

NEXUS UNIVERSAL JOURNAL

www.nujournal.in

Volume I, Issue I: July- August, 2025 (Page: 35-45)

ISSN: 3108-0367

Received: August 12, 2025

Published: August 31, 2025

Socio-Legal Status of Transgender in India

1***RUBI** 2. **Dr. Ashok Kumar**

1. Research scholar, Department of Law, N.A.S. College, Meerut, UP
 2. Assistant Professor, Department of Law, N.A.S. College, Meerut, UP
-

ABSTRACT

Justice and equality are among the rights that transgender individuals are guaranteed by the Indian Constitution, just like those of all other Indian citizens. To prevent discrimination against transgender individuals in the workplace, in schools, and in healthcare, the government passed the Transgender Person (Protection of Rights) Act, 2019. The rights of transgender persons have also been protected by welfare measures. Gender norms that simply acknowledge male and female are not followed by people who identify as transgender. They have been subjected to prejudice, social injustice, and physical abuse because society has not accepted their gender identity. Some transgender people are classified as members of particular socio-cultural groups, such as Hijras, Jogappas, Sakhi, Aradhis, etc., This article only uses secondary data as its basis. Government reports, research articles, journals, newspapers, and the Internet are the sources of the data. This paper discusses the rights, health, and constitutional rights of transgender people in the current situation.

KEYWORDS: Transgender, Illegal, NALSA, Protection of Rights

Introduction

Some people think that the sex they were assigned at birth does not match their gender identity or the gender they feel they are in. They are commonly known as transgender. The expression "transgender" refers to the multitude of ways in which a person's gender identity can differ from the sex they were given at birth. People who identify as transgender use a wide variety of words to describe themselves. For instance, the terms transgender and trans male and trans female are sometimes used interchangeably. The person's preferred language and labeling

should always be used. There are numerous ways that transgender persons express their gender identities. Some people portray themselves as the gender that feels most appropriate for them by their attire, demeanor, and manners. In order to transform their physique to conform to their gender identification, some people use hormones and possibly undergo surgery. Some persons who identify as transgender, gender queer, gender fluid, or simply transgender reject the conventional view of gender as being split between solely male and female. Because of society's inability to recognize their gender identification, individuals face numerous forms of discrimination, including economic, social, legal, and physical prejudice. Some transgender persons are members of specific sociocultural groups, such as the Hijras, Jogappas, Sakhi, Aradhis, etc., while others are not members of any of these communities but are nonetheless called transgender.

The prefix define "trans" signifies "beyond." "Transgender" does not, however, merely refer to a gender that transcends the boundary. The general public frequently misunderstands this word. This term refers to all individuals who spend a substantial portion of their lives displaying an innate sense of gender that is distinct from presumptions about their sex at birth. The general definition of a transgender person is "anyone who chooses to identify himself/herself with a gender different from the one assigned at birth." Definitions have come from a wide range of organizations and individuals worldwide. Coalition for Asia Pacific Male Sexual Health (APCOM, July 2008). It has established six distinct categories for transgender individuals, which are as follows:

- Transvestites are primarily heterosexual individuals who have a penchant for cross-dressing as a means of enhancing their sexuality.
- People who identify as transsexual cross-dress because they feel that they belong in a male body. They choose to undergo a sex change procedure.
- Drag Queens are male homosexuals who dress in different ways to toy with gender or entice other males. Also known as Salta Koffis.
- Hermaphrodites, or intersexes, have primary bodily parts that are neither entirely male nor female.
- Intersexes (chromosome problems): Two male chromosomes, or "X" chromosomes, are absent.
- Hijras are people from the other groups who follow the guru or Nayak tradition and join the religious cult of Bahuchari Mata or Aravanis. Some of these, like "Hijras" and "Jogtas," may also have particular socio-cultural religious meanings..

Objective of the Study

- To study the Socio-Legal status of the Transgender.
- To study the legal provisions for protecting the human rights of the transgender community.

Brief Historicity of Third Gender

The history of the third gender can be traced back to the **Vedic era**, when Lord Rama granted hijras the authority to confer blessings on auspicious occasions. They later became prominent figures in the **Islamic domain**, serving as political advisors, administrators, generals, and harem guardians. **During the British period**, Hijra Indians received protections and benefits from Indian states, including land, food rights, and smaller incomes, but these were eventually removed due to British legislation.

Current Status of the Third Genders in India

In a historic ruling, the Supreme Court acknowledged the constitutional rights and liberties of individuals who identify as third gender or as a gender different than their biological sex.

Population Statistics of Third Genders in India

The Ministry of Social Welfare Department conducted a survey in 2020. Nearly 4.9 lakh people are officially classified as belonging to the third gender in the nation. However, the third gender campaigners are happy that so many people identified as third gender, even though they estimate the numbers to be six to seven times higher.

State-wise Population of Third Gender

Uttar Pradesh, with about 28% of the population, had the highest third-gender population, followed by Andhra Pradesh, with 9 percent, Maharashtra and Bihar had 8 to 8 percent, Madhya Pradesh and West Bengal had more than 6 percent, and Tamil Nadu, Karnataka, and Odisha had well over 4 percent. Punjab had 2% of the third-gender population, while Rajasthan had over 3%. According to the Indian census, there are 8422 third-gender people living in Haryana, with a literacy rate of 62.11 percent. Out of it 1107 are in the age group of 0-6 years (2011 Census Report).

Problems Faced by Transgender

Transgender persons face discrimination, unemployment, homelessness, a lack of medical and educational resources, and a lack of job prospects. They frequently feel neglected when they inherit property or adopt a child. Transgender people were granted the right to vote in 1994, but they were denied identity cards based on their gender. They have limited access to public spaces and bathrooms. Children who identify as transgender are frequently the targets of verbal or physical abuse from family members. Social welfare agencies offer a variety of programs, but transgender individuals do not have access to any specific ones. The invisibility and silence

surrounding sexuality minority lives creates a sense of oppression, leading to self-abuse and societal stigma.

Status of various Aspects of Transgender

People who identify as transgender have been neglected all over the world, despite safeguards in place at the national and international levels. Their rights are only recognized by a small number of nations, and they are sometimes forced to sacrifice animal life in order to survive. The primary factor that contributes to transgender people's social and economic exclusion is prejudice because of the way they express or identify their gender.

I. Sexual Discrimination Stereotypical beliefs about men's and women's nature (in terms of how they look and behave) lead to criminal prosecutions. The justification for applying sex-based anti-discrimination legislation in a straightforward manner has frequently been rejected. This doesn't take into account the fact that transgender people have been singled out for negative treatment as a result of a belief about their sex, namely that they shouldn't alter their sex or express it in a manner that deviates from accepted social standards.

II. Discrimination based on disability Some transgender individuals have reported difficulty pursuing disability-based legal protections due to misconceptions about disability laws. However, the term "disability" is not used in the common or informal sense in anti-discrimination laws, and it does not only apply to individuals who appear to be seriously ill or disabled.

III. Discrimination based on sexual orientation Because transgender persons are perceived as gay, they are the subject of harassment. A person's gender presentation or attire, which may be less evident than the individual themselves, are often used to make assumptions about their sexual orientation.

IV. During HIV/AIDS treatment and sex reassignment surgery, the majority of them discriminated against patients. Such surgery is strictly regulated in some Western nations, and it can only be performed after extensive psychological counseling. In India, however, such surgery is not regulated by law.

V. Discrimination in Education and Employment Transgender people have a very hard time finding work that is right for them. Most of them are compelled to engage in sex work as a result of social prejudice at work. In addition to social discrimination, the community's social, economic, and political powerlessness is ensured by low literacy rates.

VI. Family racial discrimination Some families would rather send their transgender children away and shun them than provide them with ongoing care after learning of their gender identity. Being conscious that they no longer have a family, they commit more immoral acts. Health

issues for transgender individuals the more all-encompassing field of trans health encompasses mental, social, and physical health. It gives transgender people access to resources, rights, and services that will help them live in communities in a safe and healthy way. However, transgender people worldwide face severe health disparities, including abuse, HIV, mental health issues, and sexual harassment. These disparities must be addressed if we are to achieve the highest possible health status.

HIV risk is 49 times higher for transgender people because of stigma and transphobia. Because to social isolation, economic vulnerability, and a lack of job possibilities, sex work is a feasible source of income. Mental Health and Wellness HIV status, social stigma, a lack of support, and challenges accepting the gender identities and expressions of transgender persons all contribute to the underreporting of mental health conditions such as depression, suicidal thoughts, and stress from violence. Alcohol and drug abuse Many transgenders persons drink to block out the stress and depression they experience on a daily basis, however the exact number is unknown. Among the many reasons transgender persons give for drinking alcohol is the urge to "forget worries" (since no one cares about them or there is no family support).

Legal Reform for Protecting Transgender Rights

Because of the state's incapacity to defend their rights and ingrained societal prejudices, transgender people in India have been denied basic human rights. Legal reform for transgender rights in India led to the Transgender Persons (Protection of Rights) Act, 2019, following a landmark Supreme Court NALSA judgment in 2014 that acknowledged transgender individuals as a third gender and granted other basic human rights.

1. Constitutional Reform

Constitutional rights of transgender people

The right to equality was incorporated in Article 14 of the Constitution, which ensured equality of status on the political, economic, and social levels. Discrimination on the grounds of religion, ethnicity, caste, sex, or place of birth is forbidden by Article 15. Article 23 prohibits forced labor and human trafficking. The court grants transitioning members of the male/female binary legal recognition. In order to restore transgender people's respect and place in society, the government is tasked with implementing social welfare programs, expanding educational reservation opportunities, and raising public awareness.

2. Judiciary Reform

The Supreme Court judgment on Transgender Rights:

The National Legal Services Authority (NALSA) v. Union of India case from 2014 was the Supreme Court's most significant ruling on transgender rights. It recognized transgender people legally and ruled that the freedom to choose one's own gender identity was a fundamental component of the right to equality and nondiscrimination guaranteed by Articles 14 and 15. Additionally, provide the broad guidelines for defending the rights of transgender people:

- In order to protect their rights under Part III of our Constitution and the laws enacted by the State Legislature and Parliament, Hijras and Eunuchs should be regarded as "third gender" and kept apart from binary gender.
- The federal government and state governments must legally accept transgender people's gender identity as either male, female, or third gender, and they also have the ability to select their own gender identity.
- When it comes to public positions and admission to educational institutions, we direct the federal and state governments to treat them as members of socially and educationally disadvantaged groups and to give them different forms of reservation.
- In order to guarantee that TGs receive medical care in hospitals, as well as separate public restrooms and other amenities, the Center and State Governments should take the necessary actions.
- For their improvement, the federal government and state governments should also take action to frame different social assistance programs.
- The Center and State Governments should act to increase public awareness so that TGs feel part of society and are not perceived as untouchables.

The Navtej Singh Johar v. Union of India decision, decided in 2018, was the most important Supreme Court ruling pertaining to transgender rights in India. It invalidated Section 377 of the IPC, which made consensual gay activity illegal. The court's ruling in the Navtej Singh Johar case was a landmark victory for transgender rights because it decriminalized homosexuality.

The Supreme Court has ruled that selecting a life partner is a basic right under Article 21 in a number of cases, including Lata Singh vs. State of UP (2006), Safin Jahan vs. Ashokan (2018), Shakti Vahini vs. Union of India (2018), and Laxmibai Chandarangi vs. State of Karnataka (2021).

The 2017 case of K.S. Puttaswamy v. Union of India Correcting the ruling in the 2013 case of Suresh Kumar Koushal vs. Naz Foundation is the responsibility of the Supreme Court of India's nine-judge panel. One essential aspect of privacy that is safeguarded by several sections of the Indian Constitution is sexual orientation. Gender equality for all people should be safeguarded

on a solid foundation. Furthermore, it is unacceptable to restrict the fundamental right in this way, even if a large number of people are treated hostilely rather than a disproportionately large number.

In the 2013 case of **Suresh Kumar Kaushal v. Naz Foundation**, the Supreme Court of India overruled the Delhi High Court's ruling invalidating Section 377 of the Indian Penal Code. In 2018, the Supreme Court overruled its judgment to reinstate Section 377, which made homosexual relations between consenting adults illegal, in *Navtej Singh Johar v. Union of India*, decriminalizing homosexuality once more.

3. Legislative Reform

Rights of Transgender Bill 2014

The Rajya Sabha first considered this measure on December 12, 2014, and it was approved on April 24, 2015. It was a private member's bill introduced by a parliamentarian from Tamil Nadu. Transgender Day is observed on April 24. Some transgender points are as follows:

The rights protected by the Bill are primarily substantive rights, including the freedom of speech, equality, personal liberty, community living, honesty, and protection against abuse, exploitation, and agony violence. In the 2014 case of *NALSA v. India*, the Indian Supreme Court declared that transgender individuals should be acknowledged as a third gender and be granted all basic rights, in addition to particular advantages in the workplace and in school.

Protection Right Act- 2019

A law was approved by the Indian Parliament in 2019 following the Supreme Court's ruling. Improving the living conditions for transgender people in India was the aim of this act. Both the Lok Sabha and the Rajya Sabha approved this bill in November 2019. Additionally, a new law was created on November 26, 2019, to improve the lives of transgender people in India.

Some highlight provisions of the 2019 Act about employment opportunities for Transgender person:

- **Chapter II** of the Transgender Protection Act prohibits discrimination against transgender individuals in various aspects of life, including education, employment, healthcare, access to public goods, right of movement, property ownership, and office positions.
- **Chapter III** The Transgender Persons Act acknowledges a transgender person's identity and self-perceived gender identity. They can apply for a certificate of identity from the District Magistrate, and if surgery changes their gender, they can request a revised certificate from the Medical Superintendent.

- **Chapter IV** The Transgender Persons Act mandates government to promote full inclusion of transgender individuals, protect their rights, and facilitate welfare access, while ensuring non-discriminatory programs and cultural activities.
- **Chapter V** The Transgender Act prohibits discrimination in employment, recruitment, and promotion, requiring establishments to comply, provide necessary facilities, and handle violations, ensuring transgender children cannot be separated.
- **Chapter VI** The text emphasizes the government's commitment to inclusive education, equal opportunities for transgender individuals, welfare schemes, and healthcare facilities, while also encouraging doctors to address specific health issues and provide comprehensive insurance coverage.
- **CHAPTER VII** The Central Government has established a National Council for Transgender Persons, consisting of various ministries, the National Human Rights Commission, and the National Commission for Women, along with representatives from State Governments, Union territories, the transgender community, and non-governmental organizations, serving a three-year term.
- **Chapter VIII** of the Code outlines penalties for transgender individuals who engage in forced labour, deny access to public places, force them to leave their residence, or cause abuse. Penalties range from imprisonment for up to two years and a fine, with the minimum sentence being six months
- **Chapter IX** asked the Central Government is responsible for crediting funds to the National Council after proper appropriation is made by Parliament. The Act adds to existing laws and cannot be sued for good faith. The Government can make rules for the Act, which must be laid before each House of Parliament for thirty days. State Governments can also make rules..

The 2024 transgender rights amendment bill adds Sections 8A and 13A to the 2019 Act, requiring government agencies to direct-recruit transgender candidates for vacancies in various categories, and educational institutions to reserve seats for transgender individuals.

National Council for Transgender Persons

Act 1019 establishes a National Council for Transgender People to recommend the government on community policies, monitor execution, and address complaints. It denies transgender people access to employment and education, and allows court-ordered rehabilitation centers for those unable to care for them. The plan includes comprehensive insurance coverage for medical expenses.

Employment rates of transgender in India

The National Human Rights Commission's first-ever study on transgender rights reveals that 92% of transgender individuals in India are denied economic participation, with even qualified ones being denied jobs. Despite efforts to change this narrative, few make it to gainful employment.

Conclusion

The conclusion that can be drawn from the above discussion is that the time has come for the Indian public to shift their perception of transgender people. The public should take the first step, followed by the Indian government. The constitutional rights of transgender individuals ought to be implemented by Indian authorities. Understanding that everyone is a human being despite their differences is essential. Transgender people should also be shielded from public and governmental discrimination. In addition, a more extensive public awareness campaign is required to encourage acceptance of the transgender community.

Recommendations - Law enforcement, schools, healthcare systems, and businesses should treat all members of the public—public and private—equally. The transgender community must be liberated from the social stigma of society and given the chance to engage in the growth of the community on an equal basis, as well as the freedom to act, live, and express themselves without fear.

Reference

- APCOM (2008), "Mapping Transgender Groups, Organizations and Networks in South Asia", Published by Asia Pacific Coalition on Male sexual Health (APCOM) report No. 2, July.
- Chakrapani V (2010); Hijras/ transgender women in India: HIV, human rights and social exclusion, available at <http://www.undp.org/content/dam/india>, *retrieved 6 August 2015*.
- European Institute for Gender Equality (EIGE) - Glossary & Thesaurus.
- G. Venugopal Assistant Professor of Sociology Sri Mahadeshwara Government First Grade College,
- <https://www.coe.int/en/web/gender-matters/sex-and-gender>
- National Human Rights Commission (2017) Study of human right on transgender as a Third Gender
- National Human Rights Commission February 2017
- National Legal Services Authority v Union of India AIR 2014 SC 1863
- Sanlo, R. (1998). Working with lesbian, gay, bisexual and transgender college students: a handbook for faculty and administrators. Westport: Greenwood Publishing Group.

- Sharma, Preeti (2012), *Historical Background and legal Status of Third Gender in Indian Society*, (IJRESS), Volume 2, Issue 12. December.
- The Council of Europe Convention on preventing and combating violence against women and domestic violence.
- The Transgender Persons (Protection of Rights) Act, 2019.”
- Thomas, Reshma Elizabeth (2013); *Third Gender in India- From Ancient Literature to Present Scenario*, International Journal of Innovative Research and Studies, Vol 2, Issue 7, June 2013, ISSN 2319-9725
- Winter, Sam (2012); *Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region*, UNDP, May 2012.
- World Health Organization - Gender, equity and human rights: Glossary of terms and tools.
- World Health Organization, World Health Organization, www.who.int/health-topics/gender.
- Kumar, A. (2021). Non-Recognition of Third Gender: A Failure of Indian Legislation. Issue 3 Int'l JL Mgmt. & Human., 4, 121.
- Global Recognition of Human Rights for Lesbian, Gay, Bisexual, and Transgender People, Suzanne M. Marks
- UNDP (2012); *From Margin to Mainstream-Third Gender Leadership Development Project Report*, UMMEED Live, December 2012.
- UNDP India (2010); *Hijras/Transgender Women in India: HIV, Human Rights and Social Exclusion*, Issue Brief, December 2010
- Agosto S, Reitz K, Ducheny K, Moaton T. Substance Use and Recovery in the Transgender and Gender Nonconforming (TGNC) Older Adult Community, *Transgender and Gender Nonconforming Health and Aging*, 2018, 97-112. DOI: 10.1007/978-3-319-95031-0_6
- Andrews DTG. A Comparative Study on the Dimensions of Victimization among the Resident and Migrant
- Transgender Persons of Thoothukudi District, Tamil Nadu. (Ph.D. Thesis). Monomania Sundaranar University, Tirunelveli, 2016. Retrieved from
- <https://shodhganga.inflibnet.ac.in/handle/10603/175902>.
- Athreya, The Life of Transgender in India Retrieved from: <http://www.mapsofindia.com/my-india/government/the-life-of-transgenders>
- Chettiar A. Problems faced by hijras (male to female transgenders) in Mumbai with reference to their health and harassment by the police, *international journal of social science and humanity*, 2015; 5(9):752-759.

- Divan V, Cortez C, Smolyansky M, Keatley JA. Transgender social inclusion and equality: a pivotal path to development. *Journal of the International Society*.2016; 19(3):20803. doi: 10.7448/ IAS.19.3.20803.
- Grant J, Mottet L, Tanis J. Injustice at every turn: a report of the national transgender discrimination survey Washington, DC: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.
- www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf(accessed June16, 2024) [Google Scholar] [Ref list]
- Konduru, D., & Hangsing, C. (2018). Socio-Cultural Exclusion and Inclusion of Transgenders in India.*International Journal of Social Sciences andManagement*,5(1),10-17.<https://doi.org/10.3126/ijssm.v5i1.18147>.
- Morton J. Transgender Experiences in Scotland: Research Summary, Scottish Transgender Alliance, 2008.
- Rays DV et.al. A study on socio economic issues of third genders in Tamilnadu, *international journal of science and research*, 2013. ISSN- 2319-7064.
- Sameeta Ng, Lakshmee L, Singh LR, Singh RKL, Devi, NKP. Relationship between socio-demographic factors and subjective wellbeing among transgender in Manipur. *International Journal of Research in Economics and Social Sciences*. 2018; 8(1):200-204. Retrieved from https://www.academia.edu/35938940/Relationship_betwe_en_sociodemographic_factors_and_subjective_well-being_among_transgender_in_Manipur
- Sawant NS. Transgender: Status in India. *Ann Indian Psychiatry*. 2017; 1(2):59-61. doi: 10.4103/aip.aip_43_17
- Sivakami, Sridevi PL. Veena KV. Social Exclusion has a Negative Impact on the Health of Transgender. *Indian Streams Research Journal*. 2011; 1(6). Retrieved from <http://oldgrt.lbp.world/UploadedData/588.pdf>.