversight underscores the multifaceted nature of gender discrimination and highlights the urgent need for a broader understanding of identity and equality. Today, society has recognized a gender, beyond the traditional binary—transgender—“persons whose gender identity, gender expression or behavior does not conform to that typically associated with the sex to which they were assigned at birth” (“Understanding Transgender”). For instance, in the year of 2014, the Supreme Court of India documented transgender community as a third gender by upholding the rights of self-identification and equal access. Subsequently, Transgender Persons Act was ratified in 2019 to defend their rights in education, healthcare, and more (Thawaney). However, despite these legal advancements, bureaucratic hurdles and societal stigma impede them from realising these rights. They continue to face pervasive discrimination in numerous aspects of life. This discrimination may stem from the belief that transgender individuals, whose identities deviate from the socially established gender binary, are outsiders to human beings. As a result, society

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often fails to acknowledge them as equals, refusing to grant them the fundamental rights and opportunities afforded to others. So, in practice, society discriminates against transgender people. The principle of equality is denied to them, effectively excluding them from the declaration that 'all humans are equal'. This raises an important question: To what extent is such discrimination justifiable in light of the principle of equality? This paper aims to explore and address this critical question in the following sections.

(I) Who are transgender individuals?

'Transgender' is a combination of two words, 'trans' and 'gender'. This indicates that a clear understanding of gender is essential for grasping the concept of transgender. In both everyday conversation and legal terminology, 'gender' and 'sex' are frequently used in a similar sense "due to normative assumptions that sex is binary and immutable and that sex assigned at birth defines gender" ("Measuring Sex, Gender Identity, and Sexual Orientation"). However, it is important to differentiate between the two. Generally, 'sex' is defined as "a multidimensional construct based on a cluster of anatomical and physiological traits that include external genitalia, secondary sex characteristics, gonads, chromosomes, and hormones" ("Measuring Sex"). Meanwhile, 'gender' is defined as "the behavioral, cultural, or psychological traits typically associated with one sex" ("Gender" 2b). The characteristics associated with 'masculinity' and 'femininity' are shaped by cultural norms and can vary between societies and evolve within the same culture. Furthermore, gender is "a multidimensional construct that links *gender identity*, which is a core element of a person's individual identity; *gender expression*, which is how a person signals their gender to others through their behavior and appearance (such as hairstyle and clothing); and cultural expectations about social status, characteristics, and behavior that are associated with sex traits" ("Measuring Sex"). Gender expression contains all the outward traits and behaviours society classifies as masculine or feminine. Additionally, Sexual orientation is an important aspect of any person's overall identity. It is "the enduring pattern of an individual's emotional, sexual, and/or romantic attraction. In science, sexual orientation is often divided into the three components of attraction, behaviour, and self-identification" (Alison Eldridge). It can be described in various ways, but the most shared terms include: "heterosexual, being attracted to the opposite gender; homosexual, being attracted to the same gender; and bisexual, being attracted to more than one gender. People who do not experience sexual attraction are sometimes called asexual" (Alison Eldridge). The acronym LGBT stands for lesbian, gay, bisexual, and transgender, encompassing both sexual orientation (LGB) and gender identity (T).

Let's explore who transgender individuals are. The word 'trans' means crossing over. Therefore, the word 'transgender' labels "a diverse group of transgender describes a diverse group of people whose gender identity or gender expression differs from their sex assigned at birth" (Herman 1222). For instance, an individual who is genetically and physically male (XY) but psychologically identifies himself as female is a trans woman; and an individual who is genetically male (XY), but physically female and psychologically identifies himself as female, is also a trans woman. Transgender identities can be fluid and may change over time. Depending on their circumstances, they might adjust their identification and the labels they choose to describe themselves (Bockting 4). In present-day usage, the term 'transgender' serves as an inclusive 'umbrella' that encompasses a diverse array of personalities and understandings; some such identities are "*gender variant, genderqueer, and cross-dresser*" (Teich2). Anyhow, many of us see the term 'transsexual' as dated. But they are not the same and cannot be used interchangeably. Usually, transsexuals are "individuals who seek to change or who have changed their primary and/or secondary sex characteristics through femininizing or masculinizing medical interventions (hormones and/or surgery), typically accompanied by a permanent change in gender role" ("Standards of Care for the Health of Transgender" 97). Conversely, 'transgender' is a broad term that encompasses transsexual individuals (pre-operative, post-operative, and non-operative) as well as many more identities like Transvestites, Drag Queens, Intersex Individuals (Hermaphrodites), Intersex Individuals (Chromosomal Variations), and Hijras (qt. in "Study on Human Rights of Transgender as a Third Gender").

(II) Barriers to Transgender Inclusion

Transgender individuals encounter numerous barriers that hinder their inclusion in mainstream society. They face elevated physical health risks, for example, breast and cervical cancer, acquired immunodeficiency syndrome, and psychological well-being issues like anxiety and depression. Many of them experience gender dysphoria, which can result in emotional distress and interfere with daily life (Understanding Transgender's Mental Health). Access to healthcare is often limited for them due to the criminalisation of same-sex activities and the pathologisation of transgender identities, resulting in services being unavailable or unacceptable. Secondly, discrimination in the workplace manifests through hiring biases, lack of accommodations, and unequal opportunities, leading to higher unemployment rates among transgender individuals. According to a USA-based survey, "experiencing a lack of support from coworkers was identified as a significant stressor for many individuals, and research suggests that nearly 90% of transgender individuals experience harassment or mistreatment in the

workplace” (qt. Danielle and Domene7). Thirdly, transgender students frequently face discrimination and harassment in educational settings, negatively impacting their academic performance and retention rates. Fourthly, Societal biases and misunderstandings about transgender identities often result in exclusion from full participation in community life. Many transgender individuals face rejection from their families, which can jeopardise their personal development and prospects (Yadav et al. 107). Legal frameworks in various regions also contribute to systemic discrimination against transgender individuals, limiting their access to essential services. In addition to these barriers, many others have not been addressed here. Nonetheless, these obstacles collectively underscore the pressing need for comprehensive strategies aimed at fostering transgender inclusion in every aspect of society.

(III) What does ‘Equality’ mean?

Now we will see what equality is. When we say “all humans are equal”, are we talking about actual equality? The answer is “No”. According to Peter Singer, we must acknowledge that humans vary in shape, size, intellectual abilities, levels of empathy, sensitivity to others’ needs, communication skills, and capacity to experience pleasure and pain. If equality were based on the belief that all humans are inherently equal, there would be no reason to continue advocating for it (Singer 1986:218). While individuals differ in various ways, no inherent differences are tied to race or sex. Simply knowing that someone is Black or a woman provides no basis for making assumptions about them. This is the fundamental flaw in racism and sexism. A white racist might claim that whites are superior to Blacks, but this is untrue—individual differences exist. In every relevant capacity or ability, some Black individuals surpass some white individuals. Similarly, opponents of sexism argue that a person’s sex does not determine their abilities, making discrimination based on sex unjustifiable (218). So, by ‘equality’ we are actually talking about the moral principle of equality, which takes different races or sexes as a whole. Based on this interpretation, we can assert that the claim to equality is not dependent on any specific criteria one may hold.

(IV) Incultation of The Principle of Equality: A Way for Transgender Inclusion

The incultation of the principle of equality may be a vital framework for fostering transgender inclusion in society, addressing the systemic barriers that hinder the rights and recognition of transgender individuals. Every liberation movement teaches us that it requires broadening our moral perspective and rethinking or expanding the fundamental principle of equality. Actions once considered natural and unavoidable are later recognised as stemming from unjustifiable bias (215). By examining our mindset, we might notice a recurring pattern in our attitudes and actions that tends to favour one group—typically the one we are

part of—at the expense of another. To address this, we can expand our definition of ‘We’ to include transgender individuals and apply the fundamental principle of equality to them. In this context, borrowing the words from Singer, we may raise a question and respond to that accordingly.

Some might contend that the idea of equality between men and women cannot logically include transgender individuals. Men and women share many obvious similarities, whereas transgender individuals may differ significantly. Based on this reasoning, it could be claimed that men and women, as similar beings, deserve equal rights, while transgender individuals, being different, should not. However, this argument falls short. While it is evident that differences regarding sex, gender identity, or gender expression exist between men, women, and transgender individuals, these differences do not undermine the fundamental principle of equality. These differences stand nowhere to restrict any individual from enjoying his/herself fundamental rights, irrespective of which group of human beings he/she belongs to; moreover, these differences may lead to distinct rights without undermining equality. Many feminists support a woman's right to choose abortion, but this does not extend to men, as they cannot become pregnant. Discussing a man’s right to abortion is illogical, and neither the Women's Liberation nor the Transgender Liberation movements need to address such irrelevant debates. As transgender individuals have birth membership in the *Homo Sapiens* group, they are entitled to be considered as Humans. In that case, the principle of equality should be extended to them beyond the gender binary. This may be a way to protect their rights. Extending this principle to different groups of human genes does not mean treating them identically or granting them the same rights. Equality means “equal consideration” (Singer 1999:23). “Equal consideration of interests is a minimal principle of equality in the sense that it does not dictate equal treatment” (23). This principle allows for differences in treatment and rights based on different groups' unique needs and circumstances. The incultation of the principle of equality is essential for fostering transgender inclusion in society. This principle encompasses various dimensions, including legal recognition, service access, and societal acceptance.

In conclusion, we may say that acknowledging and protecting the rights of transgender individuals is not just a legal accountability but a moral obligation that enhances the dignity and humanity of all people. The journey toward true inclusion of transgender individuals requires sustained efforts to annihilate systemic barriers that disseminate discrimination and marginalisation. This includes implementing comprehensive anti-discrimination laws, ensuring access to healthcare and education, and fostering societal acceptance through moral awareness of equality. “Equality

is a moral ideal, not a simple assertion of fact” (Singer 1986: 220). Differences in abilities do not justify varying levels of consideration for individuals' requirements and welfare. “The principle of the equality of human beings is not a description of alleged actual equality among humans: it is a prescription of how we should treat humans” (Singer 220). Embracing the principle of equality for transgender persons enriches society as a whole, promoting diversity, enhancing social cohesion, and driving progress toward a more inclusive future. In addition, the inclusion of transgender individuals in society is crucial for advancing the Sustainable Development Goals (SDGs). It is important to address issues of inequality, health, and social justice to ensure that no one is left behind, including transgender individuals. This approach is essential for realising the full potential of the SDGs.

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