



From Marginalisation To Recognition: Progress & Persistent Challenges Faced By Transgenders In India—A Socio-Legal Perspective

¹Krishna Chaudhary, ²Kavya Maheshwari

¹Assistant Professor, ²Assistant Professor

¹Institute of Legal Studies & Research, Mangalayatan University, Aligarh, U.P., India

²Teerthanker Mahaveer University, College of Law and Legal Studies, Moradabad, U.P., India

Abstract: India's approach to transgender rights have undergone a paradigmatic transformation from cultural acknowledgment in pre-colonial society, colonial criminalization to constitutional recognition as "third gender" through the landmark Supreme Court judgment in *National Legal Services Authority v. UOI* (2014). This transition represented significant judicial and legislative progress and breakthrough, culminating in the enactment of the Transgender Persons (Protection of Rights) Act, 2019 r/w Rules, 2020, which established a statutory framework prohibiting discrimination and mandating welfare provisions across education, employment, and healthcare sectors. However, this advancement conceals a profound disconnect between formal legal recognition and the lived realities of transgender individuals who continue to face entrenched social stigma, systemic discrimination, economic marginalization, and inadequate implementation of protective legislation. The paper systematically elucidates and discusses: the meaning, conceptual clarity surrounding the definitions and various categories making up the transgender spectrum; by tracing the historical trajectory of transgender marginalization to recognition in India; the constitutional and statutory architecture establishing transgender rights in India; by highlighting role of the judiciary in bolstering the transgender rights and empowering the transgender community; by addressing the persistent hardships and challenges faced by transgenders across intersecting domains in their day-to-day life; and additionally provides policy recommendations for substantive legal reforms. The research paper employs doctrinal research methodology by describing and explaining constitutional provisions, judicial precedents and related statute, supplemented by secondary sources like articles, books, journals, newspapers, reports.

Keywords: constitutional protection, gender identity, NALSA judgment, judicial precedents, social-stigmatization, third gender, transgender, transgender rights, Transgender Persons (Protection of Rights) Act, 2019.

1. INTRODUCTION

“We are all humans. No sex is better, wiser, stronger, more intelligent, more creative or more responsible than the other. Likewise, no sex is ever less. Equality is a given. We are all humans.”¹

The year 2025 witnessed an unprecedented synchronisation of institutional hostility toward transgender rights across the most progressive nations of the world. In the United States, President Donald Trump's second-term administration launched a coordinated “*whole-of-government approach*” to erase transgender recognition from federal law and policy, beginning with an executive order declaring that only two sexes exist—male and female, biologically determined—and subsequently purging references to “transgender” from federal agencies including the Equal Employment Opportunity Commission, the Department of Health and Human Services, and the National Park Service.² This administrative erasure was operationalised through targeted attacks on gender-affirming healthcare for youth, military service, federal employment protections, school facilities access, passport gender changes, and federal funding of trans-inclusive initiatives such as USAID health programmes.³ Schools were threatened with defunding if they recognised students' gender identity or allowed bathroom access consistent with that identity, while federal prisons ceased providing trans-specific medical care. In the United Kingdom, the Supreme Court issued a judgment⁴ reinterpreting “*the Equality Act 2010*” - the cornerstone of UK anti-discrimination law—to define “sex” exclusively as biological sex determined at birth, thereby excluding transgender people, even those holding a Gender Recognition Certificate, from functional legal recognition of their gender identity.⁵ The Court's ruling automatically excluded trans people from access to single-sex spaces including changing rooms, toilets, hospital wards, homeless shelters, and rape-counselling services, requiring no demonstration of legitimate aim and reframing such exclusion as necessary to protect “women's safety and dignity”.⁶

Together, these developments represent not isolated policy disagreements but rather a systematic institutional assault on the legal personhood and dignity of transgender individuals within two historically influential liberal democracies. Amidst these global scenarios, India, despite persistent challenges in

¹V. Nazarian, *The Perpetual Calendar of Inspiration*.

²Mike Wendling & Kayla Epstein, “Trump makes ‘two sexes’ official and scraps DEI policies”, *BBC News* (21 January 2025), <https://www.bbc.com/news/articles/czx84en1yp4o>, (last visited Nov. 05, 2025).

³Jen Christensen, “Trump administration takes all-of-government approach to target transgender community”, *CNN* (21 July 2025), <https://edition.cnn.com/2025/07/21/health/trans-community-trump-all-of-government> (last visited Nov. 05, 2025).

⁴*For Women Scotland v. The Scottish Ministers* [2025] UKSC 16.

⁵Human Rights Watch, “UK: Court Ruling Threatens Trans People”, *Human Rights Watch* (9 May 2025) <https://www.hrw.org/news/2025/05/09/uk-court-ruling-threatens-trans-people> (last visited Nov. 06, 2025).

⁶Sex Matters. *Supreme Court judgment: summary and practical advice*. 21 April 2025. Available at: <https://sex-matters.org/posts/publications/supreme-court-judgment-summary-and-practical-advice/> (last visited Nov. 06, 2025).

LGBTQ+ inclusion, has emerged as an unexpected leader in legal recognition of transgender persons and the 2025 grant of SEBC reservations to transgender persons.⁷

India has witnessed a transformative journey towards recognizing and safeguarding the rights of transgender community. Historically marginalized and subjected to social stigmatization transgender people have long struggled for acceptance and equality. The Constitution of India, 1950 has emerged as a powerful instrument for securing the rights and dignity of transgender individuals which reflects a broader commitment to inclusivity, justice, and human rights. This paradigm shift is particularly evident in the wake of a complex and multi-layered legal architecture encompassing constitutional recognition, comprehensive national legislation, Supreme Court-mandated employment protections, and state-level welfare frameworks that seek to dismantle discriminatory practices and create an environment where transgender individuals can live, work, and express their identity without fear of any discrimination.

From the landmark judgments to the passage of the “*Transgender Persons (Protection of Rights) Act, 2019*”, the constitutional framework has evolved to address the unique issues or challenges faced by the transgender community. The Supreme Court in the case of “*National Legal Services Authority v. Union of India*”⁸ not only acknowledged transgender people as a “*third gender*”, but also instructed the national and state governments to implement social welfare schemes and conduct public awareness campaigns aimed at eliminating the stigma associated with transgender people. Despite the fact that our society is evolving in various ways, transgender individuals are still not fully accepted as members of the community.⁹ One of the biggest issues transgender individuals confront is how to lead a normal life in a culture or society that upholds strict gender classifications and beliefs. The society does not consider the transgender peoples’ rights as human rights and discriminates against them in various fields, including education, employment, healthcare, etc. They are subjected to discrimination, mistreatment, social exclusion and violence in society. Therefore, they want acceptance and dignity in society.¹⁰

This research paper explores the journey of transgender rights and their empowerment in India, starting with the conceptual stance surrounding ‘transgender’ and simultaneously delving into the implications and definition of transgender identity and understanding the various categories that constitute the transgender spectrum. It traces the historical presence and treatment of transgender people—from antiquity to the modern day—highlighting how societal attitudes have shifted over time. The research also examines how India’s Constitution and legal system have responded to transgender inclusion, while also shedding light on the different intricate issues and challenges transgender individuals still face: from social rejection and homelessness to discrimination in schools, workplaces, and healthcare. Ultimately, the paper calls for meaningful change—greater representation in politics, equal access to education and jobs, and stronger

⁷CJP, *From Recognition to Rights: Supreme Court’s Jane Kaushik judgment expands transgender equality into India’s workplaces*, (18 November 2025), Available at: <https://cjp.org.in/from-recognition-to-rights-supreme-court’s-jane-kaushik-judgment-expands-transgender-equality-into-indias-workplaces/> (last visited Nov. 28, 2025).

⁸AIR 2014 SC 1863.

⁹Ashok Kumar, *Right of Transgender in India: Legal Issues and Challenges* (Ph.D. thesis, Banaras Hindu University), available at: <http://hdl.handle.net/10603/441713> (last visited December 10, 2025).

¹⁰*Ibid.*

economic and social support— to foster a society that is equitable and welcoming to all individuals, regardless of their gender identity.

1.1. Meaning of Transgender

The term “*transgender*” is derived from the Latin word “*trans*” which means “across,” “beyond,” or “over”, and the English word “*gender*” refers to “one’s internal sense of being male, female, both, or neither”. However, this term does not simply signify a gender that crosses the borderline. It relates specifically to an individual’s gender identity rather than their sexual orientation. Transgender are individuals, irrespective of age or biological sex, whose appearance, behaviour, or personal attributes do not align with socially prescribed norms and stereotypes associated with men and women. While modern terminology like “transgender” and advancements in medical technology are recent developments, the people themselves are not. They have existed in all cultures, races, and societies throughout human history. In its wider sense, transgender refers to any individual whose internal identity or social behaviour deviates from conventional gender norms.¹¹

In the Indian context, the term “transgender” has a distinct socio-cultural and legal understanding. It functions as an inclusive umbrella that includes a wide range of regional connotations or identities such as ‘*kinnar*’, ‘*kothi*’, ‘*hijra*’, ‘*aravani*’, ‘*jogta/jogappa*’, and ‘*shiv-shakti*’. These diverse regional identities reflect a rich spectrum of gender expressions. The necessity to formally recognize and legally define this community ultimately paved the way for the landmark NALSA judgment. In this ruling, the Supreme Court defined broadly “transgender as a person whose gender identity, gender expression or behaviour does not conform to their assigned biological sex” and recognized them as a “*third gender*” and affirmed that gender identity is an integral part of personal autonomy and dignity under the Constitution.¹²

1.2. Definition of Transgender

Section 2(k) defines: “*transgender person means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.*”¹³

According to the American **Psychological Association**: “*A Transgender is a broad term that can be used to describe people whose gender identity is different from the gender they were thought to be when they were born. “Trans” is often used as a shorthand for transgender.*”¹⁴

¹¹Sunanda Das Mohanty & S. L. Dogra, Problems and Welfare of Transgenders, Reference Note No. 26/RN/Ref./July/2016, Members’ Reference Service, LARRDIS, Lok Sabha Secretariat, New Delhi, 2016 (last accessed December 10, 2025).

¹²Akanksha Mishra, “Third Gender Rights: The Battle for Equality”, 5(2) *Christ University Law Journal* 10-11 (2016).

¹³ The Transgender Persons (Protection of Rights) Act, 2019 (Act No. 40 of 2019).

¹⁴*Transgender People, Gender Identity & Gender Expression*, American Psychological Association (APA), available at <https://www.apa.org/topics/lgbtq/transgender-people-gender-identity-gender-expression> (last visited December 01, 2025).

According to **Merriam Webster dictionary**: “Transgender is a person whose gender identity differs from the sex the person was identified as having at birth.”¹⁵

According to **Stryker**: “Transgender is a word that encompasses the whole spectrum of gender diversity that lumps together rather than splits apart the many subgroups within a large heterogeneous set of communities.”¹⁶

According to the **United Nations Human Rights Office of the High Commissioner**: “Transgender persons include persons who have a gender identity which is different from the gender assigned to them at birth and those people who wish to portray their gender identity in a different way from the gender assigned at birth. It includes those people who feel they have to, prefer to, or choose to, whether by clothing, accessories, mannerism, speech patterns, cosmetics or body modification, present themselves differently from the expectations of the gender role assigned to them at birth. This includes, among many others, persons who do not identify with the labels ‘male’ and ‘female’, transsexuals, transvestites and cross-dressers. **Transgender** (or trans) is an umbrella term used to describe people whose sense of their own gender is different to the sex that they were assigned at birth. Other terms exist, often with deep cultural and historical roots, such as hijra, third gender, two-spirit, ravesty, transpinay, transpinoy, muxe, waria and meti.”¹⁷

1.3. Categories of Transgender

As per the 2011 Census, there are around 4.88 lakh transgender people in India.¹⁸ There are various types of Transgender Communities living in India. According to the social, cultural and biological variations, transgender people in India can be classified as follows:

a. Androgyne: Any individual who does not conform to the stereotypical gender roles of their society is considered androgynous. They can identify as completely genderless, covering across genders, beyond gender, between genders, or any combination of these. They show a range of traits, feminine, masculine, and other. Androgyne might have a psychological or physical basis. Ambigender, pangender, non-gendered, and agender identities are examples of androgyne identities. The identification of an androgen is independent of birth sex.¹⁹

¹⁵“Transgender”, Merriam-Webster.com Dictionary, available at: <https://www.merriam-webster.com/dictionary/transgender> (last visited December 01, 2025).

¹⁶Susan Stryker, *Transgender History*, Transgender History (Seal Press, Berkeley, CA, 2008), pg.123, available at: https://transreads.org/wp-content/uploads/2019/03/2019-03-17_5c8eb1ebaced4_susan-stryker-transgender-history2.pdf (last visited November 28, 2025).

¹⁷*Transgender people*, OHCHR – Office of the United Nations High Commissioner for Human Rights, available at <https://www.ohchr.org/en/sexual-orientation-and-gender-identity/transgender-people> (last visited November 30, 2025).

¹⁸*State/UT wise Population of Others (TG) as per Census 2011*, Department of Social Justice & Empowerment, Government of India, available at <https://socialjustice.gov.in/common/77891> (last visited December 10, 2025).

¹⁹See *Supra* note 9 at 3.

b. Bigender: A bigender is someone who switches between masculine and feminine roles, or who, depending on the situation, adopts two different personalities.²⁰

c. Drag Performers (Drag Kings and Drag Queens): Drag Performers are artists who perform on stage shows of the gender opposite to the sex they were born. Drag queens are the men who dress as women to amuse people at bars, clubs, or other events and drag kings are women who dress themselves as men to amuse others at bars, clubs, or other gatherings.²¹

d. Gender Queer: When someone describes their gender as not fitting into the binary categories of 'male' and 'female', they refer to themselves as "gender queer". Some people describe gender as something entirely different from these concepts, or as existing somewhere along a continuum between male and female. Pronouns that are neither masculine nor feminine, like either "zie" in place of "he/she", or "hir" in place of "his/her", may also be requested to be used to refer to them. Some individuals who identify as gender queer do not consider themselves to be transgender.²²

e. Hijra: The Arabic root "*hijr*" is the origin of the Urdu word "hijra," meaning "*leaving one's community.*" Anyone who rejects their masculine identity and instead identifies as a "women," "not-men," "in-between man and woman", or "neither man nor woman" is considered a hijra. As a group, hijras have a rich cultural heritage and strong social ties that are formally established at the "reet" ceremony (joining the hijra community). There are regional differences in the terminology used to refer to hijras, such as Aravanis (Tamil Nadu), Kinnars (Delhi), Jogtas/Jogappas, and Shiv-Shaktis etc. They are also frequently referred to as impotent people and can be viewed as the western equivalent of transgender/transsexual (male to female) individuals.²³

f. Kothis: A diverse group is referred to as a kothis. They are biological males who exhibit variable degrees of "femininity", which may depend on the circumstances. They are recognized as distinct gender identities. They present themselves as ladies, behave femininely in public, and even use language that is specific to women when communicating among themselves. A certain percentage of kothis exhibit bisexual tendencies and marry women. Kothis typically have lower socio-economic position, and some turn to prostitution as a means of subsistence. It is possible that some individuals who identify as hijras also identify as kothis. However, not every kothi identifier considers themselves to be a hijra or transgender. Three categories of transgender exist: cross-dressers, *Nirvan Kothi* (who have had surgery) and *Aqua Kothi* (who have not had sex change procedures).²⁴

²⁰ Fvlerriam-Webster's Medical Dictionary, available at: <http://dictionary.reference.com/browse/androgynous> (last visited December 12, 2025).

²¹ National Center for Transgender Equality, *Understanding Drag*, available at: <https://transequality.org/issues/resources/understanding-drag>, (last accessed December 02, 2025).

²² M. Jayamala, "Social Integration of Transgender", available at: <https://ebooks.inflibnet.ac.in/hsp14/chapter/social-integration-of-transgender/> (last accessed December 05, 2025).

²³ Kristofer Rhude, *The Third Gender and Hijras*, Religion and Public Life, Harvard Divinity School, available at: <https://rpl.hds.harvard.edu/religion-context/case-studies/gender/third-gender-and-hijras>, (last accessed December 12, 2025).

²⁴ See *Supra* note 22.

g. Transsexual: Transsexuals identify as members of the opposite sex from what was assigned to them at birth, or they want to live as such and be accepted as such.²⁵

h. Transvestite: Someone who dresses in opposite-sex clothing or who crosses-dresses is known as a transvestite. The terms “crossdresser” and “transvestite” are synonymous.²⁶

i. Transgender Man or Transman: People who identify as male but were assigned or designated female at birth (typically due to sexual features) are known as transgender men.²⁷

j. Transgender Woman or Transwoman: Someone who identifies as female but was assigned or designated male at birth (often due to sexual features) is known as a transgender woman.²⁸

2. HISTORICAL BACKGROUND OF TRANSGENDERS

The origin of eunuch, or more broadly, lesbian, gay, bisexual, transgender and others (LGBT+) community can be traced back to ancient times. They have been a part of Indian society throughout its history. Therefore, the historical evolution of this community in India is a journey deeply rooted in cultural, religious and societal dynamics of different periods. The immense presence of them can be seen in the following historical periods:

2.1. Ancient Period

The ancient Indian literature and religious texts demonstrate an early acceptance of transgender people, often referred to as “*hijras*,” as a distinct gender category. The terms like “*Tritiyaprakriti*” (third nature) and “*Napumsaka*” (impotent) found in Hindu Mythology, Epics, Vedic, and Puranic literatures acknowledge a spectrum of gender identities beyond the traditional male-female binary. Consequently, several early texts thoroughly addressed matters of sexuality and the concept of a third gender, which was an established idea therein. Indeed, the Jain scripture even refers to the idea of “*psychological sex*,” highlighting an individual’s mental composition separate from their biological sex attributes.²⁹

Their revered cultural role is further illustrated in epics like the Ramayana, where Lord Rama blessed their loyalty by granting the authority to bestow blessings at significant events such as childbirth, marriage, and inaugural functions. This gesture marked the initiation of the tradition known as “*Badhai*” that became their profession. The Mahabharata also contains significant narratives affirming transgender’s presence. Lord Vishnu transformed into Mohini, a beautiful woman, to retrieve the sacred nectar (amrit) that Pandavas had gathered during Samudra Manthan. Arjuna took the identity of Brihannala, a hijra, during the Pandavas’

²⁵Wex Definitions Team, *transsexual*, Legal Information Institute, Cornell Law School, available at: <https://www.law.cornell.edu/wex/transsexual>, (last accessed December 14, 2025).

²⁶“Transvestite”, *Merriam-Webster Dictionary*, available at: <https://www.merriam-webster.com/dictionary/transvestite>, (last visited Dec. 22, 2025).

²⁷GLAAD, *Transgender Terms and Definitions*, available at: <https://glaad.org/reference/trans-terms/>, (last visited Dec. 22, 2025)

²⁸*Ibid.*

²⁹ M. Michelraj, “Historical Evolution of Transgender Community in India”, 4(1) *Asian Review of Social Sciences (ARSS)* 17 (2015).

exile (agyatwaas). Furthermore, in the Kurukshetra war, Lord Krishna strategically used Shikhandi, a transgender warrior, as a shield to kill Bhishmapitamah.³⁰

2.2. Medieval Period

The Mughal Period witnessed a significant and recognized existence of transgender people, commonly known as “hijras”. Their existence was notable for the various renowned positions they held within the royal courts of the Islamic world, notably during the Ottoman and the Mughal empires. They served prominent multifaceted roles as political counselors, officials, and military leaders. They were also entrusted with the responsibility of guarding the harems of Mughal rulers because their presence was seen as both protective and auspicious. They were regarded as possessing intelligence, unwavering loyalty, and remarkable dedication, and had unrestricted access to all areas and segments of society. Consequently, they played a pivotal role in the imperial politics of the Mughal Empire.³¹

Hijras were also known for their artistic and cultural contributions. They often performed at celebrations, weddings, and other festive occasions, showcasing their talent in singing and dancing, and these performances were considered as an essential part of cultural events. They held esteemed positions within Islamic religious institutions, particularly in the management of the sacred places of Mecca and Medina. As trusted figures, they had influence over state decisions and also received substantial financial rewards for their proximity to kings and queens. During Alaud-din Khilji’s reign, Malik Kafoor, a hijra, acquired enough political influence to evict Khizr Khan, the legitimate heir. Their roles in political, cultural, and religious spheres highlight the diverse and inclusive nature of Mughal society in the Medieval Period.³²

2.3. Colonial Period

During the early British Period, some Indian states provided protection and privileges to the hijras, but their status deteriorated sharply under colonial rule from the 18th century onward. The colonial administration systematically criminalized the hijra community, first through “*Section 377 of the Indian Penal Code, 1860*”, and then more specifically via “*the Criminal Tribes Act of 1871*”. This Act categorized hijras, often termed “eunuchs”, alongside criminal castes and tribes, mandating their registration, surveillance, and control. Section 26 specifically penalized activities of registered eunuchs like kidnapping or castrating children, dressing in female’s clothing, or dancing publicly, with punishment of up to two years imprisonment of either description, or fine, or both.³³

Although the Criminal Tribes Act was repealed in 1952, its discriminatory legacy persists in certain modern laws. For example, Section 36A of the Karnataka Police Act, 1963 (as amended in 2012), enables the registration and police surveillance of eunuchs, including hijras, who are suspected of offences like

³⁰ *Ibid.*

³¹ Dr. Shabnam Bharti, “Transgender Community in India: Historical Perspective”, 13(2) *International Journal of Research in Economics and Social Sciences (IJRESS)* 38 (2023).

³² *Ibid.*

³³ Garima Singh, “Analysis of the Existence of Transgenders Rights”, 6(2) *International Journal of Creative Research Thoughts (IJCRT)* 863 (2018).

kidnapping or emasculating boys, unnatural offences and any other offences. This provision reflects the colonial logic of controlling and monitoring these communities based on historical prejudices and stereotypes, continuing a pattern of stigmatization and marginalization.³⁴

2.4. Contemporary Period

In contemporary India, the transgender community has gained widespread recognition as a prominent “third gender” following the landmark declaration of the Supreme Court in the NALSA case. This judgment marked a turning point by affirming that transgender individuals are entitled to exercise their basic constitutional rights and by recognizing them as an integral part of society. Since then, the transgender individuals have emerged as a significant and vocal community within the LGBTQ+ rights movement. In order for transgender people to exercise their constitutionally guaranteed rights, the Central Government passed “*The Transgender Persons (Protection of Rights) Act, 2019 and Transgender Persons (Protection of Rights) Rules, 2020*”.

Furthermore, the Government has undertaken several initiatives to promote the welfare and protect the rights of transgender individuals, addressing the socio-economic challenges and ensuring their inclusion in mainstream society. These initiatives span across various domains, including housing, healthcare, education, employment, and social security, reflecting a comprehensive approach to uplift and empower the transgender community. The key programs such as the *National Council for Transgender Persons* advises on policies and monitors welfare schemes³⁵, the *National Portal for Transgender Persons* enables online applications for identity certificates and access to benefits³⁶, the *SMILE (Support for Marginalized Individuals for Livelihood and Enterprise)* scheme aims to provide livelihood, vocational training, safe shelters, scholarship schemes, and composite medical health facilities³⁷. This scheme also includes the establishment of *Garima Grehs* to provide shelter to destitute and abandoned transgender persons with basic amenities like food, medical care, and recreational facilities³⁸. The *National Backward Classes Finance and Development Corporation (NBCFDC)* offers concessional financial assistance for self-employment ventures and skill development training.³⁹

³⁴*Ibid.*

³⁵Ministry of Social Justice & Empowerment, *Central Government Constitutes National Council for Transgender Persons*, Press Release (PIB Release ID 1648221), Press Information Bureau, Government of India, 24 Aug. 2020, <https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=1648221®=3&lang=2> (last accessed Dec. 14, 2025).

³⁶National Portal for Transgender Persons, Ministry of Social Justice & Empowerment, Government of India, <https://transgender.dosje.gov.in/> (last accessed Dec. 14, 2025).

³⁷Ministry of Social Justice & Empowerment, *Support for Marginalized Individuals for Livelihood and Enterprise (SMILE)*, Department of Social Justice & Empowerment, Government of India, <https://socialjustice.gov.in/schemes/99> (last accessed Dec. 14, 2025).

³⁸Ministry of Social Justice & Empowerment, *Garima Greh: About*, National Portal for Transgender Persons, Government of India, <https://transgender.dosje.gov.in/GarimaGreh/About> (last accessed Dec. 14, 2025).

³⁹National Backward Classes Finance & Development Corporation (NBCFDC), *Vision & Mission*, Ministry of Social Justice & Empowerment, Government of India, <https://nbcfdc.gov.in/nbcfdc/web/vision> (last accessed Dec. 14, 2025).

Additionally, they are included as beneficiaries in several existing government welfare schemes like Pradhan Mantri Awas Yojana (PMAY) which provides affordable housing⁴⁰, and the National Rural Livelihoods Mission (NRLM) which promotes self-employment and entrepreneurship⁴¹. The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), a significant initiative introduced during the 11th Five Year Plan, has provided employment prospects for transgender individuals⁴². Through these measures, the government aims to foster a supportive environment that enables transgender individuals to lead dignified and self-reliant lives, ensuring and promoting socio-economic development of transgender individuals.⁴³

3. CONSTITUTIONAL & LEGISLATIVE FRAMEWORK

3.1. Constitution of India, 1950

The Indian Constitution, through its extensive interpretation by the judiciary, provides a foundational framework for the protection of transgender persons. While the term “*transgender*” is not explicitly mentioned in the constitution itself, the Supreme Court of India in the landmark case of *National Legal Services Authority v. Union of India (NALSA)*⁴⁴, affirmed that constitutional guarantees inherently extend to transgender persons. This judicial reading has enshrined several core protections. The Indian Constitution, with its commitment to justice, liberty, equality, and fraternity, provides a robust framework for the protection of all citizens, including transgender persons.

Right to Equality: Article 14 ensures “*every person equality before the law and equal protection of the laws within the territory of India*”.⁴⁵ In the NALSA judgment, the Supreme Court has given a wide interpretation to the word ‘person’ and found that this word is not gender-specific. Then State recognized hijras/transgender people as “persons” who do not conform to binary gender norms, and therefore entitled to legal protections in all spheres of State activities, along with the equal civil and political rights as guaranteed to other citizens of the country.

Right to Non-Discrimination: Article 15(1) prohibits “*discrimination against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them*”⁴⁶. Article 16(1) & 16(2) guarantee “*the equality of opportunity for all citizens in matters of public employment and forbids discrimination on similar*

⁴⁰Ministry of Housing & Urban Affairs, Government of India, *Pradhan Mantri Awas Yojana – MIS (PMAYMIS)*, <https://pmaymis.gov.in/> (last accessed Dec. 14, 2025).

⁴¹Ministry of Rural Development, *Deendayal Antyodaya Yojana – National Rural Livelihood Mission (DAY-NRLM)*, Government of India, <https://www.myscheme.gov.in/schemes/day-nrlm> (last accessed Dec. 14, 2025).

⁴²Ministry of Rural Development, *Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGA)*, Government of India, https://nrega.dord.gov.in/MGNREGA_new/Nrega_home.aspx (last accessed Dec. 14, 2025).

⁴³Shruti Yadav & Dr.R.K. Patni, “Indian Transgender: Glimpse on Indian History and Mythology”, 6(6) *Journal of Emerging Technologies and Innovative Research (JETIR)* 426 (2019).

⁴⁴ See *Supra* note 8.

⁴⁵ The Constitution of India, art. 14.

⁴⁶ The Constitution of India, art. 15.

grounds, including 'sex'.⁴⁷ The Supreme Court has interpreted "sex" to include "gender identity", outlawing discrimination against transgender people in public employment, education, and access to spaces.

Freedom of Speech & Expression: Article 19(1)(a) provides "*all citizens the right to freedom of speech and expression*".⁴⁸ It has been held to encompass freedom to express one's gender identity through dress, appearance, behaviour, choice of pronoun, and overall presentation. This underpins the right to publicly identify and present as transgender.

Right to Life and Personal Liberty: Article 21 is the most significant provision for transgender rights. It guarantees the "*right to life and personal liberty*"⁴⁹, interpreted to include the right to live with human dignity, the right to privacy, the right to autonomy, the right to sexual orientation, and the right to self-determination of gender identity. The right to privacy was recognized as an intrinsic part of Article 21 in *Justice K.S. Puttaswamy (Retd.) v. Union of India*⁵⁰, which reinforces the autonomy of an individual over their body and identity, including decisions related to one's gender.

3.2. The Transgender Persons (Protection of Rights) Act, 2019

The Transgender Persons (Protection of Rights) Act, 2019, is landmark legislation in India aimed at protecting the rights and promoting the welfare of transgender individuals. It was enacted to address the widespread discrimination and marginalization faced by the transgender community in many areas including healthcare, education, employment, and access to public goods and services.⁵¹ It represents a significant step towards ensuring their social, economic, and legal inclusion. The key provisions and objectives of the Act are:

Prohibition of Discrimination:

Discrimination against transgender people is outright forbidden under the Act in many contexts, including but not limited to housing, schools, healthcare, and public services.⁵² It says that no one may exclude a transgender person from joining a business or organisation, or from living in, renting out, or otherwise using any property.⁵³

Right to Recognition and Identity:

A critical aspect of the Act is the right to self-perceived gender identity.⁵⁴ It provides a mechanism for transgender persons to obtain a certificate of identity, which formally recognizes their gender identity⁵⁵. This certificate is essential for updating their gender on various official documents, thereby facilitating access to essential services and rights. Initially, the Act required transgender individuals to undergo a

⁴⁷ The Constitution of India, art. 16.

⁴⁸ The Constitution of India, art. 19(1)(a).

⁴⁹ The Constitution of India, art. 21.

⁵⁰ (2017) 10 SCC 1

⁵¹ The Transgender Persons (Protection of Rights) Act, 2019, s 3.

⁵² *Ibid.*

⁵³ The Transgender Persons (Protection of Rights) Act, 2019, s 4(2).

⁵⁴ The Transgender Persons (Protection of Rights) Act, 2019, s 5.

⁵⁵ The Transgender Persons (Protection of Rights) Act, 2019, s 6&7.

medical examination to obtain this certificate, but subsequent recommendations have sought to simplify this process to respect the dignity and autonomy of transgender persons.

Welfare Measures and Support:

The Act mandates the government to take steps for the welfare and upliftment of transgender individuals.⁵⁶ It calls for the creation of inclusive educational environments, vocational training, and self-employment schemes.⁵⁷ Healthcare facilities are also to be made inclusive, providing sex reassignment surgery (SRS) and hormone therapy, along with counseling services.⁵⁸

Establishment of National and State Councils:

To ensure the implementation and monitoring of the provisions of the Act, the establishment of a National Council for Transgender Persons (NCTP) is mandated.⁵⁹ The NCTP's role includes advising the central government on policies related to transgender persons, monitoring and evaluating the impact of such policies, and addressing the grievances of transgender individuals.⁶⁰ Similar councils are to be formed at the state level to ensure localized implementation and advocacy.

3.3. The Transgender Persons (Protection of Rights), Rules, 2020

These rules were brought on September 25, 2020 for implementation of the provisions of the The Transgender Persons (Protection of Rights) Act, 2019. These rules require every State to set up Transgender Protection cells to monitor cases of offences against transgender persons and to ensure timely registration, investigation and prosecution of such offences⁶¹. Also the rules provide for the establishment of Transgender Welfare Boards (TWBs) to protect rights and interests of transgender persons, while facilitating access to schemes and welfare measures.⁶²

⁵⁶ The Transgender Persons (Protection of Rights) Act, 2019, s 8&14.

⁵⁷ *Ibid.*

⁵⁸ The Transgender Persons (Protection of Rights) Act, 2019, s 15.

⁵⁹ The Transgender Persons (Protection of Rights) Act, 2019, s 16.

⁶⁰ The Transgender Persons (Protection of Rights) Act, 2019, s 17.

⁶¹ The Transgender Persons (Protection of Rights), Rules, 2020, r 11(5).

⁶² The Transgender Persons (Protection of Rights), Rules, 2020, r 10(1).

4. JUDICIAL TRENDS:

4.1. The Hon'ble Supreme Court of India

<u>Case Name & Citation</u>	<u>Key Pronouncement / Holding</u>
National Legal Services Authority v. Union of India (2014) 5 SCC 438	<ul style="list-style-type: none"> - Recognized Hijras and eunuchs as "third gender" to safeguard rights under Part III of the Constitution. - Upheld right to self-identified gender (male, female, or third gender). - Directed governments to treat them as Socially and Educationally Backward Classes (SEBC) for reservations. - Ruled that insistence on Sex Reassignment Surgery (SRS) for declaring gender is illegal and immoral.
K.S. Puttaswamy v. Union of India (2017) 10 SCC 1	<ul style="list-style-type: none"> - Discrimination based on sexual orientation is offensive to dignity & violates fundamental rights. - Protection of sexual orientation lies at the core of fundamental rights (Articles 14, 15, and 21) and is an essential attribute of privacy and dignity.
Navtej Singh Johar v. Union of India (2018) 10 SCC 1	<ul style="list-style-type: none"> - Declared Section 377 IPC unconstitutional insofar as it criminalized consensual gay sex between adults. - Held that the section violated Articles 14, 19, and 21. - Clarified that the Mental Healthcare Act, 2017 removes the stigma of mental illness attached to same-sex couples. - Overruled <i>Suresh Kumar Koushal v. Naz Foundation</i>.
X v. Health & Family Welfare Department 2022 SCC OnLine SC 1321	<ul style="list-style-type: none"> - Held that unmarried women cannot be denied abortion rights. - Used the term "woman" to include persons other than cis-gender women who may require access to safe medical termination of pregnancies.
Deepika Singh v. Central Administrative Tribunal 2022 SCC OnLine SC 1088	<ul style="list-style-type: none"> - Observed that "familial relationships may take the form of domestic, unmarried partnerships or queer relationships." - Held that maternity leave benefits cannot be denied to a woman even if she does not fit the popular imagination of a "family."

Shanavi Ponnusamy v. Ministry of Civil Aviation 2022 SCC OnLine SC 1581	<ul style="list-style-type: none"> - Directed the Central Government to devise a policy framework for reasonable accommodation of transgender persons in employment. - Mandated adherence to the Transgender Persons (Protection of Rights) Act, 2019.
Supriyo v. Union of India 2023 SCC OnLine SC 1348	<ul style="list-style-type: none"> - Held there is no fundamental right to marry; refused to read gender-neutrality into the Special Marriage Act (left to Parliament). - Affirmed that transgender persons in heterosexual relationships and intersex persons have the right to marry under existing laws. - Directed the formation of a Committee chaired by the Cabinet Secretary to define entitlements for queer couples in unions.
Jane Kaushik v. Union of India 2025 SCC OnLine SC 2257	<ul style="list-style-type: none"> - The Court held the Union and State Governments liable for “omissive discrimination”. It reasoned that while the government had passed the 2019 Act, it had failed to create the necessary machinery (Welfare Boards, Protection Cells) to enforce it. This inaction effectively rendered the Act a “dead letter”, perpetuating discrimination. - The Court clarified that the Transgender Persons Act, 2019 applies to “establishments”, which includes private companies and schools. Therefore, private employers cannot discriminate based on gender identity. The Court extended the principle of “reasonable accommodation”—traditionally used in disability law—to gender identity, mandating that employers must make adjustments to facilitate the inclusion of transgender employees. - Directed creation of Welfare Boards, Transgender Protection Cells, and designation of complaint officers in all establishments. - Mandated a nation-wide helpline and an Advisory Committee for policy drafting.

4.2. The various High Courts of India

<u>Case Name & Citation</u> <u>(High Court Name)</u>	<u>Key Pronouncement / Holding</u>
X4 v. State of Maharashtra 2024 SCC OnLine Bom 1984 (Bombay HC)	<ul style="list-style-type: none"> - Granted bail observing that a person belonging to the LGBTQ+ community is vulnerable to ridicule and harassment in jail. - The court opined that: <i>“a person belonging to the LGBTQ+ community, who was also HIV positive, could be said to be a person belonging to a category of persons, who were certainly vulnerable, particularly within four corners of a jail..”</i>
Mrinal Barik v. State of West Bengal (2024) WPA 21508 of 2023 (Calcutta HC)	<ul style="list-style-type: none"> - 1% Reservation: Directed the Chief Secretary to ensure 1% reservation for transgender persons in all public employment in the State. - Immediate Relief: Ordered the specific recruitment of the petitioner (a TET qualified candidate) as a Primary Teacher.
Naz Foundation v. State (NCT of Delhi) 2009 SCC OnLine Del 1762 (Delhi HC)	<ul style="list-style-type: none"> - First court to decriminalize Section 377, holding it violative of Articles 14, 15, and 21 for consensual acts in private. (Later affirmed by SC in <i>Navtej Singh Johar</i>).
Gantavya Gulati v. Union of India 2024 SCC OnLine Del 5990 (Delhi HC)	<ul style="list-style-type: none"> - Directed the Union to decide on a representation seeking restoration of legal protection against non-consensual sexual acts (formerly under S. 377) under the new Bharatiya Nyaya Sanhita in order <i>“to ensure the safety and dignity of individuals, especially those from the LGBTQIA+ community...”</i>
Jennifer Thomas v. State (NCT of Delhi) 2024 SCC OnLine Del 4420 (Delhi HC)	<ul style="list-style-type: none"> - Granted protection to a trans-woman facing gender dysphoria and family pressure. - Affirmed her liberty to reside where she wants and access gender-affirming medical treatment.
Jasmine Kaur Chhabra v. Union of India MANU/DE/3444/2024 (Delhi HC)	<ul style="list-style-type: none"> - Public Infrastructure: Affirmed the State's obligation to provide separate public toilets for transgender persons. - Compliance: Closed the petition after the government confirmed construction of 143+ toilets and committed to further infrastructure development.

M.A. v. Superintendent of Police, Vellore (Madras HC) HCP 990 of 2025	<ul style="list-style-type: none"> - Opined that “<i>same-sex couples have the right to form a ‘chosen family’ even if they cannot marry</i>”, the Court allowed the petition and set the detinue at liberty from illegal detention of her family.
Rakshika Raj v. State of Tamil Nadu 2024 LiveLaw (Mad) 228	<ul style="list-style-type: none"> - Struck down a Govt. Order treating all transgender persons as “Most Backward Class” (MBC). - Horizontal Reservation: Directed the State to provide horizontal reservation, holding that treating gender as a caste is arbitrary and violative of Articles 14 and 16.
S. Sushma v. Director General of Police 2025 SCC OnLine Mad 4464	<ul style="list-style-type: none"> - Continuing Mandamus: Issued further directions to protect LGBTQIA+ couples from police harassment. - Reaffirmed the ban on "conversion therapy" and the requirement for police sensitization training. - Monitored the implementation of the Glossary of Terms for addressing the community.
Arunkumar v. Inspector General of Registration 2019 SCC OnLine Mad 8779 (Madras HC)	<ul style="list-style-type: none"> - Held that “<i>a marriage solemnized between a male and a transwoman, both professing Hindu Religion, is a valid marriage in terms of Section 5 of the Hindu Marriage Act, 1955</i>” and the Registrar of Marriages is bound to register the same.
S. Tamilselvi v. Secretary to Government 2022 SCC OnLine Mad 4879 (Madras HC)	<ul style="list-style-type: none"> - Directed the state to place a transgender candidate in a “special category” for nursing course admission, rejecting the excuse of minimal numbers.
Christina Lobo v. State of Karnataka 2020 SCC OnLine Kar 1634 (Karnataka HC)	<ul style="list-style-type: none"> - Upheld that: “<i>Self-identification of one’s gender lies at the heart of Right to Life and Personal Liberty and State authorities are obligated to give legal recognition to the same...</i>” - Transgender persons who officially changed gender prior to the 2019 Act need not submit new applications for identity certificates.

Malathy S.B. v. State of Karnataka 2023 SCC OnLine Kar 50 (Karnataka HC)	<ul style="list-style-type: none"> - Refused to quash an abetment to suicide case where the accused mocked the deceased colleague's sexual orientation. - Emphasized that LGBTQ+ persons must be treated with love and affection, not ostracization.
Shereena Hakkim v. State 2024 SCC OnLine Ker 3203 (Kerala HC)	<ul style="list-style-type: none"> - Upheld a queer woman's right to choice and to live with her transgender partner. - Stated sexual orientation is an innate part of identity; rejected parental request for psychological evaluation to "treat" orientation.
Queerala v. State of Kerala WP(C) No. 21202 of 2020 (Kerala HC)	<ul style="list-style-type: none"> - Directed the State to constitute an expert committee and guidelines to take strict action against forced conversion therapy of LGBTQ+ community members.
Anamika v. State of Kerala WP(C) No. 24571 of 2022 (Kerala HC)	<ul style="list-style-type: none"> - Held that transgender persons have an equal right to participate in sports. - Organizers must allow participation in the "chosen category" (self-perceived gender) if no special category exists.
Hina Haneefa v. State of Kerala 2021 SCC OnLine Ker 4755 (Kerala HC)	<ul style="list-style-type: none"> - Directed the NCC to enroll a trans woman in the female wing based on her self-perceived gender identity. The court remarked: <i>"Petitioner who has opted for the female gender and has undergone sex reassignment surgeries for aiding her self-perception as a member of the said gender would definitely be entitled to enrolment in the NCC unit reckoning her as a transgender and further as a member of her self-perceived gender, that is, the female gender."</i>
Zahhad v. State of Kerala 2025 SCC OnLine Ker 3510 (Kerala HC)	<ul style="list-style-type: none"> - Directed issuance of a birth certificate for a child of a transgender couple listing them as gender neutral "Parents" rather than "Mother" and "Father" to avoid future difficulties. - The Court reiterated that the law must evolve in tandem with new concepts of human life and societal changes: <i>"When a statutory provision on a particular point is not in line with such societal changes, the Court must intervene to address the genuine grievances of the parties concerned..."</i>

Kantaro Kondagari v. State of Odisha 2022 SCC OnLine Ori 1960 (Orissa HC)	<p>- Recognized <i>“the right of a transgender unmarried daughter to choose her gender and avail family pension”</i>.</p>
Matam Gangabhavani v. State of Andhra Pradesh 2022 SCC OnLine AP 200 (Andhra P. HC)	<p>- Directed the State to study the representation of transgenders in public employment and provide reservations if not adequately represented (referencing NALSA).</p>
Noori v. State of M.P. WP-10027 of 2021 (Madhya Pradesh HC)	<p>- Directed the State Legal Service Authority to assist transgenders in obtaining Identity, Ration, and Aadhar cards as lack of documentation prevents access to welfare schemes.</p>
LAW Foundation v. State of Bihar 2022 SCC OnLine Pat 2371 (Patna HC)	<p>- Directed that guidelines for housing transgender persons in jails (separate cells) be implemented in letter and spirit.</p>
Beoncy Laishram v. State of Manipur W.P.(C) No. 392 of 2024 (Manipur HC)	<p>- Held that educational establishments are obligated under Section 10 of the 2019 Act to correct name/gender based on the District Magistrate's certificate.</p> <p>- Ruled that the 2019 Act is a special law that overrides conflicting general rules of educational boards.</p> <p>- Directed all state establishments to incorporate Sections 6 & 7 of the Act into their bye-laws/regulations.</p> <p>- Permitted the petitioner (a doctor) to update her name and gender on MBBS and school certificates.</p>
Sharad Roshan Singh v. State of U.P. 2025 SCC OnLine All 7265 (Allahabad HC)	<p>- Directed State authorities to change a transgender person's name in educational documents and issue fresh marksheets within 8 weeks.</p> <p>- Held that the Transgender Persons Act, 2019 is a special act that overrides conflicting government orders lacking procedure.</p> <p>- Ruled that rejection of name change based on lack of procedure is a legal error.</p>

5. PERSISTENT ISSUES AND CHALLENGES FACED BY TRANSGENDERS

In addition to depriving transgender individuals of equal access to essential social things like jobs, healthcare, education, and housing, this discrimination also marginalizes transgender individuals in society and places them among the vulnerable groups who are in the danger of social exclusion. Major issues and challenges that transgender individuals in India face include:

5.1. *Marginalization and Social Exclusion*

Marginalization, operating at individual, interpersonal, and societal levels, systematically excludes certain groups from meaningful and full participation in social life, leading to stigma, loss of autonomy, and denial of access to essential resources such as education, employment, housing, and healthcare. The resulting isolation, diminished self-esteem, and restricted opportunities reinforce social inequalities.⁶³ For transgender individuals, this marginalization is compounded by transphobia, homophobia, racism, and sexism, which render them vulnerable to mental health challenges and exclusion from family and community support networks.⁶⁴ Social biases against gender identities that deviate from heteronormative expectations further limit their access to critical services, including healthcare, legal aid, and education. Discrimination in public spaces, such as denial of entry into restaurants, malls, and restrooms, exposes them to harassment and violence and denies them dignity in everyday life⁶⁵. Hijras and transgender persons face particular vulnerability due to the lack of gender-neutral facilities, which heightens risks of abuse and reinforces their exclusion. The cumulative effects of this discrimination—school dropout, family rejection, unemployment, homelessness, and social alienation—deprive them of basic human rights and opportunities for growth. Many are forced into distressing life decisions, such as living in secrecy, relocating from their homes, or entering unsustainable marriages, with some driven to despair or self-harm. Thus, marginalization functions not merely as social exclusion but as a deeply entrenched systemic issue that perpetuates inequality, social invisibility, and psychological suffering for transgender communities.

5.2. *Family Rejection & Homelessness*

Family rejection and homelessness are among the most severe challenges faced by transgender individuals in India, rooted deeply in societal prejudice and rigid gender norms. From a very early age—often as young as three to five—gender non-conforming children encounter rejection within their own homes, as parents struggle with emotions such as fear, anger, and shame upon realizing their child's identity. Studies, including one by the National Institute of Epidemiology across 17 states, reveal that most transgender persons do not receive family support⁶⁶, while a Kerala Development Society–NHRC study shows that only 2% live with their biological families.⁶⁷ Many parents resort to coercion, threats, or physical violence,

⁶³Dr. Subhrajit Chatterjee, "Problems Faced by Transgender Community in India: Some Recommendations", 6 *International Journal of Creative Research Thoughts* 669 (2018).

⁶⁴*Ibid.*

⁶⁵Dr. Vasant More, "Problems of Transgender Community in India: A Sociological Study", *Vivek Research Journal* 91 (2021).

⁶⁶Sireesha Jaddidi & Gunjan Sharma, "Position of Transgender in Contemporary India: An Analytical Study", 4(2) *International Journal of Law Management & Humanities*, (2021), pp. 2754–2764.

⁶⁷Neeraj Chauhan, "Left alone: Just 2% of trans people stay with parents", *The Times of India*, August 13, 2018, available at: <https://timesofindia.indiatimes.com/india/left-alone-just-2-of-trans-people-stay-with-parents/articleshow/65380226.cms>. (last accessed Nov. 18, 2025).

motivated by concerns about social honor, marriage prospects, and family reputation. Viewing gender variance as disobedience, illness, or improper upbringing, they often force their children to conform to the gender assigned at birth, severely damaging their self-esteem and mental health⁶⁸. In numerous cases, transgender children are expelled or forced to leave home due to unbearable mistreatment, which leaves them vulnerable to homelessness and exploitation.

A disproportionate number of homeless youth identify as transgender, with many being victims of family abuse, neglect, or harassment in foster care.⁶⁹ Life on the streets exposes them to heightened risks of sexual and physical exploitation by police, adults, and others, and many are compelled into sex work to survive. Even within shelter systems, discrimination persists—transgender persons are often denied entry based on their gender identity, and same-sex couples cannot access family housing. Most domestic violence shelters exclude them entirely, leaving them without protection or support. These conditions result in severe mental health problems, substance abuse, and disrupted education during crucial developmental years.⁷⁰ Transgender individuals also face pervasive discrimination in the housing market, enduring harassment from landlords, neighbors, and even police. Denial of accommodation and identification documents further erodes their dignity and basic human rights, including the rights to life, shelter, and equal treatment.⁷¹ Collectively, family rejection and homelessness perpetuate a cycle of marginalization, depriving transgender persons of stability, safety, and the opportunity to live with dignity.

5.3. Barriers to Education & Discrimination in Employment

Transgender persons in India face acute discrimination in education and employment—an entrenched systemic problem that perpetuates their marginalization and social exclusion. Denied admission to mainstream schools and colleges, many transgender children are deprived of their fundamental right to education, a right intrinsically linked to the right to life and human dignity⁷². The literacy rate among transgender persons, as revealed by the 2011 Census, stands at only 46%, far below the national average of 74%, with merely 1–2% being able to complete higher education.⁷³ Social stigma, bullying, sexual abuse, and insensitive school environments that enforce strict gender binaries contribute to widespread dropout rates. Studies such as those by the Swati Health Resource Centre show that nearly 30% of transgender individuals have never attended school, while 52% of transgender students leave school due to bullying by peers and 12% withdraw due to harassment by teachers.⁷⁴ The rigidly gendered nature of educational

⁶⁸ V. Chakrapani & P. Dhall, “Family Acceptance Among self-identified men who have sex with men (MSM) and Transgender people in India”, Family Planning Association of India (FPAI): Mumbai.

⁶⁹ See *Supra* note 9.

⁷⁰ Suvam Kishore, “Transgender in India: A Socio-Legal Study”, 3(1) *Indian Journal of Integrated Research in Law* 9.

⁷¹ See *Supra* note 9.

⁷² *Mohini Jain v. State of Karnataka*, AIR 1992 SC 1858 at 1864: (1992) 3 SCC 666.

⁷³ Rema Nagarajan, “First count of third gender in census: 4.9 lakh”, *The Times of India*, May 13, 2014, available at: <https://timesofindia.indiatimes.com/india/first-count-of-third-gender-in-census-4-9-lakh/articleshow/35741613.cms>, (last visited December 6, 2025).

⁷⁴ Beresford Meka, “4 in 10 trans people in India subjected to violence before they reach 18 years old”, *Pink News*, January 7, 2017, available at: <http://www.pinknews.co.uk/2017/01/07/4-in-10-trans-people-in-india-subjected-to-violence-before-they-reach-18-years-old/>.

spaces—from uniforms and sports participation to subject segregation—further alienates transgender and gender non-conforming youth, stifling both learning and self-expression.

This lack of education severely restricts access to government and private employment, pushing a vast majority of transgender persons into poverty and informal or exploitative sectors. A Kerala Development Society–NHRC study found that 92% of transgender persons are denied formal job opportunities, with 89% of qualified individuals unable to secure employment.⁷⁵ As a result, many are forced to survive through begging, badhai (ritual dancing), or sex work—often under constant threat of violence and exploitation. Many transgender workers engaged in different sectors have witnessed the widespread problem of systemic workplace harassment and discrimination. It is concerning to note that this harassment is not confined to interactions with colleagues; employers are also guilty of similar mistreatment, which highlights the difficulties the trans community faces in the workplace. The cycle between educational deprivation and employment discrimination fosters structural inequality, stripping transgender individuals of agency and opportunity.

5.4. Exclusion from Health Services & Identity Crisis

Transgender individuals in India face systemic exclusion from both health services and legal recognition, severely undermining their right to live with dignity. The government has largely neglected the medical needs of the transgender community, leaving them vulnerable to a range of health issues, particularly mental health disorders such as depression and anxiety. Discrimination by healthcare providers, combined with a lack of gender-sensitive medical facilities, deters many transgender persons from seeking treatment. Hospitals often lack trained staff, and many insurance programs exclude coverage for gender-affirming procedures or transgender-related healthcare. Social isolation, economic deprivation, and frequent experiences of sexual assault further heighten their vulnerability to disease.

Parallel to their exclusion from health services, transgender persons in India grapple with an enduring identity crisis rooted in the binary gender structure of the state. Identification systems—from Aadhaar and PAN cards to passports and educational certificates—have historically recognized only “male” and “female,” leaving transgender individuals without valid documentation. This results in widespread denial of essential public services, from ration cards and welfare benefits to basic mobility rights. Even gender-specific spaces such as airports and workplaces enforce binary divisions, subjecting transgender persons to humiliation and exclusion. The intersection of medical neglect and identity denial reinforces cycles of marginalization—exclusion from healthcare, education, and welfare institutions disrupts both physical well-being and social existence.

⁷⁵ *Study on Human Rights of Transgender as a Third Gender*, Kerala Development Society & National Human Rights Commission, February 2017, available via People’s Archive of Rural India, <https://ruralindiaonline.org/en/library/resource/study-on-human-rights-of-transgender-as-a-third-gender/> (last visited Nov 21, 2025).

5.5. Victims of Hate Crimes, Violence and Legal Injustice

Transgender persons in India face persistent and systemic violence rooted in deep-seated social stigma and prejudice. Throughout their lives, they experience widespread discrimination, hate crimes, harassment, and physical as well as sexual assault⁷⁶. Legal injustice remains one of their most pressing issues, as institutions often fail to provide them adequate protection or redress. Law enforcement authorities—who should safeguard citizens' rights—are frequently cited as perpetrators of violence and abuse against transgender individuals. Reports reveal patterns of police brutality, including physical assaults, verbal humiliation, sexual violence, and unlawful detentions without proper records or charges⁷⁷. Victims often face threats, extortion, and intimidation, which discourage them from lodging complaints, effectively silencing their pursuit of justice. The repeated failure of state mechanisms to respond sensitively to such violations highlights systemic prejudice within institutions meant to uphold equality and justice. Ultimately, the combination of social intolerance, police oppression, and institutional neglect denies transgender people not only physical safety but also the dignity and protection that are fundamental to a fair and just society.

6. POLICY REFORMS & MEASURES FOR TRANSGENDER'S EMPOWERMENT

6.1. Legal & Policy Framework

Streamlining gender recognition procedures allowing non-invasive changes to birth certificates, passports, and driver's licenses without mandatory medical verification, establish efficient administrative processes ensuring privacy, enact comprehensive anti-discrimination legislation covering gender identity across all sectors, implement strong enforcement mechanisms and grievance procedures, and integrate transgender rights protections into international human rights frameworks through collaborative advocacy.

6.2. Employment & Economic Empowerment

Employment and economic empowerment require mandatory anti-discrimination policies and workplace protections, comprehensive insurance coverage for gender-affirming care, recognition of chosen names and pronouns, gender-neutral facilities, targeted career counseling and job placement services, accessible vocational training, support for transgender entrepreneurship, and establishment of Employee Resource Groups and diversity initiatives in organizations.

6.3. Healthcare Services

Healthcare systems must develop evidence-based frameworks for gender-affirming care, provide provider training on transgender health and cultural competence, remove insurance restrictions on gender-affirming therapies, ensure accessible mental health services, and create welcoming, stigma-free medical environments for transgender individuals.

⁷⁶Anitha Chettiar, "Problems Faced by Hijras (Male to Female Transgenders) in Mumbai with Reference to Their Health and Harassment by the Police", 5(9) *International Journal of Social Science and Humanity* (2015).

⁷⁷"Police harass transgenders most, says study", *The Times of India*, Oct. 12 2015, available at: <https://timesofindia.indiatimes.com/city/chennai/police-harass-transgenders-most-says-study/articleshow/51869919.cm> (last accessed November 20, 2025).

6.4. Educational & Youth Support

Educational institutions must establish anti-discrimination and anti-bullying policies, provide staff training on gender diversity, install gender-neutral facilities, integrate LGBTQ+ history into curriculum, offer mental health and peer support services, implement comprehensive gender education, and partner with LGBTQ+ organizations to create safe and inclusive school environments for transgender students.

6.5. Judicial & Law Enforcement

Judicial and law enforcement reform must include gender-sensitivity training for judges, prosecutors, and police on transgender rights; establish fair treatment protocols; prevent discrimination and harassment during interactions; provide specialized legal aid services; and ensure accountability and protection when transgender individuals report crimes.

6.6. Public Awareness & Cultural Change Initiatives

Public awareness campaigns must combat gender stereotypes, ensure positive media representation of trans people, educate the public on transgender rights, and challenge misconceptions through targeted advocacy to reduce social stigma and promote inclusion.

6.7. Political Participation & Representation

Political inclusion of transgender persons requires gender-sensitivity training for election officials, creating pathways for transgender candidates, incorporating their voices in policymaking bodies, and strengthening collaborative advocacy with marginalized groups for legislative reform.

6.8. Empirical Data, Research & Evidence Building

Comprehensive data collection on transgender individuals' experiences, health outcomes, and needs must be integrated into national surveys, censuses, and health monitoring systems. Targeted research on employment discrimination, healthcare barriers, and mental health disparities should inform evidence-based policy development and program design tailored to address transgender communities' specific challenges.

7. CONCLUSION

Everyone, regardless of their gender identity, deserves dignity, respect, and equal treatment, and transgender rights are a crucial part of that. In order to combat prejudice and ensure the freedom and authenticity of transgender people, it is essential to protect and develop transgender rights. Social exclusion, physical violence, and unfair treatment by the law are just a few manifestations of the pervasive discrimination and marginalization that transgender people face. Consequently, promoting an inclusive and equitable society requires us to do what is morally just, which is to guarantee the preservation of human rights.

The position of transgender individuals in India has seen significant advancements in recent years, marked by legislative reforms, judicial pronouncements, and government initiatives aimed at safeguarding their rights and promoting their welfare. From a constitutional perspective, various articles such as 14, 15, 16, 19, 21, and 21A provide a strong foundation for recognizing and protecting the fundamental rights of

transgender individuals, including equality, non-discrimination, freedom of expression, and the right to life and personal liberty. Furthermore, legislative measures such as the Transgender Persons (Protection of Rights) Act, 2019, have been enacted to address the specific needs and challenges faced by the transgender community, ensuring their inclusion and empowerment in society. Additionally, landmark judgments such as the National Legal Services Authority (NALSA) verdict have played a pivotal role in affirming transgender rights and dismantling discriminatory practices.

Moreover, various government schemes at both the national and state levels have been introduced to support transgender individuals in areas such as education, healthcare, employment, and social welfare, fostering their socio-economic empowerment and integration into mainstream society. However, despite these positive developments, challenges and gaps remain in the realization of transgender rights. Implementation bottlenecks, societal stigma, and lack of awareness continue to hinder the full enjoyment of rights by transgender individuals. Therefore, there is a pressing need for concerted efforts from all stakeholders, including the government, judiciary, civil society, and the public, to address these challenges and ensure the effective implementation of existing laws and schemes.

In moving forward, a holistic approach that combines legal reforms, policy interventions, awareness campaigns, and capacity-building initiatives is essential to create a more inclusive and equitable society where transgender individuals can live with dignity, respect, and equal opportunities. More than just putting laws in place, transgender people must work to create a community that accepts and values every individual, ensuring that everyone may live authentic lives free from fear of discrimination or violence. By upholding the principles of justice, equality, and human rights, India can strive towards becoming a society that embraces diversity and celebrates the inherent worth and dignity of every individual, regardless of gender identity.

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