



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

A Systematic Review Of The Legal Status, Constitutional Rights Of Transgender People During The British Colonial Period And Post Independence Period Of India And Bangladesh.

Juyel Ali

Ph.d Research Scholar .

University of Calcutta.

Abstract: In India, the transgender people existed from the Vedic period. Transgender people were an efficient part of Indian society for centuries. In the Indian subcontinent, transgender people popularly known in diverse terms such as Tertiya prakriti, Napumsaka, Psychological sex, Aravani, Hijra, Eunuchs, Kothis, Jogtas, Shiv - Shakti etc. Transgender person means a person whose gender identity does not conform with the gender assigned by birth includes Trans Men and Trans women. Transgender communities are also an integral part of the Indian society and had the rights to enjoy all the fundamental rights like the other people had enjoyed it. Transgender people had played an important role in Vedic society, Buddhist, Epic, Mughal period or India but the situation of transgender community's right and dignity had been deteriorated from the British colonial period of India. The major objective of this review study is to identify the legal status of transgender people in the British colonial period, to identify the constitutional rights of transgender people in the post-independence period of India and also find out the constitutional rights of transgender people in the post-independence period of Bangladesh. The findings suggest that, in India, during the British colonial rule, the transgender people had to get some benefits for the very first time such as food, land and less amount of money from agricultural households. In the mid-19th century, the British colonial administrators took away all the rights from them and also criminalized the transgender people. In the post-independence period, the government of India, recognised them as 'third gender' in 2014 and also provided such provisions and legislation to assure their rights. In the post-independence period of Bangladesh, the hijra community deprived of all kinds of rights and reservations and also faced so much discriminatory attitude, bullying, social stigma, abuse in Bangladesh. In 2014, the government of Bangladesh, had recognized Hijras as third gender but did not provide any constitutional rights or legal protection to assure their rights and also saved their life.

Key words: Transgender people, Legal status, Constitutional rights, British colonial period, India, Bangladesh.

Introduction

India is a country, where every citizen has enjoyed all their fundamental rights such as rights to equality, rights to freedom, rights to freedom of religion, right to speech, right to Constitutional remedies etc. India is one of the most populous countries around the world, enriched with diverse people, diverse culture, diverse religion, and diverse cultural heritage etc (Rawat Bhaskar,2024). Besides the concept of Male or Female, the transgender people are also an integral part of India from the ancient Vedic period in various Indian subcontinents. Transgender people are recognized by different names in different time periods of India such as, in ancient Vedic period, the transgender people referred as Tritiya prakriti or Napumsaka, which means third nature, in the ancient Jain mythological scriptures, transgender people are referred as psychological sex, transgender people also exist in epic Ramayana and Mahabharata, Puranas and also various Hindu mythological scriptures. In the Mughal period, the transgender community referred to Hijra and also played an eminent role in royal courts of the Mughal empires. In the Mughal period (1526 to 1757), the hijras considered most trusted person towards the Mughal rulers and had free access to enjoy all the rights and also occupied high positions in Mughal Harem. After the Mughal period, the British colonial period was begun from 1758 to 1947. In British colonial period, the dignity and social rights of hijra community is deteriorated and also all the civil rights were removed from them (Michelraj Muraj,2015). In British colonial period, the colonial administrators vigorously criminalized the hijra community and denied their civil rights. Hijra community were referred to a separate tribe or separate castes in India. In British colonial period, the criminal Tribes Act 1871, was introduced. According to this act, all hijra who were engaged in kidnapping and castrating Children and dressed like women to dance in public places are criminalized and also punished for such activities to up to two years imprisonment and a fine or both. The Criminal Tribes Act,1871 was overturned in 1952, but its legacy continues to date (Sinha Sreoshi,2016). In early the British colonial period, the hijra community enjoyed all the rights including the gift of land, right to food and a few amounts of money from the agricultural households. The right to land was eliminated from the hijra community's people by the British rulers due to the reason of land was not passed via blood relation. In the 18th century, during the British colonial rule, the situation of hijra community dramatically deteriorated and also deprived them from all the constitutional rights in India (Sawant Rajendra Monika,2024). In the post-colonial period of India, transgender people are excluded from the mainstream society and also faced various challenges such as access to education, employment, healthcare, discrimination, bullying, harassment, violence, sexual assault which forced them to precarious and stigmatized work such as begging, sex work, dancing in ceremonies etc to earn money for living (Rawat Bhaskar,2024). In the post-independence period of Bangladesh (1971), the social and legal status of hijra community's people was also deteriorated and these people also experienced such discrimination, harassment, abuse, sexual assault, violence, bullying by the society's people. In Bangladesh, the hijra community deprived from all the civil and political rights ensured by the constitution of the Republic of Bangladesh. In 2014, the Bangladesh government officially recognised the Hijras as Third gender and also various initiatives taken to provide equal rights to Third gender people, but these initiatives have not been put into actions. In Bangladesh, the hijra community often still experiences prejudice, excluded from society, deprived of fundamental rights, and marginalized (Aziz Abdul and Azhar Sameena,2020). In 2014, the honourable Supreme court of India recognised all the transgender people to Third gender and also provide such provisions, Bill, act for ensure their rights and equality. In India, transgender people referred to a person whose gender identity does not match with the gender assigned by birth including Trans Men and Trans women, gender queers, kinnaras, Hijras, Aravanis, Jogtas etc (Nair J.R. Haripriya and T. K. Manjula,2022). Education of Transgenders in India: status and challenges (Rajkumar Dr,2016), the researcher revealed that the transgender people got received more respect earlier in the society than modern India and faced discrimination and harassment in present time. The researcher also revealed that, in modern India, transgenders are eligible for twenty five percent reservations for admission under EWS category and the honourable Supreme court of India recognizing Hijras as Third gender and will not discriminate in education and employment, Transcending

binaries : exploring the historical context of transgender community in South Asia (Rawat Bhaskar,2024), the researcher revealed that in the pre - colonial period, Hijra are referred as 'Third sex' and held eminent positions in those society, in British colonial period, the British administrator criminalized the hijras and enforced strict gender binaries through criminal Tribes Act,1871 and IPC section 377. The researcher also revealed that in post - colonial period of India, the transgender community faced discrimination, violence, limited opportunity in education and healthcare, Social exclusion and official recognition of Hijra in Bangladesh (Aziz Abdul and Azhar Sameena,2019), the researchers elaborated that, in Bangladesh, the government has given the recognition Hijras as 'Third gender ', while haven't actually been able to officially registrar under this category at local government offices and the researchers also found that without proper legal protection for their fundamental rights, hijra community did not able to make legal steps of discrimination, Application of fundamental rights of Bangladesh constitution : an analysis on the light of international human rights instruments (Faizunnesa Taru,2016), the researcher revealed that the fundamental rights of Bangladesh constitution, had no fixed content and most of the rights are empty vessels into which is generation must pour it's content in the light of experience. The researcher also found that, in Bangladesh, the constitution contains all the eminent principles of human rights, which are fundamental principles towards the development of a human being, but while not properly the constitutional provisions are enforced no relief will give to the civilians of Bangladesh. According to the Census of India,2011, Transgender population is recorded around 4,87,803 and the highest transgender populous state of India is Uttar Pradesh (1,37,465) where the lowest population of transgender community has located in Lakshadweep (2) (Census of India,2011, Govt of India, Department of Social Justice and Empowerment,2022). In Bangladesh, the transgender population is recorded in the year of 2022 was around 12,629, where the maximum Transgender population is located in urban areas (6,346) and in rural areas (6,283) transgender people are located in Bangladesh (Population and Housing Census of Bangladesh, 2022).

Rational of the study

India and Bangladesh are a neighbouring country, while India has been enriched with various cultures, diverse people, diverse religion, diverse cultural heritage in various parts of its diverse landscapes. Both in India and Bangladesh, the origin or the existence of the Hijra community exist from the ancient Vedic period and this existence has been confirmed by the various Hindu and Jain mythological scriptures such as Ramayana, Mahabharata, Puranas, Manusmriti etc (Rajkumar Dr,2015). The transgender community played an eminent role in Vedic society and the mediaeval period of India. In Vedic society, the transgender persons referred as Tritiya prakriti and also had the rights to confer blessings on the people in such prosperous occasions as marriage, child birth, opening ceremonies and also an integral part of the Vedic society. In the mediaeval period during the Mughal rule from 1526 to 1757, the transgender people referred to Hijra and had the right to access the Mughal Harem. During the Mughal period, the hijra community occupied high positions in several state decisions, political advisors, played an eminent role of empire building and also guardian of the Mughal Harem. In the mediaeval period, the hijra community's people had also received large amounts of money to fulfil their needs (Michelraj Muraj, 2015). During the British colonial period, from 1858 to 1947, the British administrator vigorously considered the transgender community as a separate tribe in different parts of India and also rejected all the civil rights from them and criminalized the hijra community's people (Bhaina Urmila, Samantaraya Haripriya and Samantaraya Madhuchhanda,2020). In the post-colonial period of India, transgender people faced social stigma and discrimination, sexual harassment, sexual abuse, bullying and also excluded from the mainstream society. Due to this reason, they had chosen sex work, begging, dancing in ceremonies as their occupation and also deprived all the fundamental rights, provided by the constitution of India. In 2014, the honourable Supreme court of India, conferred recognition to the transgender people as Third gender and also ensured their civil rights. In 2014, the Transgender Persons referred as a person whose gender identity does not match with the gender assigned by his / her birth

(Pinki, Malik Poonam, Duhan Krishna and Pavithra N,2020). In the year of 2014, the Bangladesh government also recognised the Hijras as Third gender and provided some provisions, initiatives which are not yet implemented. In Bangladesh, the Third gender community faced so much social stigma, discrimination, and prejudice (Aziz Abdul and Azhar Sameena, 2020). There are few research studies that have been done on this topic but what is the legal status of transgender people in the British colonial period, what are the constitutional rights of transgender people in the post-independence period of India and what are the constitutional rights of transgender people in the post-independence period of Bangladesh have not yet explored. To fulfil the knowledge gap, the present review study is needed to explore. The present study examines the legal status of Transgender people in the British colonial period, the constitutional rights of transgender people in the post-independence period of India and also the constitutional rights of transgender people in the post-independence period of Bangladesh.

Statement of the problem

What is the legal status, constitutional rights of transgender people during the British colonial period and Post independence period of India and Bangladesh.

Objectives of the study

- (1) To identify the legal status of Transgender people during the British colonial period of India.
- (2) To identify the constitutional rights of transgender people during the post-independence period of India.
- (3) To find out the constitutional rights of transgender people during the post-independence period of Bangladesh.

Research questions

- (1) What is the legal status of Transgender people during the British colonial period of India?
- (2) What are the constitutional rights of transgender people during the post-independence period of India?
- (3) What are the constitutional rights of transgender people during the post-independence period of Bangladesh?

Delimitations of the study

- (1) The present review study is delimited with only the legal status of transgender people being selected for this study.
- (2) The present study delimited with only the constitutional rights of transgender people is selected for this study.
- (3) The present study delimited only transgender people selected for this study.
- (4) The present study delimited only post-independence period of India is selected for this study.
- (5) The present study delimited only post-independence period of Bangladesh is selected for this study.
- (6) The present study delimited only with the British colonial period of India.

Major findings of the study

The legal status of Transgender people in the British colonial period of India

In India, the British colonial period was founded from 1858 to 1947. The existence of transgender people had been observed in India for thousands of years. In India, during the British colonial period, Hijras were criminalized and also deviant of all kinds of civil rights (Singh Vinayan, Sah Sukriti, Kabra Saloni & Hussain Shadab, 2025). In the British colonial period of time, Hijra community's people were extremely criminalized and also the British administrator vigorously took away all the benefits, which received the Hijras such as provisions of land, food and minimal amount of money from agricultural households (Das Pallav, 2019). The British administrator introduced such an act to criminalize the eunuchs viz, The criminal Tribes Act 1871, IPC 1860, Section 377 (Sinha Sreoshi, 2016).

Criminal Tribes Act, 1871:

The Criminal Tribes Act, 1871 criminalized all the Hijra community and classified them as different tribes, and declared that all Hijras who were engaged in kidnapping and castrating Children and dressed like women to dance in public places are criminalized and also punished for such activities to up to two years imprisonment and a fine or both. The Criminal Tribes Act, 1871 overturned in 1952 (Sinha Sreoshi, 2016). According to Section 27 of the Criminal Tribes Act, 1871, if a transgender person was discovered with a boy under the age of 16, were allowed for their arrest without a warrant and their incarceration (Singh Vinayan, Sah Sukriti, Kabra Saloni and Hussain Shadab, 2025). According to the criminal Tribes Act, 1871, under Section 3, any group of people who were addicted to the routine committing of crimes not subject to bail might be designated as a criminal tribe (Singh Vinayan, Sah Sukriti, Kabra Saloni and Hussain Shadab, 2025). In 1897, during the British colonial rule, another amendment was formed such as 'Act for the Registration of Criminal Tribes and Eunuchs', which linked sexual non-conformity with criminality (Rawat Bhaskar, 2024).

IPC, 1860 Section 377:

In India, during the British colonial rule in the 19th century, the Section 377 of the IPC (Indian Penal Code) 1860, was enacted to address homosexuality, abnormal offences. Section 377, declares that 'Whoever wilfully engages in sexual intercourse with any man, woman or animal against the order of nature shall be punished with imprisonment for life or with imprisonment of either sort for a time which may extend to ten years, and shall also be liable to a fine' (Narayan Sonam, 2022). The discriminatory law in the British colonial period targeted the diverse gender identities contributing to the marginalization of transgender community and also the law reinforced discrimination under the society and make easier to excluded them from the mainstream system (Rawat Bhaskar, 2024). This section explains "Penetration is sufficient to constitute the carnal intercourse necessary of the offense described in this section". Homosexual relations are under criminal acts under Section 377 and the severe punishment to these offences was imprisonment for life or imprisonment up to ten years and a fine (Khanna Purnima, 2022).

The constitutional rights of transgender people in the post-independence period of India

In 2014, the honourable Supreme court of India, declared the recognition of the Hijra community to 'Third gender' and also enjoyed all the fundamental rights. In India, fundamental rights are provided by the Constitution of India under Part - III, Article 12 to 35.

Civil and political rights of transgender people in India

Article 14 (Right to equality): Article 14 stated that, " The state shall not deny to any person equality before law and equal protection before law within the territory of India" (Shukla Prabhat, 2014).

Article 15 (Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth): According to the constitutional of India, Article 15(1) states that, " The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them ". Article 15(2) states that, " No citizen shall, on grounds only of religion, race, caste, sex, place of birth, or any of them, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, and places of public entertainment " (Shukla Amit,2021).

Article 16 (Equality of opportunity in matters of public employment): According to Article 16, " There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state". The article also mentioned that, " No citizen shall, on grounds only of religion, race, caste, sex, decent, place of birth, residence or any of them, be ineligible for, or disseminated against in respect of, any employment or office under the state" (Shukla Amit,2021).

Article 19 (Right to freedom of speech): According to Article 19(1), " All citizens shall have the right

- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions;
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India;
- (f) to practise any profession, or to carry on any occupation, trade or business " (Shukla Amit,2021).

Article 21 (Protection of life and personal liberty): According to Article 21," No person shall be deprived of his life or personal liberty except according to procedure established by law " (Shukla Prabhat,2014).

Article 21A (Right to education): According to Article 21A, " The state shall provide free and compulsory education to all children of the age of six to fourteen years in such manners as the state may, by law determine" (Ministry of Social Justice and Empowerment,2023).

Article 23 (Right against exploitation): According to Article 23, " Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offense punishable in account with law " (Ministry of Social Justice and Empowerment,2023).

Article 29 (2) (Protection of interests of minorities): According to Article 29(2), " No citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of state funds on grounds of religion, race, caste, language or any of them" (Shukla Prabhat,2014).

Landmark decisions by the honourable Supreme court of India

NAZ Foundation V Government of NCT of Delhi: NAZ Foundation has submitted a petition in Delhi high court about challenging the constitutional validity of IPC Section 377, which criminalised homosexual relations. The main focus of this petition was mentioned that, Section 377 is unconstitutional on the ground of it criminalizing the consensual sexual activity between two adult homosexuals and also violates their fundamental rights. The petition also revealed that the section shall apply only to non - consensual homosexual relations involving minors. Section 377 is an undesirable effect on the lives of homosexuals related to social stigma and discrimination, harassment. The chief Justice S. Murlidhar

delivered the path breaking judgement in 2009, that Section 377 would no longer criminalize relations between consenting adults (Khanna Purnima,2022).

National Legal Service Authority (NALSA) V Union of India, 2014: In India, The National Legal Service Authority (NALSA) plays an emergent role in coordinating legal aid services throughout India and also established under the Legal Services Authorities Act, 1987. In 2014, the supreme court of India, provided a landmark judgement that officially recognised the Hijra community to 'Third gender ' and also marked a major advancement in socio- legal acceptance (Bhardwaj Snehashish,2024). The key points of this judgmental decisions are

Legal recognition - Transgender people have the right to be acknowledged as 'Third gender' and also extends their civil rights including access to education, employment and legal identity.

Constitutional rights - The judgement also provides them all the fundamental rights including the ability to self - identify their gender.

Navtej Singh Johar V Union of India, Minister of law and others, 2018: Navtej Singh Johar and others submitted a petition on challenging the constitution of Section 377, which ensures that, Section 377 violated the fundamental rights to equality, privacy and personal liberty (Renu and Pawan,2019). In 2018, on September 6, five judges the bench of the supreme court of India including Rohinton Nariman J, D.Y. Chandrachud CJI, A.M. Khanwilkar.J, Indu Malhotra J and Dipak Mishra CJI (Dixit Pratik, 2020)

Several Acts to protect the rights of transgender people

Transgender Persons (Protection of Rights) Act,2014 - In India, the Member of Parliament Tiruchi Siva introduced the Rights of Transgender Persons Act in 2014. Section 2(t), of the Transgender Persons Protection of Rights Bill, 2014 describes transgender persons that 'A person, whose gender identity does not match with the gender assigned to that person at birth and includes Trans Men and Trans women (whether or not they have undergone sex reassignment surgery or hormone therapy or laser therapy etc) , gender - queers and a number of socio - cultural identities such as kinnaras, Hijras Aravanis Jogtas etc " (Bachchhav Tryamakrau Sunita,2019). The major provisions of this Bill are equality and non - discrimination, right to life and personal liberty, right to live in the community, right to home and family, social security, healthcare facilities, reservations in educational institutions etc (Khanna Purnima, 2022). In 2016, the Minister of Social Justice and Empowerment, later introduced another piece of legislation in Lok Sabha known as Transgender Persons (Protection of Rights) Bill (Bachchhav Tryamakrau Sunita,2019). In 2018, in December, the Lok Sabha passed a revised form of Transgender Persons (Protection of Rights) Bill including twenty-seven amendments. This Bill was passed as an Act with nine clauses and twenty-three sub - clauses in 2019 (Bhattacharya Shamayeta, Ghosh Debarchana and Purkayastha Bandana,2022).

Transgender Persons (Protection of Rights) Bill 2016: In 2015, the Minister of Social Justice and Empowerment, Shri Thaawarchand Gehlot, represents the revised Bill 'The Transgender Persons (Protection of Rights) Bill and also the cabinet approved this Bill in August 2018. This Bill provides a definition of Transgender and also makes some provisions for certain safeguards against Transgender people. According to this Bill, " Transgender persons means a person who is neither female nor male, or a combination of female or male; or neither female nor male; and whose sense of gender did not match with the gender assigned to that person at the time of birth, and includes Trans Men and Trans women, person with intersex variations and gender - queers " (Bachchhav Tryamakrau Sunita,2019). According to this Bill, transgender people enjoyed such rights as prohibition against discrimination in educational institutions, healthcare services, employment, self-perceived gender identity, application for certificate of identity, change in gender, right to reside, obligations of establishment and grievance redressal mechanism, vocational training and self - employment, offences and penalties etc (Rawat Bhaskar, 2024).

Transgender Persons (Protection of Rights) Act, 2019: The Transgender Persons (Protection of Rights) Act 2019, was introduced in Lok Sabha in July 2019, by the Minister of Social Justice and Empowerment Mr. Thaawarchand Gehlot to protect the rights of transgender community (Rawat Bhaskar, 2024). This Act inducted such positive assurance to ensure, prevention of discrimination against transgender, recognition of self-identity, welfare measures implementation, right to reside, formation of National Council for Transgender Person etc and also provides welfare support, anti-discrimination, violence protection etc (Nair J.R. Haripriya and T.K. Manjula, 2022).

Transgender Persons (Protection of Rights) Rules, 2020: Section 22 of the Transgender Persons (Protection of Rights) Act 2019, the central government of India introduced such following rules, which is popularly known as the Transgender Persons (Protection of Rights) Rules, 2020 (The Gazette of India, part - III, Sec 3(i), September, 2020). This rule declared that, transgender people must be applying for an issue of certificate of identity, provisions for non-discrimination, equal opportunities in employment, grievance redressal, National Council Welfare Measures, Educational opportunities, social security and healthcare services of transgender persons by appropriate government (Garai Monojit, 2023).

Transgender Persons (Protection of Rights) Amendment Bill, 2024: The Transgender Persons (Protection of Rights) Amendment Bill, 2024 popularly known as The Transgender Persons (Protection of Rights) Amendment Act, 2024 was introduced by MP. Shashi Tharoor, Bill no 26 of 2024 to provide such eminent provisions reservations in educational institutions and reservations in employment of the Transgender people (Singh Vinayan, Sah Sukriti, Kabra Saloni and Hossain Shadab, 2025). In this Bill, Section 13(A), it is declared that, every educational institution, funded or recognised by the government including pre-, school, primary, secondary, higher education and universities shall reserve at least one percent of the total seats in every class or every course for transgender persons (Rawat Bhaskar, 2024).

The constitutional rights of transgender people in the post-independence period of Bangladesh

In 1971, after the Bangladesh Liberation, War, Bangladesh gained independence in December 1971. In 1972, the constitution of the Republic of Bangladesh, the Supreme court of Bangladesh, was established. The constitution of Bangladesh was formally adopted on November 4, 1972, by the constituent assembly and also came into effect on December 16, 1972. The constitution of the people's Republic of Bangladesh provides fundamental rights in part - III to all the citizens of Bangladesh (Mitra Puja, 2018). In the year of 2014, the Bangladesh government recognized Hijras as 'Third gender'.

Civil and political rights of transgender people in Bangladesh

Article 27 (Equality before law): According to article 27 under part - III, " All citizens are equal before law and are entitled to equal protection of law".

Article 28 (Discrimination on grounds of religion, etc): Under part - III, the constitution of the people's Republic of Bangladesh, article 28(1) mentioned that " The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, or place of birth. Article 28 (3) mentioned that, " No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution (Hossain Islam Rafiqul and Hossain Sazzad Md, 2017).

Article 29 (Equality of opportunity in public employment): By the Constitution of the People's Republic of Bangladesh under the fundamental rights, declared by Article 29(1) that, " There shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic" (Rehman Habibur M, 1993).

Article 29 (2): According to article 29(2), " No citizen shall on grounds only of religion, race, caste, sex, or place of birth be ineligible for, or disseminated against in respect of any employment or office in the service of the Republic" (Rehman Habibur M,1993).

Article 32 (Protection of Right to life and personal liberty): Article 32 stated that, " No person shall be deprived of life or personal liberty saved in accordance with law" (Rehman Habibur M,1993).

Article 34 (Prohibition of forced labour): According to Article 34(1), " All forms of forced labour are prohibited and any contravention of this provision shall be an offense punishable in accordance with law" (Rehman Habibur M, 1993).

Article 36 (Freedom of movement): According to Article 36 by the Constitution of the people's Republic of Bangladesh, " Every citizen shall have the right to move freely throughout Bangladesh, to reside and settle in any place therein and to leave and re - enter Bangladesh" (Faizunnesa Taru,2016).

Article 39 (Freedom of thought and conscience and of speech): According to Article 39(1), "Freedom of thought and conscience is guaranteed". According to Article 39 (2)a, " The right of every citizen to freedom of speech and expressions; 39(2)b, "Freedom of the press, are guaranteed" (Faizunnesa Taru,2016).

Article 42 (Right to property): In Bangladesh, by the Constitution of the people's Republic of Bangladesh, Article 42(1) stated that, " Every citizen shall have the right to acquire, hold, transfer, or otherwise dispose of property, and no property shall be compulsorily acquired, nationalised or requisitioned save by authority of law" (Faizunnesa Taru,2016).

Article 19 (Equality of opportunity): Article 19(1) states that, " The State shall endeavour to ensure equality of opportunity to all citizens" (Islam Zahidul Md and Jahan Asma,2015).

Article 19(2) (Equality of opportunity): According to Article 19(2), " The state shall adopt effective measures to remove social and economic inequality between man and woman and to ensure the equitable distribution of wealth among citizens, and of opportunities in order to attain a uniform level of economic development throughout the republic. Article 19(3) states that, " The state shall endeavour to ensure equality of opportunity and participation of women in all spheres of national life" (Islam Zahidul Md and Jahan Asma, 2015).

References

- (1) Aziz Abdul and Azhar Sameena. (2020). Social exclusion and official recognition for hijra in Bangladesh. *Journal of Research on Women and Gender* 9(1),3-19,2020.
- (2) Agarwal Sourav. (2017). Civil and political rights of transgenders Indian constitutional perspectives. *International Journal of Law and Legal Jurisprudence Studies* 4(4),144-160,2017.
- (3) Bhaina Urmila, Samantaraya Harapriya and Samantaroy Madhuchhanda. (2020). Transgenders in India: a study of educational status and legal rights. *International Journal of Creative Research Thoughts* 8(12),2020.
- (4) Bhattacharya Sayan. (2019). The transgender nation and its margins: the many lives of the law. *South Asia Multidisciplinary Academic Journal*,2019.
- (5) Bachchhav Tryamakrau Sunita. (2019). A critical comparative analysis of constitutional recognition and protection of human rights of transgender people in India. Savitribai Phule Pune University. Received from <http://hdl.handle.net/10603/340343>.

- (6) Chaddha Shivi and Akash. (2022). Status of transgenders in India: a historical and legal approach. *Indian Journal of Law and Legal Research*,4(2),2022.
- (7) Dixit Pratik. (2020). Navtej Singh Johar V Union of India: decriminalising India's sodomy law. *The International Journal of Human Rights* 24(8),1011-1030,2020.
- (8) Faizunnesa Taru. (2016). Application of fundamental rights of Bangladesh constitution: an analysis on the light of international human rights instruments. *Journal of Law, Policy and Globalization*, 46,40-48,2016.
- (9) Hossain Islam Rafiqul Md and Hossain Sazzad Md. (2017). Judiciary's hands are tied by fundamental principles of state policy for protecting human rights: an analysis of Bangladesh constitution. *IOSR Journal of Humanities and Social science* 22(2),100-104,2017.
- (10) Hardgeove Anne. (2024). Unveiling discrimination: a critical analysis of transgender laws and the marginalization of Hijras in the Indian subcontinent. *Just Journal of Language Rights & Minorities*, 3(2),223-263,2024.
- (11) Islam Zahidul Md and Jahan Asma. (2015). Right to privacy: is it a fundamental right in Bangladesh constitution? *Journal of Asian and African Social Science and Humanities*,1(1),1-7,2015.
- (12) Kumar Sani and Singh Udayveer. (2022). Transgender community: historical development and present scenario in India. *Indian Journal of Law and Legal Research* 4(3),2022.
- (13) Khanam Arobia. (2021). Human rights of Hijras in Bangladesh: an analysis. *Social Science Review* 38(1),249-276,2021.
- (14) Michelraj Muraj. (2015). Historical evolution of transgender community in India. *Asian Review of Social Sciences* 4(1),17-19,2015.
- (15) Mizan Shams Arpita. (2021). Identity crisis and the pseudo - minorities in Bangladesh: is the right to cultural identity the answer? *International Journal of Minority and Group Rights* 29(1),1-32,2021.
- (16) Nair J.R. Haripriya and T.K. Manjula. (2022). Shielding transgender Persons: an analysis of transgender rights in India. *International Journal of Philosophy and Languages*,1(1),2022. Received from <https://doi.org/10.5281/zenodo.7249538>.
- (17) Narayan Sonam. (2022). Historical, cultural and socio- legal analysis of LGBTs in India. *Gyanshauryam, International Scientific Referred Research Journal* 5(1),162-185,2022.
- (18) Pinki, Malik Poonam, Duhan Krishna and Pavithra N. (2020). Status of transgender in India: a review. *International Journal of Home Science* 6(2),126-131,2020.
- (19) Population and housing census of Bangladesh,2022. Government of the people's Republic of Bangladesh.
- (20) Population census of India,2011. Government of India, Ministry of Social Justice and Empowerment,2023.
- (21) Renu and Pawan. (2019). Homosexuality with special reference case: Navtej Singh Johar V Union of India. *International Journal of Trend in Scientific Research and Development* 3(4),16-19,2019.
- (22) Rawat Bhaskar. (2024). Transcending binaries: exploring the historical context of transgender community in South Asia. *Omniscient, An International Multidisciplinary Peer Reviewed Journal* 2(1),2024. Received from <https://omniscientmjprujournal.com>.
- (23) Rehman Habibur M. (1993). Human rights under the Bangladesh constitution: pro and anti - national and international perceptions. *South Asian Studies* 10(2),1993.

(24) Singh Vinayan, Sah Sukriti, Kabra Saloni and Hossain Shadab. (2025). A study of socio - legal history of transgenders in India. 2025. Doi: 10.48047/14ve7m42.

(25) S. Radhakrishnan and G. Vijayakumar. (2022). Non - conformity in post-colonial India. Sociology of South Asia: Post colonial legacies, Global Imaginaries 121,2022.

