

Transgender Equality in India: From Social Exclusion to Social Inclusion and Legal Rights

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Abstract: Transgender individuals in India have been socially excluded, discriminated against, deprived of education, denied opportunities for better economic standing, and had little access to basic rights and public services. Although the community has been living in Indian society for a long time, the family has rejected them, society has ridiculed them, there have been cases of violence against them, they have been denied an education and they have been denied jobs and means of livelihood. This research delves at the political and legal frameworks in India that aim to safeguard the rights of transgender persons and foster their full inclusion, as well as their social, educational, and economic circumstances. The study employs descriptive & analytical research approach with primary sources of secondary data such as Census of India 2011, Government Reports, Conventionality, Legislations, Judiciary, Policy documents, Academic literature and institutional reports. The results show that transgender people remain highly marginalised, especially in the field of education, employment, healthcare and social security and public life. The overall literacy rate for trans-men and women (487,803) in Census 2011 was 56.07%, indicating significant educational disparity. Concurrently, constitutional protection and recognition, government efforts and institutional arrangements, have helped foster a process of social exclusion to legal and institutional inclusion. It is concluded in the study that substantive equality cannot be achieved by means of legal recognition. Implementing policies is crucial for meaningful social inclusion, dignity and equal participation of transgender persons in Indian society, inclusive education, employment opportunities, public awareness, institutional sensitisation and protection from discrimination and violence are also crucial.

Keywords: Transgender Persons, Social Exclusion, Social Inclusion, Transgender Rights, Educational Disadvantage, Legal Rights, Gender Equality, Discrimination, Constitutional Safeguards, India

1. INTRODUCTION

Those individuals who are biologically categorized as either male or female but who feel a change in identity due to their physical appearance are regarded to be transgender. They are born with unexplained genders, in addition to the fact that they did not have any sexual orientation. It is a violation of social norms that they do. These individuals are a paradigmatic representation of the unyielding binary gender structure. Their cultural portrayal of gender roles is both antiquated and pervasive. They are of the opinion that their assigned sex does not correspond with the way in which they think about or express their gender. These people, whether they are doing so permanently or temporarily, are functioning in a gender role that is

diametrically contrary to the gender that they were born with. People who identify as transgender often reside in groups that are led by a "guru" due to these characteristics. There are several instances in which they are separated from their families. Considering that the bulk of their population lives in communes, they are forced to live in communal slums that are located on the outside of society since they do not have a permanent dwelling. The general public is forced to look down on them and treat them with contempt. They are also the most often humiliated group in terms of frequency by the police.

Conversely, these communes' social structures are quite robust. Within their ranks, there is a hierarchy consisting of chelas and Gurus. They have a love and support for one another that has been passed down through the centuries. Residents of these communes discover a social safety net in the event that they are rejected by their family, whether they are new or young Hijara. Hinjaras, enuchs, chakkas, transsexuals, Aravanis, Kothis, and jogappas are some of the names that people may use to refer to them. You may hear these names being used all around India. People who identify as transgender are not dissimilar to any other member of society. Until quite recently, they were not recognized as human beings in India. This continues to be the case. An important violation of human rights has occurred in this situation. Due of the stigma that they were associated with, they were isolated from the culture of the majority, and even worse, their civil rights were infringed. Indians have been denied a significant number of the privileges and advantages that they have previously enjoyed. Due to the fact that they are not included in public social and cultural events, they are not taken into consideration by either their family or society.

Due to the fact that the schools refused to accept them, there was no possibility for them to enroll in higher education institutions. Those individuals who had joined at a lower level were not accepted when realism was introduced into the landscape. It is estimated that only around one percent to two percent of transgender persons are able to get degrees. Prior to the year 2014, transgender individuals who applied for bank accounts did not have the option of selecting a third gender. Because of this, individuals were restricted in their ability to access public places, healthcare, education, employment, passports, driving licenses, ration cards, and other services provided by the government. There are around 500,000 people who identify as transgender and living in India, according to the census that was conducted in 2011.

2. OBJECTIVES

- To assess transgender people's social, educational, and economic standing in India.
- To evaluate government programs and legal protections that support transgender rights and inclusiveness.

3. RESEARCH METHODOLOGY

The current investigation makes use of a both analytical and descriptive research strategy, with secondary sources serving as the primary data source. Focusing on the journey from social exclusion to inclusion, the research examines the social, educational, economic, and legal position of transsexuals in India. The secondary data has been obtained from Census of India 2011, government documents, constitutional provisions, legislative documents, judicial documents, policy documents, academic literature and government institutional documents. The analysis of the transgender population, literacy and related demographic characteristics across various States and Union Territories from Census data and qualitative data on issues like discrimination, educational exclusion, social stigma, employment barriers, legal recognition etc. access to rights has been done in a thematic manner. The study also applies comparative and interpretative analysis to evaluate state constitutional protection, state actions, and legal changes related to transgender people and to determine how to ensure that there is more social, educational and legal reform for transgendered people.

4. RESULT

4.1 Transgender Community in the Indian Social Context

About 488,000 people in India identify as transgender, as reported in the 2011 census. There is a wide range of cultural and artistic identities that are represented among India's transgender population. The Kothis are one such group; the Hijras are another; the Aravanis are yet another; the Jogappas are those who worship and serve Goddess Renuka Devi; as well as the Shiv-Shaktis are those who are traditionally male but who reveal their feminine side through roles and practices. Even though they are often rejected and disregarded, transgender people are an essential element of any society. The human body undergoes changes as a result of this biological event. Despite being the most overlooked, they are present everywhere in India. In Hindu families, the elders are asked to bestow blessings on the newborn, and they are also

requested to do the same for the newlyweds during the wedding. Outside of these contexts, they are seen as a social blight and a sin.

4.2 Educational Status and Access among Transgender Persons

Over the course of its many years of data collection, the Indian census has consistently failed to include transgender persons as a distinct gender category. In contrast, data on transgender persons' employment, literacy, and caste were collected in 2011. About 488,000 persons in India identify as transgender, as reported in the 2011 census.

There is still a high dropout rate among transgender students in both elementary and secondary schools, and enrollment is quite low. Due to their social exclusion, they do not acquire an adequate education and are hence severely undereducated. Despite being enrolled at an educational institution, they endure daily bullying and abuse, which leads them to either drop out or be asked to leave. They turn to begging & sex work as a result. In 2019, the overall pass % of transgender students on the CBSE class XII exam increased by an unprecedented 83.3%. On July 13, 2020, the CBSE issued the results for Class 10, and on July 15, 2020, the results for Class twelve were revealed. The Central Board of Secondary Education (CBSE) reported that 1,206,893 pupils were enrolled in the 12th grade and 1,889,878 were enrolled in the 10th grade.

Of the pupils who signed up for the tenth grade test, 7,88,195 were female, 11,01,664 were male, and 19 were non-binary. In the twelfth grade, there were 5,22,819 females, 6,84,068 males, and 6 transgender people. The passing rate for pupils in grades 10 and 12 has increased significantly this year. There was a 0.36% rise in the pass rate for students in 10th grade and a 5.38% increase for students in 12th grade. Many Indian education agencies have hailed it as a major success, but the passing rate of transgender students has mostly gone unnoticed.

Table 1: Demographic and Literacy Profile of Transgender Persons in India

Ran k	State/UT	Transgende r Population	Childre n (0–6 Years)	SC Populatio n	ST Populatio n	Literac y Rate (%)
—	India (Total)	489,600	55,100	79,250	33,600	56.2
1	Uttar Pradesh	136,980	18,520	26,180	650	55.9
2	Andhra Pradesh	43,420	4,160	6,310	3,180	53.6
3	Maharashtra	41,250	4,050	4,780	3,470	67.8
4	Bihar	40,520	5,860	6,410	520	44.6
5	West Bengal	30,620	2,410	6,390	1,450	59.1
6	Madhya Pradesh	29,840	3,470	4,290	5,190	53.3
7	Tamil Nadu	22,140	1,310	4,260	175	58.0
8	Odisha	20,540	2,090	3,290	4,480	54.6
9	Karnataka	20,010	1,810	3,340	1,300	59.0
10	Rajasthan	16,730	1,980	3,020	1,770	48.6
11	Jharkhand	13,610	1,560	1,530	3,650	47.9
12	Gujarat	11,680	1,050	690	1,210	63.1
13	Assam	11,210	1,370	790	1,190	53.9
14	Punjab	10,380	800	3,120	—	60.0
15	Haryana	8,310	1,090	1,490	—	62.3
16	Chhattisgarh	6,720	720	760	1,910	51.6
17	Uttarakhand	4,630	500	750	100	62.9
18	Delhi	4,280	320	505	—	63.2
19	Jammu & Kashmir	4,080	480	215	370	49.6
20	Kerala	3,850	300	350	55	84.8

21	Himachal Pradesh	2,100	150	445	120	62.4
22	Manipur	1,360	180	42	365	67.8
23	Tripura	850	68	175	185	71.5
24	Meghalaya	640	130	4	530	57.7
25	Arunachal Pradesh	510	65	—	305	52.5
26	Goa	405	35	10	32	74.2
27	Nagaland	390	60	—	325	71.0
28	Puducherry	260	17	42	—	61.0
29	Mizoram	170	25	2	140	87.4
30	Chandigarh	150	15	23	—	72.5
31	Sikkim	130	15	10	35	65.5
32	Daman & Diu	62	9	1	2	76.0
33	Andaman & Nicobar Islands	50	5	—	3	74.2
34	Dadra & Nagar Haveli	45	5	—	21	74.0
35	Lakshadweep	3	—	—	2	51.0

4.3 Social, Economic and Educational Challenges of Transgenders

Anyone who identifies as transgender falls within the broader LGBT umbrella. They are part of a historically oppressed minority that has problems on many fronts, including the law, society, culture, and the economy.

In India, members of the transgender community encounter issues such as -

- Discrimination is the main problem for transgender persons. Everyone treats them unfairly: in the classroom, on the work, in the entertainment industry, by the law, etc.

In all aspects of life, they are regarded with total contempt, with the exception of very rare occasions like the birth of a child and the request for blessings from them or a couple's marriage.

- People in charge take advantage of or otherwise mistreat these people. Transgender persons often advocate for equality due to their gender identity. Newborns and other children who exhibit this quality at birth are particularly sought-after by members of this community, who are always seeking new members overall. They pursue the parents in an effort to abduct the child as soon as they learn about it.
- People they know, including relatives and friends, pressure them into prostitution. When parents are involved, it has also happened.
- Once their true identity is revealed, they are compelled to leave their family home by society, since they were no longer seen as typical members of the community or class.
- Unwanted attention is common for transgender persons when they are out in public. They try to create the situation by insulting, humiliating, abusing, or cursing at them.
- They are not welcome in any of these establishments: hotels, restaurants, theaters, parks, or houses of religion. It's common for transgender people to face this. Assault (both verbal and physical) and rape (of the face) are common behaviors among them. Colleges and universities do not have to provide them with the same educational possibilities that normal people do. They are still subject to bias in the classroom.
- A guy who engages in sexual contact with another man is referred to as a "MSM" This puts transgender persons at a higher risk of contracting HIV and other STIs. The vast majority of transsexual persons are uneducated and hail from working-class families. It hopes to get mediocre medical care.
- Transgender people are severely underrepresented in society. They may also face the problem of human trafficking as a result of this.
- Their social exclusion is the main issue with the whole procedure. They are not allowed to take part in any aspect of society, whether it be cultural, or economic. To sum up, they are not allowed to perform –
 - Work, income, and possibilities for subsistence
 - Isolated from loved ones and friends
 - Victims are unprotected

- Education, healthcare, and personal care services are all severely limited.
- Restricted availability of public areas
- Access to collectivization is limited.
- A Citizen's Rights
- Not involved in making decisions
- No safety net for employees

4.4 Overcoming Social Exclusion and Embracing It: A Dynamic Situation

Life as a transgender person in India is full of ups and downs. Despite everything, they are forging on in their own unique manner, with the support of law and order, which is allowing them to build a stronger community. Among the many obstacles that transgender people in India face on their path to full acceptance are the following:

1. Constitutional Framework for Transgender Rights

India has an elaborate guarantee of equality, liberty, dignity and protection for all individuals including transgender persons in the Constitution of India. These constitutional safeguards are also relevant to transgender rights and are a key step in achieving transgender equality in society. Article 14 guarantees that everyone has the same rights and equal protection under the law, including transsexual persons. Article 15 prohibits the state from discriminating against transgender people on the basis of religion, race, caste, sex, or place of birth, which is an important constitutional protection. Freedom of speech, assembly, movement within India's borders, residence and settlement anywhere in the country, and the ability to engage in any lawful profession, trade, or business are all guaranteed to Indian citizens by Article 19. Transgender people's right to free expression, equal access to public spaces, equal employment opportunities, and the elimination of unjustified discrimination is fundamental. In addition, Article 21 of the United States Constitution guarantees the right to life as well as private liberty, which in turn protects dignity, autonomy, and personal identity. All things considered, these constitutional provisions set a substantial legal precedent for transgender people in India to enjoy full freedom, equality, and social inclusion.

2. Legal Safeguards and Protection of Transgender Persons

From 2012 to 2017, the twelfth five-year plan aimed to empower the third gender by giving them access to healthcare, housing, education, jobs, training, and financial aid. Furthermore, it is recommended that all papers, whether formal or informal, have a specific section for the third gender. Consequently, transgender persons would be granted greater legal residency in India. To ameliorate their living conditions and create a more favorable atmosphere for them, the Ministries of Empowerment, Social Justice, Statistics & Program Implementation will map out their socioeconomic situation.

3. Transgender People's Rights and Entitlements

Following these steps in the legal system at the federal, state, and local levels will help transgender people become fully integrated members of society, both economically and socially. Here they are in detail:

Among India's individual states, Karnataka and Tamil Nadu have transgender-friendly laws that are both progressive and developing. In 2010 the C. S. Dwarkanath Backward Classes Commission suggested that transgender be added to the list of backward classes in order for them to be able to receive the welfare schemes and other affirmative measures provided by the government. Tamil Nadu has made significant strides to include transgenders at State level. The appointment of Prithika Yashini as the first transgender law enforcement agent in the nation was a significant step toward providing career chances to those who identify with non-binary genders. The transgender community in Tamil Nadu has been fighting for more access to homes, jobs, schools, and other fundamental rights, so the state government established the Tamil Nadu Transgender Welfare Board to help them.

It is critical that transgender persons be allowed to legally and civilly enjoy their rights without facing discrimination because of their gender identification, according to the (PUCL). A person's right to form a will, inherit property, and enjoy rights regarding adoption are all part of these rights. Basic identification and legal papers, like as passports or ration cards, are also accessible to them. Transgender people, as well as those who identify as male or female, have their rights upheld by the Supreme Court, which has called on federal and state governments to do what's needed to make this happen. In addition to this, they are also instructed to provide legal recognition to those who are experiencing a gender change. The federal government and

each individual state have a responsibility to guaranty transgender people access to adequate healthcare and sexual hygiene services. They are expected to provide a range of assistance programs to cater to the community's social and economic disadvantages.

4. Transgender Inclusion in Higher Educational Institutions

In a circular addressed to all universities vice chancellors on October 29, 2014, the UGC requested that all grant applications contain a section for the transgender population. University initiatives that support transgender students in adjusting to campus life free from harassment, discrimination, and shame are detailed in the circular as well. Calls for transgender-friendly infrastructure, awareness campaigns, and study into these issues and possible solutions were among the other measures included in the circulars. There were 36,3413 applicants for the 2017 MBA Maharashtra Common Entrance Test, and 9,00 of them people classified as belonging to the third gender. Specifically, the form included a section for those who aren't male and female.

5. Developing Legislation Regarding the Rights of Transgender People, 2014

On April 24, 2016, the Rajya Sabha enacted the private member's Rights of Transgender individuals Bill, 2014, which concerned the rights of transgender individuals, their social engagement, availability of legal and financial aid, skill development, and safeguarding from maltreatment and exploitation. The Transgender individuals (Protection of Rights) Act is designed to promote equality, well-being, dignity, and social integration of transgender individuals. It articulates the concept of transgender identity and inclusive education, highlighting self-sufficiency, involvement, and inclusivity in social, physical, intellectual, & psychological aspects. The statute thus outlaws discrimination and ensures that transsexual individuals get equal rights & opportunities. It also fortifies the rights of transgender youth by acknowledging their privilege to reside with their parents and immediate kin and facilitating their care and assistance when the family is unable to do so.

With regard to education, Section 13 places focus on equal opportunities for transgender pupils in education, in sport, recreation and leisure, and states that educational institutions must make appropriate provisions to allow for the needs of transgender pupils to be met and to promote their social and academic development. Section 16(1) concerns equality and non-discrimination in employment, recruitment, promotion and all other employment related

matters and Section 16(2) outlines the equality in regard to employment for those who are qualified transgender persons. Section 21 and 22 focus on actions to ensure transgender students' educational opportunities and inclusion in educational institutions. The National Commission for Transgender Persons is established and empowered to perform its functions and exercise its powers under Section 26(1) of the legislation, with a similar institution at state level. Lastly, there is the provision in **Section 46** which concerns measures to help resolve civil proceedings in an effective and efficient manner in relation to matters dealt with by the legislation. Together, these laws seek to advance the cause of equality, dignity, non-discrimination, educational inclusion, family protection, employment opportunities, and meaningful engagement of transgender individuals in society.

The Transgender Persons (Protection of Rights) Act-2016, enacted by India's Lok Sabha on August 1, 2016, conferred the following rights:

- Section 2(1) defines a transgender person as someone who has traits typical of either sex but does not identify with either.
- Section 3 addresses the right of transgender persons to be without discrimination in many locations, including as but not limited to: places of employment, places of education, places of healthcare, services, advantages, opportunities, or liberty to travel.

The judgment highlighted that Section-377 is discriminatory against transgender people, left the Koushal case hanging, and is now solely focused on transgender people's right to legal recognition. In outlawing same-sex intercourse, which is the most fundamental manifestation of one's sexuality, it criminalizes sexuality and, in doing so, identifies itself as a collection of facts. The Indian Penal Code, namely Section 377, guarantees them freedom and rights, and the poll commission has passed a law that facilitates the identification of transgender people. The Indian legislature has ensured that transgender individuals had equivalent rights to Scheduled Tribes/Scheduled Castes, including safeguards against sexual harassment in public areas, eligibility for government employment, and access to educational institutions (case from 2014: NALSA v. U.O.I.). In 2009, the Delhi High Court ruled that section 377 of the (IPC) was invalid since it penalized consensual sexual conduct among adults in private and categorized any non-vaginal penile actions as unnatural offenses. This decision seemed to be a victory for non-traditional sexual orientations. Individuals under these circumstances could coexist with dignity and parity "in an environment where society exhibits inclusivity and

comprehension. In a pivotal ruling, India's highest court recognized transgender persons as a "Third gender" and declared "one's sexual orientation as a fundamental aspect of identity, dignity, and liberty" in April 2014. In the matter of National Legal Service Authority v. Union of India, the Supreme Court of India conferred legal recognition for transgender persons and promulgated seven more directives.

Bills, the twins: Protecting the rights of transgender individuals was the goal of a measure submitted by private member Tiruchi Siva of the Rajya Sabha in April 2015. In 2015, the MSJE submitted a bill. Even if transgender people are granted OBC categorization under the legislation, affirmative action is still heavily questioned. It brought about changes that were confusing and annoying. The Rajya Sabha passed a bill titled "Right of Transgender Bill 2014" The administration removed provisions relating to transgender persons from the 2014 legislation in an amendment made in 2015. On the other hand, the Lok Sabha received a fresh transgender-focused bill in 2016.

The four main categories of discrimination are outlined in the Equality Act of 2010:

1. **Direct discrimination** – The practice of being unfair to people because of their protected characteristics
2. **Indirect discrimination** – Creating policies or procedures that are universally applicable yet discriminate against someone because of their protected trait
3. **Harassment** – An individual's dignity is violated or an adverse atmosphere is created when there is unwanted behavior associated with a protected feature
4. **Victimisation** – Being unjust to someone only because they've spoken out against harassment or prejudice. People who are affiliated with someone who has a protected feature or who are thought to have that characteristic are likewise covered.

4.5 Need for Legal and Social Reforms

Reforming India's third gender group is an immediate need. The third gender in India needs reforms so they may live freely and with good justification. I would like to propose the following changes for their benefit:

- Society and the government should work together to create an inclusive attitude for transgender people. But policies have been made, but they aren't being carried out very well.

- They should be able to find protection from their challenges with a focused strategy.
- Third, the transgender community's concerns should be brought to the attention of the legal and law enforcement institutions.
- Those responsible for acts of violence against transgender individuals should face both criminal and disciplinary consequences.
- Parents who abandon, mistreat, or neglect their kid due to their biological differences must face severe consequences.
- Transgender people need access to free legal services on a local level. 6.
- It is crucial for educational institutions to embrace and empower transgender students by offering them a solid foundation in values and knowledge.
- Social entitlement provision must be guaranteed.
- The online placement system, career opportunities, and hotline for career planning and advice need to be enabled.
- If they want to launch a successful business career, they need access to liberal credit facilities and other forms of financial aid.
- All healthcare facilities, whether public or private, are required to establish and disseminate their own set of policies.
- The general public and this particular group need to be reached via massive awareness campaigns.
- Incorporating a thorough sex-education program into school curricula and college syllabi will help raise awareness among students from the bottom up.

5. DISCUSSION

The present study indicates that in spite of limited legislative recognition and policy measures, there is still a great deal of social, educational and economic exclusion in the lives of transgender in India. The figures from the Census 2011 show that there are 487,803 transgender people, of which only 56.07% are literate, which is a significant disadvantage. The findings also reveal that transgender people are discriminated against, socially stigmatised, rejected by families, lack opportunities for education and employment, and suffer from violence and are limited in their access to public and social life. They are interlinked and frequently lead to economic dependency and to lack of access to the mainstream of society.

The study also shows that education is one of the significant areas that need attention. Low enrollment and high dropout rates are associated with school climates that promote harassment, bullying, discrimination, & an overall lack of acceptance. While there is some evidence that transgender students are included within educational systems, the evidence currently available indicates that formal recognition does not guarantee equal opportunities in education. The relatively low literacy rate reported in the Census data also highlight the need for inclusive, safe and supportive learning spaces.

Another significant area of concern noted by the study is social and economic exclusion. Transgender people can suffer from rejection by family, few job or livelihood opportunities, access to health care and public spaces, and lack of social security. This exclusion deprives them of all those rights that enable them to live and participate in society in an independent way. Social inclusion therefore needs to be not only legally recognised, but also there must be changes to social attitudes, institutions and access to economic opportunities. Simultaneously, there is an important transformation from social exclusion to legal/institutional inclusion that is revealed in the study. Rights of transgender people are well supported by constitutional principles of equality, non-discrimination, freedom and personal liberty. There have been government planning initiatives that have recognised the need for education, housing, healthcare, employment, skill development and financial assistance for transgender persons.

Advances in the law and institutionalisation have also contributed to the recognition of transgender persons. The study points to the importance of the Supreme Court and educational institutions in fostering legal identity, dignity and equality of participation. Transgender Friendly educational environments and including transgender persons in the application forms of universities are steps towards institutional inclusion that are significant. The ongoing discrimination and exclusion, however, suggests that implementation is as critical as the formulation of laws and policies.

The discussion overall will illustrate that the inclusion and acceptance of transsexuals in India is a process, one which is social, educational, economic and legal in nature. These constitutional protections, the recognition of rights in the courts and government policies and institutional actions have laid the groundwork for equality, but for meaningful inclusion, implementation, awareness, sensitisation, education about rights, employment support and protection from violence and discrimination are needed. The study recommends that the

process of social exclusion to social inclusion can be carried out only with the cooperation of government, educational institutions, civil society, families and people surrounding them.

6. CONCLUSION

Despite the strides towards the legal recognition and social inclusion of transsexuals in India, the present study concludes that they are still a group excluded from the society, the education system and the economy as a whole. The results show that discrimination, stigma, family rejection, lack of education and employment opportunities, and limited access to social services and public services continue to be significant problems. Concurrently, constitutional protection, judicial recognition and government policies and institutional efforts have offered significant opportunities to enhance the status and rights of transsexual and transgender individuals. Hence it is concluded that legal recognition alone is not enough for achieving genuine equality; implementation of policy, inclusive education, employment opportunities, awareness, sensitisation with India is essential for achieving full dignity, full participation and meaningful social inclusion of transgender persons in India.

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