



# INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

## IF WE WERE THEM

Varsha sriramamurthy

### 1. Abstract:

Society does not consist of individuals but expresses the sum of interrelations, the relations within which these individuals stand.

- Karl Marx

We live in the world where great people had a great say over the existence of humans being humane with humanity. We walk the talk they paved, we stand up to every right and wrong that it takes and we take pride in doing anything that tastes good to the society we live in.

But, one of the most common but unseen is that the society is deeply structured by sex and gender. The categorization of people as 'male' or 'female' permeates our society on every level.

The sexual orientation categories based on the gender binary system are disrupted by gender diversity. It is never out of our knowledge that there exists Transgender(kinnar/Hijra) who seem to be a part of this great society humans share.

In Indian society, transgenders are the propitious face. Indians call them at home on auspicious occasions to take their blessings, but people are hesitant for an open forum discussion, minimum number of debates are organized by educational institutes, NGOs, governmental and semi-governmental organizations.

Transgenders are subject to similar prejudices rooted in beliefs and traditions about sexuality and gender. It is underestimated that as members of a social minority group, they are suffering from various forms of socioeconomic and cultural

injustice.

The lacks of social recognition has an effect on the capacity of LGBT people to fully access and enjoy their rights as citizens of India and as members of the society we build upon.

They are subjected to severe discrimination and harassment in all respects in contemporary India and are witnessed to unfair treatments like verbal abuse, physical and sexual violence; false arrests; denial of share in their ancestral property, services, and admission to educational institutions; and victimization in multiple settings like family, educational institutions, workplace, health care settings and public spaces.

Highlighting some major problems faced by Transgender Community in India and to make the society aware about the problems of transgender community and also to provide suggestions to improve their status is the theme of this article.

This article focuses on:

- I) Portraying the problems faced by transgenders
- II) Suggesting measures to solve the problem

## **2.Introduction:**

### **I) History and Explanation:**

Gender identity and sexual orientation are different facets of identity. Everyone has a gender identity and a sexual orientation, but a person's gender does not determine a person's sexual orientation. Gender identity is your internal knowledge of your gender – for example, your knowledge that you're a man, a woman, or another gender. Gender expression is how a person presents their gender on the outside, often through behavior, clothing, hairstyle, voice or body characteristics. Transgenders are those persons whose gender identity seems to stand unique with biological sex and differ from normal men and women. Transgender is an umbrella term that is used to explain a wide range of identity and behavior of sexually different persons. It 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.

Gender dysphoria is a term that psychologists and doctors use to describe the distress, unhappiness, and anxiety that transgender people may feel about the mismatch between their bodies and their gender identity. Everyone has a gender identity, an internal sense of self and perception of one's own gender. For some people their gender identity is the same as the sex they were assigned at birth (cisgender) and for some people their gender identity is different than the sex they were assigned at birth (transgender). Gender variance in India has ancient, even prehistoric, roots. TG Community comprises of Hijras, eunuchs, Kothi's, Aravanis, Jogappas, Shiv-Shakthis etc.

Hijra' is a Persian word translated as eunuch which is used in common parlance for transgender community in India. Aravani' is a term used for male-to-female transgender who undergo genital modification through SRS (Sex Reassignment Surgery) or perform Nirwaan which is a traditional mode of castration. We notice that even though historically, Hijras/transgender persons had played a prominent role, with the onset of colonial rule from the 18th century onwards, the situation had changed drastically. British rule, legislation was enacted to supervise the deeds of Hijras/TG community, called the Criminal Tribes Act, 1871, which deemed the entire community of Hijras persons as innately 'criminal' and 'addicted to the systematic commission of non-bailable offences'. The Act provided for the registration, surveillance and control of certain criminal tribes and eunuchs and had penalized eunuchs, who were registered, and appeared to be dressed or ornamented like a woman, in a public street or place, as well as those who danced or played music in a public place.

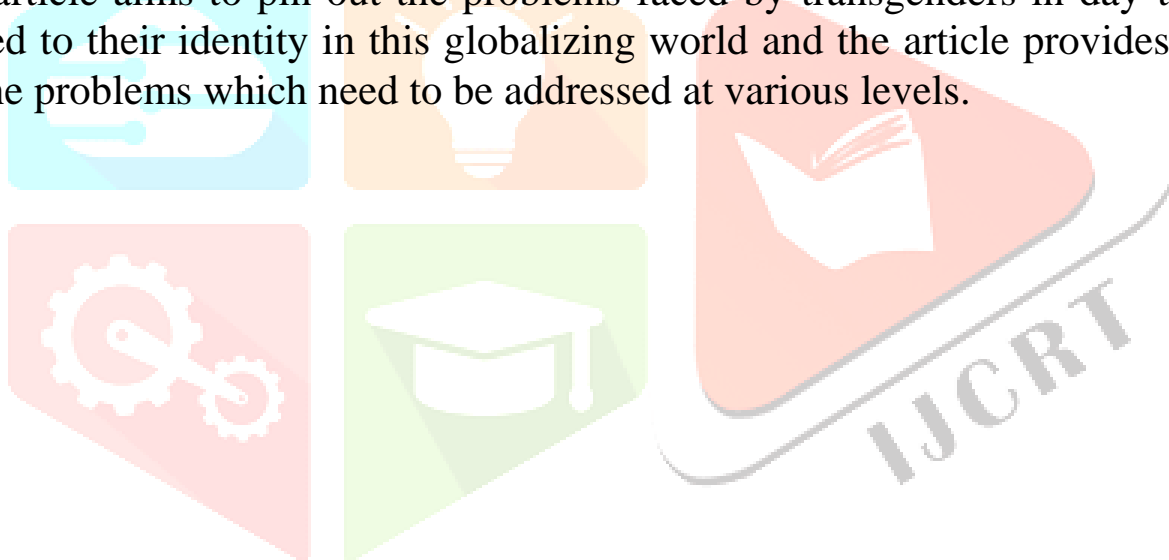
Such person also could be arrested without warrant and sentenced to imprisonment up to two years or fine or both. Under the Act, the local government had to register the names and residence of all eunuchs residing in that area as well as of their who were reasonably suspected of kidnapping or castrating children, or of committing offences under Section 377 of the IPC, or of abetting the commission of any of the said offences.

After Independence, the law was repealed in 1949, but mistrust of the transgender community has continued. Transgenders we're not a part of a general class, despite of a landmark judgement given by the Supreme Court of India on 2014 created the "third gender" status for hijras or transgenders, around 4.9 Lakh third gender in our country face social discrimination and harassment.

## II) Problem statement:

Transgender or gender non-conforming people frequently experience discrimination and bias. It is heart-wrenching and frustrating for a student like me to observe and notice that the marginalized community is often subjected to unfair treatment at various arenas for establishing their gender identity. It is also saddening to hear that many transgenders are not willing to fight these discriminations due to lack of resources and anxiety of further issues.

The article aims to pin out the problems faced by transgenders in day-to-day life related to their identity in this globalizing world and the article provides solutions for the problems which need to be addressed at various levels.





The article escalates the urgent need to refine the Rights of the Transgenders provided by the constitution to make their lives peaceful and for the development of the country. The article provides suggestions for refinement.

### III) What made me choose the problem statement:

I am a teenager who adheres to the policy of treating everyone equally. We become a member of society only when we grow and understand it. When I was a child, I saw transgenders begging in the streets and getting money from people by offering blessings. I came to understand about them and their sufferings in society for expressing their gender identity only when I participated in a business competition and wanted to open a transgender college. This incident instilled the curiosity to know more about transgenders in our country. It was heart-wrenching for me to understand the reality of life. From the moment we enter the world till the moment we leave it our experiences are shaped by “gender”.

The first question we ask when a child is born is “Is everything all alright?” followed by “Is it a boy or a girl?”.

From that point onwards our identities, our chances and our experiences are filtered by gender. A concern with gender in our society is not new but when we try to include transgenders people become transphobic. The life of transgenders is a daily battle as they are ostracized from society. The main theme of the article is to address their problems to provide solutions.

### **3.Elaboration of Problem Statement in detail:**

#### **(i)Marginalization and Social exclusion:**

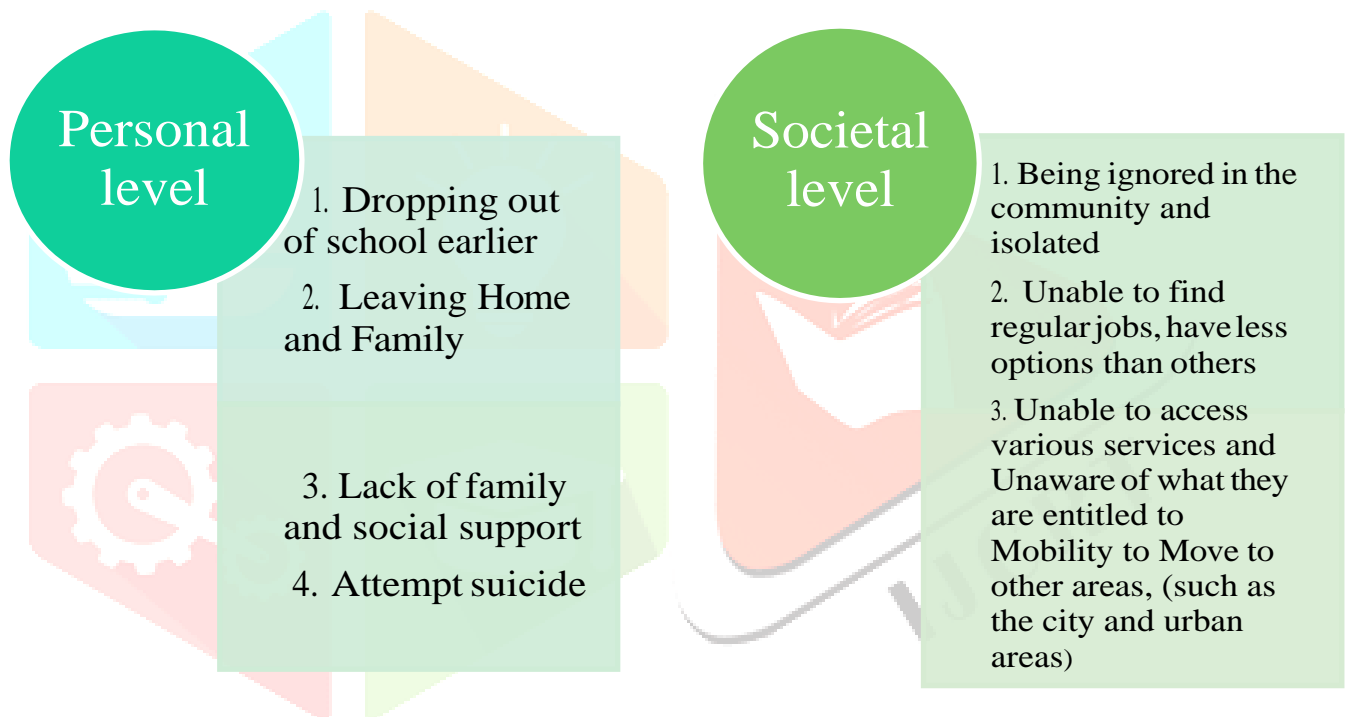
- Marginalization is at the core of exclusion from fulfilling and full social lives at individual, interpersonal and societal levels.
- People who are marginalized have relatively little control over their lives and the resources available to them; they may become stigmatized and are often at the receiving end of negative public attitudes.
- Transgenders opportunities to make social contributions may be limited and they may develop low self-confidence and self-esteem and may become isolated.
- Social policies and practices may mean that transgenders have relatively limited access to valued social resources such as education and health services, housing, income, leisure activities and work.
- TG individuals may experience multiple forms of marginalization-such as racism, sexism, poverty or other factors alongside homophobia or transphobia that negatively impact on mental health.
- The stigma attached to sexual orientation and gender identity or expression that fall outside the expected heterosexual, non-transgender norm relegates many transgender people to the margins of society.
- Marginalization often excludes Transgender people from many support structures, often including their own families, leaving them with little access to services many others take for granted, such as medical care, justice and legal services, and education.
- Marginalization and bias around sexual orientation and gender identity and expression regularly prevent Transgender people from accessing fundamental public services such as health care and housing and contributes to significant health disparities.



- Marginalization of Transgender people often starts with the family into which they were born. The familial marginalization of Transgender people hinders initial prevention and education efforts, encourages risk-taking behavior.

### **Impacts of Marginalization:**

The exclusion and discrimination have major impacts on the lives of transgender persons. This has resulted in the following:



### **(ii) Conflict and Rejection from family:**

A very few adolescents open up to their family and admit they are transgenders. Fear of rejection and serious negative reactions kept many transgenders to be truthful to their family and the society about their identity. Until 1990s they were only a handful of resources available to transgender youth. More recently, the internet school diversity clubs and transgender organizations have helped the youth of their kind to find accurate and reliable information about gender dysphoria and gender transition.



With adequate information many transgender youths are coming out with their gender identity to their family members during adolescence. Families and caregivers have a major impact on their transgender children. Most families do not accept gender non-conforming behavior in their children, which may manifest as early as three to five years of age.

A study by a team from the National Institute of Epidemiology among 60,000 transgender people across 17 states, including Tamil Nadu, found that a large proportion of them receive no support from their biological family. For many parents, the news that their child is transgender or gender non-conforming can bring an array of emotions along with it: some feel sad, fearful and disappointed while others feel shocked, angry and upset. Parents may threaten, scold or even assault their male child for behaving in ways considered girlish or feminine, and their female child for behaving like a boy. They may have several reasons for doing so: fear that a gender-nonconforming child will bring disgrace and shame to the family, apprehension that their child will not marry, perpetuate the family line and/or discharge family responsibilities. Lack of communication and misunderstanding between parents and transgender children increases family conflict. Anxious parents attribute gender-nonconformity in children to a variety of causes including mental illness, sexual abuse, confusion, rebellion or poor socialization.

These problems with communication and lack of understanding about sexual identity and gender identity can lead to fighting and family disruption that can result in a transgender adolescent being removed from or forced out of the home. Transgender youth are placed in foster care, or end up in juvenile detention or on the streets, because of family conflict related to their transgender identity. These factors increase their risk for abuse and for serious health and mental health problems.

Family rejection has a serious impact on transgender young people 's health and mental health. They may have much lower self-esteem and have fewer people they can turn to for help. They are also more isolated and have less support than those who were accepted by their families. Transgender teens who are highly rejected by their parents and caregivers are at very high risk for health and mental health problems.

### **(iii) Harassment and exclusion in Educational systems:**

The transgender community is a highly marginalized and vulnerable one and is seriously lagging behind on human development index mainly in the area of education. Majority of this community is illiterate or less educated due to which they are not able to participate fully in social, cultural, political and economic activities. Actually, educational Institutions are very much gendered places. Stigmatization of gender-nonconforming and transgender children and youth is amplified in the educational system, which mirrors the rest of society in reinforcing strictly binary and patriarchal gender norms.

A study done with 50 transgender students in Mumbai reveals that school uniform, certain kinds of sports and a few school subjects, choice of which is gendered, for instance bakery or cooking for girls and carpentry for boys; are sources of immense stress for several Trans students. According to Indian Census 2011, there are around 4.9 lakh transgender in the country.

Census data also reveals that this community has low literacy levels, just 46 per cent transgenders are literate, compared to 74 per cent literacy in the general population. This community comes under the category "disadvantage group" defined by the Right to Education Act (Indian Express 2014). It means these kids will be eligible for 25 per cent reservation under the economically weaker section (EWS) and disadvantaged student's category for admission.

The survey, conducted by the Swati Health Resource Centre, analyzed the education and living standards of transgender people living in Maharashtra,

Tamil Nadu and Karnataka. It found that 30% of this surveyed had not received an education and 30% were living alone, primarily due to rejection from their families.

There are many factors responsible for the low level of education of this community but main reasons are exclusion from family/society, poverty, social stigma and discrimination, insensitive attitude of teachers/staff, violence and sexual abuse. Transgender community faces discrimination in every walk of their life. They experience isolation and abuse and are not allowed to share common grounds with classmates; thus, they quit education and thereby limit career opportunities. The average qualification of a transgender is secondary or senior secondary level. The enrollment is low and dropout rate is high. Till 2004 nobody even thought to include transgender in the mainstream and were denied right towards education.

Literacy rate of transgender in India is just 56% against 75% literacy rate of country 50 to 60 percent of transgenders have never attended schools and faced discrimination. 18 percent of them are physically abused, 62 percent are verbally abused in school. 15 percent are harassed by students as well as teachers.

CBSE results for class 10th and 12th were declared on 13 July 2020 and 15 July 2020 respectively. There is a spike in pass percentage of class 10th and 12th this year. Pass percentage of class 10th has increased by 0.36% and that of class 12th by 5.38%.

However, the pass percentage of transgenders of class 10th has decreased by 15.79% and of class 12th by 16.66 %. This data has been completely ignored by media and educational bodies. The neglect towards the percentages is reflective of our cold attitude towards transgenders in our society. Trans bullying is a widely experienced phenomenon across the Country. 'The life of transgender people is a daily battle as there is no acceptance anywhere and they are ostracized from society and also ridiculed. They face high levels of stigma in almost every sphere of their life such as health, schools/colleges, employment, social schemes and entitlement.

Most transgender students who are out at school report one or more negative experiences, including not being allowed to dress how they want, or being verbally harassed, physically attacked, or expelled. Poor treatment in school is associated with increased risk of dropout, suicide, homelessness, and working in the underground economy.

The nomenclature “third gender” is a problem in itself: it treats sexuality as a ladder-like structure in which the lowest rung is occupied by the queer community. Although it provides them with legal recognition, it does not alleviate them of their adjunct conditions as they continue to be a part of the marginalized section of society and are not considered equal to the rest of the Indian population.

Inclusion of transgender with school and college is a big challenge. It is so challenging to provide equal opportunity of education to transgender because there is a problem of inclusion with male and female gender students.

**(iv) Poor Economic condition and discrimination in workplace:**

The unjust practice of not providing proper education and the system of discrimination has deprived the employment opportunities for transgenders. The transgender persons have suffered workplace discrimination and discrimination in the matters of employment. They suffer discrimination mainly in the form of privacy violation, refusal to hire and harassment which leads to unemployment and poverty. Discrimination of transgenders in the workplace is a significant factor in the differences in socioeconomic status for transgenders.

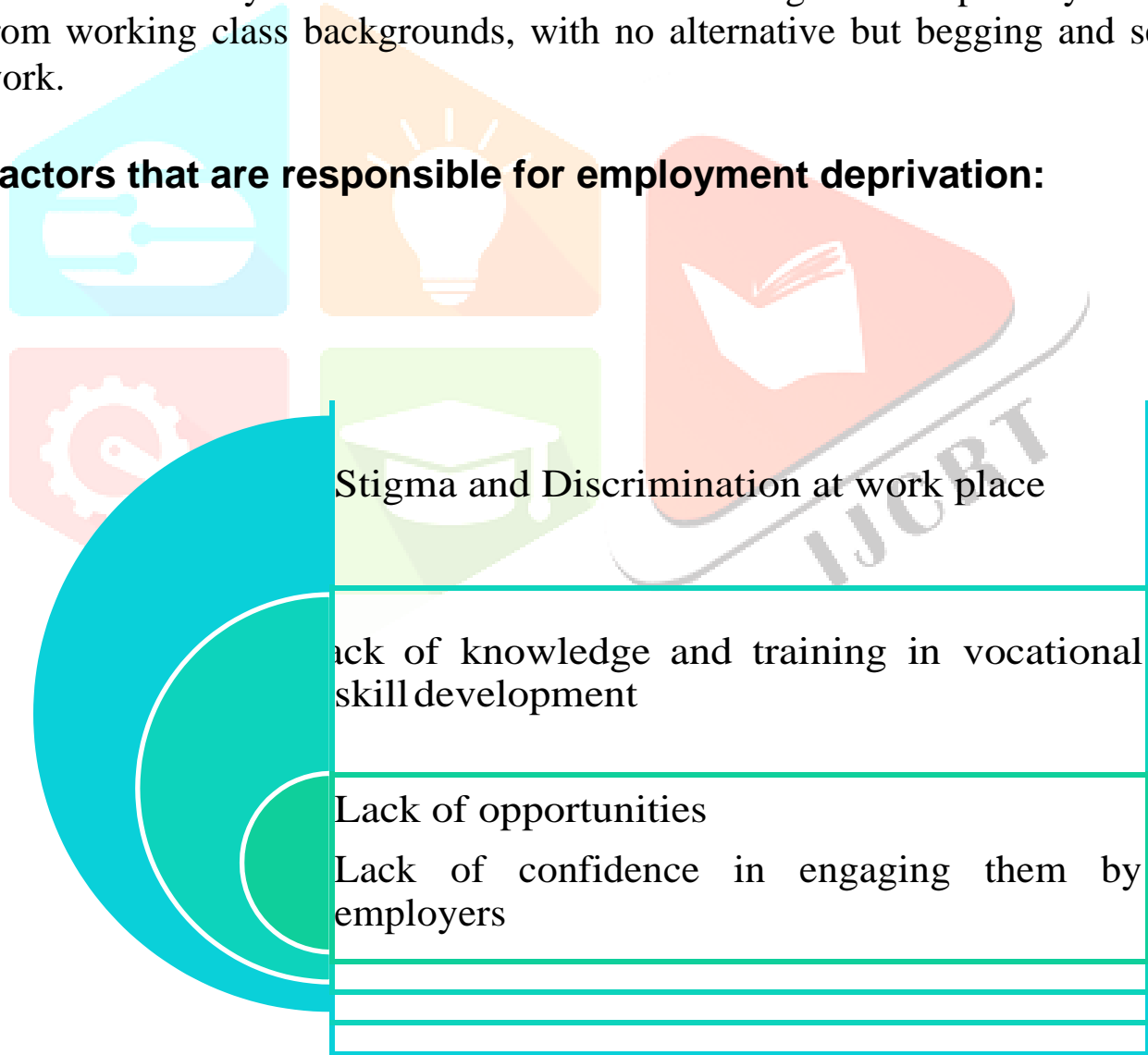
Transgender individuals suffer from socioeconomic inequalities in large part due to pervasive discrimination in the workplace. Discrimination directly causes job instability and high turnover, resulting in greater unemployment and poverty rates for transgenders.

Most employers deny employment for even qualified and skilled transgender people. In a 2017 study conducted by the Kerala Development Society on behalf of the National Human Rights commission of India it was

found that 96% of transgender persons are denied jobs and are forced to take up low paying or undignified work for livelihood such as (ritual blessing), sex work, and begging. The unjust practice of not providing proper education and the system of discrimination has deprived the employment opportunities for transgenders.

Transgender individuals find their employment opportunities curtailed, both by the limited formal education many have had, and by stigma and discrimination in recruitment practices of many employers, as well as hostility in most workplaces, absence of gender-appropriate rest rooms etc. This leaves many Male transformed female transgenders especially those from working class backgrounds, with no alternative but begging and sex work.

### Factors that are responsible for employment deprivation:



## **(V) Impact Of Covid -19:**

Transgender individuals remain marginalized and often they are deprived of their healthcare entitlements because of their gender identity outside the normative binary. (Ming et al 2017). The fear of being stigmatized and ridiculed by healthcare professionals discourages them from using healthcare services (Chakrapani, 2016; Ganju & Saggurti, 2017) which is now leaving them at increased risk of not being tested or treated for COVID-19 (Deb, 2020). COVID-19 has posed physical as well as mental health risks of this marginalized population as well. While effective in responding to the disease, many people, particularly trans women and hijra have been negatively impacted. The fear of being stigmatized and ridiculed by healthcare professionals discourages them from using healthcare services which is now leaving them at increased risk of not being tested or treated for COVID-19. Many transgender people in India lack education, and are excluded from society, which forces them into acute poverty.

As a result, they are now at increased risk of contracting COVID-19 because they are spending time in public places, cannot practice physical distancing and isolation, or recommended hand washing practices. Members of the transgender community have expressed their fears at not being able to physically isolate. In India many in this community already have serious healthcare challenges related to HIV and now transgender children and older transgender persons who are at greater risk of the corona virus infections are feeling extremely vulnerable given the lack of healthcare facilities available to them.



Transgenders are often subjected to high degrees of emotional and physical abuse from family members and close relatives. This has become much worse as a result of the stringent lockdown guidelines due to which transgenders are being forced to stay at home with their abusers and perpetrators of mental and physical violence. Restrictions on mobility and access to peer support groups have adversely affected the mental health of transgenders with growing feelings of anxiety and isolation. Transgenders already have a high rate of unemployment due to structural discrimination. With massive layoffs occurring due to economic losses incurred as a result of Covid-19 crisis, transgenders who do have jobs are at a higher risk of losing their stable sources of income. A number of transgenders are forced into poverty and homelessness with no support systems as a result of social stigma and discrimination. For such individuals it will be impossible to get diagnosed and receive treatment even if they do get infected with Corona virus.

Since a large number of Transgenders do not have proper government ID documents, they are deprived from the services and care packages provided by the government. In a culture where conversations around puberty and adolescent sexuality are still highly stigmatized, the pandemic can be an extremely stressful time for adolescents. The nationwide lockdown in curtailing Covid-19 has subsequently rendered transgender communities jobless in most parts of the country and further pushed them to the margins with no access to funds to support basic necessities like food, housing, and healthcare. Absence of essential documents like Aadhar Card Pan card transgenders are unable to access social security schemes, government relief features and financial aid to support their livelihood.



## **(vi) Victims of hate crimes, violence, and legal justice:**

Transgenders are the bull's eye for hate crimes and violence. They encounter stigma and discrimination across their life span and are the targets of sexual and physical assault, harassments and hate crimes. As per the census of 2011, there are approximately 4.9 lakh third genders in the country who faces social discrimination and harassment. Transgender communities have also an important stake in legal injustice issues. Transgenders are disproportionately affected by violence and discrimination, sometimes at the hands of law enforcement officials. In recent years, there have been many documented instances of cruel police brutality directed towards transgenders in India.

“Justice delayed is Justice denied”

The immediate justice for a legal issue is given by the police department. Insensitivity of police departments for not addressing the grave issue of violence for transgenders does not make India a democratic country. A study shows that Majority of hijras in Mumbai faced several health problems and also problems related to harassment, unlawful penalties, sexual abuse, violence and deprivation of human rights.

A great majority of the hijras (87.5per cent) in Mumbai stated that they have experienced problems caused by the police whether policemen from respective police stations (50.87per cent), railway police (26.31per cent), or traffic policemen (8.77per cent)

Respondents reported that sexual violence could start as early as five years old, but people aged 11 to 15 were most vulnerable. 44% of respondents reported 2,811 separate occasions of violence – bring the average to three incidents per person.

Emotional violence was most common with 1,228 reporting an incident, followed closely by 802 reports of physical abuse and 781 reports of sexual violence. A study by a team from the National Institute of Epidemiology

among 60,000 transgender people across 17 states, including Tamil Nadu, found that the biggest perpetrators of violence against transgender people were police and law-enforcing authorities. Many community members said that they had faced discrimination, physical and sexual abuse from law-enforcing authorities in majority of the states where the study was conducted," said Thilakavathi Subramanian. That means, oppression by the police turned out to be one of the major concerns of the transgender people. The police often threaten them and extort money from them. No FIRs are recorded.

## 4. EXISTING MEASURES:

### CONSTITUTIONAL RIGHTS:

1. India is a democratic country. The constitution grants and protects the rights of all Indians to promote peace. The supreme court of India has recognized the transgenders and gender non confirming people as third gender.
2. To protect transgenders from the above stated and explained problems the constitution of India has provided certain rights.
3. Transgenders have suffered relentlessly from discrimination and many social problems. Transgenders were excluded and eradicated from the society and from the eyes of law.
4. In the case of National Legal Service Authority Vs Union of India, the Supreme Court recognized the transgenders and the gender non confirming people as third gender.
5. The supreme Court of India in its pioneering judgement by the division bench of judges K. S Radhakrishnan and A. KSiri in National legal Service

Authority Vs Union Of India and ORS. [Writ petition (Civil)No.400of 2012(NALSA)] recognizes transgenders as third gender along with male and female. By recognizing diverse gender identities, the court busted the dual sex system prevailing in India.

6. "Recognition of transgenders as third gender is not a social or medical issue but a human rights issue" States Justice K.S Radhakrishnan.
7. The transgenders were recognized as third gender by the eyes of law in 2014 and were given basic fundamental rights by the constitution.
8. The Supreme Court declared to consider the transgenders as socially and economically backward classes and to include them in educational institutions and employment offices under the "third gender" category.
9. The Supreme Court provides the transgenders with equal rights and protection under Article 14, 15, 16 and 21.
10. The Court recognized the right as to how a person chooses to behave in private, personhood and the free thought process of the human being, which are necessary for the fullest development of the personality of the individual.

11.

The Court further noted that a person will not realize his dignity if he is forced to mature in a gender to which he does not belong to or he cannot relate to which will again hinder in his development.

12.

The Supreme Court has given certain directions for the protection of the rights of the transgender persons by including of a third category in documents like the election card, passport, driving license and ration card, and for admission in educational institutions, hospitals, amongst others.

13.

The Supreme Court in its final judgment declared that transgender apart from binary gender, should be treated as “third gender” for the purpose of safeguarding their rights under Part III of Constitution of India and the laws made by the parliament and State legislature.

14.

The preamble to the constitution mandates every citizen Justice: – social, economic, political equality of status

15.

The rights of transgender where for the first time considered under the 2014 NALSA Judgment where the supreme court laid emphasis on protecting and safeguarding the rights of the transgender person under the principles of Indian Constitution laid down in Article 14, 15,16 and 21.

16.

Article 14, 15 and 16 provides right to equality and Article 21 which provides right to freedom for each and every Indian citizen but transgender person where deprived from their basic right to freedom and equality.

17. Art  
icle 14 deals with Equality before the law or equal protection before the law within the territory of India. Article 14 clearly falls within the expression “person” which includes the male, female and third gender within its ambit so the transgender are also entitled to legal protection under Indian constitution in all the spheres of state activity.
18. Art  
icle 15 which deals with the prohibition of discrimination on the ground of religion, race, caste and sex includes the third gender under its ambit as being the citizens they have the right to not to be discriminated on the ground of their religion, caste race and sex. They have the right to protect their gender expression which is majorly reflected through their dresses, action and behaviour.
19. Art  
icle 16 deals with equality of opportunity in the matters of public employment as this article is used to broaden the concept of sex which includes “Psychological Sex” and gender identity within its ambit. The transgender being the citizens of India has the right to employment and equal opportunity in the matters of employment and they should not be discriminated on the basis of their sexual orientation.
20. Art  
icle 21 which deals with the protection of life and personal liberty states that no person shall be deprived of his life and personal liberty except according to the procedure of law. For ages transgender have been deprived of their life and personal liberty.

21. Th  
e transgender being the citizen of India should have full right to protect their right and personal liberty. The Supreme Court has also recognized the right to dignity by recognizing gender identity within the ambit of Article 21
22.  
Article 23 prohibits trafficking in human beings as beggars and other similar forms of forced labour and any contravention of these provisions shall be an offence punishable in accordance with law.
23. Th  
e Transgender Person (Protection of Rights) Act, 2019 includes the prohibition against discrimination which most importantly includes important sectors like employment, education and health care sectors.
24. 23.  
To protect their right, The Transgender Person (Protection of Rights) Act, 2019 provides that the educational institution that are funded or recognized by government shall provide education, recreational facilities and sports for transgender person without discrimination.
25. To  
prevent the discrimination suffered by them the transgender person protection act states that no government or even the private entities can discriminate against transgender person in the matters of employment which includes recruitment and promotions and every establishment should designate a person to be a complaint officer to deal with the complaints in relation to the act.

26. The Transgender Person (Protection of Rights) Act, 2019 states that government should take proper steps to provide health care facilities to transgender person and it should include separate HIV surveillance centers and sex reassignment surgeries and Transgender persons should be provided with a comprehensive medical insurance.

27. The transgender person Protection Act, 2019 has provided that relevant government should take measure and ensure full participation of transgender person in society and to formulate certain welfare schemes and measures to protect the right of the transgender person.

28. The Immoral Traffic Prevention Act of 1956 which was amended in 1986 has become a gender-neutral legislation. The domain of the Act now applies to both male and female sex workers along with those whose gender identity was indeterminate. With the amendment both the male and hijra sex workers became criminal subjects as this gives the police the legal basis for arrest and intimidation of the transgender sex workers



29.

Th

e Immoral Traffic Prevention Act of 1956 which was amended in 1986 has become a gender-neutral legislation. The domain of the Act now applies to both male and female sex workers along with those whose gender identity was indeterminate. With the amendment both the male and hijra sex workers became criminal subjects as this gives the police the legal basis for arrest and intimidation of the transgender sex workers.

30.

Tra

nsgender bill (2019):

The Transgender Persons (Protection of Rights) Bill, 2019 was introduced in Lok Sabha on July 19, 2019 by the Minister for Social Justice and Empowerment, Mr. Thaawarchand Gehlot.

• **Definition of a transgender person:** The Bill defines a transgender person as one whose gender does not match the gender assigned at birth. It includes trans-men and trans-women, persons with intersex variations, gender-queers, and persons with socio-cultural identities, such as kinnar and hijra. Intersex variations are defined to mean a person who at birth shows variation in his or her primary sexual characteristics, external genitalia, chromosomes, or hormones from the normative standard of male or female body.

• **Prohibition against discrimination:** The Bill prohibits the discrimination against a transgender person, including denial of service or unfair treatment in relation to: (i) education; (ii) employment; (iii) healthcare; (iv) access to, or enjoyment of goods, facilities, opportunities available to the public; (v) right to movement; (vi) right to reside, rent, or otherwise occupy property; (vii) opportunity to hold public or private office; and (viii) access to a government or private establishment in whose care or custody a transgender person is.

- **Right of residence:** Every transgender person shall have a right to reside and be included in his household. If the immediate family is unable to care for the transgender person, the person may be placed in a rehabilitation center, on the orders of a competent court.
- **Employment:** No government or private entity can discriminate against a transgender person in employment matters, including recruitment, and promotion. Every establishment is required to designate a person to be a complaint officer to deal with complaints in relation to the Act.
- **Education:** Educational institutions funded or recognized by the relevant government shall provide inclusive education, sports and recreational facilities for transgender persons without any discrimination.
- **Health care:** The government must take steps to provide health facilities to transgender persons including separate HIV surveillance centers, and sex reassignment surgeries. The government shall review medical curriculum to address health issues of transgender persons, and provide comprehensive medical insurance schemes for them.
- **Certificate of identity for a transgender person:** A transgender person may make an application to the District Magistrate for a certificate of identity, indicating the gender as 'transgender'. A revised certificate may be obtained only if the individual undergoes surgery to change their gender either as a male or a female.
- **Welfare measures by the government:** The Bill states that the relevant government will take measures to ensure the full inclusion and participation of transgender persons in society. It must also take steps for their rescue and rehabilitation, vocational training and self-employment, create schemes that are transgender sensitive, and promote their participation in cultural activities.
- **Offences and penalties:** The Bill recognize the following offences against transgender persons: (i) forced or bonded labour (excluding compulsory government service for public purposes), (ii) denial of use of public places, (iii) removal from household, and village, (iv) physical, sexual, verbal, emotional or economic abuse. Penalties for these offences vary between six months and two years with a fine.

## **5. Conclusion and recommendations:**

India is a democratic country. The Government of India firmly believes the principle of democracy “Of the people by the people and for the people”. Despite being a democratic country, we still have to make few amendments to follow the principles of democracy. India has no dearth of discrimination and harassment, where majority of the groups force societal norms on the minorities who tries to be the odd one out. In this sea of cruelty, discrimination, filthy nature of the people has made the country a nightmare for transgenders to thrive. Transgenders have a pre-colonial heritage that recognized and celebrated gender diversity in temple sculptures, mythology and religious treatises, transgender people in India, today, face intolerance, stigma, discrimination and violence. Human rights violations against transgender people pervade families, educational institutions, workplaces, institutions such as law-enforcement, healthcare, media, and society at large. The biggest lacuna in the system is that there is a lack of awareness about what is transgenders and gender dysmorphia in people. Sensitizing the living of transgender community in India will not make their hardships in living in this society vanish away. Sensitizing only makes their hardships worse and engulf their peace of mind. Sensitization will not help until people are ready to accept change and acceptance can come only through education.”

Each being in this Universe is indeed unique, and an integral part of nature who are created and blessed by the almighty. It would thus be erroneous to judge and discriminate against people who may be different from the stereotype, which again was created and mastered by man.

The constitution of India has recognized the battles of transgenders against the stigma of the society and granted them the basic constitutional rights which were mentioned in the article. The rule of law is supreme and everyone is equal in the eyes of law in India.

Yet, the transgender community is in a constant battle as they have to fight oppression, abuse and discrimination from every part of the society, whether it's their own family and friends or society at large. The life of transgender people is a daily battle as there is no acceptance anywhere and they are ostracized from the society and also ridiculed. The moot question we must all think is whether these rights are granted and practiced by the people towards the transgenders.

Despite such laws in the constitution of India, the other sex (transgender) continues to be ostracized. The harassment and marginalization of the community still continues. The social prejudice still exists against them. Although transgender have been taken as backward community and they will be entitled for all benefits in education and jobs, still the government and private agencies need to start focusing on implementing the order so that the benefits start reaching to the transgender community. For the general public, it is important to understand the feelings and mental status of their community. People need to understand that humans are diverse but after all every one is a the same as human beings. The society also needs to take off their social stigma towards transgender community and give them a chance to stand equally and participate in together in the community development process. There is no shortcut to a solution that can address the problems and hardships faced by transgenders in the society. The article would appreciate the numerous measures taken by the government of India and the courts in providing basic fundamental rights for the transgenders.

As stated earlier affirmative measures must be adapted for the betterment of transgenders to

- a. Recognize their constitutional rights
- b. To provide a peaceful living.

## Recommendations:

The article suggests the following measures to support transgenders:

- 1) Awareness of gender diversity and the need to safeguard transgender youth from hostile school environments is a dire need.
- 2) Schools and teacher education program are crucial sites where transgender issues and concerns need to be addressed.
- 3) To help promote health and safety among transgender youth, schools can implement the following policies and practices:
  - i) Special school should be established for Transgender and provision of free education from 1 to 12 standards.

ii) Scholarship schemes for higher education should be effective for Transgenders with the help

iii) Encourage respect for all students and prohibit bullying, harassment, and violence against all students.

iv) Encourage respect for all students and prohibit bullying, harassment, and violence against all students.

v) Identify “safe spaces,” such as counselors’ offices, designated classrooms, or student organizations, where transgender youth can receive support from administrators, teachers, or other school staff.

vi) Ensure that health curricular or educational materials include HIV, other STD prevention information that is relevant to transgender youth and ensure that curriculars or materials use inclusive language or terminology.

vii) A chapter on TG can be included in the adolescent education curriculum in the school to sensitize the larger society on Transgender. This can be an effective step to address stigma/discrimination at school level.

- 4) Transgender Community should be covered under any pension scheme so that they can enjoy the benefit of secure retirement.
- 5) Sensitizing Police regarding the issues and problems faced by the Transgender community is compulsory.
- 6) An Awareness drive is a must be conducted about transgenders in detail for local authorities, policy makers, schools and family for accepting them and eradicate problems of discrimination.
- 7) Transgender human rights issues must be highlighted in the media and other public forums so as to improve public awareness.
- 8) Stigmatizing coverage in the media about transgenders must be curbed.

- 9) Doctors and health care providers must be responsive to the specific needs of all transgender person's denial of treatment based on the binary sex system must be prohibited.
- 10) Support the most marginalized of the LGBT community—people of color, low-income, young, elderly and transgender people.
- 11) Establish collaborations on cross-issue work that includes LGBT issues affecting low-income and people of color populations.
- 12) Consider LGBT issues as a central theme in all economic and racial justice work.
- 13) Advocate with philanthropic peers to support LGBT racial and economic justice work.
- 14) To change societal attitudes, the media has to play a responsible role by reporting on LGBT issues and promoting a culture of tolerance and freedom for minorities.
- 15) National as well as state government should develop initiatives to support employers in making workplace and workplace culture more supportive and inclusive of LGBT people.
- 16) The governments should form committees to ensure that rights of the transgenders are not violated by people.
- 17) Laws must be made strictly so that people understand that violation of transgender rights is a criminal offence.
- 18) Transgender organizations should be formed to discuss the problems of transgenders and develop the courage to fight for justice.
- 19) The government of India should have transgenders at influencing positions to guide the government to safeguard and promote their people.
- 20) As a student I would like to recommend a psychological suggestion for the betterment of the lives of transgenders.



We as the members of the society must develop the skills to:

- i) Listen
- ii) Affirm
- iii) Refer
- iv) Follow up

It only requires the respect from people of the society to understand that transgenders are our peers and they are human beings like us. We youngsters are the nation of tomorrow. I request everyone respect the dignity of transgenders and support for their well-being by just considering them as us. Let's all pledge under humanity to support transgenders and treat them the way we wanted to be treated for promoting fellowship and peace and mainly for developing our country with all the valuable assets. Remember by your heart and soul that, the words of Gandhi are influential, which states, "The true measure of any society can be found in how it treats its most vulnerable ones".

Even if you are the minority one, the truth is truth.

Let us shake the world to be a better place in a gentle way because even if they are the minority one, the truth is always the truth and we need to make inclusively exclusive.

### References:

1. <https://ijcrt.org/papers/IJCRT1705102.pdf>
2. <http://www.internationaljournalsrsg.org/IJHSS/2018/Volume5-Issue2/IJHSS-V5I2P105.pdf>
3. [https://www.researchgate.net/publication/333490393\\_Educational\\_Inequality\\_in\\_India\\_A\\_Review\\_Paper\\_for\\_Transgender\\_Population](https://www.researchgate.net/publication/333490393_Educational_Inequality_in_India_A_Review_Paper_for_Transgender_Population)
4. <http://www.internationaljournalsrsg.org/IJHSS/2018/Volume5-Issue2/IJHSS-V5I2P105.pdf>
5. <https://ijcrt.org/papers/IJCRT1705102.pdf>
6. <https://www.jetir.org/papers/JETIR2005462.pdf>
7. [https://www.ijims.com/uploads/cae8049d138e24ed7f5azppd\\_597.pdf](https://www.ijims.com/uploads/cae8049d138e24ed7f5azppd_597.pdf)
8. <https://blog.ipleaders.in/legal-rights-of-transgender-india/>
9. <https://transequality.org/issues/resources/understanding-transgender-people-the->



basics

10. <https://www.cdc.gov/lgbthealth/transgender.htm>
11. <https://www.hrc.org/resources/understanding-the-transgender-community>
12. <https://en.wikipedia.org/wiki/Transgender#:~:text=Transgender%2C%20often%20shortened%20as%20trans,are%20non%2Dbinary%20or%20genderqueer.>
13. <https://www.plannedparenthood.org/learn/gender-identity/transgender>
14. <https://transequality.org/issues/resources/frequently-asked-questions-about-transgender-people>
15. <https://www.webmd.com/sex/features/transgender-what-it-means>
16. <https://www.glaad.org/transgender/transfaq>
17. <https://www.apa.org/topics/lgbtq/transgender>
18. <https://www.livescience.com/54949-transgender-definition.html>
19. <https://www.merriam-webster.com/dictionary/transgender>
20. <https://www.sciencedirect.com/topics/medicine-and-dentistry/transgender>
21. [https://books.google.co.in/books?hl=en&lr=&id=RgIkDwAAQBAJ&oi=fnd&pg=PT6&dq=transgender+&ots=d-kxK7gi0I&sig=sddtGSFzDT2j5HygUdXEHcVduoA&redir\\_esc=y#v=onepage&q=transgender&f=false](https://books.google.co.in/books?hl=en&lr=&id=RgIkDwAAQBAJ&oi=fnd&pg=PT6&dq=transgender+&ots=d-kxK7gi0I&sig=sddtGSFzDT2j5HygUdXEHcVduoA&redir_esc=y#v=onepage&q=transgender&f=false)
22. <https://scholarworks.lib.csusb.edu/cgi/viewcontent.cgi?article=1392&context=etd>
23. [https://writingcenter.ashford.edu/sites/default/files/inline-files/LOI%20Sample\\_0.pdf](https://writingcenter.ashford.edu/sites/default/files/inline-files/LOI%20Sample_0.pdf)
24. <https://repository.library.northeastern.edu/files/neu:rx915f59x/fulltext.pdf>
25. <https://edition.cnn.com/style/article/kalki-subramaniam-opinion/index.html>
26. <https://transequality.org/issues/resources/supporting-the-transgender-people-in-your-life-a-guide-to-being-a-good-ally>
27. <https://ijcrt.org/papers/IJCRT1705102.pdf>
28. <https://www.jetir.org/papers/JETIR2005462.pdf>
29. [https://www.ijims.com/uploads/cae8049d138e24ed7f5azppd\\_597.pdf](https://www.ijims.com/uploads/cae8049d138e24ed7f5azppd_597.pdf)
30. <https://kb.gcsu.edu/cgi/viewcontent.cgi?article=1017&context=thecorinthian>
31. <http://www.jcreview.com/fulltext/197-1601479174.pdf>
32. <http://www.internationaljournalsr.org/IJHSS/paper-details?Id=93>

33. <http://www.okologie.org/blogs/2015/4/2/the-marginalization-of-the-transgender-community>
34. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5127283/>
35. [https://www.ijims.com/uploads/cae8049d138e24ed7f5azppd\\_597.pdf](https://www.ijims.com/uploads/cae8049d138e24ed7f5azppd_597.pdf)
36. <https://familyproject.sfsu.edu/sites/default/files/FamilySupportForLGBTChildrenGuidance.pdf>
37. <https://www.thetrevorproject.org/>
38. [https://en.wikipedia.org/wiki/LGBT\\_parenting#:~:text=Due%20to%20the%20increased%20risk,community%2C%20school%2C%20and%20family.](https://en.wikipedia.org/wiki/LGBT_parenting#:~:text=Due%20to%20the%20increased%20risk,community%2C%20school%2C%20and%20family.)
39. [https://www.researchgate.net/publication/316220915\\_Transgender\\_Families](https://www.researchgate.net/publication/316220915_Transgender_Families)
40. <https://owjn.org/2015/08/challenges-for-transgender-parents-in-family-law/>
41. <https://whyy.org/episodes/the-challenges-of-transgender-children-and-their-families-2/>
42. [https://www.researchgate.net/publication/333490393\\_Educational\\_Inequality\\_in\\_India\\_A\\_Review\\_Paper\\_for\\_Transgender\\_Population](https://www.researchgate.net/publication/333490393_Educational_Inequality_in_India_A_Review_Paper_for_Transgender_Population)
43. [https://www.researchgate.net/publication/321244767\\_TRANSGENER\\_CHILDREN%27S\\_EDUCATION\\_AND\\_THEIR\\_REENGAGEMENT\\_IN\\_SOCIETY](https://www.researchgate.net/publication/321244767_TRANSGENER_CHILDREN%27S_EDUCATION_AND_THEIR_REENGAGEMENT_IN_SOCIETY)
44. [http://ijrar.com/upload\\_issue/ijrar\\_issue\\_20543481.pdf](http://ijrar.com/upload_issue/ijrar_issue_20543481.pdf)
45. [https://www.globalscientificjournal.com/researchpaper/Problems\\_faced\\_by\\_Transgenders\\_during\\_their\\_Schooling.pdf](https://www.globalscientificjournal.com/researchpaper/Problems_faced_by_Transgenders_during_their_Schooling.pdf)
46. <https://www.bbc.com/news/world-asia-india-38470192>
47. <https://www.moneycontrol.com/news/india/about-96-of-transgenders-are-denied-jobs-60-have-never-attended-schools-study-2836281.html>
48. <https://mainstreamweekly.net/article9736.html>
49. <https://www.dw.com/en/indias-first-transgender-school-opens-but-discrimination-remains/a-36986873>
50. [https://cdn.americanprogress.org/wp-content/uploads/issues/2011/06/pdf/workplace\\_discrimination.pdf](https://cdn.americanprogress.org/wp-content/uploads/issues/2011/06/pdf/workplace_discrimination.pdf)
51. [https://www.researchgate.net/publication/228462098\\_Gender\\_Identity\\_Issues\\_and\\_Workplace\\_Discrimination\\_The\\_Transgender\\_Experience](https://www.researchgate.net/publication/228462098_Gender_Identity_Issues_and_Workplace_Discrimination_The_Transgender_Experience)
52. [https://transequality.org/sites/default/files/docs/resources/NTDS\\_Report.pdf](https://transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf)
53. <https://indiaculturelab.org/assets/Uploads/Godrej-India-Culture-Lab-Trans->

Inclusion-Manifesto-Paper.pdf

54. [https://www.ijresm.com/Vol.2\\_2019/Vol2\\_Iss2\\_February19/IJRESM\\_V2\\_I2\\_95.pdf](https://www.ijresm.com/Vol.2_2019/Vol2_Iss2_February19/IJRESM_V2_I2_95.pdf)
55. [https://www.researchgate.net/publication/333490393\\_Educational\\_Inequality\\_in\\_India\\_A\\_Review\\_Paper\\_for\\_Transgender\\_Population](https://www.researchgate.net/publication/333490393_Educational_Inequality_in_India_A_Review_Paper_for_Transgender_Population)
56. <https://www.jetir.org/papers/JETIR2005462.pdf>
57. <https://www.hhrjournal.org/2020/03/living-on-the-edge-covid-19-adds-to-distress-and-discrimination-of-indian-transgender-communities/>
58. <https://www.apcom.org/the-impact-of-stigma-on-indian-transgender-people-during-covid-19/>
59. <https://www.thequint.com/neon/gender/coronavirus-transgender-community-impact>
60. [https://www.ijresm.com/Vol.2\\_2019/Vol2\\_Iss2\\_February19/IJRESM\\_V2\\_I2\\_95.pdf](https://www.ijresm.com/Vol.2_2019/Vol2_Iss2_February19/IJRESM_V2_I2_95.pdf)
61. [https://www.researchgate.net/publication/333490393\\_Educational\\_Inequality\\_in\\_India\\_A\\_Review\\_Paper\\_for\\_Transgender\\_Population](https://www.researchgate.net/publication/333490393_Educational_Inequality_in_India_A_Review_Paper_for_Transgender_Population)
62. <https://iasscore.in/national-issues/transgender-rights-in-india>
63. [https://www.researchgate.net/publication/322012741\\_Transgender\\_Status\\_in\\_India](https://www.researchgate.net/publication/322012741_Transgender_Status_in_India)
64. [https://en.wikipedia.org/wiki/LGBT\\_rights\\_in\\_India#:~:text=Transgender%20people%20in%20India%20are,themselves%20under%20a%20third%20gender.](https://en.wikipedia.org/wiki/LGBT_rights_in_India#:~:text=Transgender%20people%20in%20India%20are,themselves%20under%20a%20third%20gender.)
65. <https://www.lexology.com/library/detail.aspx?g=b49d9488-c484-4d00-882c-2c386a041a07>
66. <https://clpr.org.in/our-work/transgender-rights/>
67. <http://socialjustice.nic.in/writereaddata/UploadFile/TG%20bill%20gazette.pdf>
68. <https://www.equalrightstrust.org/news/indian-supreme-court-recognises-right-self-identify-third-gender#:~:text=Specifically%2C%20the%20Court%20stated%20that%3A>
69. <https://prsindia.org/billtrack/the-transgender-persons-protection-of-rights-bill-2019>