

Constitutional Safeguards for Transgender Persons: Analyzing Rights, Discrimination, and Healthcare

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Abstract

Anything that does not conform to the generally accepted social norms are disregarded or looked upon by the masses. Non-conforming (non-binary) gender identities are a representation of the above statement. Despite various reforms and interventions by States across the globe, the situation of the Transgender community remains far from what it ought to be.

Transgender is not a modern concept, it has existed since time immemorial (even with their mention in Hindu religious texts of Ramayana and Mahabharata) when they were revered as a significant part of the society. However, the need to vocalize Transgender rights has become a contemporary issue due to the degradation of their social standing over decades.

As per the Census of 2011, India recorded over 4.88 lakh people who identified as the third gender, most of whom came from the northern state of Uttar Pradesh.¹ Notwithstanding the significant percentage of Transgenders in the population, they are subjected to inhuman treatment. Despite their constitutional recognition, a large part of society continues to defy their rights and liberties. The social stigma attached to the transgender community still persists disregarding efforts of the State and a few in civil society.

This paper attempts to examine the Constitutional recognition of Transgender Rights in India. At the same time, it tries to study the issues faced by them in society – discrimination, inadequate representation, social exclusion, limited participation in institutions and programs, violence and hate crimes, etc.

Understanding the Terminology

The term ‘Transgender’ replaced ‘Transsexual’ in the 1960s on the grounds that the latter was misleading because sexuality is different from gender identity, and transgender may be of any sexual orientation. By 1992, the International Conference on Transgender Law and Employment Policy defined transgender as an expansive umbrella term including "transsexuals, transgenderists, cross-dressers", and anyone transitioning.²

A generic definition of the term ‘Transgender’ (sometimes shortened to ‘trans’) describes it as the full range of people who identify with a different gender than the sex assigned to them at birth. The opposite of transgender is cisgender³, which describes people whose gender identity matches their assigned sex. A trans person may or may not identify with the (traditional male or female) gender

¹ [TransGender/Others - Census 2011 India](#)

² [1992: International Conference on Transgender Law and Employment Policy | Cristian's Research](#)

³ <https://en.wikipedia.org/wiki/Cisgender>

binary.⁴⁴ Transgenders are also, sometimes, referred to as the third gender, a concept in which individuals are categorized, either by themselves or by society, as neither man nor woman. In contemporary usage, Transgender as an umbrella term, includes transmen, transwomen, transsexuals, transvestites, intersexed, and even persons with socio-cultural identities (such as kinner, hijra, aravani, jogta, etc.)

History of Transgender Rights in India

In India, people from the Transgender community are known by different names like “Hijras, Kinnar, Jogtas, Joggapas, Khusras, and Shiv shaktis”. Transgenders can be traced back to the early Vedic period (1500 BC - 500 BC) with their mention in the Vedas as — belonging to one of three separate categories, according to one's nature or ‘prakrti’.⁵ They were classified under a larger social cohort of the ‘neutral gender’ and its members were called *napumsaka* meaning ‘those who do not engage in procreation.’⁶

The *Hijras* (or *Kinnars*) formed an integral part of the Islamic royal courts, particularly the Ottoman Empire and The Mughal reign in medieval India. Hijras were traditionally powerful figures in charge of collecting taxes and duties in the Sultanate and Mughal courts (Arondekar, 2010).⁷ Such social stature was, however, short-lived as British colonialism turned a respected community into a legally certified criminal tribe.

The colonial rule in India saw the beginning of a systemic legal persecution of the gender minority which carried its legacy in the post-colonial era. The British imperial administration vigorously engaged in criminalizing the very existence of the third gender in India. The Criminal Tribes Acts (the name itself suggests how the entire community was labeled criminal) of 1871, 1911, and 1924 accused the trans community of sexual deviance and homosexuality. Their social existence under the British, characterized by begging and wandering, was viewed as a public threat and thus subject to rigorous imprisonment.⁸ The colonial legislation criminalizing gender deviants, Section 377 of the Indian Penal Code (IPC) of 1861 also stood opposed to the pre-colonial tolerant attitude towards Transgenders.

Post Independence, the Criminal Tribes Act was replaced by the Indian government in 1952 with the Habitual Offenders Act. Though it revoked the colonial outlook of the trans community as legal deviants, there was no legal recognition afforded to them for decades after the independence.

⁴ [Transgender Glossary: Terms You Can Learn > News > Yale Medicine.](#)

⁵ [Historical Evolution of Transgender Community in India](#)

⁶ [Tritiya-Prakriti: People of the Third Sex \(1\)](#)

⁷ [For the Record: On Sexuality and the Colonial Archive in India - Anjali Arondekar - Google Books](#)

⁸ [Evolution of legal identification and rights of trans community through Indian history](#)

The colonial laws managed to shape the mindset of post-independent India which reflected in the “middle-class” gender and sexual morality.⁹ One such provision was the draconian Section 36A of the Karnataka Police Act 1963, applicable in Karnataka. This provision was a remnant of the Criminal Tribes Act 1924 and the Hyderabad Eunuchs Act 1919. When the Hyderabad Eunuchs Act was repealed, Section 36A was inserted into the Karnataka Police Act in 2011. The revival of certain aspects of the CTA, 1871 by Karnataka and Telangana shows that the colonial mindset resonates in the present.

The legal recognition of Transgenders as the third gender came after almost seven decades of our independence and is largely appreciated. However, the welfare measures and protection by the State and Central government make little difference as long as the boundaries of the gender categories are strictly policed.

Constitutional Recognition of Transgender Persons

The 2014 NALSA Judgment

Even 67 years after India gained independence, the gender identity of the Transgenders was not recognized in the eyes of the law as well as the society. It was in 2014 that the Hon’ble Supreme Court directed the government to grant legal status to Transgenders in its landmark judgment of National Legal Services Authority v. Union of India & Ors.¹⁰

One of the petitioners, Laxmi Narayan Tripathy, said during the hearing that non-recognition of the identity of Hijras, a Transgender community, as a third gender, denied them the right of equality before the law and equal protection of the law guaranteed under Article 14 of the Constitution.¹¹ It was also argued, by the senior counsel, that the right to choose one’s gender identity is integral to the right to lead a life with dignity, which is undoubtedly guaranteed by Article 21 of the Constitution of India.

The Hon’ble Supreme Court, in its verdict, recognized the third gender along with the male and female. By taking cognizance of diverse gender identities, the Court busted the dual gender structure of ‘man’ and ‘woman’ stereotyped by society. “Recognition of Transgenders as a third gender is not a social or medical issue but a human rights issue,” Justice K.S. Radhakrishnan told the Supreme Court while handing down the ruling. The judgment included directives for the legal recognition of people with non-binary gender identities and developed social welfare schemes such as reservations in State educational institutions and the public employment sector.

⁹ [The long history of criminalising Hijras - Himal Southasian](#)

¹⁰ AIR 2014 SC 1863

¹¹ [National Legal Ser.Auth vs Union Of India & Ors on 15 April, 2014](#)

Decriminalization of Section 377

The case *Navtej Singh Johar v. the Union of India*¹² deals with the Decriminalization of Section 377 of the Indian Penal Code (IPC).¹³ The case explored the question of the constitutional validity of Section 377 which stated – “voluntarily carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for life, or with imprisonment which may extend to ten years with a fine”.¹⁴

The writ petition sought the recognition of the right to sexuality, the right to sexual autonomy, and the right to choose a sexual partner to be a part of the right which is guaranteed under Article 21 of the Constitution of India. It stated that Section 377 was in clear violation of various fundamental rights under the Constitution. It was argued that Section 377 was violative of Article 14 as it was vague in the sense that it did not define “carnal intercourse against the order of nature” and there was no intelligible differentia between natural and unnatural consensual sex. Section 377 was further violative of Article 15 as it discriminates on the basis of the sex of a person’s sexual partner and it was further violative of Article 19 as it denied the right to express one’s sexual identity.¹⁵

The Hon’ble Supreme Court bench, in the present case, unanimously held that Section 377 should be decriminalized and affirmed that homosexuality is not an aberration but a variation of sexuality. This decision overturned the 2013 ruling in *Suresh Kumar Koushal v. Naz Foundation*¹⁶ and found that the criminalization of sexual acts between consenting adults was a violation of Articles 14, 15, 19, and 21 of the Indian Constitution. This was a major move in favor of the entire LGBTQ+ community that was to provide further relief to sexual minorities.

Constitutionally guaranteed Fundamental Rights

Article 14

Article 14 of the Constitution of India states that the State shall not deny to “any person” equality before the law or the equal protection of the laws within the territory of India¹⁷ This implies that the State has a positive obligation to ensure equal protection of laws by bringing in necessary social and economic changes, so that nobody, including Transgenders, is denied such protection. Moreover, the word “persons” is not restricted to the genders of male/female, but rather includes Transgender persons in its purview making them entitled to the provision.

¹² 2018 (10) SCALE 386

¹³ [Navtej Singh Johar vs Union Of India Ministry Of Law And ... on 6 September, 2018](#)

¹⁴ [Section 377 in The Indian Penal Code](#)

¹⁵ [Rights Of Transgender Under The Indian Legal System.](#)

¹⁶ (2014) 1 SCC 1

¹⁷ [Article 14 in The Constitution Of India 1949](#)

Articles 15 & 16

The Indian Constitution provides for the prohibition of discrimination against any citizen on grounds only of religion, race, caste, sex, place of birth, or any of them. Clause 2 under the same article prevents all citizens from being subjected to any disability, liability, restriction, or condition with regard to access to public as well as private places.¹⁸ Transgenders have also not been afforded special provisions envisaged under Article 15(4) for the advancement of the socially and educationally backward classes (SEBC) of citizens, which they are, and hence legally entitled and eligible to get the benefits of SEBC.

Article 16 states that there shall be equality of opportunities for all citizens in matters relating to employment or appointment to any office under the State. It not only prohibits discrimination on the grounds of sex in public employment but also imposes a duty on the State to ensure that all citizens are treated equally in matters relating to employment and appointment by the State.¹⁹

The expression “sex” used in this provision is not just limited to the biological features but also gender attributes including one’s self-image, the deep psychological or emotional sense of sexual identity and character. Thus, the discrimination on the ground of ‘sex’ under Articles 15 and 16, therefore, includes discrimination on the ground of gender identity, including Transgenders under its purview.

Article 19(1)(a)

Article 19(1) guarantees certain fundamental freedoms, subject to reasonable restrictions, to all citizens of India. Article 19(1)(a) of the Constitution states that all citizens shall have the right to freedom of speech and expression, which includes one’s right to expression of his self-identified gender.²⁰ Self-identified gender can be expressed through dress, words, actions or behavior, or any other form. No restriction can be placed on one’s personal appearance or choice of dressing, subject to the restrictions contained in Article 19(2) of the Constitution.²¹ This applies to Transgenders too in the way they choose to express their gender identity.

Article 21

The Constitution of India, under Article 21, states that no person shall be deprived of his life or personal liberty except according to the procedure established by Law.²² It protects the dignity of

¹⁸ [Article 15 in The Constitution Of India 1949](#)

¹⁹ [Article 16 in The Constitution Of India 1949](#)

²⁰ [Article 19\(1\)\(a\) in The Constitution Of India 1949](#)

²¹ [Article 19\(2\) in The Constitution Of India 1949](#)

²² [Article 21 in The Constitution Of India 1949](#)

human life, one's personal autonomy, one's right to privacy, etc. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981),²³ this Court held that the right to dignity forms an essential part of our constitutional culture which seeks to ensure the full development and evolution of persons and includes "expressing oneself in diverse forms, freely moving about and mixing and co-mingling with fellow human beings".²⁴

While not an absolute right, the Right to Privacy is essential to the free development of an individual's personality and identity. And, identity constitutes the sexual orientation of an individual – both positive and negative aspects, over physical, psychological, sexual, patrimonial, and moral dimensions, both online and offline.²⁵

Other Civil Rights

Inheritance and Succession Rights

Transgender inheritance rights remain a problem in India. The most fundamental drawback is the gendered nature of inheritance and succession laws in India that are governed by personal religious laws.

1. Hindu Succession Act, 1956.²⁶ There is no mention of anyone else other than 'males' and 'females'. Sections 8 and 15 define rules of succession only in terms of succeeding males and females, respectively, through different classes of heirs. However, to avoid challenges, transgenders usually categorize themselves as female for inheritance matters. There is no ground for disqualification explicitly mentioned in the Act for transgenders.
2. Muslim Personal Laws (Shariat) Application Act, 1937.²⁷ There is no indication of transgender rights under Sharia law and, once again, the law is ambiguous when it comes to transgender inheritance rights in Islam.
3. Indian Succession Act, 1925²⁸ This Act governs all those who are not Hindu, Muslim, Jain, Buddhist, or Sikh. Prima facie, this statute seems gender neutral as it uses terms such as 'kindred' and 'lineal' descendants. However, the legislation still is not truly free of binaries and the silence of the statute is not favorable towards the trans community.

²³ 1981 AIR 746

²⁴ [Francis Coralie Mullin vs The Administrator, Union ... on 13 January, 1981](#)

²⁵ [Annex 2: The Human Right to Privacy: A Gender Perspective1 'Gender issues arising in the digital era and their impacts on wome](#)

²⁶ [The Hindu Succession Act, 1956](#)

²⁷ [The Muslim Personal Law \(Shariat\) Application Act, 1937](#)

²⁸ [The Indian Succession Act, 1925|Legislative Department | Ministry of Law and Justice | Gol](#)

Further, most transgender persons lack the documentation needed for inheritance and possession of property, thus denying them the guarantees usually available to citizens. According to the National Portal for Transgender Persons, only 11,159 transgender IDs have been issued as of 7 March 2023 – a tiny percentage of the total trans population which is likely to exceed the 1.9 million estimated in a 2011 survey.²⁹

Therefore, the Ministry of Social Justice and Empowerment must conduct research and consultation with the stakeholders, and come up with interventions that can better ensure the inheritance rights of the Transgenders in the country.

Marriage and Adoption Rights

The third gender has not been recognized in the case of the laws governing marriages in India making Transgenders vulnerable to being deprived of their right to marry. Under Hindu marital laws, it is essential for the people coming to the union to be the bride and bridegroom under Section 5 of the Hindu Marriage Act.³⁰ Similar to the Hindu Marriage Act, Section 24 of the Special Marriage Act³¹ states that if the parties have attained the age of majority, they can be registered for marriage under this act. As transsexuals identify themselves as either male or female, they are allowed to enter into marriage.

The Muslim Marriage Act states that a marriage is a contract where there is an offer from one side and acceptance from the other, and all of this is done in the presence of enough witnesses, and they must be of the opposite gender. However, Muslim law states that bearing children is a part of the marriage contract and therefore, transsexual marriages are not recognized under it since they cannot reproduce after undergoing Sex Reassignment Surgery.³²

Talking about the third gender, they are outside the scope of the two traditional genders mentioned in the Hindu laws and Special Marriage Act, not legalizing their marriage in the eyes of the law. Contrastingly, it is valid under the Mohammedan law that does not mention any gender but only requires both persons to belong to opposite genders.

The revolutionary judgment of the Madras High Court in Arunkumar and another v. the Inspector General of Registration and Ors.³³ declared that the term bride could cover people who identify

²⁹ [Protecting trans rights in India | New Internationalist](#)

³⁰ [THE HINDU MARRIAGE ACT, 1955](#) ARRANGEMENT OF SECTIONS

³¹ [THE SPECIAL MARRIAGE ACT, 1954](#)

³² [Transgender Marriage and Adoption in India - A Socio-Legal Analysis | KnowLaw](#)

³³ [Arunkumar vs The Inspector General Of ... on 22 April, 2019](#)

and perceive themselves as female, including transwomen. Nonetheless, the judgment does not legalize the marriage of Transgenders.

In the case of Transsexuals, they can adopt a child after fulfilling the conditions under Sections 7 and 8 of the Hindu Adoptions and Maintenance Act (HAMA) after getting the SRS. They can validly adopt from their parents without any formal scrutiny. But if the adoption is outside the scope of natural guardians, proof must be given to the court stating they are eligible to adopt. The uniform legislation of the Juvenile Justice Act states that any person can adopt a child. The term person is not gendered and therefore transsexuals fit in the definition and can therefore adopt a child.³⁴

The third gender, not being mentioned in the HAMA, does not validate adoption by them. They are allowed to legally adopt if they are legally recognized as a couple under the Juvenile Justice Act which is gender-neutral.

Legislative Framework Safeguarding Transgender Rights in India

Transgender Persons (Protection of Rights) Act, 2019

The plight of Transgender persons in India was being added to with every look of disgust and act of exclusion from the social proceedings. The entire community has been vulnerable to social (lack of social acceptance; unequal treatment; considered outcasts), economic (discriminated in employment; loss of livelihood), physical (domestic violence; sexual harassment; hate crime), and psychological issues (verbal abuse; name-calling; mental trauma) on a diurnal basis.

Therefore, the Transgender Persons (Protection of Rights) Act, 2019 has been drafted and formulated to protect the rights of Transgender Persons in India and provide for their welfare. While the Minister for Social Justice and Empowerment (MSJE) drafted a piece of legislation on the Rights of Transgenders and put it out in the public domain for comments from civil society organizations and gender-diverse groups, it was never introduced in the Parliament. Later, the MSJE introduced a new draft titled ‘Transgender Persons (Protection of Rights) Bill in the Lok Sabha in 2016.

This Bill was highly criticized by the LGBTQ+ community as it did not incorporate the feedback taken from the consultations made in 2015. The legislation was non-inclusive among many other shortcomings and was hence reviewed by a Parliamentary Standing Committee in collaboration

³⁴ [THE JUVENILE JUSTICE \(CARE AND PROTECTION OF CHILDREN\) ACT, 2015 | India Code](#)

with several human rights groups and gender activists. The Bill was ultimately passed by the Lok Sabha in December 2018 and ultimately became an Act in 2019 with 27 amendments to it.

Key features

1. The definitions, as provided by the Act, of transgender persons and people with intersex variation have been made inclusive of males and females, whether or not the person has undergone any therapy such as hormone therapy, sex reassignment procedure, or any other.
2. The law is in strict prohibition of discrimination against transgender persons at educational or professional institutions, healthcare, and other public facilities as well as reinforces their right to movement, property, and holding of offices.
3. It administers the right to a gender identity that is self-perceived – transgender persons may make an application to the District Magistrate for a certificate of gender identity. The District Magistrate will issue such certificates based on the recommendations of a District Screening Committee. It also provides for a further change of gender to female or male for any person claiming a change in gender.
4. There are provisions that penalize the physical, sexual, verbal, emotional, and economic abuse of a transgender person.³⁵ It criminalizes the denial of access to a public place to transgender individuals, and the denial of residence in households, villages, etc. It further enforces a minor's right of residence compelling any transgender person below 18 years to cohabit with their natal family.
5. The law also provides for the establishment of separate HIV surveillance centers for transgender persons; the facilities need to be inclusive of healthcare relating to hormone therapies, sex reassignment procedures, etc., as well as cover medical expenses through an insurance scheme that is specific to the medical needs of transgender persons.³⁶
6. The law mandates the constitution of the National Council of Transgender Persons (NCTP) in order to guide and advise government officials for the auditing of existing policies and the formulation of new ones as well as redressal of grievances.
7. The Act also provides for a set of compliances for all professional institutions – both public and private – including the prohibition of discrimination during employment, provision of equal opportunities, incorporating gender-progressive infrastructure and facilities (such as unisex toilets), appointing a Complaint Officer, etc.

Shortcomings

³⁵ [The Transgender Persons \(Protection of Rights\) Bill, 2019.](#)

³⁶ [Transgender Persons \(Protection of Rights\) Act, 2019 and its impact on the third gender - iPleaders](#)

1. The most important criticism is that it does not mention self-affirmation of gender. It directly contradicts the 2014 verdict of the Supreme Court of India that upheld the right of all citizens to the self-determination of their gender identity by stating that transgender individuals will have to apply for a gender verification certificate to the District Magistrate, who will then refer the application to a District-Level Screening Committee for further implementation and evaluation.³⁷
2. Section 7 of the Act states that transgender persons who wish to be legally recognized either as male or female must provide proof of having undergone gender-affirmative surgery. “Not everyone can afford surgery, and many may choose not to,” Aqsa Shaikh, a Delhi-based transgender doctor and activist says.
3. According to the Act, perpetrators of crimes, including sexual assault, can be fined and imprisoned for six months to two years which is very lenient in comparison to the punishment for sexual abuse under the Indian Penal Code. The IPC which doesn't yet include trans people prescribes a punishment of at least 10 years in prison, extendable to a life sentence plus a fine, for sexual assault.³⁸
4. Compelling trans minors to reside with their families is problematic as families are often a source of gruesome violence against the transgender community leading them to separate from their natal families.
5. The law strongly focuses on transwomen and hijras with little emphasis on other non-binary identities such as intersex, genderqueer, and even transgender men. It further fails to provide a skeleton on a variety of other associated rights, such as marriage rights, adoption rights, inheritance, succession rights, etc.

Status of Transgender Persons across the Globe

Gender equality has been gaining international law attention and so far twenty-nine countries have made legislation on the rights of transgender people. Some of these countries have recognized the fundamental rights of transgender people.³⁹

Legislations in various parts of the world

In line with international human rights law, many countries now legally recognize sex reassignments by permitting a change of legal gender on an individual's birth certificate.

³⁷ [‘Transgender Persons \(Protection of Rights\) Act’ of India: An Analysis of Substantive Access to Rights of a Transgender Community - PMC](#)

³⁸ [Section 376](#)

³⁹ [Study on Human Rights of Transgender as a Third Gender](#)

The EU

Not all the EU member states have legislation in place against discrimination faced by Transgender persons. Moreover, the definitions and treatment of discrimination against Transgenders vary all across – some treat it as sex discrimination while some others as sexual orientation discrimination.

The Court of Justice of the European Union, on 27 April 2006, confirmed that discrimination on grounds of gender reassignment has to be considered as discrimination on grounds of sex. The only Transgender persons covered by European legislation so far are the ones who have undergone gender reassignment. This covers less than 10 % of the transgender population. However, the European Commission presented a Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age, or sexual orientation on 2 July 2008, which does not cover discrimination on the ground of gender reassignment.⁴⁰

Furthermore, there is a continued lack of mutual recognition between member countries in the case of freedom of movement of Transgenders within the EU. Across the EU, transgender people are afraid of traveling, as they know there will be issues with identity checks, let alone uncomfortable questions and suspicious looks; and they have to return back to their Member States because of bureaucratic obstructionism.⁴¹

The U.S.

The stance of the U.S. on Transgender rights has been varying across jurisdictions and regimes. The Supreme Court of the United States has only once ruled directly on transgender rights, in 2020, in the case of *R.G. & G.R. Harris Funeral Homes Inc. v. Equal Employment Opportunity Commission* where it held that Title VII of the Civil Rights Act 1964 extends protections to individuals who are transgender in Employment against discrimination on the grounds of sex.⁴²

The U.S. federal government recognizes a third-gender option on passports or other national identity documents. In 2016, Oregon became the first state to legally recognize non-binary people. However, there is no federal law designating transgender as a protected class, or specifically requiring equal treatment for transgender people.

There has been a rise in attempts to suppress Transgender rights, especially by the conservative, right-wing groups and the Republican Party in particular. In 2021, there were 191 such bills, 80

⁴⁰ [TRANSGENDER PERSONS' RIGHTS IN THE EU MEMBER STATES](#)

⁴¹ [Transgender EU Citizens and the Limited Form of Union Citizenship available to them - PMC](#)

⁴² [R.G. & G.R. Harris Funeral Homes Inc. v. Equal Employment Opportunity Commission - Wikipedia](#)

percent of which specifically sought to restrict the rights of Transgenders.⁴³ The anti-trans bills in many conservative states have forced many trans people and their families to either another state or country. Fortunately, a number of states have passed laws protecting trans people and their families, as well as their healthcare providers, fleeing anti-trans states, from extradition, with Connecticut being the first one to do so in 2022.⁴⁴

Australia

In 2010, Australia allowed a third gender under the law when an Australian court ruled that the government must recognize a third, neutral, and non-specific gender besides the traditional "male" and "female" categories. With this landmark ruling, Australia also became the world's sixth country to recognize a third-gender option for its citizens.

In 2013, the *Sex Discrimination Amendment (Sexual Orientation, Gender Identity, and Intersex Status) Act*⁴⁵ amended the *Sex Discrimination Act 1984* to introduce new protections from discrimination on the grounds of sexual orientation, gender identity, and intersex status in many areas of public life. The new law is more inclusive in the sense that it has separate clauses dealing with the details of discrimination on the grounds of sexual orientation (5A), gender identity (5B), and intersex status (5C).

These legal protections are complemented by the Australian Government Guidelines⁴⁶ on the Recognition of Sex and Gender, which commenced in July 2013. The guidelines recognize that individuals may identify as a gender other than the sex they were assigned at birth, or may not identify as exclusively male or female and that this should be reflected in records held by the government. The guidelines also standardize the evidence required for a person to change their sex/gender in personal records held by Australian Government departments and agencies.⁴⁷

Germany

In 1980, West Germany passed a law regulating the change of first names and legal gender *Transsexuellengesetz* or the Transsexual law. Since 1990, following the reunification of East and West Germany, it applies to all of Germany. This law, however, had a lot of fallacies, and various provisions in it were declared unconstitutional by the Federal Constitutional Court since its

⁴³ [Nearly 240 anti-LGBTQ bills filed in 2022 so far, most of them targeting trans people](#)

⁴⁴ [Bill Text: CT HB05506 | 2022 | General Assembly | Chaptered | LegiScan](#)

⁴⁵ [Sex Discrimination Amendment \(Sexual Orientation, Gender Identity and Intersex Status\) Act 2013 No. 98, 2013](#)

⁴⁶ [Australian Government Guidelines on the Recognition of Sex and Gender | Attorney-General's Department](#)

⁴⁷ [Australian Government Guidelines on the Recognition of Sex and Gender | Attorney-General's Department](#)

inception. In its latest verdict on the law in 2011, it declared the criteria for gender change requiring gender-affirming surgery and sterilization or infertility unconstitutional.⁴⁸

The present government of Germany (2021-25 ruling coalition) has pledged to replace the current law for Transsexuals with *Selbstbestimmungsgesetz* or the Self-Identification Law, publishing its ministry-level draft in May 2023.

When it comes to the recognition as a separate gender identity, the Federal Constitutional Court, in November 2017, ruled that the Law of Civil Status which regulates the process of intersex persons to obtain different gender markers, must allow a third gender option.⁴⁹

Discrimination protections on the basis of gender identity and sexual orientation vary across Germany, but discrimination in employment and the provision of goods and services is banned countrywide by the Equal Treatment Act that came into force on 18 August 2006.⁵⁰

Japan

Sexual orientation and gender identity are not protected by national civil rights laws in Japan, leaving few legal recourses for the Japanese to turn to when faced with discrimination in employment, education, healthcare, etc. Nonetheless, discrimination on the basis of sexual orientation and gender identity is banned in some cities, including Tokyo and Ibaraki with the most recent development in April 2022 when Akita operationalized legislation prohibiting discrimination among others sexual orientation and gender identity.

The *Act on Special Cases in Handling Gender Status for Persons with Gender Identity Disorder* passed in 2003 allowed transgender people to change their gender marker on legal documents. The law which went into effect in July 2004, requires the Transgenders to be over 22 years old, unmarried, undergoing sex reassignment surgery, sterilization, and have no children under 20. Surprisingly, it was upheld by the Supreme Court of Japan in January 2019 citing that it was necessary to prevent "confusion" within parent-child relations, as well as "abrupt changes" in Japanese society.⁵¹

It is interesting to note that Transgender activists in Japan present their gender identity as a disability because there is strong protection in Japanese society and laws for disabled persons;

⁴⁸ [German Constitutional Court declares compulsory surgeries unconstitutional - TGEU](#)

⁴⁹ [Bundesverfassungsgericht - Press - Civil status law must allow a third gender option](#)

⁵⁰

https://web.archive.org/web/20160111030348/http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/AGG/agg_in_englischer_Sprache.html

⁵¹ [Japan's Supreme Court rules transgender people still have to get sterilised | PinkNews](#)

therefore, identifying more as members of the disability community rather than the queer community has allowed transgender Japanese to assert their rights in law and society more strongly without social ostracization.⁵²

Issues Faced by Transgender Persons in India

Transgender rights around the world are safeguarded by various regional and international statutes and judicial verdicts. Yet, myriad national policies, aimed at suppressing their rights, have provisions that disable these sexual minorities from leading a normal life like other fellow humans. The ways in which marginalization impacts a trans person's life are interconnected – stigma and transphobia drive isolation, poverty, violence, lack of social and economic support systems, and compromised health outcomes. The following are the most common yet blatant concerns for Transgenders in India:

Social Inclusion and Discrimination

Transphobia is one of the major reasons for the discriminative treatment of Transgenders. It is an irrational fear, hatred, or aversion towards transgender people.⁵³

Trans people who express their gender identity from an early age are often rejected by their families.⁵⁴ If not cast out from their homes, they are shunned within their households and treated as a shame to the family's reputation. Those who express their gender identities later in life often face rejection by society and social service institutions, as they go about undoing gender socialization.⁵⁵

Despite being a part of a progressive society, Transgenders in India are excluded from mainstream society. Homelessness, verbal abuse, and safety issues during travel, rejection to use public toilets, difficulty in getting/changing ID cards, no acceptance from family members and the general public, increasing crime against them, lack of awareness on the legal rights and protection are the major issues as highlighted by the people of the Trans community in a survey conducted in Chennai.⁵⁶ Another research finds, from the experiences of several transgender people in Jammu, that regardless of the decriminalization of section 377 of the Indian penal code, the danger and harassment against transgender people continue in Indian society.⁵⁷

⁵² [Yale Professor Nakamura discusses Japanese transgender identity and disability - The Georgetown Voice](#)

⁵³ [UN Free & Equal | Definitions](#)

⁵⁴ [Parent' Reactions to Transgender Youth' Gender Nonconforming Expression and Identity](#)

⁵⁵ [Transgender social inclusion and equality: a pivotal path to development - PMC](#)

⁵⁶ [Exploring the discrimination and stigma faced by transgender in Chennai city–A community-based qualitative study](#)

⁵⁷ [Social Acceptance and Section 377: A Case Study of Transgender People in Jammu City](#)

Transgenders are looked down upon by people of all ethnicities, age groups, genders, etc. They face verbal, physical as well as psychological abuse at home as well as in public. In most cases, such acts of abuse and violence go unnoticed and unpunished by law-enforcement agencies. The pejorative word “khusra” is in active currency to denigrate the personality of transgenders. Friends might tease a feminine-looking friend as a *khusra* – a prevalent example of name-calling. In both India and Pakistan, the word *khusra* is associated with impotence, incompetence, and powerlessness.⁵⁸

Gender Identity

In India, gender expressions combine only masculine and feminine elements, a justification for the behavior of society with the Transgenders. Every document which identifies the person such as a passport, driving license, mark sheets, Aadhar card pan card, etc. carries the gender identification in India. The Census of 2011 provided for the ‘other’ category for the first time (seen as mere tokenism) and assumed them to be ‘trans’. Those with transgender, intersex, and other non-binary identities in their true forms, therefore, are excluded from the representation.⁵⁹ Also, most official data sources continue to collect and provide data in the binary format, excluding transgender and intersex persons.

Education and Employment

Education and skills play a pivotal role in enhancing jobs and economic opportunities for an individual. The Constitution of India considers ‘education’ as a fundamental right for children of six to fourteen years of age.⁶⁰

According to the 2011 census of India, the literacy rate amongst transgender persons was 46 percent compared to 74 percent of the general population.⁶¹ Transgenders in India are classified under the ‘disadvantaged groups’ category defined by the Right to Education Act, 2009 (RTE). They are now eligible for 25 percent reservation under the economically weaker section (EWS) and disadvantaged students category for admission. The Supreme Court said the absence of a law recognizing hijras as third gender could not be continued as a ground to discriminate against them in availing equal opportunities in education and employment.

There is a limited scope of formal education for Transgenders in India. To begin with, lack of support from the family and society followed by the unpleasant welcome of Transgenders in the school environment has kept the community largely uneducated or under-educated. According to

⁵⁸ [Transgender Dignity in Islam | HuffPost Religion](#)

⁵⁹ [Non-binary genders need more visibility in India's Census 2021](#)

⁶⁰ [Education of Transgenders in India: Status and Challenges](#)

⁶¹ [First count of third gender in census: 4.9 lakh | India News](#)

the NHRC report, 52 percent of transgender persons left school because they faced harassment by classmates and 12 percent of transgender people left because they were harassed by their teachers in school.⁶²

In interviews conducted for the International Commission of Jurists (ICJ) report 2019, a gay cis-gendered man from Kochi recalled how he had been bullied by a teacher and by other students:

“When I was in 12th standard, one of my English teachers asked me to read something aloud. When I took my textbook in hand, I was not able to read it as loud, or in as masculine a way as she had expected. She took a stick and hit me and abused me using derogatory words in Malayalam, like chantupottu and annum pennumkettathu. The entire class was looking at me. I was crying...I just immediately ran away, vomiting. Till my final year exam, I did not sit in that class. During her hour, I would stand outside. I did not speak with her. I was really closed up after that. I was not able to talk to anyone.”⁶³

Apart from low levels of literacy, the socially, politically, and economically powerless Transgender community faces extreme difficulty to find suitable jobs and work of their choice. They are thus, forced into sex work and begging. Most workplace forms follow the traditional gender dichotomy preventing Transgenders from even applying for jobs. According to a survey conducted by NHRC 89 percent of transgender persons do not get employment opportunities despite having the qualifications and skills which is required for a job. Moreover, the Covid-19 pandemic exacerbated the situation of Transgenders with mass unemployment across the country.

Healthcare

About 57 percent of transgender people covered under a survey by the Kerala Development Society in a report submitted to NHRC, showed keen interest in getting sex realignment surgery but could not afford it due to the cost involved.⁶⁴ Transgender people have a raft of Sex Reassignment Surgeries (SRS) available to make the "gender transition" such as Hormone Therapy, Gender Affirmative Therapy (GAT), Corrective surgery/intersex surgery, etc.

Communicable diseases like STD/HIV are more common among transgender due to a lack of adequate knowledge of exposures, hygiene practices, and lack of access to healthcare services. The

⁶² [Position-of-Transgender-in-Contemporary-India-An-Analytical-Study.pdf](#)

⁶³ [For Transgender Persons, Discrimination Begins in Schools](#)

⁶⁴ [Study on Human Rights of Transgender as a Third Gender](#)

National AIDS Control Organisation (NACO) in 2015-16 noted the rate of HIV prevalence amongst trans-population to be 8.82%, the second highest among the high-risk groups.⁶⁵

The risk of developing mental health issues often resulting in suffering depression and likely attempting suicide increases gradually. Transgender communities experienced discriminatory treatment by healthcare providers, and refusal by many healthcare insurance programmers to cover services for trans persons. Moreover, cigarette smoking among LGBT individuals in India is higher than among heterosexual/straight individuals. And more than 30,000 LGBT persons die each year of tobacco-related diseases.⁶⁶

A cross-sectional study to assess the discrimination faced by Transgenders in healthcare facilities in Chennai, Tamil Nadu shows – Among 47 respondents, 17.6% of the transgenders had delayed going to the hospital fearing discrimination. Harassment either in physical or verbal form was experienced by 41.2% and 37.5% faced discrimination in the form of judgemental looks or comments, while 5.9% of the transgenders were denied treatment altogether in the hospital. Denial of equal treatment was experienced by 52.9% of the study participants.⁶⁷

Current Scenario

The Government of India, over the course of years, has made consistent and significant efforts in designing and working towards a trans-inclusive society. Apart from the Transgender Persons (Protection of Rights) Act 2019, the Central government has enacted and issued several welfare acts and rules to address these issues for the provision of identity, education, shelter, livelihood, skill development, and protection of rights of the trans community. Discussed below are some initiatives taken by the Government of India in the last few years:

Welfare policy measures

1. Transgender Persons (Protection of Rights) Rules, 2020

These rules were formulated and published in the Gazette of India on September 29, 2020. The Rules lay down the procedure for the issue of the Certificate of Identity. It also directs the government to take steps for the welfare of the Transgenders including – inclusion in the OBC category making them eligible for reservations and other benefits; free SRS for Transgenders in at least one government hospital in every state; reviewing the existing welfare schemes and legislations

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<https://naco.gov.in/sites/default/files/Annual%20Report%202015-16.pdf> Transgender Persons Health.pdf

⁶⁶ (PDF) [Health care services and challenges among transgender in India](#)

⁶⁷ <https://doi.org/10.18203/2394-6040.ijcmph20180247>

to ensure they do not hamper the interests of the Trans community; formulation of new policies to promote Transgender interests; and carrying out awareness campaigns to further the cause of Transgenders and improve the narrative about them in the society.⁶⁸

2. National Council for Transgender Persons

In the exercise of the powers conferred by Section 16 of the Transgender Persons (Protection of Rights) Act, 2019, the Central Government constituted a National Council for Transgender Persons on 21st August 2020. The Union Minister of Social Justice & Empowerment is the Chairperson (ex-officio) and the Union Minister of State for Social Justice & Empowerment is the Vice-Chairperson (ex-officio) of the council. The functions of the council include – advising the Central government on policy formation with respect to Transgender persons; reviewing the programs designed for the trans community; coordinating the activities of governmental and non-governmental organizations working for Transgenders; and providing for redressal of the grievances of the trans community.⁶⁹

3. SMILE (Support for Marginalized Individuals for Livelihood and Enterprise)

The Ministry of Social Justice and Empowerment launched an umbrella scheme ‘SMILE - Support for Marginalized Individuals for Livelihood and Enterprise’ on February 12, 2022. It aims to cover several comprehensive measures including welfare measures for the transgender community and for persons who are engaged in the act of begging. The scheme includes various welfare measures for transgender persons such as financial assistance in the form of scholarships to transgender students, skill development training & livelihood, composite medical health for availing gender reaffirmation surgeries, pre and post-operative procedures, and other health care facilities, setting up of Garima Grehs in each state for providing shelter facility for abandoned and orphaned transgender persons, setting up of transgender protection cells in the entire country for providing quick redressal of offenses and crimes against transgender persons, etc.⁷⁰

4. National Portal for Transgender Persons

The Ministry of Social Justice and Empowerment launched the National Portal for Transgender Persons on November 25, 2020. The Portal provides the facility for transgender persons to apply for a certificate and an identity card from across the country without a physical interface through a seamless end-to-end mechanism.⁷¹

⁶⁸ [Transgender Persons \(Protection of Rights\) Rules, 2020](#)

⁶⁹ [Central Government constitutes National Council for Transgender Persons](#)

⁷⁰ <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2022/mar/doc20223522601.pdf>

⁷¹ [National Portal For Transgender Persons](#)

Empowerment through Education

1. NEP 2020

The National Education Policy of India 2020 (NEP 2020) aims at the universalization of education from preschool to secondary level with a 100 % Gross Enrolment Ratio (GER) in school education by 2030. It identifies transgender children as Socio-Economically Disadvantaged Groups (SEDGs)⁷² and provides for equitable quality education, inter-alia, for all such students. This includes provisions for assisting transgender children in gaining access to education, and support for community-based interventions that address local context-specific barriers to transgender children's access to and participation in education, thereby aiming to eliminate any remaining disparity in access to education (including vocational education) for children from any gender or other SEDGs.

2. Gender Inclusion Fund

The NEP provides for the constitution of a 'Gender Inclusion Fund' to build the nation's capacity to provide equitable quality education for all girls as well as transgender students. The fund will be available to States to implement priorities determined by the Central government critical for assisting female and transgender children in gaining access to education.⁷³

3. Samagra Shiksha Abhiyan

The aim of the redesigned Samagra Shiksha Scheme is to universalize access to school education; to promote equity through the inclusion of disadvantaged groups and weaker sections, and to improve the quality of education across all levels of school education from pre-primary to class XII. Its major objectives include bridging social and gender gaps in school education and ensuring equity and inclusion at all levels of school education.⁷⁴

4. NISHTHA

NISHTHA (National Initiative for School Heads' and Teachers' Holistic Advancement), a nationwide integrated teacher training program for teachers under Samagra Shiksha, teachers are trained for the relevance of Gender Dimensions in the Teaching and Learning Process which helps teachers to use and adapt learning activities that foster gender sensitive classroom environment.⁷⁵

Skill Development Training and Livelihood

⁷² [National Education Policy 2020](#)

⁷³ [Steps taken by the Government for Gender Inclusion Fund](#)

⁷⁴ [Samagra Shiksha Abhiyan](#)

⁷⁵ [NISHTHA](#)

1. Skill India Mission

Under Skill India Mission, the Ministry of Skill Development and Entrepreneurship (MSDE) has been implementing Pradhan Mantri Kaushal Vikas Yojana (PMKVY), Jan Shikshan Sansthan (JSS) Scheme and National Apprenticeship Promotion Scheme (NAPS), for providing short term Skill Development training and Craftsman Training Scheme (CTS), for long term training, to the youth belonging to all sections of the society including transgender persons across India.⁷⁶

2. PM -DAKSH (Pradhan Mantri - Dakshta Aur Kushalta Sampann Hitgrahi)

The Ministry of Social Justice and Empowerment is imparting skill development training to the Transgender beneficiaries of the SMILE Scheme through PM-DAKSH.⁷⁷ Short-Term Training Programmes; Up-Skilling/Reskilling; Entrepreneurship Development Programmes, and Long-Term Training Programmes are conducted for transgenders under the scheme.

3. Sector Skill Councils

The Ministry of Social Justice and Empowerment, through the National Backward Classes Finance and Development (NBCFDC), has sanctioned skill development training programs for transgender persons through Sector Skill Councils/Training partners in six States in various job roles through which training programmes amounting to over 87 lakhs have been sanctioned with total 330 trainees⁷⁸ for job roles such as beauty therapist, make-up artists, customer care executive, etc.

4. Garima Grehs

The SMILE scheme provides for the setting up of Garima Grehs,⁷⁹ to provide shelter to Transgender persons in need with basic amenities like shelter, food, medical care, and recreational facilities. Besides that, it will provide support for the capacity building/skill development of transgender persons at the shelter home. MSJE has initiated 12 pilot 'Garima Grehs' and provided financial assistance to community-based organizations (CBOs) for setting up of these shelter homes.⁸⁰

Healthcare Improving Initiatives

1. Composite Medical Health

⁷⁶ [Ministry of Skill Development and Entrepreneurship](#)

⁷⁷ [pm daksh](#)

⁷⁸ <https://pqars.nic.in/annex/253/AU3338.pdf>

⁷⁹ [GUIDELINES FOR GARIMA GREH](#)

⁸⁰ <https://static.pib.gov.in/WriteReadData/specificdocs/documents/2022/mar/doc20223522601.pdf>

It is a component under the SMILE scheme.⁸¹ The objective of the scheme is to provide health insurance coverage to all Transgender persons living in India to improve their health condition through proper treatment including sex reassignment surgeries as well as medical support. The scheme covers all transgender persons not receiving such benefits from other center/state-sponsored schemes. The scope of the scheme includes:

- Each Transgender person shall receive an insurance cover of Rs. 5 Lakh per year under the scheme in the form of Ayushman Bharat TG Plus. A list of 50 SRS for transgender individuals have been added under PM-JAY which after being finalised, can be availed at any empaneled hospital across the country, free of cost.⁸²
- It shall also provide non-exhaustive coverage for hormone therapy, and sex reassignment surgery inclusive of postoperative formalities which can be redeemed at all private and government healthcare facilities.

2. Assistance during Covid-19

- During COVID-19, the Ministry of Social Justice & Empowerment through the National Backward Class Finance and Development Corporation (NBCFDC) has given Rs.1,500 one-time subsistence allowance to each Transgender person, through Direct Benefit Transfer (DBT)⁸³ in addition to assistance for ration supplies to Transgender persons on the recommendation of the respective district administrations.
- Owing to the distressing pandemic situation, a free helpline number for transgender persons was made functional for the required psychological support and mental health care by the Ministry of Social Justice and Empowerment. About 260 Transgender callers have been provided psychological counseling through the free Helpline in 21 States/UTs.⁸⁴
- The Ministry of Social Justice & Empowerment issued directions to all States/UTs for ensuring that existing COVID vaccination centers are transgender-friendly and that no discrimination is shown towards transgender persons who come for their vaccination. The Centres were also requested to conduct awareness drives, especially

⁸¹ [Composite Medical Health](#)

⁸² <https://pib.gov.in/PressReleaselframePage.aspx?PRID=1854141>

⁸³ [Government to give assistance of Rs.1500 to each Transgender person in view of Covid pandemic](#)

⁸⁴ [Centre launches helpline, subsistence allowance to help transgenders fight Covid | India News](#)

for reaching out to the transgender community in different vernaculars to ensure that they are informed and aware of the vaccination process.

Conclusion

From being mocked and treated differently, to facing unfair rejection at workplaces, to being subjected to violence and murder, India's transgender community has had a harrowing time for ages. The 2014 NALSA Judgment did provide some relief to the Transgender community being the stepping stone toward achieving Transgender rights. Powered by the decriminalization of Sec. 377 of IPC and the introduction of TRPRA, 2019 as well as other government initiatives, the position of Transgenders in society has been elevated to some extent. However, there is still a long way to go when it comes to respecting their dignity and counting them in the 'us' category by everyone in society. It is time that the trans community gains back its pre-colonial lost glory which can finally put an end to their misery.

Recommendations

1. Collection and Compilation of Transgender Data:

A special gender-based survey must be conducted at the district/panchayat level with the cooperation of the civil society members until we have a new census report. All the local data can then be compiled to create an authentic state-wise as well as a national database. Such reliable sources can be used for better planning, enforcing, and reviewing welfare schemes for the Trans community. The data must be streamlined and integrated under one system with the help of inter-ministerial cooperation.

2. Changing Societal Attitude:

- Sensitizing parents of Transgender children to be more accepting of them: to create a safe and enriching environment for their growth; actions against parents must be taken in case of disowning their trans children or committing domestic violence against them.
- Changing narratives in favor of transgenders using ICT-based campaigns: Creating a positive narrative around the Transgenders and their rights by – using social media platforms to start conversations about transgender rights; promoting and glorifying stories of transgender icons and their contributions to the cause of their

community; creating an online community run by Transgender persons to share their stories, gather support and inspire others.

- Sensitization of Police:
 - Educating the police personnel about the constitutional rights of Transgenders and training them to deal appropriately with Transgenders with the help of revamped SOPs. Stringent actions must be prescribed for the non-binding personnel.
 - Preparing the performance appraisals of the authorities with consideration of their handling of cases involving sexual minorities among other parameters.
 - Establishing a branch of grievance redressal cells for the LGBTQ community under the Police Complaints Authority (PCA) set up in some states in the country; setting up digital portals for the same to provide faceless grievance redressal and allow anonymity of the complainant while registering complaints against any officer.
 - Encouraging recruitment of Transgender persons to the police force by making the application process trans-friendly and discrimination-free.
- Self-awareness programs for the Transgender community: educating transgenders about their rights and opportunities; village/district level units (with civil society, government officials, and trans community) must be set up to spread information about various existing and upcoming schemes among their community; promoting consciousness about healthcare and sexual diseases through government interventions and programs.

3. Administrative steps:

- Hassle-free self-identification of gender by transgender persons should be facilitated. Recognition of Gurus and Nayaks as the guardians of the transgenders and their existing houses as their residences must be permitted in case the transgender persons are not accepted by their families. Provisions for appealing against the denial of certificate issuance and procedure for rectifying errors in the certificate, if any, must also be made.

- A program must be launched to enable those Transgender persons who do not have proper documentation to avail of benefits, to secure them seamlessly. This must be aided by quick and smooth ID generations under the National Portal for Transgender Persons.
- Relying on common databases and linkages between various literacy schemes, livelihood schemes and development programs can help bring the beneficiaries under the ambit of a unified welfare program – a common Transgender Welfare Program can rope in all the specialized schemes formulated for the community.
- A framework for the functioning of the National Council for Transgender Persons must be in place to regulate its meetings, report formations, etc.
- Efficient and smooth implementation of the existing laws and schemes for the trans-community with effective checks and balances to prevent misuse.
- Creating a gender-inclusivity index and awarding the title of ‘Gender Fair City’ to the city that is the most gender-inclusive according to the index. This will provide an incentive for the administration as well as civil society members to strive toward gender fairness.

4. Better Protection of Transgender Rights:

- Amending the Transgender Persons (Protection of Rights) Act, 2019 to address its shortcomings and be more Transgender-friendly in order to serve its true purpose.
- Inclusion of Transgenders under the sections of IPC that deal with sexual abuse to make the provision more inclusive and gender-equal.
- Appropriate legislation granting basic civil rights including marriage and adoption, inheritance and succession, etc. to Transgenders must be introduced after consultations with experts and members of the community.
- Formulation of a plan to end human rights abuses committed against transgender, gender variant, and intersex people in prisons and jails along the lines of the Transgender Gender Variant Intersex Justice Project (TGIJP) in California.

5. Provision of legal assistance: Setting up of legal aid clinics for Transgenders across the country on the lines of those launched by the NGO Solidarity and Action Against The HIV Infection in India (SAATHI) in collaboration with the state governments in Odisha,

Manipur, and Telangana.⁸⁵ Along with the clinics, providing legal sessions and financial aid for undertaking legal proceedings is the need of the hour.

6. **Increasing Educational Reach:** To increase the enrollment of Transgenders into educational institutions, they must be provided with certain benefits apart from creating a safe educational environment.

- Imparting vocational training to transgenders to enable them to lead a life worth living.
- Financial assistance in the form of fee waivers, fee reimbursements, scholarships, free textbooks, free hostel accommodation, and other facilities at subsidized rates for students belonging to the transgender must be provided to make higher education and professional education accessible by the community.
- Provision of reservations to the trans community as a part of the SEBC.
- Setting up welfare boards in all schools and colleges, and at the university level to look after the grievances of the marginalized sections including, sexual minorities, disabled students, etc.
- Stringent actions must be taken against institutions that refuse admissions to trans students merely based on their gender identity or sexual orientation.

7. **Improved healthcare facilities:**

- Creating a statistical standard based on validated standard survey questions and data collection guidelines. New Zealand's Statistical Standard for Gender Identity ensures that gender identity response categories are understood by cisgender individuals while remaining relevant to diverse transgender people as well as the need to use the two-question method (i.e., to collect both sex assigned at birth and current gender identity).
- Maintaining a zero-tolerance policy towards the conduct that excludes trans people from healthcare services. Formulating SOPs for healthcare personnel in the public sector and prescribing the same for the private sector healthcare institutions.

⁸⁵ [New Legal Aid Clinic For Transgenders | Bhubaneswar News - Times of India](#)

- Establishing hospitals for Transgenders under public-private partnerships to provide cost-effective and best-quality gender reaffirmation surgeries and HIV health services.
- Providing enhanced training in LGBT health for healthcare providers. Integrating and expanding the existing nursing curricula to enhance the quality of LGBT health education. Positioning nursing schools in a way to address the nationwide need to increase the number of healthcare providers who are prepared to deliver gender-affirming care to transgender patients.
- Considering the Gurus and Nayaks as guardians for consent in case of gender-affirmative or sex-reassignment surgeries when the minor Transgender person does not reside with the biological family.
- Implementing HIV prevention interventions for transgender persons organized according to the five tiers of Frieden's⁸⁶ Health Impact Pyramid.

8. Provisions for Employment and Livelihood Opportunities:

- Formation of Employee Resource Groups (ERGs) that help unite colleagues in a workplace through their shared interests, identities, affinities, and experiences. It helps foster an inclusive work environment where all employees feel safe, heard, and embraced.
- Incentives to and promotion of Transgender-owned startups and businesses.
- Recognizing and funding organizations that work for better Transgender livelihood and employment opportunities.
- Issuing guidelines for both public as well as private sector spaces to be welcoming of all genders. Felicitating gender-inclusive workplaces as an incentive for the work culture to prioritize inclusivity.
- Granting horizontal reservation to the trans community in public appointments.
- Ensuring effective implementation of the PM-DAKSH and SMILE scheme launched by the government without discrimination against trans individuals.

⁸⁶ [Comprehensive HIV Prevention for Transgender Persons - PMC](#)

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