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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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RIGHTS IN INDIA: PROGRESS DELAYED, BUT NOT DENIED THE JOURNEY OF TRANSGENDER

AUTHORED BY - MR. RAHUL TIWARI

Research Scholar (Law)

Govt. J. Yoganadam C.G. College Raipur Chhattisgarh, India

Pt. Ravishankar Shukla University Raipur, Chhattisgarh, India

CO-AUTHOR - DR. VINEETA AGRAWAL

Assistant Professor (Dept. of Law)

Govt. J. Yoganadam C.G. College Raipur, Chhattisgarh, India

Pt. Ravishankar Shukla University Raipur, Chhattisgarh, India

CO-AUTHOR - DR. ANIL MANJHI

Assistant Professor

(Dept. of Humanities and Social Sciences)

National Institute of Technology Raipur,

(An Institute of National Importance) Chhattisgarh, India

ABSTRACT

India has made significant strides in advancing transgender rights, with landmark developments such as the “NALSA” verdict and enacting the TG Act, 2019. The NALSA judgment affirmed the right of transgender individuals to self-identify their gender, leading to the official recognition of a ‘third gender’ and catalysing crucial legal and social reforms. Before these changes, transgender individuals faced systemic challenges, including restricted access to education, employment, and healthcare due to the absence of legal acknowledgement. The TG Act forbade discrimination based on gender identification and created a legal framework to safeguard transgender rights. It mandates government initiatives to promote education, provide vocational training, improve healthcare accessibility, and extend social security benefits. Additionally, programs such as the Support for Marginalized Individuals for Livelihood and Enterprise (SMILE) and Garima Greh aim to create safe spaces, foster economic empowerment, and enhance social inclusion for transgender individuals. This article examines the progress of transgender rights and welfare in India, highlighting the government's role in promoting inclusivity, justice, and equal opportunities.

Keywords: Transgender, Rights, Discrimination, Rehabilitation, Scheme

INTRODUCTION

As per the 2011 Indian Census, about 4.6 lakh people were classified as "others" in which includes transgender people and others who do not identify as male or female. There is currently no reliable demographic count of transgender people alone (Welfare of Transgenders, 2019)¹. The Supreme Court of India's 2014 ruling in NALSA v. Union of India, which gave the community legal status, was a joyous day for transgender people in India. Many people believe that the ruling served as the impetus for the nation's progress on transgender rights². In 1987, the National Legal Services Authority (NALSA) was created as a statutory organization in India³. Its main goals are to set up People's Courts for the peaceful resolution of conflicts and to offer India's poorer regions competent, free legal assistance. After its historic 2014 ruling, also known as the NALSA Judgement, NALSA gained considerable international prominence due to its crucial role in defending the rights of underrepresented communities⁴.

A fundamental freedom for everyone, the right to use any gender insignia was upheld by this historic ruling⁵. The social and legal landscape for transgender people in India was complicated before this historic ruling and the ensuing laws since they frequently experienced systemic marginalization. They were denied mainstream schooling, jobs, and health care after first being shunned by their family and then being stigmatized and subjected to discrimination in society⁶. Their identity was not legally recognized, which made it more difficult for them to obtain essential rights and services that the cisgender community frequently takes for granted⁷.

A major change in addressing the serious issues encountered by transgender people was brought about by the NALSA ruling, which acknowledged them as a third gender in India.

¹ 'Transgender Persons (Protection of Rights) Act, 2019.' <<http://indiacode.nic.in/handle/123456789/13091>> accessed 14 February 2025.

² 'National Legal Ser.Auth vs Union Of India & Ors on 15 April, 2014' <<https://indiankanoon.org/doc/193543132/>> accessed 14 February 2025.

³ Shamayeta Bhattacharya, Debarchana Ghosh and Bandana Purkayastha, "'Transgender Persons (Protection of Rights) Act' of India: An Analysis of Substantive Access to Rights of a Transgender Community' (2022) 14 Journal of Human Rights Practice 676 <<https://academic.oup.com/jhrp/article/14/2/676/6566269>> accessed 14 February 2025.

⁴ *ibid.*

⁵ Sohail Nazim, 'Historical Development of Legal Aid System in India: A Legal Perspectives' (2023) 17 History and Sociology of South Asia 69 <<https://doi.org/10.1177/22308075221119253>> accessed 14 February 2025.

⁶ 'Full Article: Law, Gender Identity, and the Uses of Human Rights: The Paradox of Recognition in South Asia' <<https://www.tandfonline.com/doi/full/10.1080/14754835.2020.1845129>> accessed 14 February 2025.

⁷ Kathryn Abrams, 'Emotions in the Mobilization of Rights'.

Before this legal milestone, transgender persons were not officially recognized, which made it difficult for them to get necessary government documents like driver's licenses, voter ID cards, and passports⁸. A cycle of marginalization resulted from their lack of legal status, which made it difficult for them to obtain essential public services and rights including voting, work, and healthcare. Furthermore, transgender people experienced pervasive discrimination and social exclusion, which had a negative influence on their quality of life and showed up as violence and harassment in both public and private settings⁹. The stigma and discrimination experienced by the transgender community are acknowledged in discussions recorded from a 2014 government consultation¹⁰. The community suffered from several abuses, such as neglect, discrimination, and physical, sexual, and emotional violence, particularly during their formative years¹¹. Teachers and students also discriminated against members of the community who attended school. The media has brought attention to and the courts have acknowledged certain instances of police harassment of transgender people¹². Police ignorance was blamed for this, and the necessity of sensitization was brought up¹³. The community was further stigmatized by a lack of access to health treatments since doctors frequently lacked the knowledge and empathy necessary to handle the special medical needs of transgender persons, including mental health issues¹⁴. Furthermore, transgender people had very few economic options, which forced many of them to live in abusive situations in unofficial non-profit industries like sex work and begging. Due to their lack of access to healthcare, they were also exposed to fatal illnesses like HIV/AIDS while participating in sex work. Educational obstacles remained, since transgender students' employment opportunities were restricted by high dropout rates caused by non-inclusive legislation¹⁵.

⁸ Dipika Jain and Kimberly M Rhoten, 'Epistemic Injustice and Judicial Discourse on Transgender Rights in India: Uncovering Temporal Pluralism' (2020) 26 *Journal of Human Values* 30 <<https://doi.org/10.1177/0971685819890186>> accessed 14 February 2025.

⁹ 'Report of the Expert Committee on the Issues Relating to Transgender Person' <<https://socialjustice.gov.in/writereaddata/UploadFile/Binder2.pdf>> accessed 14 February 2025.

¹⁰ 'The Transgender Persons (Protection of Rights) Bill, 2016' (*PRS Legislative Research*) <<https://prsindia.org/billtrack/the-transgender-persons-protection-of-rights-bill-2016>> accessed 14 February 2025.

¹¹ 'LGBTQIA+ Department – Abuse Refuge Org' <<https://abuserefuge.org/lgbtq/>> accessed 14 February 2025.

¹² 'Transgender People and Law Enforcement Interactions: Rights and Realities' (*Transgender Law Center*) <<https://transgenderlawcenter.org/resources/transgender-people-and-law-enforcement-interactions-rights-and-realities/>> accessed 14 February 2025.

¹³ *ibid.*

¹⁴ 'Access to Health Services: Barriers Faced by the Transgender Population in India' (*ResearchGate*) <https://www.researchgate.net/publication/347240723_Access_to_health_services_Barriers_faced_by_the_transgender_population_in_India> accessed 14 February 2025.

¹⁵ *ibid.*

The foundation for further laws, rules, and initiatives was laid by this ruling, which centred the discussion of gender identification around the principles of equality, respect, and dignity. Thus, transgender individuals were finally acknowledged as a "third gender" in India in 2014. Since then, India has advanced the recognition and respect of the rights and dignity of the transgender community through important court rulings, progressive laws, and government programs that promote empowerment and social inclusion¹⁶.

THE LEGAL RECOGNITION OF TRANSGENDER INDIVIDUALS ACROSS NATIONS

Legal regimes around the world have historically exclusively acknowledged the binary gender identities of men and women, which are frequently non-excluding. Non-third genders, which are frequently linked to binary identities, are, nevertheless, starting to be recognized legally in a growing number of nations. Words like pangender, genderqueer, polygender, and agender have entered the lexicon of society, reflecting a rising awareness of diversity beyond conventional boundaries¹⁷. The legal status of transgender individuals varies greatly. Many nations now accept sex reassignment surgery and hormone treatments and even permit people to change their legal gender on birth certificates¹⁸. The legality and accessibility of these medical procedures vary by country, though. All things considered, the level of legal acceptance and healthcare accessibility for transgender individuals illustrates the various ways that gender identity is viewed in various jurisdictions and represents a complicated interaction of medical, legal, and societal issues¹⁹. Transgender Europe claims that Argentina and Denmark are at the top of the list for adopting a progressive stance on gender recognition change. A nonprofit organization managed by Transgender Europe (TGEU) was established in 2005 to promote the rights and welfare of transgender individuals throughout Europe²⁰.

Around the world, transgender people have very different legal statuses. Transgender rights are

¹⁶ 'India-Living-with-Dignity-Publications-Reports-Thematic-Report-2019-ENG.Pdf' <<https://www.icj.org/wp-content/uploads/2019/06/India-Living-with-dignity-Publications-Reports-thematic-report-2019-ENG.pdf>> accessed 18 February 2025.

¹⁷ Jami K Taylor, *Transgender Rights and Politics: Groups, Issue Framing, and Policy Adoption* (University of Michigan Press 2014) <<https://www.fulcrum.org/concern/monographs/6d56zx47p>> accessed 18 February 2025.

¹⁸ 'Discrimination against Transgender Persons Must No Longer Be Tolerated - Commissioner for Human Rights - Www.Coe.Int' (*Commissioner for Human Rights*) <<https://www.coe.int/en/web/commissioner/-/discrimination-against-transgender-persons-must-no-longer-be-tolerated>> accessed 18 February 2025.

¹⁹ 'Standards of Care for the Health of Transgender and Gender Diverse People, Version 8 - PMC' <<https://pmc.ncbi.nlm.nih.gov/articles/PMC9553112/>> accessed 18 February 2025.

²⁰ 'About TGEU - TGEU - Transgender EuropeTGEU – Transgender Europe' <<https://tgeu.org/about-transgender-europe/>> accessed 18 February 2025.

legally protected in nations like Argentina, Canada, and India, enabling people to change their legal gender on official documents without having to undergo hormone or surgical procedures. However, transgender identities are illegal in many other places, including Saudi Arabia, Afghanistan, and Algeria, and those who identify as trans face harsh legal limitations (OUTLAWED, 2019; UN Makes History on Sexual Orientation, Gender Identity Human Rights Watch, 2016). Many nations have intricately legal systems about the rights of transgender people. Kazakhstan, Iran, and Bangladesh, for instance, allow transgender identities but frequently demand sterilization. Similarly, although transgender rights are recognized in nations like Singapore and the Czech Republic, they are subject to complicated legislative criteria or medical standards²¹.

Transgender rights, including legal gender recognition without the need for medical procedures, are completely supported by progressive countries like Denmark, Germany, and the Netherlands on the other hand, transgender rights are either outright forbidden or severely restricted in a large number of Middle Eastern and African nations, as well as in regions of Asia like Malaysia and Myanmar²².

Argentina is frequently mentioned as having one of the world's most lenient laws regarding transgender rights. Passed in 2012, the Gender Identity Law permits people to alter their gender on official records without the need for surgery, hormonal self-treatment, or court approval. According to this law is regarded as a model for determining gender identity²³. States in the US have different laws about transgender people²⁴. Gender identification is covered by comprehensive anti-discrimination laws in some states but not in others. According to the policy of the current administration, the situation has been unstable at the federal level, with differing levels of protection. Transgender people can alter their legal gender in the UK thanks to the Gender Recognition Act of 2004²⁵. But this method, which has been critiqued for not entirely self-embracing identification, entails a diagnosis of gender dysphoria and living for a set amount of time in the desired gender. Although transgender people are widely visible in the media and in society, Thailand does not legally recognize gender change without sex

²¹ 'Explainer: The Crucial Fight for Legal Gender Recognition | International IDEA' <<https://www.idea.int/blog/explainer-crucial-fight-legal-gender-recognition>> accessed 18 February 2025.

²² Europarat and Europarat (eds), *Discrimination on Grounds of Sexual Orientation and Gender Identity in Europe* (2. ed, Council of Europe Publ 2011).

²³ *ibid.*

²⁴ *ibid.*

²⁵ *ibid.*

reassignment surgery. In Thailand, transgender persons experience severe discrimination in society and legal obstacles²⁶. In terms of transgender rights, Canada is forward-thinking and has strong anti-discrimination legislation. Since 2017, discrimination based on gender identity and gender expression has been illegal in Canada under the Canadian Human Rights Act²⁷. Beyond the medical or surgical prerequisites for gender recognition, which are still necessary in many nations, post-Indian laws, like NALSA, seek to define transgender in a more comprehensive and wide sense²⁸. This strategy puts India at the forefront of transgender rights legislation reforms, promoting substantive equality as well as recognition. These Indian law provisions seek to address social equity as well as identity recognition, establishing a thorough legal framework that may act as a template for other countries thinking about implementing comparable reforms²⁹.

ANALYSING THE NALSA RULING

An important legal turning point in the acceptance of transgender rights was reached by the Supreme Court of India in the case of the National Legal Services Authority (NALSA) versus the Union of India. The petition, which was filed by NALSA and well-known transgender activists like Lakshmi Narayan Tripathi, called for the legal recognition of a third gender in addition to the conventional male and female binary³⁰. The main arguments were that people should have the freedom to identify as a third gender, that they should be entitled to constitutional rights and benefits according to their identified gender, such as those about health, work, and education, and that the government should develop policies to address the social and economic difficulties that transgender people face³¹. Systemic resistance to acknowledging -binary gender identities is indicative of implicit hostility that stems from long-

²⁶ Sam Winter, 'Lost in Transition: Transpeople, Transprejudice and Pathology in Asia' (2009) 13 *The International Journal of Human Rights* 365 <<http://www.tandfonline.com/doi/abs/10.1080/13642980902758200>> accessed 18 February 2025.

²⁷ Women and Gender Equality Canada, 'Celebrating Five Years of Legal Protections for Gender Identity and Gender Expression' (17 June 2022) <<https://www.canada.ca/en/women-gender-equality/news/2022/06/celebrating-five-years-of-legal-protections-for-gender-identity-and-gender-expression.html>> accessed 18 February 2025.

²⁸ 'National Legal Ser.Auth vs Union Of India & Ors on 15 April, 2014' (n 2).

²⁹ *ibid.*

³⁰ Jigyasha Singh, 'NALSA Judgement: A Legal Recognition of Third Gender' (2021) 4 *Issue 3 International Journal of Law Management & Humanities* 5552 <<https://heionline.org/HOL/Page?handle=hein.journals/ijlmhs11&id=5490&div=&collection=>>.

³¹ Aniruddha Dutta, 'Contradictory Tendencies: The Supreme Court's NALSA Judgment on Transgender Recognition and Rights'.

standing legal and social standards³².

The Indian Constitution and international human rights declarations served as the foundation for the ruling. Articles 14, 15, 19, and 21 of the Constitution, which address equality, non-discrimination, freedom of expression, and the right to life and personal liberty, were heavily referenced in the ruling³³. The transgender community's right to self-identify was affirmed when these rules were interpreted to apply to them. Furthermore, the Yogyakarta Principles, which created the worldwide standards for sexual orientation and gender identity rights by applying human rights norms in these areas, were released in 2006 as the result of an international summit of human rights organizations in Indonesia³⁴. Decisions about international norms, such as those about gender identity and sexual orientation in human rights law, were greatly shaped by these concepts. This historic ruling established a precedent for increased legal and societal acceptance of transgender people in India by publicly recognizing the third gender and directing the government to create inclusive policies. It marked a significant step toward greater inclusivity and equality by reaffirming the resolve to grant all people, regardless of gender identity, fundamental human rights³⁵.

THE TRANSGENDER LEGISLATION OF 2019

A significant step forward for transgender rights and welfare in India was taken with the passage of the Transgender Persons Act in response to the NALSA verdict The Transgender Persons (Protection of Rights) Act, 2019³⁶. Creating a legal framework that protects transgender people's rights is the main goal of the Transgender Persons (Protection of Rights) Act, 2019. Intersexual people are defined by the act as those who exhibit differences in sexual traits from birth. The Act includes both intersexual and transgender identities under its protections, but it makes a distinction between them. Since intersexual people are covered by this larger framework, they are not subject to a separate law³⁷.

³² 'The SAGE Handbook of Global Sexualities - Davy, Zowie - Thoreson, Ryan - Bertone, Chiara - Santos, Ana Cristina - SAGE Publications Ltd - Torrossa' <<https://www.torrossa.com/en/resources/an/5018749#page=736>> accessed 18 February 2025.

³³ S Waseem Ahmad and M Ashraf Ali, 'Social Justice and the Constitution of India' (2006) 67 The Indian Journal of Political Science 767 <<https://www.jstor.org/stable/41856262>> accessed 18 February 2025.

³⁴ 'Yogyakartaprinciples.Org – The Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity' <<https://yogyakartaprinciples.org/>> accessed 18 February 2025.

³⁵ 'Indian Supreme Court Recognises Third Gender' (*Human Rights Law Centre*, 15 April 2014) <<https://www.hrlc.org.au/human-rights-case-summaries/indian-supreme-court-recognises-third-gender>> accessed 18 February 2025.

³⁶ 'Transgender Persons (Protection of Rights) Act, 2019.' (n 1).

³⁷ *ibid*.

The Act's acknowledgement of transgender people's legal rights is one of its most important features. The Act makes ensuring that transgender persons are treated fairly in several areas, including public places, work, healthcare, and education³⁸. The Act creates the National Council for Transgender Persons to handle complaints and aid in policy-making. This council offers redressal processes, coordinates actions about transgender people, and advises the government on policy monitoring³⁹.

Additionally, the Act takes care of their needs, stressing the availability of facilities for hormonal therapy and sex reassignment surgery—this law prioritizes welfare measures for transgender people⁴⁰. As required by this Act, the government is in charge of creating policies and initiatives that protect the rights and interests of transgender individuals⁴¹. Promoting education, providing possibilities for vocational training, providing healthcare, and guaranteeing secure access are some of these measures⁴². The government and interested parties hope to encourage integration and enable transgender people to live happy, productive lives by putting these policies into place.

THE TRANSGENDER PERSONS RULES 2020

The Ministry of Social Justice and Empowerment, Government of India, developed these regulations, which include definitions, identity certification procedures, appeal and review processes, and government guidelines for social security, welfare, education, and non-discrimination Transgender Persons Protection of Rights Rules, 2020⁴³. According to the regulations, every state must set up a Transgender Protection Cell to keep an eye on and address crimes against transgender individuals. Establishing an efficient grievance redressal procedure and creating and publishing a policy for equal opportunity for transgender people are also

³⁸ *ibid.*

³⁹ *ibid.*

⁴⁰ Ankana Bal, 'The Transgender Persons (Protection of Rights) Act, 2019: A Critical Analysis' (2020) 3 Issue 6 International Journal of Law Management & Humanities 1069 <<https://heinonline.org/HOL/Page?handle=hein.journals/ijlmhs8&id=1083&div=&collection=>>>.

⁴¹ *ibid.*

⁴² Muskan Sharma, 'A Review of The Transgender Persons (Protection of Rights) Act, 2019 on Perspective of the Transgender People' (2023) 6 Issue 2 International Journal of Law Management & Humanities 3209 <<https://heinonline.org/HOL/Page?handle=hein.journals/ijlmhs22&id=3237&div=&collection=>>>.

⁴³ Sangeetha Sriraam, 'Time to "Act": Guaranteeing Full Citizenship of Transgender Persons in India' in Douglas A Vakoch (ed), *Transgender India: Understanding Third Gender Identities and Experiences* (Springer International Publishing 2022) <https://doi.org/10.1007/978-3-030-96386-6_8> accessed 18 February 2025.

essential⁴⁴. The regulations also include a suggested list of social programs to protect housing, education, health, and welfare policies to improve equality and inclusivity for the transgender population. The regulations also include a suggested list of social programs to protect housing, education, health, and welfare policies to improve equality and inclusivity for the transgender population. The law mandates that every state's government hospital provide free gender-affirming surgery, counselling, and hormone replacement treatment⁴⁵. However, creating a thorough and considerate healthcare environment is essential. Scholarships for transgender students are a significant step toward inclusivity in the field of education. However, establishing an educational setting that values and promotes gender diversity is essential to the success of this endeavour⁴⁶.

SCHEME UPLIFTING THE MARGINALIZED

A welfare program for transgender individuals and other marginalized groups was introduced by the Ministry of Social Justice and Empowerment, Government of India, in 2022 as part of the SMILE (Support for Marginalized Individuals for Livelihood and Enterprise SMILE 2022) initiative⁴⁷. The initiative has been embraced by all Indian states and territories. The broad scope of this umbrella initiative, which includes hitherto underserved populations, demonstrates its aspirational objectives and dedication. Significant progress, thus, has been made toward mainstreaming marginalized transgender individuals through the SMILE program's effective utilization of legislative and administrative measures⁴⁸.

The Ministry of Social Justice and Empowerment, Government of India, launched "Garima Greh," a shelter home initiative for transgender people⁴⁹, with the assistance of various non-governmental organizations (NGOs) or community-based organizations to translate the SMILE program into targeted welfare measures for transgender people (Guidelines for Garima Greh Shelter Home for Transgenders, 2020). The Hindi words "Garima," which means "dignity," and "Greh," which means "home," are the roots of the etymology of "Garima Greh." These

⁴⁴ "Frontiers | Ruptures and resurgences: Marking the spatiality of transgender identity in India since the enactment of Transgender Persons Act 2019," *available at*: <https://www.frontiersin.org/journals/political-science/articles/10.3389/fpos.2022.963033/full> (last visited February 18, 2025).

⁴⁵ Sriraam (n 43).

⁴⁶ "TG RULES, 2020,"

⁴⁷ 'Support for Marginalized Individuals for Livelihood and Enterprise (SMILE)' <<https://socialjustice.gov.in/writereaddata/UploadFile/57291728283781.pdf>> accessed 18 February 2025.

⁴⁸ *ibid*.

⁴⁹ 'Ministry of Social Justice and Empowerment - Government of India' <<https://transgender.dosje.gov.in/Applicant/Registration/DisplayForm5>> accessed 18 February 2025.

words come together to make "Home of Dignity," which refers to refuge facilities that assist transgender people with their reintegration and assistance⁵⁰. In order for transgender persons to live with dignity and blend in with society, they wish to create a safe and welcoming environment. Garima Greh provides a safe, secure, and friendly environment for transgender individuals, particularly those without jobs or living below the poverty line (Pon Vasanth, 2021). Garima Greh offers basic services like food, clothing, healthcare, counselling, and chances to improve one's skills. The shelter aims to foster social integration, skill development, and personal growth via the dedication of trained professionals and structured daily routines. The services offered by the shelter include a variety of fundamental needs and interests, including access to food, recreational spaces for leisure activities, and opportunities for positive social interaction. Additionally, to support general well-being, special days for social interaction are planned in addition to yoga and meditation classes. Through Niti Aayog's Darpan Portal, NGOs that are trying to improve transgender rights—particularly those that oversee Garima Greh—can apply for government grants, highlighting the cooperation between governmental and non-governmental organizations. Access to library resources for personal development and, if necessary, legal aid are also provided. Employment and skill development support and help acquiring identification cards are also included in housing services. Lastly, the shelter guarantees inhabitants access to the medical services they require for their healthcare requirements.

ADVANCEMENTS AND PERSISTENT CHALLENGES IN TRANSGENDER RIGHTS IN INDIA

Indian culture and its transgender inhabitants have been greatly impacted by the Act and the NALSA ruling, which have progressively raised social awareness and acceptance of transgender people and fostered a more inclusive atmosphere throughout the country⁵¹. However, societal perceptions are difficult to change, acceptability varies widely, and discrimination and stigma continue, particularly in less urbanized areas. Notwithstanding these developments, there is still inconsistency in the application of laws meant to safeguard and empower transgender people. State-by-state variations in how these rules are interpreted and applied have an impact on how well they are implemented. Although there are legislative rules requiring positive action in education and employment for transgender people, bureaucratic

⁵⁰ Rachit Garg, 'Government Policies for Gender Equality in India' (*iPleaders*, 22 March 2022) <<https://blog.ipleaders.in/government-policies-for-gender-equality-in-india/>> accessed 18 February 2025.

⁵¹ 'THE THIRD GENDER IN PRESENT DAY INDIA: EXAMINING THE NALSA CASE OF 2014'.

obstacles and a lack of knowledge about their rights among transgender people frequently hinder practical recognition⁵². As a result, even though the law is in place, social attitudes are changing slowly and unequally, and transgender people's rights are still not fully realized. Although the Act calls for inclusive policies and the creation of a National Council for Transgender Persons to oversee their implementation, the actual situation on the ground shows a range of results⁵³.

Many Hijras still encounter administrative obstacles while trying to obtain identity certificates, which makes it more difficult for them to receive government health care and assistance programs. Furthermore, the community continues to demand stronger protections, such as reservations in employment and education, to guarantee full societal integration, and the enforcement of anti-discrimination laws remains uneven⁵⁴. Although the Act calls for inclusive policies and the creation of a National Council for Transgender Persons to oversee their implementation, the actual situation shows a range of results. Many Hijras still encounter administrative obstacles while trying to obtain identity certificates, which makes it more difficult for them to receive government health care and assistance programs. Furthermore, the community continues to demand stronger protections, such as reservations in employment and education, to guarantee complete societal integration, and anti-discrimination laws are still not consistently enforced⁵⁵. The act is essentially a step in the right direction toward equality, but in order to fully benefit the Hijra community, it will need to be implemented consistently and social attitudes must change.

Concerns about individual autonomy have arisen as a result of the Act's operational difficulties, including as the requirement for identification confirmation from the District Magistrate ("Position of Transgender in Contemporary India," 2021)⁵⁶. Discussions have also been triggered by the relatively light sentence for sexual abuse and the lack of particular consequences for discrimination ("Male and Transgender Rape," 2021). But it is important to

⁵² Vikram Kolmannskog, "No Going Back". A Case Study of Sexual and Gender Minorities' [2016] *Advances in Social Sciences Research Journal*.

⁵³ Sohail Nazim, 'Historical Development of Legal Aid System in India: A Legal Perspectives' (2023) 17 *History and Sociology of South Asia* 69 <<https://doi.org/10.1177/22308075221119253>> accessed 19 February 2025.

⁵⁴ Europarat and Europarat (n 22).

⁵⁵ Kattamreddy Ananth Rupesh and others, 'A Comprehensive Primer on Transgender Health in India' (2023) 1 *NATIONAL BOARD OF EXAMINATIONS JOURNAL OF MEDICAL SCIENCES* <<https://natboard.edu.in/ejournal/articledtl?x=VTZUa0ZrZEJXS0orM1NwQ3hZbkhPQT09>> accessed 19 February 2025.

⁵⁶ Suvam Kishore, 'Transgender in India: A Socio-Legal Study' (2023) 3 *Indian Journal of Integrated Research in Law* 1 <<https://heionline.org/HOL/Page?handle=hein.journals/injloitd4&id=654&div=&collection=>>.

realize that this Act supplements other relevant legislation, not replaces them. This implies that the current laws are still in force in the same way as they were before the new legislation was passed⁵⁷. To improve and refine the interpretation and application of legal principles, these laws must be studied and comprehended in tandem with one another. The "Model Prison Act, 2023" was recently finalized by India's Ministry of Home Affairs. By filling in important loopholes in the current Prisons Act, it seeks to offer comprehensive guidelines for jail administration. It contains suitable clauses for inmates' reformation, rehabilitation, and reintegration into society. Crucially, it guarantees transgender inmates special housing that meets their unique medical and psychological requirements, protecting their rights⁵⁸. The Indian government is being urged by the National Human Rights Commission (NHRC) to accept a transgender kid of a deceased government employee or pensioner as an unmarried daughter for "family pension" and other benefits⁵⁹.

The welfare of transgender people is emphasised in this guideline, which also suggests protecting their property rights, particularly the ability to inherit ancestral agricultural and cultural land. Notwithstanding legislative developments and the Supreme Court's and the Transgender Persons (Protection of Rights) Act, 2019's recognition of their rights, the transgender population continues to encounter obstacles in social inclusion, healthcare, and work⁶⁰. The six main action areas listed in the NHRC's advisory are education, healthcare, employment, welfare, inclusion, and grievance redressal. Additionally, it is suggested that the state police create a transgender protection cell, assign a transgender-focused focal officer to each police station, make sure insurance companies accept TG certificates, and set up committees and policies at educational institutions to prevent violence and discrimination against transgender people⁶¹.

⁵⁷ 'Changes to the Rape Law in the Offing. Is There Reason for Hope? | The Business Standard' <<https://www.tbsnews.net/features/panorama/changes-rape-law-offing-there-reason-hope-873301>> accessed 19 February 2025.

⁵⁸ 'Inclusion and Exclusion of Third Genders – Social Hinderance in India' <https://www.researchgate.net/publication/297612096_Inclusion_and_Exclusion_of_Third_Genders_-_Social_Hinderance_in_India> accessed 19 February 2025.

⁵⁹ 'Compendium_NHRC_Advisories_2024.Pdf' <https://nhrc.nic.in/sites/default/files/Compendium_NHRC_Advisories_2024.pdf> accessed 19 February 2025.

⁶⁰ 'NHRC Issues an Advisory to Ensure Welfare of Transgender Persons | National Human Rights Commission India' <<https://nhrc.nic.in/media/press-release/nhrc-issues-advisory-ensure-welfare-transgender-persons>> accessed 19 February 2025.

⁶¹ 'Advisory for Ensuring the Welfare of Transgender Persons_Sep2023.Pdf' <https://nhrc.nic.in/sites/default/files/Advisory%20for%20ensuring%20the%20welfare%20of%20Transgender%20Persons_Sep2023.pdf> accessed 19 February 2025.

CONCLUSION

The advancement of transgender rights in India, as seen by historic court rulings, progressive laws, and ground-breaking projects, has cleared the path for a more accepting and inclusive society. When justice, equality, and respect are at the forefront, social transformation may occur, as seen by the development of transgender rights and welfare in India. It starts with the CG ruling, moves on to the Transgender Persons (Protection of Rights) Act, and concludes with Garima Griha and the ADAPSM program. Despite ongoing challenges, progressive policies and programs that strive to address the needs of the transgender community in India are based on the core concepts of equality, empowerment, and social inclusion. Supporting the particular medical requirements of transgender people requires that therapies like hormone therapy and sex reassignment surgery be covered by insurance. Better access to housing, safety, food security, and pension benefits are also promised by the Act, which highlights how crucial it is to carry out these provisions with dignity and respect. Additionally, NGOs collaborating with government agencies to advance transgender rights is an inclusive strategy for dealing with this problem. As progress continues, this foundation will ensure a future where every transgender person is recognised, respected and valued, fulfilling the vision of our Constitution makers to establish a welfare state and the ideology of the Father of the Nation, Mahatma Gandhi, that justice should reach the last man.

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