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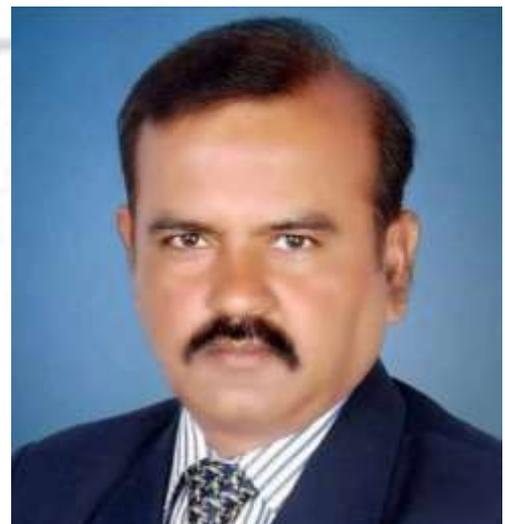
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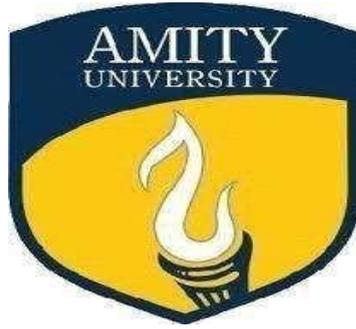
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With this thought, we hereby present to you



Constitutional rights of transgenders in india: A socio-legal study

**Research Dissertation submitted to Amity Institute
of Advanced Legal Studies Amity University Uttar Pradesh**

In Part Fulfilment of Requirement for the Degree of Master of Laws (LLM)

LLM (Constitutional Law)

Under the guidance and supervision of

Prof. Arun Upadhyay

Anjali Tiwari

LL.M (Constitutional Law)

E.no: A0342624024

Batch : 2024-25

DECLARATION

I, Anjali Tiwari, student of LLM(CL) in Amity Institute of Advanced Legal Studies, , Amity University Uttar Pradesh, hereby declare that I have completed the LLM project report on Constitutional Rights of Transgenders in India: A Socio-legal Study in partial fulfillment of the requirements for the award of the degree of LLM(CL). I declare that it is an original work and has not been submitted so far in part or in full, for the award of any other degree or diploma of any University or Institution.

Anjali Tiwari

CERTIFICATE

This is to certify that the Dissertation entitled “Constitutional Rights of Transgenders in India: A Socio-legal Study” submitted by Ms. Anjali Tiwari, a student of Amity Institute of Advanced Legal Studies, is a bona-fide research work for the award of the Degree of LLM (Constitutional Law). She has been working under my constant supervision and guidance, and her dissertation is complete and ready for submission.

I am confident that the current research dissertation is meritorious and satisfies all requirements established by Amity University, Noida, Uttar Pradesh for the awarding of the Degree of Masters in Law. I highly recommend that it be considered for the award of the Degree of Master of Laws

Prof. Arun Upadhyay
(Supervisor)

Date:

Place: Noida

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Anjali Tiwari

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ABBREVIATIONS

Abbreviation	Full Form
NALSA	National Legal Services Authority
SC	Supreme Court
LGBTQ+	Lesbian, Gay, Bisexual, Transgender, Queer/Questioning, and others
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immuno deficiency Syndrome
NPCDCS -	National Programme for Prevention and Control of Cancer, Diabetes, Cardiovascular Diseases, and Stroke
UN	United Nations
WHO	World Health Organization
SOGIE	Sexual Orientation and Gender Identity Expression
NCRB	National Crime Records Bureau
NHRC	National Human Rights Commission
CRPD	Convention on the Rights of Persons with Disabilities
TRAI	Telecom Regulatory Authority of India
CPCR	Commission for Protection of Child Rights

LIST OF CASES

S.NO	CASE NAME
1.	<p>1. <i>National Legal Services Authority v. Union of India (2014) 5 SCC 438</i></p> <p>- Significance: Recognized transgender people as the "third gender" and affirmed their fundamental rights under Articles 14, 15, 16, 19, and 21 of the Constitution</p>
2.	<p>2. <i>Navtej Singh Johar v. Union of India (2018) 10 SCC 1</i></p> <p>- Significance: Decriminalized consensual homosexual acts by reading down Section 377 of the IPC, which indirectly upheld the rights of transgender individuals to express their sexual orientation freely.</p>
3.	<p>3. <i>Justice K.S. Puttaswamy v. Union of India (2017) 10 SCC 1</i></p> <p>- Significance: Recognized the right to privacy as a fundamental right under Article 21, which includes gender identity and sexual orientation.</p>
4.	<p>4. <i>Arunkumar & Sreeja v. The Inspector General of Registration (2019) SCC OnLine Mad 8779</i></p> <p>- Significance: The Madras High Court held that a transgender woman is a "bride" under the Hindu Marriage Act, 1955, thus recognizing marriage rights of transgender persons.</p>

ABSTRACT

Reflecting a movement toward more tolerance and legal recognition, transgender people's constitutional rights in India have seen major change in recent years. Transgenders have battled for fundamental rights including the freedom to identification, education, employment, and healthcare historically excluded and subjected to societal ostracism. Granting legal recognition to the third gender and so affirming their rights under Articles 14, 15, 19, and 21 of the Indian Constitution, the Supreme Court of India's historic National Legal Services Authority (NALSA) v. Union of India (2014) verdict turned things around. Using a socio-legal approach, this study evaluates the degree to which transgender rights are maintained in India by means of constitutional clauses, historic court decisions, and legislative frameworks. The report contends that although the legal system has set the stage for equality, initiatives for socio-economic development, awareness campaigns, and more robust legal enforcement are desperately needed to guarantee substantive justice for transgender people. By filling in these gaps, their fundamental rights would be strengthened as well as a more inclusive and fair society would be produced

Keywords: Transgender rights, Indian Constitution, NALSA judgment, Transgender Persons Act 2019, legal recognition, social inclusion, affirmative action, gender justice.

CHAPTER 1: INTRODUCTION

Legal, societal, and cultural elements have molded India's long and difficult path of acknowledging transsexual rights. With proof of their presence in ancient scriptures, folklore, and religious books, transgender people have always occupied a unique role in Indian civilization. Particularly the hijra community has been very important in certain social and cultural customs.

Though historically significant, transgender people have also been targets of prejudice, marginalizing behavior, and exclusion from mainstream society. Particularly with the historic National Legal Services Authority (NALSA) v. Union of India case in 2014, which explicitly acknowledged their ability to self-identify their gender, the legal environment surrounding their rights has changed dramatically recently. This ruling signaled a sea change in the legal debate on transgender rights, opening the path for legislative changes meant to guarantee dignity and equality for this underprivileged minority.

Although the NALSA ruling was a major turning point, its application and the larger sociopolitical reality for transgender people in India remain challenging. Enacted to offer a legislative basis for the safeguarding of transgender rights, the Transgender Persons (Protection of Rights) Act, 2019 Nonetheless, because of its alleged flaws, especially in connection to self-identification processes and insufficient defense against discrimination, the Act has been attacked by activists and transgender people.¹

Viewed as a breach of the NALSA ruling, which maintained the right to self-identify without outside validation, the law's focus on certification by a district magistrate for gender recognition has been questioned. Therefore, even if legal recognition has progressed, transgender people still fight for social acceptability, economic

¹ National Legal Services Authority v. Union of India, (2014) 5 SCC 438

possibilities, and access to basic services such healthcare and education; practical obstacles still exist.

Through its basic rights and guiding ideas, the Indian Constitution offers a strong basis for safeguarding transgender rights. Courts have read Articles 14, 15, 19, and 21—which uphold equality, non-discrimination, freedom of expression, and the right to life and personal liberty—to cover transgender people. The Supreme Court specifically decided that Article 14's "person" definition covers transgender people, therefore guaranteeing their constitutional rights equal to those of regular citizens. Furthermore forbidden under Article 15 is discrimination based on sex, which has been understood to include gender identity. This constitutional support has been absolutely vital in opposing unfair policies and supporting legislative initiatives meant to foster diversity.

Even with these fundamental protections, transgender people have great difficulty claiming their rights. Their capacity to conduct respectable lives is nevertheless hampered by discrimination in public areas, education, healthcare, and employment. Further aggravating these difficulties in society is the ignorance of awareness and sensitivity towards transgender concerns. Legal actions have tried to close this disparity, but given society's slow to modify beliefs, their efficacy is still dubious. Therefore, a crucial area needing continuous efforts from legislators, activists, and civil society is the junction of legal acknowledgment and societal acceptability.²

Furthermore, India's legislative recognition of transgender rights is closely tied to international human rights norms. India is a signatory to a number of international treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR), which emphasise equality and nondiscrimination. The Yogyakarta Principles provide a set of guidelines that guide the interpretation of international human rights laws in relation to sexual orientation and gender identity, even though they are not legally binding. Court rulings in India have included these ideas, therefore reaffirming India's dedication to respect transgender rights in line with international human rights norms. Still, the discrepancy between national execution and global obligations presents a difficulty.

² Constitution of India, Art. 14, 15, 19, 21

Advocacy groups and civil society organizations have been quite helpful in elevating transgender concerns into front stage in legal and policy debates. Legal help, healthcare, and social support for transgender people have come from grassroots level organizations especially very important. Strategic legal interventions and public interest litigations have also helped to produce progressive court rulings honoring and safeguarding of transgender rights.

But campaigning by itself is not enough; institutional changes like transgender-inclusive policies into central and state-level government systems are desperately needed. Another key component of transgender people's rights conversation is their economic empowerment. There are still few job possibilities, and many transsexual people suffer prejudice in both official and unofficial areas. Their economic fragility is exacerbated even more by the absence of affirmative action policies and employment reservations.³

Although some state governments have launched welfare programs and skill development initiatives meant to increase transgender people's job opportunities, these initiatives are generally inadequate and inconsistent. Ensuring economic inclusion calls for a combined strategy comprising financial assistance systems, government-backed job programs, and corporate inclusiveness principles.

Another major issue is healthcare access for transgender people; many of them suffer prejudice and lack appropriate medical facilities. Due in great part to exorbitant expenses and insufficient medical knowledge in transgender healthcare, gender-affirming healthcare services—including hormone treatment and surgical interventions—remain mostly inaccessible. Furthermore, mental health problems among transgender people demand immediate care since they are usually resulting from social stigma and rejection. The healthcare system has to change its approach to be more inclusive and guarantee transgender people receive respectful and non-judging medical treatment.

³ Universal Declaration of Human Rights, 1948, United Nations.

With several states appointing transgender people to governmental posts, the visibility of transgender people in politics and public life has grown in recent years. Still, political representation is small, and institutional obstacles still discourage more general involvement. Ensuring their voices is heard in the legislative and policy-making processes depends on laws supporting transgender inclusion in government, political parties, and decision-making bodies being adopted. Affirmative action must accompany legal changes to help transgender people participate actively in determining their own destiny.⁴

Though India has made great strides toward acknowledging transgender rights, much more has to be done to guarantee their complete realization. The socio-legal difficulties transgender people experience call for a comprehensive strategy combining social change with legislative changes. Dismantling society prejudices and promoting an inclusive environment depend on education, awareness-raising campaigns, and sensitizing initiatives. Sustained efforts by the court, administration, civil society, and society at large to guarantee that constitutional promises translate into actual and meaningful protections will determine the fate of transgender rights in India.

1.1 Statement of the Problem

Within both societal and legal systems, transgender people's rights in India have long been underprivileged. Despite constitutional rights of equality, dignity, and nondiscrimination, transgender persons continue to face systematic exclusion, discrimination, and violence in many areas of life, including as public spaces, healthcare, employment, and education. Recognizing transgender people as a third gender and upholding their freedom to self-identification, the historic ruling in National Legal Services Authority v. Union of India (2014) (NALSA case) acknowledged Introduced to give transgender people legal identification and protection, the Transgender Persons (Protection of Rights) Act, 2019 The Act has been harshly attacked, meanwhile, for its bureaucratic approach to gender identity verification, lack of clarity in defining rights, and inability to sufficiently handle social stigma. Realizing

⁴ The Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity, 2007.

transgender rights in India still depends much on the discrepancy between legal recognition and society acceptance.⁵

Moreover, transgender people still fight to exercise their fundamental rights in reality even if Articles 14, 15, 19, and 21 promise equality, freedom, and protection of life and personal liberty. Their vulnerability is further heightened by the absence of gender-sensitive legislation, poor healthcare facilities, and exclusion from mainstream education and job possibilities. Further social and financial losses result from legal difficulties over inheritance, marriage, and adoption rights for transgender people. This paper seeks to scrutinize the efficacy of current legal clauses, their implementation shortcomings, and the socio-legal challenges still impeding the realization of constitutional rights for transgender people in India.

1.2 Research Questions

1. Which main constitutional clauses protect the rights of transgender people living in India?
2. In what ways has the court helped India's transgender rights to be acknowledged and safeguarded?
3. In what ways might transgender people's access to basic liberties including healthcare, education, and employment present socio-legal difficulties?
4. To what extent have legislative actions and government policies guaranteed the inclusion and empowerment of transgender people?
5. What legislative and policy changes might help to strengthen the constitutional liberties of transgender people living in India?⁶

⁵ Government of India, —National Policy for Transgender Persons, Ministry of Social Justice and Empowerment, 2020.

⁶National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

1.3 Research Objectives

Emphasizing legal protections, societal problems, and policy implementations, this paper seeks to examine the constitutional rights of transgender people in India. Through analyzing the interaction between law and society, the study aims to present a whole picture of the efficacy of constitutional protections and pinpoint areas needing more change.

1. To look at the constitutional clauses in India acknowledging and safeguarding transgender people's rights This aim aims to examine pertinent Indian Constitution articles pertaining to transgender rights: Article 14 (Right to Equality), Article 15 (Prohibition of Discrimination), and Article 21 (Right to Life and Personal Liberty). The paper will look at historic rulings, including the National Legal Services Authority (NALSA) v. Union of India case, which helped to formally acknowledge transgender rights.

2. To evaluate how legal and policy changes affect transgender people's socioeconomic circumstances – Different legislation and government projects—including the Transgender Persons (Protection of Rights) Act, 2019—will be assessed to ascertain their success in enhancing career prospects, healthcare access, and education for the transgender population. The study will also look at how discrimination and social stigma still impede the pragmatic application of these legal rules.⁷

3. To examine changing jurisprudence and judicial opinions on transgender rights in India This goal will concentrate on important Supreme Court and High Court decisions influencing the legal environment for transgender people. It will evaluate the court's slow moves in acknowledging gender identity and the necessity of affirmative action to guarantee equal chances. The study will also contrast Indian legal advancements against best practices and international norms.

⁷ National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

4. To assess the difficulties transgender people have in gaining basic liberties including employment, education, and healthcare – Transgender people still experience prejudice in many sectors of life notwithstanding constitutional protections. The study will look at institutional frameworks that impede efficient legal enforcement and offer suggestions for enhancing them to guarantee more inclusiveness.

This aim will concentrate on advocating changes to current laws and policies to close the gap between legal recognition and societal acceptability, therefore implying legal and policy proposals for improving the protection and inclusion of transgender people in India. The paper will also look at how international organizations, NGOs, and advocacy groups may help to drive policy changes that support transgender rights in India.⁸

United Nations Development Programme (UNDP), *Transgender Rights and Inclusion in India* (2020).

1.4 Research Methodology

This study explores, from a socio-legal standpoint, the constitutional rights of transgender people in India using a qualitative research technique. Focusing on constitutional clauses, legislative frameworks, historic court decisions, and international human rights agreements pertinent to transgender rights, the study mostly depends on doctrinal analysis. A critical study of important materials including the Indian Constitution. The Transgender Persons (Protection of Rights) Act, 2019, and judgments of the Supreme Court of India, including the landmark *NALSA v. Union of India* (2014) case, forms the core of the analysis. To further grasp the more general socio-legal consequences of transgender rights in India, secondary sources such as books, journal articles, and government reports are also used.

Moreover, a comparison of India's legal system on transgender rights to international best standards is used. Examining legal systems from nations including the United States, the United Kingdom, and Canada—where progressive legal systems exist to defend transgender rights—this comparative study. The study also includes Yogyakarta Principles and United Nations Human Rights Council (UNHRC) publications, which offer direction on the implementation of international human rights law in connection with sexual orientation and

⁸ Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1 (Right to Privacy Case).

gender identification. Examining these sources helps the study to determine whether India's legal system conforms to international norms on transgender rights.⁹

Using a socio-legal approach, the study combines legal analysis with sociological knowledge to evaluate how laws and policies actually affect transgender people living in India. Reviewing empirical studies, polls, and reports detailing the lived realities of transgender people—including their difficulties with identity recognition, access to healthcare, employment, and anti-discrimination protection—is part of this approach. The study also looks at how implementation and efficacy of legal protections for transgender people are affected by socio-cultural elements including society attitudes, religious influences, and traditional gender standards.

To ensure comprehensive understanding, the study employs an interdisciplinary approach that incorporates perspectives from gender studies, sociology, law, and the human rights debate. Through qualitative data analysis combining case studies and expert opinions, a deeper knowledge of the gaps in present legal safeguards and potential revisions needed for the proper implementation of transgender rights in India is produced. The research also considers lobbying efforts and policy recommendations made by legal activists and transgender rights organisations in India.

1.5 Literature Review

Particularly in light of historic court rulings and changing legislative actions, the constitutional rights of transgender people in India have been the topic of much legal and social debate. Historically, the transgender population in India has experienced legal invisibility, societal rejection, and institutionalized persecution.¹⁰

⁹ National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

¹⁰ National Legal Services Authority v. Union of India, (2014) 5 SCC 438

But with its recognition of the freedom to self-identify as male, female, or transgender, independent of medical assistance, the Supreme Court's ruling in *National Legal Services Authority v. Union of India* (2014) signaled a sea change. Emphasizing equality, non-discrimination, freedom of speech, and the right to life and dignity, this ruling confirmed that Article 14, 15, 19, and 21 of the Indian Constitution protects the rights of transgender people. The ruling underlined the importance of affirmative action and social welfare programs to raise the community, which has been excluded historically because of strong ingrained prejudices.

Even with court legal recognition, it has been challenging to put these core precautions into practice. The Transgender Persons (Protection of Rights) Act, 2019, which was passed in order to provide a legal framework for the protection of transgender rights, has drawn a lot of criticism for its regressive provisions, particularly those that require a government-issued proof of identity.

This clause compromises transgender people's liberty by subjecting them to official inspection, therefore contradicting the self-identification concept set in the NALSA decision. Furthermore lacking in particular clauses for reservation in employment and education, which are vital for the socioeconomic advancement of transgender people, is the Act. Although the law marks a progress in acknowledging transgender rights, several academics contend that it does not sufficiently address the ingrained structural inequities the group suffers.¹¹

Article 14's constitutional concept of equality has been taken broadly to cover transgender people. Consistent reinforcement of the idea that discrimination based on gender identity is unlawful has come from judicial interpretations Reading down Section 377 of the Indian Penal Code, the Supreme Court decriminalized consensual same-sex partnerships in *Navtej Singh Johar v. Union of India* (2018), therefore bolstering the legal basis for transgender rights.

Setting a progressive precedent for next decisions, the ruling acknowledged the dignity and liberty of people in concerns of gender and sexuality. Still, the society's view of transgender

¹¹ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

people is still mostly biased, and legal successes have not always resulted in obvious changes in their daily life. Discrimination in access to healthcare, education, and employment exposes the discrepancy between constitutional provisions and their execution.

Legal academics have noted that legislative and executive acts have often lagged behind even while the court has actively expanded transgender rights. Lack of thorough anti-discrimination laws increases the vulnerability of transgender people especially in public areas and employment. Unlike nations with strong legislative protections against discrimination based on gender identity, India does not have a specific structure to handle institutionalized prejudices against transgender people. In this regard, the court's function becomes even more important in making sure that executive lethargy does not make constitutional safeguards useless. Some academics contend that to increase legal safeguards, a constitutional change specifically acknowledging gender identity as a protected category under anti-discrimination rules is essential.¹²

Transgender rights jurisprudence in India has been greatly shaped by Article 21's protection of life and personal liberty. The Supreme Court has read this clause to include the rights to dignity, privacy, and autonomy—qualities transgender people need to lead happy lives. Transgender people are greatly affected by the *Puttaswamy v. Union of India* (2017) verdict, which recognised their basic right to privacy, especially in relation to their right to self-determination and protection from intrusive state regulations. However, deeply ingrained societal stereotypes and a lack of knowledge about transgender problems among law enforcement and government officials make it challenging to implement these rights.

Under Article 21, transgender people's healthcare rights thus fall under the purview of constitutional protection. Transgender people have long lacked easily available and reasonably priced healthcare options; many of them have experienced discrimination in hospitals and clinics. The World Health Organisation (WHO) has emphasised the basic right to gender-affirming treatment, despite the fact that India's healthcare laws still largely fall short of meeting the unique requirements of transgender individuals.

¹² *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438

Studies reveal that many transgender people postpone getting medical attention because of fear of harassment or refusal of treatments, therefore aggravating their susceptibility. This emphasizes how urgently policy actions are needed to provide fair access to healthcare free from prejudice. Although constitutional safeguards under Articles 15 and 21A forbid discrimination and guarantee the right to education, transgender people nonetheless experience systematic exclusion in another vital area: education. According to a UNESCO study, bullying, harassment, and a lack of supportive infrastructure in colleges and universities account for the great dropout rates among transgender students.¹³

Only a small number of institutions actively supporting transgender-inclusive curricula and facilities indicate how poor inclusive educational policies are still implemented. Legal experts contend that in order to close the educational disparity and provide equal chances for transgender students, affirmative action rules such reserved seats in colleges and committed scholarships are essential.

One major obstacle to financial empowerment still is employment discrimination against transgender people. Although the NALSA ruling instructed the government to offer reservations in employment, thus far no specific action has been taken. Lack of particular employment quotas and anti-discrimination regulations in workplaces helps to maintain economic marginalization.

Studies show that lack of career possibilities in the official sector drives many transgender people into unofficial and unstable employment. Comparative research involving countries such as the US and the UK demonstrates that robust legislative protections against employment discrimination significantly improve economic inclusivity. Therefore, legal scholars advocate for stronger enforcement mechanisms to ensure that constitutional rights are effectively implemented in the workplace.

Underdeveloped in Indian constitutional law is the legal acceptance of transgender marriage and family rights. India lacks specific legal provisions in this regard unlike numerous other

¹³ Government of India, Report of the Expert Committee on the Issues relating to Transgender Persons, 2014

nations that have approved same-sex marriage and adoption rights for transgender people. Legal uncertainty on issues of marriage and inheritance results from the Special Marriage Act, 1954 and Hindu Marriage Act, 1955 not expressly acknowledging transgender people.¹⁴

1.6. Hypothesis

- Despite the constitutional guarantees and legal recognition of transgender rights in India, the transgender community continues to face systemic socio-legal discrimination and marginalization.
- The implementation of the Transgender Persons (Protection of Rights) Act, 2019, has not been effective in ensuring the full enjoyment of constitutional rights by transgender individuals.
- Judicial pronouncements like the NALSA judgment have had a limited impact on improving the everyday lives of transgender people due to poor policy execution and social stigma.
- There exists a significant disconnect between the legal recognition of transgender rights and societal attitudes, leading to continued exclusion from education, employment, healthcare, and political participation.

¹⁴Ministry of Social Justice and Empowerment, "National Action Plan for Transgender Welfare," 2020.

1.7 STUDENT LEARNING OUTCOMES

By the end of this research, students will be able to:

- **Understanding Constitutional Provisions**

Students will be able to identify and explain the constitutional rights granted to transgender persons under the Indian Constitution, particularly Articles 14, 15, 19, and 21.

- **Legal Framework Analysis**

Students will analyze key judgments such as *NALSA v. Union of India (2014)* and laws like the *Transgender Persons (Protection of Rights) Act, 2019*, evaluating their impact on transgender rights.

- **Critical Socio-Legal Perspective**

Students will critically examine the gap between law and practice in the implementation of transgender rights in India, highlighting social stigma, discrimination, and legal challenges.

- **Awareness and Advocacy**

Students will demonstrate an awareness of the social injustices faced by the transgender community and propose measures for legal reform, policy change, and inclusive practices.

- **Comparative Legal Insight**

Students will be able to compare India's approach to transgender rights with that of other jurisdictions, identifying global best practices and their relevance to Indian society.

- **Communication and Argumentation**

Students will enhance their ability to present legal arguments, both orally and in writing, on issues concerning transgender rights, supported by socio-legal evidence and constitutional reasoning.

CHAPTER-2

THE CONSTITUTIONAL AND STATUTORY FRAMEWORK OF TRANSGENDER RIGHTS

The Indian Constitution is a changing constitution that aims to protect justice, equality, and dignity for everyone, regardless of gender identity. The court's general interpretation of it ensures that transgender individuals are included in its protection system, even if it does not directly address them. Articles 14, 15, 19, and 21 of the Constitution guarantee equality, nondiscrimination, freedom of speech, and the right to live with dignity, all of which are derived from transgender rights. The Supreme Court's landmark decision in *National Legal Services Authority (NALSA) v. Union of India* (2014) marked a turning point when it recognised the rights of transgender individuals and directed the government to implement affirmative measures for their social inclusion. This ruling upheld the rights of transgender individuals to self-identify as gender nonconforming, therefore enabling their legal recognition and protection—a vital first step.

Despite constitutional rights, transgender persons have long experienced institutionalised discrimination, social exclusion, and marginalisation. The NALSA verdict clearly states that discrimination against transgender individuals violates Articles 14 and 15 of the Constitution, which protect equality and prohibit sex-based discrimination. The ruling further broadened the applicability of Article 19(1)(a) by acknowledging the right to self-expression, which includes the freedom to dress and present oneself in accordance with one's gender identification. Furthermore, it was believed that the right to live with dignity, privacy, and autonomy was covered by Article 21, which guarantees personal liberty and life.¹⁵

Legal reforms and legislative decisions taken in India to safeguard the rights of transgender people have been greatly shaped by these readings. Effective application of these constitutional protections still presents a difficulty, though. The Indian Parliament passed the *Transgender Persons (Protection of Rights) Act, 2019* to put constitutional values into

¹⁵ *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438

practical liberties. This law seeks to give transgender people welfare policies, legal recognition, and anti-discrimination safeguards.

Including intersex, genderqueer, and other gender-nonconforming people, it defines a transgender person as someone whose gender does not match the sex assigned at birth. The Act forbids discrimination in spheres including employment, education, healthcare, and public space access. It calls for the creation of welfare programs meant to encourage economic empowerment and social inclusion. But some Act clauses have drawn criticism, especially the requirement for transgender people to get a certificate of identity from a district magistrate, which many contend compromises their right to self-identification acknowledged in the NALSA ruling.

The Rights of Persons with Disabilities Act, 2016, which contains clauses indirectly helping transgender people, marks yet another important legislative step. This legislation treats psychological disorders including gender dysphoria as impairments, therefore entitling impacted people to specific rights and protections. Various state governments have also instituted laws and welfare programs for transgender people including free healthcare, financial support for livelihood projects, and reservations in education and employment as well as free transportation. Notwithstanding these steps, there are still gaps in guaranteeing complete and efficient grassroots protection of transgender rights where bureaucratic obstacles, social exclusion, and discrimination continue.¹⁶

The Rights of Persons with Disabilities Act, 2016, No. 49, Acts of Parliament, 2016.

The legal foundation for transgender rights in India has been much shaped by judicial activism. In various rulings, the Supreme Court has underlined the need of respecting the dignity and rights of transgender people. Emphasizing that gender identity and sexual orientation are natural components of an individual's autonomy and dignity, the Court maintained the right to privacy as a basic right under Article 21 in Justice K.S. Puttaswamy v. Union of India (2017.). In Navtej Singh Johar v. Union of India (2018), the Supreme Court similarly decriminalized homosexuality by invalidating Section 377 of the Indian Penal Code,

¹⁶ The Transgender Persons (Protection of Rights) Act, 2019, No. 40, Acts of Parliament, 2019.

therefore helping transgender people who had hitherto been subject to criminal prosecution under the legislation. These decisions illustrate the court's proactive approach in guaranteeing the safety of transgender people and thereby support their fundamental rights.

The constitutional and statutory foundation for transgender rights in India also includes antidiscrimination provisions in labour laws and educational rules. In order to provide equitable opportunities for transgender individuals in the workplace and in school, the Supreme Court has emphasised the necessity of affirmative action. In response, the University Grants Commission (UGC) and a number of state governments have increased transgender student scholarships and reservations.

Corporate rules are also progressively becoming more inclusive; many firms now use gender-neutral hiring policies and office policies. Although these actions show development, great inclusion and equality for transgender people depend on public understanding and social acceptance, which remain crucial. One of the most underappreciated areas in safeguarding transgender rights is still healthcare. While the National Health Policy acknowledges the need of inclusive healthcare, access to gender-affirming medical treatments is still restricted and costly.¹⁷

In hospitals and clinics, where healthcare professionals may lack expertise and sensitivity toward their medical needs, many transgender people encounter discrimination. Though its implementation varies among states, the Transgender Persons (Protection of Rights) Act, 2019 guarantees access to healthcare. Furthermore impeding transgender people from obtaining required medical treatment are the legal complexity of gender affirming operations, including the requirement for clearance from medical boards.

Apart from medical treatment, under Indian law legal acceptance of transgender relationships and family rights still falls under debate. Although the NALSA ruling acknowledged the right to self-identification, there are no explicit legislative clauses addressing marriage, adoption, or inheritance for transgender people. Sometimes courts have decided in favor of transgender people claiming their rights in certain areas, but there is no thorough statutory framework in place. For transgender people trying to be recognized of their familial rights, this legal

¹⁷ Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1

ambiguity usually causes social and legal difficulties. Achieving real equality still depends critically on transgender people being included in personal laws concerning marriage, adoption, and inheritance.

Legal reforms, awareness-raising campaigns, and efficient application would help India's constitutional and statutory framework for transgender rights to be strengthened going forward. Although India has made great progress in acknowledging and safeguarding transgender rights, ongoing societal stigma, bureaucratic obstacles, and legal uncertainty impede complete inclusion. Public awareness efforts, sensitizing initiatives for government officials, and rigorous application of anti-discrimination legislation help to close the discrepancy between legal recognition and societal acceptability.¹⁸

Furthermore, strengthening affirmative action regulations and eliminating administrative barriers to self-identification should be the main goals of any changes made to the Transgender Persons (Protection of Rights) Act, 2019. Transgender rights have a strong foundation in India's constitution's commitment to equality and dignity, but bringing these ideals to life requires constant effort from the government, the judiciary, civil society, and individuals. Legal acknowledgement of transgender individuals and progressive judicial interpretations point to significant advancements in their fight for rights. However, real social and legal inclusion won't be possible unless transgender individuals can live without fear of discrimination, have equal access to opportunities in all spheres of life, and freely and dignifiedly use their rights. Legal changes, persistent campaigning, and a group effort to create a more inclusive society will define transgender rights in India going forward.

2.1 NALSA v. Union of India

A turning point in Indian law on the rights of transgender people is the case of National Legal Services Authority (NALSA) v. Union of India [(2014) 5 SCC 438].

This landmark decision, which was delivered by a two-judge Supreme Court bench made up of Justices K.S. Radhakrishnan and A.K. Sikri, recognised transgender individuals as the "third gender" and upheld their basic rights under the Indian Constitution. Along with

¹⁸ Ministry of Health and Family Welfare, National Health Policy, 2017

transgender activists, NALSA filed the petition demanding legal recognition and equal treatment for transgender people who had previously been excluded from mainstream society and subjected to discrimination and marginalization. The ruling not only gave transgender people a legal status but also set a constitutional mandate on the government to guarantee their complete and equal participation in society.¹⁹

The Supreme Court's ruling in *NALSA v. Union of India* was based on constitutional principles included in Articles 14, 15, 16, 19, and 21. These guarantees include equality, nondiscrimination, freedom of speech, and the right to life and dignity. According to the verdict, transgender persons have been subjected to abuse, denied access to education and employment opportunities, and prevented from living a dignified life because of their lack of legal recognition.

The Court decided that gender identification cannot be limited to the binary of male and female and is rather self-determined. It underlined even more that discrimination against transgender people violates their fundamental rights and prompted the government to move aggressively to improve their social and financial situation. This ruling thus set the stage for the legal defense and social inclusion of transgender people in India.

The NALSA verdict primarily draws from international human rights norms, particularly those enshrined in the Yogyakarta Principles, which respect individuals' rights to specify their gender identification. The Court referenced prior international decisions that recognised the right to gender identity as a fundamental aspect of individual liberty, namely from the United States and the United Kingdom.

The ruling also referenced Articles 1 and 2 of the Universal Declaration of Human Rights (UDHR), which, regardless of gender identification, ensure equality and non-discrimination to every person. The Supreme Court strengthened the idea that transgender people are entitled

¹⁹ National Legal Services Authority v. Union of India, (2014) 5 SCC 438

to the same fundamental rights as any other citizen by matching Indian legislation with world human rights criteria.²⁰

The decision also demanded positive action by the state, guiding governments both centrally and locally to carry out programs guaranteeing the integration of transsexual people into society. It advocated the development of job reserves, social welfare programs, and educational possibilities especially for transsexual people. It also pushed governments to take care of health issues unique to the transgender population, including access to gender-affirming healthcare and defense against medical institution discrimination. The Court's recommendations also underlined the need of sensitizing law enforcement, medical personnel, and educational institutions toward knowledge and acceptance of transgender rights.

The NALSA ruling's acknowledgment of the right to self-identification of gender—without calling for medical or surgical intervention—was among its most important features. The Court decided that insisting on sex reassignment surgery or hormone treatment as a prerequisite for acknowledging gender identification was unconstitutional and harmed the dignity and bodily autonomy of transgender people. This was a change from past Indian regulations, where medical operations frequently linked legal acceptance of gender identification to The Supreme Court's position confirmed that one's view of their gender has to be respected and legally acknowledged without adding any more weight. Nevertheless, the application of the judgment has encountered difficulties even with its progressive character. Although the decision instructed governments to develop inclusive policies, the lack of a thorough legal framework caused delays in the application of policies.²¹

Critics of the Transgender Persons (Protection of Rights) Act, 2019, which was intended to give legislative expression to the ideas set out in NALSA, have attacked it for lacking the spirit of the ruling. Activists contend that the 2019 Act does not sufficiently handle concerns

²⁰ The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, March 2007.

²¹ NALSA v. Union of India, (2014) 5 SCC 438, para 60.

of discrimination, healthcare, and social inclusion as envisioned by the Supreme Court and puts bureaucratic obstacles for gender recognition.

By acknowledging that the Indian Constitution offers an inclusive framework for gender equity, the NALSA decision also signaled a change in the judicial attitude regarding transgender rights. The ruling confirmed that Article 21's right to life covers the right to live with dignity, which spans gender identification and self-expression. This reading broadened the scope of fundamental rights so that transgender people could not be denied their constitutional entitlements only because of their gender identity. By doing this, the Court aimed to correct the historical injustices the transgender community suffered by means of legal recognition and affirmative actions.

Recognizing the transgender population as a socially and educationally disadvantaged class and allowing them access to reserves in public employment and education was another crucial mandate of the ruling. This was a major action meant to solve the systematic economic deprivation and exclusion transgender people experience. The Court underlined that marginalised gender identities should be included into reserve plans in addition to Scheduled Castes (SCs) and Scheduled Tribes (STs). Though several states still have to adopt reserve plans especially for transgender people, the practical execution of this mandate has been slow.²²

Apart from legal acceptance, the Supreme Court demanded aggressive actions to alter public opinion on transgender people. The court advised the government to run awareness efforts aiming at eradicating stigma and promoting social acceptance. It also underlined the need of legislative changes to outlaw discrimination against transgender people in public areas, educational institutions, and businesses. Although several states have moved in this direction, advocates still urge a nationwide anti-discrimination law especially safeguarding transgender rights.

Notwithstanding its progressive perspective, the NALSA ruling is still under development in terms of enforcement. The ongoing prejudice, violence, and exclusion transgender people

²² Constitution of India, 1950, Article 21: Right to Life and Personal Liberty.

experience highlight the need of more robust legal safeguards and efficient legislative execution. Although the decision offered a vital legal basis, constant government and civil society efforts are needed to guarantee that transgender people in India can completely exercise their constitutional rights. Though its success will finally rely on its implementation at the ground level, the case remains a turning point in India's legal history.

2.2 The Transgender Persons (Protection of Rights) Act, 2019

Enacted to establish a thorough legal framework for the safeguarding of transgender people in India, the Transgender Persons (Protection of Rights) Act, 2019 Introduced with the intention of honoring transgender people's rights, outlawing discrimination, and guaranteeing their complete social participation, the Act Before this law, transgender people living in India experienced extensive prejudice in many aspects of life, including public space access, healthcare, education, and work.²³

Long-standing demands by transgender activists and legal interventions—especially in line with the historic ruling in National Legal Services Authority (NALSA) v. Union of India (2014), whereby the Supreme Court of India acknowledged transgender people as a third gender and upheld their constitutional rights—have produced the Act. The Act gives transgender people legal recognition and protection in an effort to carry out the NALSA judgment's spirit.

The Act's main clauses, which acknowledge transgender identity and the right to self-perceived gender identity, are among those Under the Act, someone who identifies as transgender is defined as someone whose gender does not match their birth given gender. It covers people with intersex variances, genderqueers, and persons with socio-cultural identities including hijras, jogappas, and aravanis. But the Act requires transgender people to apply to the District Magistrate for a certificate of identification, therefore providing formal acknowledgement of their gender.

This requirement has been heavily criticised for being restrictive and bureaucratic as it contradicts the NALSA verdict, which upheld transgender people's freedom to self-identify their gender without formal or medical consent. In addition to requiring a medical

²³National Legal Services Authority v. Union of India (2014) 5 SCC 438.

examination, the procedure of changing a transgender person's gender to male or female reinforces government control over gender identity rather than allowing for self-determination. Another significant aspect of the Act is its ban on discrimination against transgender individuals in the workplace, in healthcare, in education, and in the use of public goods and services. The Act specifically forbids discrimination in healthcare services, denials of education, and unjust treatment in the job.²⁴

It also requires that corporate and governmental organizations act as required to guarantee transgender people are not subjected to discrimination. Notwithstanding these clauses, the Act does not offer clear enforcement tools or fines for infractions, which raises questions regarding the efficiency of application. Because of society stigma and ignorance of their rights, many transgender people still endure discrimination in hospitals, businesses, and colleges. Furthermore, the Act falls short in sufficiently addressing the social and financial marginalization of transgender people, therefore exposing them to poverty and isolation.

Through acknowledging their right to live in homes and utilize social programs, the Act also aims to encourage transgender people's inclusion in society. It forbids forcing transgender people apart from their families and requires that they be free to live with their biological or chosen family. It also guides the government to set up rehabilitation facilities for transgender people experiencing abuse or homelessness. Many activists contend, however, that these rules are insufficient as the Act does not allow affirmative action or reserve policies in employment and education, therefore helping to empower the transgender population. Transgender people still run danger of being excluded without structural changes, even with their legal rights recognized.

The Act's clauses on healthcare and medical services for transgender people generate one of the most heated debates among its features. The Act mandates that the government supply hormonal treatment and sex reassignment operations (SRS) among other healthcare facilities. The law does not, however, address the great expenses and restricted access of such treatments in India. Many government hospitals lack specific facilities for transgender healthcare, thereby requiring people to rely on costly private medical services.

²⁴ The Transgender Persons (Protection of Rights) Act, 2019, § 3-9

twenty-five Section 18 of the Transgender Persons (Protection of Rights) Act, 2019
Menon, "Legal Protection of Transgender Rights: Evaluating the 2019 Act," *South Asian Human Rights Review*, vol. 5, no. 2, 2022, pp. 87–105.

Furthermore lacking in the Act are measures for mental health support, which is absolutely vital considering the great stress, depression, and violence transgender people experience. Effective application of the Act depends on thorough healthcare policies, which nevertheless provide a great difficulty. The Act's neglect to handle problems of violence and abuse against transgender people is another great flaw. While the Act criminalizes some actions against transgender people, including physical assault and denial of services, it does not specify exact punishment in cases of sexual violence and hate crimes.

Additionally, the maximum penalty under the Act for crimes against transgender individuals is two years, which is much less than the penalty under the Indian Penal Code (IPC) for the identical offences against cisgender individuals. This discrepancy has resulted in criticism that the Act considers violence against transgender people as a smaller offense rather than offers equal protection under the law. Legal scholars and campaigners have focused mostly on the absence of particular defenses against sexual violence.

The Act also creates a National Council for Transgender Persons (NCT), whose job it is to track Act implementation and counsel the government on transgender welfare programs. The council comprises NGOs, transgender communities, and officials from governmental agencies. Although this is a good start, detractors contend that the NCT serves more as an advising body than a policy enforcement agent and lacks actual decision-making authority. Bureaucratic inefficiencies also raise questions since the council lacks control in handling pressing problems affecting transgender people. The absence of a strong legal authority to supervise the application of the Act reduces its influence.²⁵

Notwithstanding its flaws, the Transgender Persons (Protection of Rights) Act, 2019 marks a significant first toward legislative acceptance and safeguarding of transgender rights in India.

²⁵ The Transgender Persons (Protection of Rights) Act, 2019, § 16-17

Nevertheless, the Act stays insufficient in tackling the systematic problems experienced by the transgender community without more robust enforcement mechanisms, affirmative action policies, and thorough social welfare programs. To guarantee that transgender people in India may live with dignity and equality, modifications and additional rules are absolutely necessary.

2.3 State Laws Governing Transgender Rights

India has made significant strides in recognising and defending the rights of transgender individuals through legislation and legal measures. Although the central government has passed general legislation such as the Transgender Persons (Protection of Rights) Act, 2019, certain state governments have created their own legal systems to handle the particular difficulties the transgender population faces.

By guaranteeing improved inclusivity, resource access, and discrimination protection, these state-level projects seek to augment national regulations. Such laws have mostly addressed education, healthcare, employment, and social welfare, therefore honoring the systematic exclusion transgender people have experienced. Nonetheless, the cultural and sociopolitical context of every area as well as the dedication of state governments in applying these laws typically determine their efficacy. Many states have moved progressively forward with laws and programs designed especially for transgender people.²⁶

Renowned for inclusive policies, Kerala unveiled a historic transgender policy in 2015 emphasizing non-discriminatory treatment in the workplace and education. Other states such as Karnataka and Maharashtra have also put policies tackling important issues such as joblessness and educational reservations in effect. Still, institutional inefficiencies and social shame make enforcement a major difficulty even with these developments. Many transgender

²⁶ Arvind Narrain and Vinay Chandran, *Nothing to Fix: Medicalization of Sexual Orientation and Gender Identity* (SAGE Publications, 2016), 83

people still battle discrimination even in states that have passed progressive laws and find it difficult to get government services. Without appropriate monitoring and responsibility systems, the intention of these legislation sometimes does not materialize into clear advantages for the society.

Education is among the most important sectors where state governments have implemented particular legislative actions. The Right of Children to Free and Compulsible Education Act, 2009 forbids discrimination in education; states like Kerala and Tamil Nadu have gone farther by creating scholarships and specialised educational programmes for transgender people. Launched by the Kerala government, the Samanwaya project funds transgender people who left their schooling to re-enter the system.

In keeping with this, Karnataka has instituted rules requiring transgender people to be included into classrooms and guaranteeing a harassment-free atmosphere. These initiatives are critical as, for transgender people especially, education is still a vital tool for ending the cycle of poverty and marginalization. State-level law changes have also focused on employment prospects for transgender people.²⁷

In 2021, Karnataka became the first state in India to require a 1% reservation for transgender individuals in public jobs, setting a precedent for other states. In order to help with workforce inclusion, Maharashtra matched this by launching skill-building programs and vocational training courses especially for transgender individuals. Several states have also taken action to guarantee workplace diversity, pushing private businesses to apply regulations against discrimination and offer gender-neutral restrooms. Still, many transgender people endure prejudice, harassment, and job discrimination during hiring, which emphasizes the need of more forceful enforcement and awareness initiatives.

For transgender people, access to healthcare is still a major issue since many suffer prejudice in clinics and hospitals. States like Kerala and West Bengal have responded with laws guaranteeing transgender people free or subsidized healthcare. Kerala's transgender clinics

²⁷ Aniruddha Dutta, *Transgender Rights and the State: Contesting Moral and Legal Recognition in India* (Cambridge University Press, 2021), 109.

provide specialised medical care, including as hormone therapy and gender-affirming operations, while West Bengal's Swasthya Sathi health insurance system covers transgender individuals.

Tamil Nadu has also been front and foremost, providing government hospital free sex reassignment treatments. Such programs are absolutely vital in lowering healthcare inequalities and attending to medical needs of transgender people, who typically lack means for private treatment. Several states have also instituted social welfare programs to raise transgender people's standard of living. Under its social welfare program, the Odisha government grants transgender people monthly pensions.²⁸

Meghna Ramaswamy, *Social Welfare Policies for Transgender Persons in India: A Comparative Analysis* (Oxford University Press, 2022), 75.

Housing projects developed by Bihar and Chhattisgarh provide financial aid to transgender people for finding refuge. Nevertheless, underutilization of these programs results from bureaucratic obstacles and ignorance of them. Furthermore, many transgender people hesitate to take use of these advantages because official identification procedures are stigmatized and gaining government-approved transgender identity documentation is still difficult. Dealing with these problems calls for not just legislative changes but also administrative effectiveness and society sensibility.

Though different states have taken progressive actions, the application of transgender rights laws remains uneven. Many states currently rely just on central legislation and lack particular laws addressing the concerns of transgender people. Ground-level execution is weak in states that have instituted progressive laws because of ignorance, inadequate training, and political will. The Transgender Persons (Protection of Rights) Act, 2019 mandates that all states establish Transgender Welfare Boards, however few have done so.

Comprehensive awareness campaigns at both the administrative and public levels are therefore necessary to guarantee the correct application of these rules. By teaching

²⁸ Ashley Tellis, "Healthcare and the Transgender Community in India: A Critical Examination," (2020) 11(3) *Indian Journal of Law and Policy* 87, 93.

government officials, police officers, and healthcare providers on transgender rights, one can contribute to lower discrimination and enhance service delivery. States should also actively interact with transgender populations as they develop regulations so that their needs and issues are sufficiently addressed. Furthermore in place to hold authorities responsible for non-compliance are stronger monitoring systems, legal aid services, and grievance redressal procedures.²⁹

Sonia Khurana, "The Politics of Implementation: Evaluating Transgender Welfare Policies in Indian States," (2021) 16(1) South Asian Journal of Policy Studies 49, 62.

²⁹ Alok Gupta, *Legal Challenges and Social Exclusion: Transgender Rights in India* (Springer, 2023), 121.

CHAPTER-3

COMPARATIVE ANALYSIS – INTERNATIONAL PERSPECTIVE ON TRANSGENDER RIGHTS

With many nations moving toward guaranteeing equality and protection for gender-diverse people, transgender rights have become somewhat well-known all around. Reflecting variances in cultural, religious, and political attitudes about gender identity, the legal environment for transgender rights differs greatly. While some countries have passed thorough anti-discrimination laws and formal gender recognition procedures, others still fight entrenched prejudice and lack of legal protections. This discrepancy emphasizes the need of looking at foreign legal systems in order to spot areas needing development and best practices.

Human rights concepts ingrained in international treaties and conventions typically direct the acceptance of transgender rights. Promoting transgender equality has been much aided by the United Nations (UN) and regional human rights bodies such the InterAmerican Court of Human Rights and the European Court of Human Rights. These organizations have underlined that, as gender identity is a basic component of human dignity and, so, ought to be safeguarded under human rights legislation. But the degree of implementation differs greatly across other countries, which influences the lived experiences of transgender people.³⁰

"Discrimination and Violence against Individuals Based on their Sexual Orientation and Gender Identity," United Nations Human Rights Council A/HRC/29/23, 2015.

One of the most crucial aspects of transgender rights is legal gender recognition, which allows individuals to have their gender identification acknowledged in official documents. Some countries have adopted self-determination models, which let transgender individuals to legally alter their gender without facing psychological or physiological limitations. For example, Argentina has been a leader in this area since its 2012 Gender Identity Law lets people change their gender markers with a basic administrative process. Progressive self-

³⁰ 2006 Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity

identification rules passed by nations including Malta, Ireland, and Norway also guarantee dignity and autonomy for transgender people.

On the other hand, several countries still enforce strict legal or medical criteria for gender recognition, therefore impeding access. Before permitting a legal gender change, several governments impose gender-affirming operations, sterilization, or psychiatric diagnosis. Human rights groups have extensively attacked this strategy for undermining physical autonomy and the right to self-identification. In the case of *A.P., Garçon and Nicot v. France* (2017), the European Court of Human Rights decided that mandating sterilization as a prerequisite for legal gender recognition violated human rights, therefore significantly undermining constrictive legal systems.

Anti-discrimination legislation passed in several nations specifically safeguard transgender people in several spheres, including public accommodation, healthcare, education, and employment. Under Title VII of the Civil Rights Act of 1964, the Supreme Court's historic decision in *Bostock v. Clayton County* (2020) declared in the United States that discrimination based on gender identification is a kind of sex discrimination. This ruling greatly enhanced legal rights for transgender workers.³¹

However, despite these legal advancements, compliance remains a challenge in many nations. Transgender persons continue to face severe discrimination and violence in many countries, especially in Africa and the Middle East, with little to no legal recourse. People who identify as transgender are more likely to face marginalisation and human rights violations in the absence of specific anti-discrimination laws. The disparity in legal recognition and protection around the world emphasizes the need for more intense worldwide activism and collaboration to guarantee universal transgender rights.

Access to gender-affirming healthcare is crucial for transgender rights since medical transition is essential to the health of many transgender persons. Gender-affirming therapies, such as hormone therapy and surgeries, have been incorporated into public healthcare systems in certain countries, most notably Canada and the Netherlands, ensuring accessible for people

³¹ Law No. 26.743 on Gender Identity, Argentina, 2012.

of all socioeconomic backgrounds. However, many nations either have insufficient medical facilities or impose laws that make it difficult for people to get transition-related healthcare.

Some governments also explicitly forbid gender-affirming treatment, especially for young transgender people. Several U.S. states have lately passed legislation limiting or criminalizing healthcare professionals who administer gender-affirming therapies to young people. These limitations not only prevent required medical treatment but also help to explain why transgender young people have more mental health problems. Denying gender-affirming healthcare violates human rights, according to the World Health Organization (WHO) and the American Psychiatric Association, and can cause extreme psychological suffering.³²

European Parliament and Council on the Implementation of the Principle of Equal Opportunity and Equal Treatment of Men and Women in Matters of Employment and Occupation, 2006: Directive 2006/54/EC

Although many affluent countries have made great progress in transgender rights, underdeveloped countries have particular difficulties putting equivalent protections into effect. Legislative advancement is sometimes hampered by political unrest, religious influences, and socioeconomic considerations. Legal acceptance of transgender individuals has progressed in South Asia, for instance, in nations like Pakistan and Nepal where formal recognition of a "third gender" has been bestowed. Legal recognition nonetheless, societal acceptance and rights access remain restricted.

Under colonial-era legislation, several nations in Africa criminalize same-sex partnerships and gender nonconformism, therefore slowing down progress on transgender rights in that continent. Though society prejudice is still pervasive, nations like South Africa have more inclusive legal systems incorporating safeguards for gender identification in their constitution. Promoting policy changes in these areas to guarantee the rights of transgender people depends critically on the work of advocacy groups and international organizations.

Comparative study of transgender rights internationally exposes a clear discrepancy between

³² *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020).

regions where transgender people still experience systematic discrimination and progressive legal systems. While some nations have adopted self-determination models and thorough anti-discrimination laws, others place limited medical, legal, or social restrictions that violate transgender people's rights. Legal developments—such as those in Argentina, Canada, and the EU—offer insightful examples for reform, proving that policies giving dignity and self-identification first priority may be effectively carried out.³³

American Psychiatric Association, "Position Statement on Treatment of Transgender (Trans) and Gender Diverse Individuals," 2021.

3.1 Overview of Transgender Rights in Other Countries

Legal recognition and protection of transgender rights vary widely among countries, reflecting cultural, social, and political contexts. Some nations continue to impose strict laws that disfavour transgender persons, even while other nations have implemented progressive policies that ensure legal gender recognition, anti-discrimination safeguards, and healthcare rights. Legal environments for transgender rights have changed dramatically in many Western countries, especially with regard to gender identity recognition and social acceptance. Recognizing gender identity as a basic human right, nations including Canada, Germany, and Argentina have passed legislation allowing people to self-identify their gender free from medical or surgical necessity. On the other hand, some Middle Eastern and African nations prohibit transgender identities, which fuels systematic discrimination and violence directed against them.

Among the most advanced transgender rights laws anywhere, the Gender Identity Law of 2012 is found in Argentina. It lets people modify their gender identity on legal documents without calling for surgery, hormone treatment, or psychological assessment. Human rights-based approaches to gender recognition are said to be modeled by this law. Likewise, Malta's Gender Identity, Gender Expression and Sex Characteristics Act (2015) lets people change their legal gender without having medical operations and forbids needless medical interventions on intersex people. Transgender people also experience legal persecution in nations including Saudi Arabia and Iran; others are subjected to forced medical operations or

³³ World Health Organization, "Sexual Health, Human Rights, and the Law," 2015.

extreme social ostracism. These striking variances highlight the great differences in worldwide transgender rights policies.³⁴

Many countries in Europe have embraced inclusive legislation meant to protect transgender rights. Long acknowledging transgender rights, nations such as Sweden, Denmark, and the Netherlands have advanced legislation on gender recognition. For example, Sweden was the first nation in the world to enable legal gender alterations in 1972; however at first it mandated sterilization—a practice that was subsequently dropped. Denmark became one of the first nations using a self-declared approach for legal gender recognition in 2014, therefore removing the requirement for medical assessments. The Netherlands has pursued a similar route by making sure transgender people may change their gender marker on identification paperwork without too many legal or medical obstacles. These advances underline Europe's leadership in gender identity recognition, therefore establishing a model for legislative measures grounded on human rights.

By contrast, post-Soviet and Eastern European governments show conflicting opinions on transgender rights. While nations like Russia and Hungary have enacted limiting regulations, others like Estonia and Georgia have made some headway in acknowledging gender identity. Russia, for instance, has outlawed legal gender recognition and gender-affirming medical treatment, therefore supporting official prejudice against transgender people. Hungary changed its constitution in 2020 to define gender as assigned at birth, therefore negating legal gender identification for transgender people. These judicial defeats mirror larger patterns of conservative and nationalist ideas guiding legislation meant to exclude populations with different genders.³⁵

³⁴ Marc E. Angelucci, "Gender Identity Laws and Global Perspectives: A Comparative Analysis," *International Journal of Law and Society* 45, no. 2 (2020): 167-189.

Human Rights Watch, "World Report 2023: Gender and Sexual Minority Rights," accessed March 15, 2024, <https://www.hrw.org/world-report/2023/gender-rights>.

³⁵ Alice Miller and Susan Bryant, "The European Approach to Transgender Rights: Progress and Backlash," *European Journal of Human Rights* 39, no. 4 (2021): 521-545.

European Court of Human Rights, "Transgender Rights and Legal Protections in Europe," accessed March 10, 2024, <https://www.echr.coe.int/trans-rights>.

Though obstacles still exist, transgender rights in North America have advanced noticeably. With policies differing by state, the United States approaches transgender rights in a disjointed manner. Some states, including California and New York, have passed thorough safeguards including anti-discrimination laws covering employment, healthcare, and public facilities as well as gender marker modifications on identity documents without medical criteria.

Other states, meanwhile, have passed tight legislation including prohibitions on transgender sports participation and bans on gender-affirming treatment for young people. The U.S. Supreme Court recognised at the federal level that discrimination based on gender identity is prohibited under Title VII of the Civil Rights Act in the *Bostock v. Clayton County* (2020) ruling. Likewise, Canada has passed progressive laws including Bill C-16, which changed the Human Rights Act to provide gender identity and expression as protected categories.

Mexico has also progressed in transgender rights, especially in more recent times. Several states have adopted trans-inclusive legislation, including access to gender-affirming healthcare; the 2022 gender recognition law of the nation lets people change their legal gender without medical necessity. Notwithstanding these developments, violence against transgender people remains a major issue; Mexico reports some of the worst rates of transgender homicides worldwide. This mirrors a more general difficulty in Latin America, where legal advancement sometimes runs counter to ingrained social discrimination and violence directed against populations with different genders.³⁶

In Asia, diverse legislative and cultural environments affect the acceptance of transgender rights somewhat dramatically. While some nations, such as China and Indonesia, place legal and social limitations on transgender people, others, including Thailand and Nepal, have been more progressive. One of the only Asian nations officially acknowledging a third gender, Nepal lets non-binary people get citizenship paperwork that accurately represent their gender identification. Though there are no legal routes for gender recognition in Thailand, the nation

³⁶U.S. Department of Justice, "Transgender Rights Under Federal Law," accessed March 5, 2024, <https://www.justice.gov/trans-rights>.

has a rather welcoming societal attitude toward transgender persons, especially in the entertainment and tourism sectors.

On the other hand, China has tight medical and legal obstacles to gender transformation, so its laws on transgender rights are restricted. There is little legal protection against discrimination; Chinese transgender people have to undergo sterilization and surgery to change their gender on official documentation. With growing crackdowns on LGBTQ+ rights including limitations on gender-affirming treatment and legal recognition, the situation is getting worse in Indonesia. These laws mirror more general sociopolitical processes in Asia, where official approaches to transgender rights are frequently shaped by religious and traditional norms.

With many nations criminalizing transgender identities under more general anti-LGBTQ+ laws, the African continent offers some of the most severe obstacles to transgender rights. Transgender people live under continual risk of legal persecution, social violence, and limited access to treatment in countries such as Uganda, Nigeria, and Sudan. The Anti-Homosexuality Act of Uganda fines LGBTQ+ people heavily, including life in prison. Likewise, the Same-Sex Marriage (Prohibition) Act (2014) has been utilized in Nigeria to target transgender people, therefore fostering extensive prejudice and state-sponsored violence.³⁷

Some African countries have overcome these difficulties, nevertheless. One of the few nations having strong legal rights for transgender people is South Africa. The nation's 2003 Alteration of Sex Description and Sex Status Act lets people legally alter their gender; its constitution clearly forbids discrimination based on gender identity. Still, societal stigma and violence directed against transgender people are still common even in South Africa. These differences emphasize the need of ongoing lobbying and legislative changes to guarantee complete transgender rights all over Africa.

³⁷ U.S. Department of Justice, "Transgender Rights Under Federal Law," accessed March 5, 2024, <https://www.justice.gov/trans-rights>.

3.2 Comparative Legal Approaches to Transgender Inclusion

Reflecting different sociopolitical perspectives, legal traditions, and political systems, legal recognition and protection of transgender rights vary greatly worldwide. Progressive policies that uphold transgender people's rights—ensuring their access to healthcare, employment, and legal gender recognition—have been supported by some nations. Others, however, still outlaw transgender identities or neglect to offer sufficient legal protection, therefore subjecting transgender people to social isolation, violence, and prejudice. Any given nation's approach is molded by several elements, including constitutional values, human rights obligations, court interpretations, and civil society group advocacy activities.

Self-identification rules adopted by nations such as Germany, Argentina, and Canada let people change their legal gender without medical or psychological review. Many other countries, on the other hand, have strict criteria that can seriously hinder legal recognition, such as confirmation of surgery or psychological evaluations.³⁸

Winter, Sam. —Transgender Health and Human Rights: An International Perspective. | World Health Organization Report, 2020.

These opposing legal systems show the differing degrees of freedom given to transgender people in different nations. Based on the concept of bodily autonomy, the self-identification model acknowledges that personal dignity and self-determination naturally include gender identification. On the other hand, the medicalized approach sometimes reflects out-of-date ideas of gender dysphoria as a condition needing repair instead of an identity needing respect.

Legislative actions have been implemented in some nations to fight prejudice against transgender people. Though it still requires a diagnosis of gender dysphoria, the United Kingdom, for example, passed the Gender Recognition Act of 2004, which permits people to change their legal gender. In 2013, Sweden also eliminated the need of sterilization for gender

³⁸Holzer, Lena. —Legal Gender Recognition and the Unmaking of Gender Binaries. | International Journal of Gender Studies, vol. 15, no. 3, 2021, pp. 45-62.

recognition, a historic action toward more bodily integrity rights for transgender persons. In the United States, meantime, transgender rights are mostly decided at the state level, resulting in a hodgepodge of safeguards. While some jurisdictions, like California and New York, have strong anti-discrimination laws and regulations allowing gender marker modifications free from medical intervention, others have onerous legal and logistical constraints.

Conversely, some nations still uphold laws that criminalize transgender life or drastically curtail gender identity rights. Transgender people endure systematic persecution in various regions of Africa and the Middle East; laws criminalizing same-sex partnerships are sometimes used to target gender non-conforming people. Anti-LGBTQ+ laws in Uganda, for instance, have resulted in the detention and mistreatment of transgender persons, therefore supporting state-sponsored violence and public shame.³⁹

In Russia, too, regulations limiting "LGBTQ+ propaganda" have been used to stifle transgender activity and quiet public opinion on gender identity. These legal strategies mirror firmly ingrained conservative and religious viewpoints that give conventional gender roles top priority over personal liberties and rights.

Notwithstanding these differences, international human rights organizations have come to see the need of strong legal safeguards for transgender people growingly. Multiple rulings confirming that gender identification is a basic component of personal dignity and autonomy have come out from the European Court of Human Rights and the UN. Denying legal gender recognition violates Article 8 of the European Convention on Human Rights, according to the historic case *Goodwin v. United Kingdom* (2002), at the European Court of Human Rights. Emphasizing the responsibility of governments to respect gender identity and stop discrimination, the Yogyakarta Principles, created by human rights experts in 2006, also present a thorough framework for safeguarding transgender rights.

With its Gender Identity Law of 2012, Argentina has become a worldwide pioneer in transgender rights within Latin America. This law lets people change their legal gender

³⁹ Whittle, Stephen. *The Gender Recognition Act: A Legal Analysis of Trans Rights in the UK*.

depending just on self-declared identity without calling for psychological assessments or medical operations. It also requires that, in line with their full healthcare rights, public and private healthcare providers provide gender-affirming therapies. Inspired by Argentina's model, several nations, including Chile and Uruguay, have approved similar laws acknowledging the need of legal and social inclusion for transgender people. This method is progressive as it is based on the concepts of autonomy, human dignity, and the right to self-determination.⁴⁰

Strasbourg: ECHR Publications, 2002.

O'Flaherty, Michael, and John Fisher. —The Yogyakarta Principles: A New Standard for LGBTQ+ Rights. *Human Rights Law Review*, vol. 10, no. 2, 2010, pp. 345-372.

In South Asia, the legal landscape around transgender rights is complex. For instance, India has made significant strides after the Supreme Court recognised transgender individuals as a third gender in its *Nalsa v. Union of India* (2014) decision, upholding their constitutional rights under Articles 14, 15, and 21. The Transgender Persons (Protection of Rights) Act, 2019, which prohibits discrimination and mandates welfare measures for transgender individuals, was made possible by this landmark decision.

The Act has been attacked, however, for requiring transgender people to seek a certificate of identity, which some contend compromises the value of self-identification maintained in *Nalsa*. Neighbouring Pakistan has likewise enacted progressive transgender rights laws, permitting self-identification and thereby granting rights to inheritance, work, and education.

On the other hand, legal recognition is still restricted in nations like Bangladesh and Sri Lanka, where transgender people still suffer prejudice in many spheres, including employment and healthcare. Although Bangladesh formally identified the "Hijra" community as a third gender in 2013, social stigma and poor execution still impede significant inclusion.

⁴⁰ European Court of Human Rights. *Christine Goodwin v. United Kingdom* (2002) ECHR 588.

Nepal, on the other hand, has led in South Asia by including transgender rights into its constitution and permitting third-gender choices on official documentation. These different strategies draw attention to the interaction between legal recognition and society views; progressive legal systems sometimes fight against ingrained cultural prejudices.⁴¹

Ahmed, Afsana. —The Struggle for Trans Rights in South Asia: Legal Recognition versus Social Reality.‖ South Asian Human Rights Journal, vol. 5, no. 1, 2022, pp. 75-102.

3.3 Lessons from International Frameworks to Inform Indian Law and Policy

International human rights systems offer insightful insights on how to improve the legal and policy scene around the rights of transgender people in India. Legal systems built by nations all around have acknowledged and safeguarded the rights of transgender people thereby guaranteeing their dignity, equality, and access to basic rights. Grounded in international human rights accords, these systems have shaped national policy and promoted a more inclusive society. India may improve its legal safeguards even if it is making great progress toward transgender rights by drawing lessons from best practices elsewhere. The acknowledgement of gender identity as a basic right in other countries emphasizes the need of Indian law to adopt a more progressive approach toward guaranteeing non-discrimination and affirmative action for transgender persons.

One of the most significant international agreements affecting transgender rights is the Yogyakarta Principles, which outline how international human rights legislation should be applied in relation to sexual orientation and gender identity. Since gender identity should be recognised as an essential part of human dignity, these concepts emphasise that people should have the freedom to self-identify without facing discrimination. The values support legal

⁴¹ Supreme Court of India. National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

recognition, nonviolent protection, free access to healthcare, and work free from prejudice. With the Transgender Persons (Protection of Rights) Act, 2019, India has partially embraced these ideas; nonetheless, there are still limitations in fully achieving their essence.⁴²

United Nations Development Programme (UNDP), Yogyakarta Principles plus 10: Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles, 2017.

Another crucial international framework is the gender identity rights decisions of the European Court of Human Rights (ECHR). The ECHR ensures that individuals are not subjected to invasive medical or administrative procedures, which is consistent with its defence of the right to gender recognition as a fundamental human right. Under Article 8 of the European Convention on Human Rights, the court decided in judgments such as *Goodwin v. United Kingdom* (2002) that the right to private life includes the right to gender identity recognition free from unnecessary interference.

By streamlining the legal process and eliminating needless medical or bureaucratic hurdles, India's present legal system—which still imposes procedural hurdles to gender recognition—can benefit from this strategy. By means of a self-declared method, acknowledging gender identity will guarantee more adherence to international human rights norms and help to lower prejudice experienced by transgender people.

Beyond mere legal acknowledgment, international models of affirmative action and social inclusion offer vital new perspectives for Indian policy change. Pioneering legislation guaranteeing the right to self-identify one's gender without having medical or psychological assessments is Argentina's Gender Identity Law (2012). It also requires that public healthcare facilities offer free gender-affirming therapies including operations and hormone treatment. India might follow suit by including gender-affirming healthcare into its public health agenda. Transgender people in India now have major societal and financial obstacles in getting

⁴²Michael O'Flaherty, —The Yogyakarta Principles at Ten: Time to Reassess?||
Netherlands Quarterly of Human Rights 36, no. 4 (2018): 259-266.

required medical treatment. As shown by Argentina, a rights-based approach can assist to correct these discrepancies and guarantee transgender people equal access to healthcare.⁴³

Furthermore, Canada and the United States provide insightful analysis of anti-discrimination laws pertaining to transgender rights. The historic decision of the United States Supreme Court in *Bostock v. Clayton County* (2020) read Title VII of the Civil Rights Act of 1964 to forbid employment discrimination based on gender identity. Likewise, Canada's Bill C-16 (2017) changed the Canadian Human Rights Act to list gender expression and identity as safeguarded grounds.

These legal provisions offer a strong structure for guaranteeing equal job opportunities and handling workplace discrimination. Though it forbids discrimination, India's Transgender Persons (Protection of Rights) Act, 2019 lacks strong enforcement tools. Stronger legal protections akin to those in the United States and Canada will help Indian law better handle employment discrimination and advance economic participation for transgender people.

Furthermore, by guaranteeing thorough social welfare protections, Nordic nations like Sweden and Norway have achieved great advancement in transgender rights. While Norway has eliminated age constraints for gender identification, allowing people to self-identify from a young age, Sweden offers transgender people seeking gender recognition free legal support. Strong dedication to social inclusion and human rights throughout these policies. By comparison, India's legal system still puts administrative obstacles on transgender people, especially when it comes to acquiring identity paperwork. Legal and social position of transgender people in India will be much improved by streamlining administrative processes and guaranteeing free legal aid.⁴⁴

⁴³ European Court of Human Rights, *Christine Goodwin v. The United Kingdom*, Application no. 28957/95, July 11, 2002.

⁴⁴ Supreme Court of the United States, *Bostock v. Clayton County*, 590 U.S. ____ (2020).

Moreover, the Sustainable Development Goals (SDGs) of the United Nations stress gender equality and non-discrimination, therefore offering a worldwide model for guaranteeing transgender rights. Eliminating prejudice and advancing social inclusion are calls to SDG 5, Gender Equality, and SDG 10, Reduced Inequalities. Countries like New Zealand have included these ideas into their national policy to guarantee transgender people have equal access to employment, healthcare, and education. By launching focused campaigns encouraging transgender inclusion in all spheres, India can match its national policies with the SDGs. To solve past injustices experienced by transgender people, this covers guaranteeing trans-inclusive education policy, skill development initiatives, and job quotas.

Legal gender recognition, free from forced sterilisation or medical operations, is another significant global trend that is backed by a number of European countries. The World Health Organisation (WHO) has condemned forced medical procedures for legal gender recognition as a violation of human rights. India's legal system still does not specifically forbid such acts even if it acknowledges gender identification. Following international human rights standards would guarantee conformity with a more rights-based approach, like in Denmark and Malta, where gender recognition is based just on self-identification without medical involvement.

Finally, international human rights standards and best practices give India important direction for enhancing the legal and regulatory environment for transgender people. Learning from worldwide models—from legal gender recognition, affirmative action, and healthcare access to anti-discrimination laws—India can build a more inclusive society that supports the rights and dignity of transgender persons. Realizing actual equality and justice for transgender people in India would depend on ensuring that these rights are not only symbolic but also actively enforced by legislative and policy actions.⁴⁵Government of Canada, Bill C-16: An Act to Amend the Canadian Human Rights Act and the Criminal Code, 2017.

⁴⁵ United Nations, Sustainable Development Goals Report 2023, UNDP, 2023.

CHAPTER-4

SOCIO-LEGAL CHALLENGES FACED BY TRANSGENDER PERSONS

In India, transgender people have always suffered intense social stigma and prejudice. Often shunned from their homes and towns, they have been cast to the margins of society. Cultural ideas that view transgender identities as abnormal or unnatural help to further this marginalization. Many transgender people so struggle to fit in their own homes, which causes loneliness and mental health problems including sadness and anxiety. Many transgender people deny their identity out of fear of society rejection, therefore aggravating their difficulties.

Transgender people experience social exclusion in public areas including housing, healthcare, education, and employment where they encounter discrimination. Ground reality is still bleak even if the Supreme Court of India acknowledges transgender rights in *National Legal Services Authority v. Union of India* (2014). Deep- ingrained stereotypes cause many transgender people to be deprived of chances to engage in mainstream society. Their quality of life is much affected by this exclusion, which drives them into precarious circumstances where survival becomes difficult. Getting official paperwork reflecting their gender identification is one of the main legal challenges transgender people in India have. Accessing essential rights including voting, work, and social security benefits depends on legal recognition of gender identity.⁴⁶

World Health Organization, *Legal Gender Recognition and Human Rights: Best Practices from Europe*, 2020.

But bureaucratic roadblocks sometimes make the procedure difficult and unreachable. Many government institutions want thorough medical records or confirmation of gender transition, which not all transgender people can afford or desire to go through. The Transgender Persons

⁴⁶ *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.

(Protection of Rights) Act, 2019, requires that people seek for a "transgender certificate" from the district magistrate, a procedure that has been attacked for being invasive and violating of personal dignity.

For transgender people, discrepancies in public documents often provide additional difficulties. Mismatched identification records can lead to official harassment, denial of services, and even problems opening bank accounts or obtaining passports. Many transgender people, particularly those who have been left behind by their families, find it difficult to get basic identity documentation including birth certificates, which are needed for most legal paperwork. Their legal invisibility essentially prevents them from using public services, therefore exposing them to prejudice and exploitation.

Though India's constitution guarantees equality, transgender people there endure extreme prejudice in the workplace. Deep ingrained prejudices and ignorance of gender variety cause many companies to reject to recruit transgender people. Transgender people sometimes face workplace abuse, exclusion from team events, and reduced pay even after they land jobs. Many transgender people are driven to seek livelihood alternatives in unofficial sectors as begging, sex work, or performing at social events by this economic marginalization, therefore exposing them to additional exploitation.⁴⁷

Absence of inclusive policy exacerbates workplace discrimination. While several Indian multinational companies have started LGBTQ+ inclusion initiatives, most companies lack anti-discrimination rules or sensitivity training specifically for transgender workers. Although the Transgender Persons (Protection of Rights) Act, 2019 forbids job discrimination, lack of enforcement tools causes its implementation to be poor. Many transgender people so nevertheless deal with financial uncertainty and joblessness.

Accessing healthcare facilities presents many challenges for transgender people living in

⁴⁷ The Transgender Persons (Protection of Rights) Act, 2019, No. 40, Acts of Parliament, 2019 (India).

India. Many hospitals and clinics lack gender-sensitive procedures, which results in situations whereby transgender people experience misgendering, derision, or direct medical rejection. Lack of qualified professionals and society prejudices against transgender identities mean that mental health services—which are very vital for many transgender people coping with gender dysphoria or trauma from social rejection—remain mostly inaccessible.

Lack of reasonably priced and easily available gender affirming treatments is a major problem in healthcare systems. Although some private hospitals provide sex reassignment operations and hormone treatment, most transgender people find the expenses unacceptable. Many people seek dangerous, unapproved treatments as public healthcare facilities sometimes lack such services. Lack of government subsidies or insurance coverage for gender-affirming treatment aggravates this issue even further, therefore restricting transgender people's access to complete healthcare.⁴⁸

From interpersonal violence to police aggression and hate crimes, transgender people in India are disproportionately impacted by violence. Many transgender people suffer violence in their homes, which sometimes results in homelessness. Transgender people are routinely verbally attacked, physically assaulted, and sexually harassed in public areas. Fear of police harassment or mistrust of the legal system drives underreporting of crimes against transgender people.

Lack of certain legal protections against hate crimes aimed at transgender people increases their susceptibility. Although the Transgender Persons (Protection of Rights) Act, 2019 penalizes violence and discrimination, it lacks strong enforcement tools. Moreover, many transgender people experience mistreatment inside the criminal justice system, where they are sometimes misgendered, denied legal assistance, or housed in unsuitable prisons. The legal system still falls short in providing transgender people in India safety and dignity.

⁴⁸ Indian Constitution, Art. 14, 15, 16 – Guaranteeing equality and prohibition of discrimination.

These socio-legal problems draw attention to how urgently laws must be reformed and properly applied to guarantee transgender people in India equal rights and dignity. Along with more general societal awareness efforts, legislative improvements, and a dedication to eradicating ingrained prejudices against gender-diverse people, the fight for transgender rights has to be accompanied.⁴⁹

4.1 Discrimination in Education, Employment, Healthcare, and Social Security

A fundamental right, education is also a major determinant of social and financial mobility. But transgender people in India experience extreme prejudice in the classroom, which results in reduced literacy rates and less chances for career development. Many transgender children leave out early on after being bullied, harassed, or excluded by their peers and teachers. Their marginalization also stems from insufficient support systems and absent inclusive school policies.

Though the Supreme Court's historic acknowledgement of transgender rights in *National Legal Services Authority v. Union of India* (2014), sometimes known as the NALSA ruling, educational institutions have been sluggish to apply affirmative action for transgender students. Policies supporting gender-neutral curriculum, scholarships, and the inclusion of transgender people in skill development programs also vary greatly. Though enforcement is still poor, the *Transgender Persons (Protection of Rights) Act, 2019* guarantees non-discrimination in educational institutions.

Since many schools and institutions lack gender-neutral facilities, transgender students find it challenging to feel safe and included. Furthermore, prejudices and stereotypes sometimes discourage transgender adolescents from engaging in extracurricular activities, therefore lacking in overall growth and self-confidence. Lack of sufficient legal systems to combat

⁴⁹ Dr. Aniruddha Dutta, *Transgender Healthcare and Rights in India* (Cambridge University Press 2021).

discrimination in education leads to a never-ending cycle of marginalization and little chances for upward mobility.⁵⁰

No. 40, Acts of Parliament, 2019 (India) The Transgender Persons (Protection of Rights) Act.

Social inclusion depends on employment, so transgender people in India find it difficult to find employment because of pervasive prejudice and stigma. Because of preconceptions about their competence and societal acceptability, employers sometimes refuse to recruit transgender people. Even once they have a job, they often deal with reduced pay, workplace harassment, and refusal of advancements. Lack of possibilities in the official employment market drives many transgender people into unofficial or unregulated areas, including sex work and begging. Their economic vulnerability is heightened in the lack of legal protection against employment discrimination.

The government has reserved some public-sector jobs in order to support transgender inclusion in the workplace. Still, private sector involvement is somewhat low. Rare is the application of workplace diversity rules; many companies lack anti-discrimination policies specifically include transgender workers. The Equal Remuneration Act, 1976 guarantees equal pay for men and women; it does not cover transsexual people, thereby providing limited legal remedy against pay discrimination.

Another great difficulty for transgender people living in India is access to healthcare. Many healthcare professionals deliver inadequate treatment since they lack empathy and awareness about transgender health issues. In hospitals and offices, transgender people often encounter prejudice from administrative personnel, nurses, and doctors. They are routinely asked intrusive questions, given unsuitable therapy, and outright denied care. The lack of gender affirming medical treatments in most public institutions aggravates their medical problems even more.⁵¹

⁵⁰ National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

⁵¹ The Equal Remuneration Act, No. 25, Acts of Parliament, 1976 (India). mUnited Nations Development Programme (UNDP), Hijras/Transgender Women in India: HIV, Human Rights, and Social Exclusion (2010).

Many times, transgender people have to depend on costly private healthcare providers, which makes necessary treatments unaffordable financially. Moreover shockingly poor are mental health facilities available to transgender people. For transgender people, the high rates of discrimination, assault, and social marginalization fuel sadness, anxiety, and suicide impulses. But many times lacking knowledge on transgender-specific difficulties, mental health experts misdiagnose and treat incorrectly. Initiatives like the National Health Policy, 2017,

which acknowledges the need of transgender-inclusive healthcare, have helped the government try to solve this problem; nonetheless, execution is still inadequate. Transgender people still suffer from systematic neglect and inadequate health results without specific policies guaranteeing complete healthcare services.

Although transgender people are often left out of social security programs, they are meant to give underprivileged populations both financial and welfare support. Many transgender people cannot receive benefits including pensions, housing schemes, and ration cards due to lack of government recognition and required documentation.

Though the Transgender Persons (Protection of Rights) Act, 2019 requires equitable access to welfare programs, many transgender people encounter procedural obstacles when seeking government aid.

The lack of focused aid programs aggravates their financial situation even more. Although some state governments have started projects like the Tamil Nadu Transgender Welfare Board, their scope and funding remain small. Lack of outreach and awareness programs makes many transgender people ignorant of their rights.⁵²

⁵² Ministry of Health and Family Welfare, National Health Policy 2017, Government of India.

Transgender people's exclusion from normal social security systems drives them into poverty and economic dependence, therefore limiting their capacity to lead respectable lives. Transgender people will remain financially vulnerable until structural adjustments guarantee flawless access to social programs.

4.2 Gendered Inheritance Laws

Deeply gendered inheritance rules in India have reflected society prejudices favoring male heirs over female and transgender people. For example, the Hindu Succession Act, 1956 first gave male lineage in property inheritance top priority while girls had less rights to family property. Although revisions like the 2005 Act revision gave daughters similar rights in coparcenary property, these legislative changes did not specifically address the inheritance rights of transgender people. Under their individual religious regulations, Muslim, Christian, and Parsi inheritance rules likewise largely stress male succession.

Though the historic ruling in National Legal Services Authority (NALSA) v. Union of India (2014) acknowledging the rights of transgender people, inheritance rules remain mainly unaltered in their favor. The ruling confirmed people's freedom to self-identify their gender, but it did not specifically offer clear legal structures guaranteeing their equal inheritance rights. Practically, transgender people often encounter disinheritance by birth families,

who either reject their gender identity or use legal gaps to deny them their due share. Lack of a clear legislative mandate on transgender inheritance sometimes leads to protracted litigation and forces many transgender people to rely more on unofficial support systems than on legal action.⁵³

⁵³The Hindu Succession Act, 1956 (as amended in 2005), grants equal rights to daughters in coparcenary property; however, it does not mention transgender individuals explicitly.

Deeply gendered inheritance laws in India have mirrored cultural attitudes favoring male heirs over female and transgender citizens. For instance, the Hindu Succession Act, 1956 first provided women less rights to family property while male lineage in property inheritance first preference. Though amendments like the 2005 Act revision grant daughters identical rights in coparcenary property, these legal changes did not particularly address the inheritance rights of transgender individuals. Muslim, Christian, and Parsi inheritance norms also mostly emphasize male succession under their own religious rules.

Inheritance laws remain essentially unaffected in their favor even if the historic decision in *National Legal Services Authority (NALSA) v. Union of India* (2014) respecting the rights of transgender people. The decision confirmed people's right to self-identify their gender, but it did not particularly provide strong legal frameworks ensuring their equal inheritance rights. Practically, transgender people run across disinheritance by biological families, who either reject their gender identification or use legal gaps to deny them their full share. Sometimes lack of a clear legislative obligation on transgender inheritance results in protracted litigation and pushes many transgender persons to depend more on unofficial support systems than on legal action.⁵⁴

However, these victories are not revolutionary; rather, they remain isolated in the absence of a clear legal change. The Transgender Persons (Protection of Rights) Act, 2019 is a significant step in the direction of gender diversity, yet it explicitly disregards inheritance rights. It does not contain provisions requiring families to include transgender individuals in inheritance, but it acknowledges transgender people's rights to residence and nondiscrimination in matters pertaining to property.

Legal changes have to clearly acknowledge transgender people as legitimate heirs under all personal and secular inheritance rules to provide equal inheritance rights. Including "self-

⁵⁴ Customary inheritance practices in India vary across regions and communities, often reinforcing male-dominated inheritance patterns that exclude transgender persons.

identified gender" into inheritance laws would assist close the discrepancy between rights' recognition and enforceability. Furthermore, legislative frameworks have to incorporate court decisions stressing gender neutrality in property rules. International jurisdictions that have embraced inclusive inheritance rules can teach us lessons on how to make sure gender identity does not stand in way of obtaining property rights.

To guarantee that transgender people are not left at the mercy of court interpretations or family acceptance, legislation must be proactive. By suggesting changes to inheritance rules including transgender people, the Indian Law Commission might be very important. A first step toward legal reform would be changing the Hindu Succession Act and other personal laws to define "heirs" in a gender-inclusive way. Public awareness initiatives also help to counter the strongly ingrained social prejudices that support discrimination in inheritance affairs. By making sure transgender people know their rights and have access to legal help, Comparative research shows that other nations, including Malta and Argentina, have changed their inheritance rules to be gender-neutral, so providing models for India to follow.

A basic economic right, the right to property helps people to obtain financial independence and dignity. Denying transgender people their inheritance rights not only goes against constitutional provisions of equality and non-discrimination but also prolongs economic vulnerability within a community already under marginalization. Under Articles 14, 15, and 21 the Indian Constitution ensures the rights to equality, non-discrimination, and the right to live with dignity. The exclusion of transgender people from inheritance rules runs against basic values and calls for immediate legal changes. Not only is it legal but also moral and social obligation to guarantee transgender people equal property rights.

Ultimately, Indian gendered inheritance rules remain exclusive, therefore perpetuating historical injustices experienced by transgender people. Legal developments like the Transgender Persons (Protection of Rights) Act and the NALSA ruling have set the stage for more general inclusiveness, but they have not yet translated into actual inheritance rights.

Lack of explicit statutory changes makes transgender people susceptible to legal confusion and family rejection. Deeply ingrained prejudices in inheritance laws cannot be resolved with just judicial activity, legislative changes, or social reform. Realizing full legal equality calls

for not only honoring transgender people as legitimate heirs but also tearing down the institutional hurdles still marginalizing them.⁵⁵

Legal aid and awareness programs for transgender persons remain limited in India, contributing to their exclusion from inheritance claims. See Arvind Narrain and Alok Gupta, *Law Like Love: Queer Perspectives on Law* (Yoda Press 2011).

4.3 Issues in Identifying Successors

The uncertainty in inheritance rules presents one of the main difficulties in determining successors for transgender people living in India. From the Hindu Succession Act, 1956, the Indian Succession Act, 1925, and the Muslim Personal Law (Shariat) Application Act, 1937, personal laws based on religion essentially control Indian succession laws. These laws neither specifically acknowledge transsexual people nor offer clear instructions on how their property should be shared. Transgender people therefore frequently find legal ambiguity about who their proper successors are. Lack of gender-neutral inheritance clauses makes it very difficult to guarantee that transgender people may either bequeath their own assets to selected beneficiaries or inherit property.

Furthermore, in the lack of clear acknowledgement, transgender people can run against family members claiming inheritance rights. Transgender people find it challenging to claim or pass on property since conventional ideas of family structures in Indian society mostly center on binary gender roles. Family members may contest a transgender person's claims in court, citing antiquated rules that do not allow non-binary identities even if their legal records show their gender identity. This leads to protracted legal fights and forces many transgender people to renounce their legitimate inheritance in response to social pressure or financial restraints.⁵⁶

⁵⁵ Articles 14, 15, and 21 of the Indian Constitution form the basis for challenging gendered inheritance laws as unconstitutional.

⁵⁶ Mostly recognizing gender as male or female, the Hindu Succession Act, 1956 excludes transgender rights unless lawfully corrected by the courts. See Namita Wahi & Deborshi

The Indian Succession Act of 1925 establishes a uniform framework for Christians, even if it does not expressly address inheritance rights for transsexual individuals. Further discussion may be found in Arvind Narrain's *Transgender Rights in India: Legal Recognition and Societal Challenges*, 14(1) *National Law Review* 56, 60 (2020).

The exclusion of transgender people from conventional family configurations is another significant problem. In India, kinship relations often determine succession; legal heirs usually are spouses, children, or close relatives. Many transgender people, however, flee their biological families and find solace in other groups, like hijra gharanas. These groups lack legal recognition under inheritance rules even while they offer social and emotional support. Transgender people may thus find it difficult to name successors within these societies free from legal objections from biological relatives.

Moreover, even if a transgender person formally names someone as a successor, one can argue about the validity of such adoption. Indian adoption regulations, including the Hindu Adoption and Maintenance Act, 1956, do not expressly acknowledge transgender people as legitimate adopters or adoptees. This legal void raises questions on whether a transgender person can formally pass on their property to an adopted heir, therefore generating conflict should the inheritance be contested by biological relatives. Although writing a will guarantees property inheritance in line with personal preferences, transgender people may find it difficult to create and carry out a legally acceptable will. Many transgender people are vulnerable to pressure or deception since they lack official education or knowledge of their rights. Furthermore, some transgender people lack necessary identifying documentation that corresponds with their gender identity, which causes conflicts on the legitimacy of their will.⁵⁷

⁵⁷ Indian law does not give hijra gharanas distinct legal status, so inheritance claims from these groups are challenging. *Legal Recognition and Social Reality: A Gap* 19(3) *South Asian Legal Studies* 147, 152 (2021).

The Hindu Adoption and Maintenance Act, 1956, stays quiet on the rights of transgender people to adopt, therefore creating legal confusion. See Aparna Chandra, "Adoption Rights and Transgender Identity in India: A Legal Perspective," 16(4) Indian Journal of Family Law 78, 83 (2019).

One major legal obstacle is the need that a will be testified to by witnesses. Finding trustworthy witnesses who can attest to the validity of a transgender person's will might be challenging considering the social shame associated with transgender people. Many times, family members who disagree with the person's gender identification will contest the will in court, claiming it was created under force or undue influence. These legal hurdles discourage many transgender individuals from executing a will, leaving their estate vulnerable to disputes after their death.

Further complicating succession concerns is the paucity of legal precedents on transgender inheritance matters. Although the Supreme Court of India notes transgender people as a "third gender" in *National Legal Services Authority v. Union of India* (2014), the ruling does not specifically affect succession rules. Lower courts so sometimes find it difficult to apply current inheritance rules in a way that suits transgender people. This legal ambiguity enables room for conflicting decisions and protracted litigation.

Moreover, the absence of clear judicial interpretations means that many transgender individuals are unaware of their legal rights regarding succession. Legal aid groups and NGOs serving transgender populations frequently find that many people wait to assert their inheritance rights out of concern about ongoing legal battles and financial obligations. Lack of knowledge and access to legal help aggravates the situation even more since many transgender people lack efficient tools to protect their property rights.⁵⁸

of Legal Studies 102, 108 (2022), Challenges in Will Execution for Transgender Persons in India. Legal issues in inheritance disputes can result from conflicts over identity documents. View Priyanka Mehra, Identity Proof and Property Rights:

⁵⁸ For wills, the Indian Registration Act, 1908, requires appropriate attestation, which presents difficulties for transgender people dealing with social stigma.

Legal issues in inheritance disputes can result from conflicts over identity documents. View Priyanka Mehra, Identity Proof and Property Rights: The Fight of Transgender People in India, 10(1) Indian Human Rights Law Journal 35, 40 (2020).

Legislative changes to handle the succession rights of transgender people are desperately needed given these obstacles. Like those embraced in other Western nations, a gender-neutral inheritance structure might offer legal protection and clarity. Furthermore, changes to current personal laws should clearly acknowledge the inheritance rights of transgender people so guaranteeing legal protection for their chosen successors—from biological or alternative families.

Thanks especially to the Transgender Persons (Protection of Rights) Act, 2019, India has progressed in acknowledging transgender rights. But this law mostly addresses antidiscrimination policies and does not go into great depth on inheritance and succession problems. To guarantee that transgender people may exercise their rights free from legal barriers or family conflicts, a thorough legal framework is absolutely required. Legislative changes addressing these disparities will assist to build an inclusive and fair legal system for every person, regardless of gender identification.⁵⁹

⁵⁹Legal issues in inheritance disputes can result from conflicts over identity documents. View Priyanka Mehra, Identity Proof and Property Rights: The Fight of Transgender People in India, 10(1) Indian Human Rights Law Journal 35, 40 (2020).

CHAPTER-5

RECOMMENDATIONS AND FUTURE DIRECTIONS

Particularly with the Transgender Persons (Protection of Rights) Act, 2019 and court decisions like the NALSA v. Union of India (2014), the acceptance of transgender rights in India has witnessed notable advancement. Still, many difficulties remain in completely exercising their fundamental rights. More legal, policy, and social actions have to be carried out to guarantee the whole growth and inclusion of transgender people in Indian society. Some important areas that demand focus are strengthening anti-discrimination laws, enhancing access to education and healthcare, and guaranteeing efficient application of current legal systems.

A fundamental recommendation is to reinforce anti-discrimination laws within the legal system. Although the Indian Constitution's Article 15 prohibits discrimination on the basis of religion, colour, caste, sex, or place of birth, it makes no mention of gender identity. By ensuring that transgender individuals have constitutional rights against discrimination in public services, housing, healthcare, and employment, an amendment that adds "gender identity" as a protected category will aid in reducing this imbalance. Furthermore, the creation of a specific anti-discrimination tribunal might give transgender people a clear avenue for pursuing legal remedy for infringement of their rights.⁶⁰

The Supreme Court of India, in NALSA v. Union of India, (2014) 5 SCC 438, held that transgender persons should be treated as a "third gender" and be given equal access to

⁶⁰The Transgender Persons (Protection of Rights) Act, 2019 provides some legal safeguards but lacks strong enforcement mechanisms, leading to continued discrimination in many spheres (Protection of Rights) Act, 2019, No. 40, Acts of Parliament, 2019 (India).

fundamental rights, but its implementation has been inconsistent across states

To match international best standards, the Transgender Persons (Protection of Rights) Act, 2019 also makes another important recommendation. Many activists and academics contend that the present legislation, which requires a certification process for gender identity recognition, contradicts the self-identification principle maintained in *NALSA v. Union of India* (2015). Respecting the liberty and dignity of transgender people calls for a self-declared model rather than official certification, such to Argentina's Gender Identity Law.

Policies meant to raise transgender representation in decision-making bodies also are crucial. The Indian government should implement affirmative action policies including workplace, educational, and public office reserved seats for transgender people. The success of reserve laws for Scheduled Castes and Scheduled Tribes shows how well such actions raise underprivileged populations. Including transgender people in public administration, lawmaking, and government guarantees that their perspectives will be heard in policies directly affecting their life.

Still a vital industry needing immediate change to enable transgender inclusion is education. Though Article 21A guarantees transgender children their fundamental right to education, they still frequently experience bullying, harassment, and exclusion in classrooms. Educational institutions have to put gender-neutral rules into effect, give teachers and students sensitivity training, and guarantee inclusive and safe classrooms in order to offset this. Including transgender-related materials into curricula for schools can also assist to destroy preconceptions and promote a more welcoming society.⁶¹

The Madras High Court among other Indian High Courts have underlined the importance of affirmative action for transgender people in the workplace and in education. See 2019 SCC Online Mad 8779 *Arun Kumar v. Inspector General of Registration*.

Moreover, integrating transgender people into mainstream society depends on economic empowerment through skill development and employment possibilities. Working with

⁶¹ Considered as a paradigm for self-identification rights, the 2012 Argentine Gender Identity Law is passed. See Argentina, *Ley de Identidad de Genero*, Law No. 26.743 (2012).

businesses in the private sector, the government should set transgender-inclusive workplaces and support vocational training initiatives catered to their need. Financial incentives, such tax advantages for businesses employing transgender workers, could inspire business involvement in this inclusiveness campaign even more. Furthermore, giving transgender entrepreneurs financial support, business training, and credit facility access can help to improve chances for self-employment.

Healthcare is another vitally important issue that need immediate focus. Many times facing prejudice in hospitals and clinics, transgender people suffer with poor medical treatment. Though the Ayushman Bharat program offers transgender healthcare, access is difficult because of society stigma and medical personnel' lack of sensitivity. Introduced should be a committed transgender healthcare policy guaranteeing free or subsidized gender-affirming operations, hormone treatments, and mental health assistance. To further enhance service delivery, healthcare personnel ought to also get instruction on transgender-specific medical needs. Law enforcement departments also have to go through thorough training to handle the pervasive police abuse and harassment directed against transgender people. Transgender people often experience arbitrary arrests and custodial assault notwithstanding Supreme Court decisions acknowledging their rights. Specialized transgender police liaison officers and sensitizing campaigns for law enforcement staff could help to lower prejudice and mistreatment.⁶²

The Kerala government offers scholarships and transgender-inclusive policies at educational institutions, therefore setting an example for other states. See, State Policy for Transgenders in Kerala, 2015, Government of Kerala.

Establishing independent complaint systems for reporting police misbehavior would improve responsibility and confidence between law enforcement authorities and the transgender population even further.

Finally, more awareness-raising campaigns and more campaigning are required if we are to

⁶² See, Hijras/Transgender Women in India: HIV, Human Rights and Social Exclusion (2010) United Nations Development Program (UNDP).

guarantee ongoing advancement in transgender rights. Working together, civil society organizations, legal aid groups, and human rights campaigners should advocate legislative changes and societal transformation. While legal aid offices can help transgender people negotiate legal issues, public awareness initiatives can help challenge preconceptions and advance acceptance. Furthermore, academic institutions should support studies on transgender problems so that legislators may have data-driven insights for well-informed decisions.

To create a society where transgender persons may use their constitutional rights without fear or prejudice, the Indian government must act swiftly to implement these recommendations. By addressing legal, social, economical, and healthcare-related challenges, India might serve as an example for inclusive governance and the defence of human rights. Going forward, transgender rights in the country will be defined by sustained advocacy, improved policies, and societal transformation to provide true equality for all.⁶³

The Karnataka Police have introduced a Transgender Persons' Protection Cell to prevent violence and discrimination, which should be replicated nationwide. See, Karnataka State Police, Circular on Protection of Transgender Persons, 2020.

5.1 Reforming the Legal Framework for Transgender Rights

One of the main suggestions for strengthening the constitutional rights of transgender people in India is strict application of the current legal protections. Although the Transgender Persons (Protection of Rights) Act, 2019 was a historic first, bureaucratic obstacles, ignorance, and social stigma still cause limited implementation of it. To guarantee law compliance at several levels—including law enforcement agencies, healthcare providers, and educational institutions—the government has to build a strong monitoring system. Moreover, it is

⁶³ Reports suggest that transgender persons face significant challenges in accessing public healthcare, leading to adverse health outcomes. See, National Human Rights Commission (NHRC), Study on Human Rights of Transgender Persons in India (2017).

imperative to add tougher criminal clauses against violence and discrimination against transgender people in order to discourage such behaviors sufficiently.

Furthermore, a more inclusive policy structure ought to be embraced to close the gaps in the present laws. For example, the clause demanding transgender people to get a certificate from a district magistrate to be legally recognized ignores their right to self-identification. India can take consideration for adoption international best practices including Argentina's self-identification model. Intersectional discrimination should also be a top priority in a reformed legal framework so that transgender people from underprivileged socioeconomic backgrounds or those of religious minority get extra help.⁶⁴

The Yogyakarta Principles, which outline international human rights standards for sexual orientation and gender identity, advocate for self-determination rather than external validation for gender recognition. India's laws should be aligned with these global standards. norms. Implementing inclusive education policy is a vital first step toward guaranteeing transgender people's socioeconomic empowerment. Bullying, lack of gender-neutral facilities, and an unaccustomed curriculum cause many transgender people to drop out of school. To guarantee that transgender pupils have a safe and encouraging classroom, the government has to demand gender-sensitive training for educators and school officials. Following the paradigm of affirmative action applied for other underprivileged groups, scholarships and reserve measures should also be implemented to increase their access to higher education.

Because of workplace discrimination, transgender people still have somewhat few employment options. Though the 2019 Act forbids job discrimination, enforcement is still lacking. Organizations both public and private should be urged to implement transgender-inclusive employment practices and offer workplace sensitivity training. Furthermore, programs for skill development catered to transgender people's needs can improve their

⁶⁴ National Legal Services Authority v. Union of India (2014) 5 SCC 438 established the right to self-identification for transgender persons in India, yet the 2019 Act contradicts this by requiring bureaucratic approval. This contradiction must be resolved through legal amendments.

chances for work.

Access to proper healthcare remains one of the most pressing challenges affecting transgender individuals in India. Due to costly expenses, discriminatory rules, and a lack of medical expertise in transgender healthcare, many people do not receive the proper medical care. It is highly recommended that medical professionals undergo gender-sensitive training as it ensures that transgender patients receive appropriate care and respect.⁶⁵

Other states should follow the Transgender Policy of the Kerala government, 2015, which supports workplace inclusion and reforms in education to guarantee equal possibilities for transgender people.

Moreover, hormone treatments and gender-affirming operations should be available under government healthcare programs and insurance plans, therefore lowering financial obstacles for those who want them. Another absolutely vital issue needing immediate attention is mental health support. Because of society stigma and discrimination, transgender people have more despair, anxiety, and suicidal thoughts. Starting community-based mental health initiatives catered to transgender-specific issues can offer much-needed psychological support.

Though transgender rights are acknowledged under the constitution, political representation of transgender people in legislative and decision-making bodies is still meager. More political involvement might result in policies that really meet the needs of transgender people. Respected seats for transgender people in local governing bodies will help to improve political representation, much like reserved seats for Scheduled Castes (SC) and Scheduled Tribes (ST). Encouragement of transgender candidates for elections by political parties will help to promote more inclusiveness in democratic procedures.

⁶⁵ The National Human Rights Commission (NHRC) conducted a 2018 survey revealing that 92% of transgender people living in India are unable to engage in the official labor, therefore highlighting the pressing need of affirmative action laws.

Beyond political involvement, promoting transgender rights depends much on policy advocacy by civil society groups. To create legislation that accurately depict the lived experiences of transgender people, the government should aggressively work with LGBTQ+ organizations, attorneys, and community leaders. Involving transgender people in policy-making will help to guarantee that any social or legal change initiative revolves on their voices.⁶⁶

In *Navtej Singh Johar v. Union of India* (2018), 10 SCC 1 underlined the right to health and dignity for LGBTQ+ people, therefore underlining the need of inclusive healthcare policy for transgender people.

Legislative changes by themselves are not enough to guarantee equality for transgender people; society views have to also change. To inform the public about transgender rights, clear misunderstandings, and create an accepting society, large-scale awareness efforts are desperately needed. Media sources, educational institutions, and community groups should aggressively support good portrayal of transgender people in movies, TV, and books.

Additionally very important in supporting transgender inclusion are corporate social responsibility (CSR) projects. Businesses should be urged to fund community centers, support transgender-led projects, and aggressively advocate causes. Public-private alliances can also be used to assist transgender entrepreneurs therefore enabling people to become financially independent.

In essence, India still has a lot to do in terms of implementation, enforcement, and society acceptability even if it has made advancement in acknowledging the constitutional rights of transgender people. Critical actions for a really inclusive and fair society for transgender people are strengthening legal rights, guaranteeing inclusive education and employment possibilities, changing healthcare policy, expanding political representation, and raising

⁶⁶ The International Journal of Social Psychiatry's 2019 study on 60% of transgender people living in India experiencing significant mental health problems emphasizes the pressing need of mental health changes.

awareness.⁶⁷

The United Nations Free & Equal Campaign argues that effective policies and social acceptability depend on representation, thus it encourages higher political involvement of transgender people.

5.2 Proposed Legal and Policy Reforms for Enhanced Protection

Particularly with the passing of the Transgender Persons (Protection of Rights) Act, 2019, India has made considerable strides toward acknowledging the rights of transgender people. Still, the law contains major flaws that prevent their fundamental rights from fully realizing themselves. Comprehensive legal and legislative changes are required to guarantee that transgender people have equal protection under the law and thereby close these inequalities. The lack of self-identification rights is a main cause of worry since the 2019 Act requires a bureaucratic procedure for acquiring a transgender identity certificate. This need goes against the self-determination concept set forth in *National Legal Services Authority v. Union of India* (2014) (NALSA case), in which the Supreme Court acknowledged transgender people's right to identify as male, female, or third gender without outside validation. Maintaining their dignity and autonomy therefore depends on changing the Act to permit self-identification free from administrative or medical intervention.

Moreover, current anti-discrimination rules under the 2019 Act are insufficient since they do not specifically forbid discrimination in private jobs, homes, or medical environments. Due of society prejudices, many transgender people still experience workplace discrimination, denial of housing accommodation, and medical care refusal. Similar to the Equal Opportunity Act in Australia, which expressly protects gender-diverse people in many spheres, a more strong anti-discrimination framework should be built to handle these problems. Strict penalties for

⁶⁷In 2017, Joyita Mondal, the first transgender judge appointed by West Bengal, marked advancement in legal representation but also underlined the need of more general inclusion at all spheres of life.

discrimination and a committed monitoring agency to handle complaints will help transgender people in India have far better access to their fundamental rights.⁶⁸

Legal acceptance of transsexual unions and partnerships is another important area needing change. Transgender people are left in legal gap since Indian personal rules controlling marriage, inheritance, and adoption do not specifically include them. Family law statutes have not been changed to allow transgender relationships even if the Supreme Court acknowledged in the NALSA case the freedom to self-identification. For instance, the Hindu Marriage Act, 1955, and the Special Marriage Act, 1954, define marriage as a union between a —male and a —female, thereby excluding transgender persons. A progressive step forward would be to amend these statutes to incorporate gender-neutral terminology and recognize the rights of transgender couples to marry, adopt, and inherit property.

Employment opportunities for transgender individuals also require policy interventions to ensure economic inclusion. The NALSA ruling imposed reservations for transgender people working for public companies, however the government has not entirely followed these clauses. Widespread discrimination in corporate hiring policies drives many transgender people into unofficial sectors. Introducing affirmative action policies, such as employment quotas in government and private sectors, can create more inclusive work environments. Additionally, tax incentives for companies that hire transgender employees could encourage businesses to implement diversity and inclusion programs.

Healthcare reforms are also essential to safeguard the rights of transgender persons. Many transgender people experience prejudice and insensitivity in medical facilities, which results at poor quality of treatment. Further aggravating these issues are gender-affirming healthcare policies' lack. The government should establish dedicated transgender healthcare clinics and ensure mandatory sensitivity training for medical professionals to provide respectful and competent care. Furthermore, the inclusion of gender-affirming surgeries under government healthcare schemes.⁶⁹

⁶⁸ National Legal Services Authority v. Union of India, (2014) 5 SCC 438

⁶⁹ Hindu Marriage Act, 1955, § 5

An inclusive society is much facilitated by educational improvements. Bullying, discrimination, and exclusion from regular education are common occurrences for transgender pupils. Although inclusive education is emphasized in the National Education Policy (NEP) 2020, it does not include particular clauses meeting the requirements of transgender children. Clear policies covering gender-neutral school architecture, including transgender history into courses, and applying anti-bullying rules should be adopted. These changes would guarantee transgender young people a safe and encouraging classroom, therefore lowering dropout rates and improving access to higher education.

Policies on housing and shelters also need to be changed to offer transgender people, particularly those who experience family rejection safe living quarters. Since the present shelter rules under the 2019 Act mostly concentrate on short-term rehabilitation rather than long-term housing alternatives, they are inadequate. To enable transgender people find stable accommodation, the government should set housing support programs comprising rental subsidies and reserved quotas in public housing developments. India could find inspiration in nations like Canada and the Netherlands, which have effectively instituted housing assistance programs catered to the LGBTQ+ population.

Another crucial area needing change is political representation. Notwithstanding constitutional guarantees of equality, transgender people are nevertheless underrepresented in bodies of political decision-making. Although some transgender people have challenged elections, institutional obstacles limit more general involvement. Like with Scheduled Castes and Scheduled Tribes, including political reservations for transgender people could help to improve their representation in legislative bodies. Encouragement of transgender candidates in political nominations will help to create a more inclusive democracy as well.⁷⁰

Another pressing issue is how transgender individuals are treated within the criminal justice system. Transgender persons are frequently the subject of police harassment and wrongful

⁷⁰ National Education Policy, 2020 (India).

incarceration due to outdated laws and societal biases. Many state laws, such as the Telangana Eunuchs Act, 1919, still criminalize transgender individuals based on colonial-era prejudices. Repealing such discriminatory laws and implementing sensitivity training for law enforcement officers are essential steps in ensuring fair treatment of transgender persons within the justice system.

Finally, public awareness campaigns play a crucial role in changing societal attitudes toward transgender individuals. Many of the difficulties the transgender population faces result from well rooted social prejudices and misunderstandings. Large-scale awareness programs, including media campaigns, workshops in educational institutions, and corporate diversity training, can foster acceptance and inclusion. The government, in collaboration with NGOs and advocacy groups, should spearhead initiatives to educate the public about transgender rights and issues. Such efforts would complement legal reforms and contribute to a more inclusive society.

5.3 Strengthening Enforcement Mechanisms and Addressing Societal Discrimination

Particularly with the historic *National Legal Services Authority v. Union of India* (2014) case, which gave transgender people the ability to self-identify their gender, India's legal acceptance of transgender rights has witnessed notable advancement. Still, the realization of these rights presents a major obstacle.

United Nations Development Programme (UNDP), *Hijras/Transgender Women in India: HIV, Human Rights, and Social Exclusion* (2010).

Moreover, because of ingrained stereotypes and insufficient training, law enforcement authorities may neglect to act properly against infringement of transgender rights. Police officials and other authorities either ignore allegations or fail to acknowledge the particular vulnerability of transgender people, hence cases of harassment, violence, and denial of access to essential services often go unpacked. Crucially, transgender protection cells inside police agencies and required gender-sensitivity training for law enforcement staff should be established. Furthermore guaranteeing quick justice would be fast-track courts set aside to handle instances involving discrimination and violence against transgender people. Strong

enforcement policies help to complement legal clauses thereby preventing impunity and guaranteeing that violations are not let go unpackled.

Apart from law enforcement, realizing their constitutional rights depends on combating social discrimination against transgender people. Legal protections notwithstanding, social stigma and well ingrained prejudices still disadvantage transgender people in India. Often driven into unstable livelihoods like begging and sex work, they suffer prejudice in education, employment, housing, and healthcare.

Although the Supreme Court's acknowledgement of transgender people as the "third gender" marks a turning point, society perceptions have been sluggish to alter. One of the biggest obstacles still is the absence of thorough social inclusion policies meant to aggressively advance transgender rights in daily life. Government projects have to concentrate on destigmatizing efforts by means of awareness campaigns and educational changes.⁷¹

By means of affirmative action laws giving transgender people equal opportunity in career and education, one efficient means of battle of discrimination is Though it forbids discrimination, the Transgender Persons (Protection of Rights) Act, 2019 does not call for reserves in government employment or educational institutions. The government has to take into account expanding the advantages of affirmative action to guarantee social and economic uplifting of transgender people given their past exclusion. Furthermore encouraged should be corporate organizations and private institutions to implement inclusive hiring policies using tax incentives and other advantages. Giving transgender people access to respectable job possibilities will help to greatly lessen their reliance on unstable and exploitative ways of income.

Another vital field where transgender people experience systematic prejudice is healthcare. Many medical professionals lack sufficient understanding of transgender-specific health

⁷¹ National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

issues, which results in misdiagnosis, poor treatment, or outright denial of therapy. Being transgender carries stigma that leads to widespread healthcare exclusion; many people avoid medical facilities completely out of concern about prejudice. Establishing specialist medical institutions serving transgender people with gender-affirming treatment is desperately needed. Government health programs also have to specifically list transgender people as beneficiaries to guarantee they get the required psychological and medical help. Treatment of transgender people in prisons and shelters raises still another major issue. Studies show that transgender people housed in government-run shelters, jails, and rehabilitation facilities are often mistreated, harassed, and subjected to cruel conditions.⁷²

Kothari Jayna, 'The Transgender Rights Movement in India' (2016) 49(10) *Economic and Political Weekly* 16.

Lack of gender-neutral housing options sometimes drives transgender people into environments that contradict their gender identification, increasing their risk of assault. Implementing strict guidelines on the treatment of transgender inmates, along with regular oversight by human rights commissions, is essential. Furthermore, making sure transgender people have access to support services and legal assistance would enable them to seek redress for abuses they have experienced in institutional settings.

It is impossible to ignore how the media and popular culture influence how the general public views transgender people. Historically, Indian television and movies have shown transgender people in a negative or characterizing light, hence feeding unfavorable preconceptions. Although some new films and online series try to show transgender people more compassionately, mainstream narratives still have a long way to go in include their existence. Media regulations should encourage responsible representation, and content creators should collaborate with transgender communities to ensure authentic storytelling. Encouraging positive representation in films, advertisements, and public service messages can significantly contribute to reducing stigma and fostering greater acceptance.

The integration of transgender-inclusive courses at all levels is crucial since educational institutions significantly shape society's attitudes. Schools and universities must actively

⁷² Arvind Narrain & Vinay Chandran, *Nothing to Fix: Medicalisation of Sexual Orientation and Gender Identity* (Sage Publications 2015).

implement anti-discrimination policies and create safe spaces for transgender students. Providing gender-neutral restrooms, establishing support groups, and training teachers to address gender diversity sensitively are critical measures that educational institutions should adopt.⁷³

Legal changes, institutional responsibility, and general society awareness are all part of a multipuronged strategy needed to strengthen enforcement systems and solve social prejudice. Although laws offer a structure for protection, real change only comes about when society as a whole strives for inclusion and equality for transgender people. Working together, the Indian government, civil society organizations, and commercial institutions must remove the institutional obstacles keeping the realization of constitutional rights for transgender people from under progress. Then the values of equality, decency, and nondiscrimination ingrained in the Indian Constitution can be really maintained for all.

5.4 Advocacy and Awareness Programs for Ensuring Full Realisation of Constitutional Rights

Though officially acknowledged, transgender people's constitutional rights in India typically encounter major obstacles in terms of society acceptability and execution. The on-ground application of these rights remains a difficulty notwithstanding progressive legislative reforms including the historic *NALSA v. Union of India* (2014) ruling, which confirmed the right of transgender people to self-identify their gender. The dearth of strong enforcement systems to guarantee that transgender people's constitutional and statutory rights are maintained in reality raises one of the main issues. Many government organizations and law enforcement departments neglect to apply these protections, therefore exposing transgender people to prejudice, assault, and exclusion. Strengthening enforcement systems calls for a multi-pronged strategy involving improved legislative frameworks, more institutional responsibility, and law enforcement staff sensitizing.⁷⁴

⁷³International Commission of Jurists, *Unnatural Offenses: Obstacles to Justice in India Based on Sexual Orientation and Gender Identity* (2017).

⁷⁴ *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.

Furthermore, the social discrimination transgender people in India endure is still quite strong; past biases still impact their daily life. Because of systematic prejudices and societal exclusion, transgender people typically battle to access housing, healthcare, education, and job. Laws are in existence to safeguard them, although society attitudes often reject these legal protections, therefore allowing prejudice to continue unrestrained. Although a positive start, the Transgender Persons (Protection of Rights) Act, 2019 has been attacked for lacking robust enforcement rules and for not sufficiently addressing social stereotypes. For many transgender people in India, the constitutional guarantees remain essentially theoretical without strong fines for discrimination and robust affirmative action laws.

Establishing specialist enforcement agencies committed to safeguarding transgender rights can help to close this disparity between legislative recognition and actual implementation. Such committees ought to have the power to address grievances, look at violations, and punish violators. Moreover, the court has to be more aggressive in guaranteeing adherence to constitutional values, especially in circumstances when transgender people experience institutionalized prejudice.

Furthermore, it is important to investigate how law enforcement departments and police help to preserve transgender rights. Wide-ranging reports of police violence, erroneous arrests, and harassment of transgender people reveal a lack of sensitivity and awareness inside law enforcement systems.⁷⁵

Police academies and court training courses on gender identification, human rights, and anti-discrimination laws ought to be included into each other.

Moreover, setting aside specific transgender protection teams inside law enforcement agencies will enable more efficient handling of incidents involving assault and prejudice. These steps would guarantee that legal

⁷⁵Arvind Narrain, *Queer: Despised Sexuality, Law and Social Change* (Books for Change 2004).

protections show up as effective ground-based defenses.

Apart from legal actions, socioeconomic strategies have to be made to empower the transgender population and include them into mainstream life. One of the main causes of transgender people's ongoing marginalization is economic exclusion; they frequently suffer significant discrimination in job possibilities. Government projects should concentrate on offering financial aid for transgender businesses, reservations in public employment, and skill development programs.

Furthermore greatly enhancing their quality of life is guaranteeing access to social security benefits including pension programs and healthcare initiatives. Effective application of these policies would call for cooperation among government, public society, and business sectors to produce an inclusive workplace. A crucial aspect of combating societal discrimination is the role of education in shaping public attitudes. Gender sensitivity training should be included into courses at colleges and universities so that students from early on have a more inclusive attitude. Particularly in rural and semi-urban regions, awareness efforts aimed at the general public might help to debunk false ideas and misunderstandings regarding transgender people.⁷⁶

Perceptions are also greatly shaped by the media; therefore, accurate representations of transgender people in movies, TV, and news helps to create a society more welcoming. These steps can have a long-lasting effect and enable transgender people lead respectable lives by tackling discrimination at its core.

Strong ingrained prejudices and cultural stigmas cause great opposition even with these possible remedies. Often invoking traditional values and social conventions, many religious and conservative groups still resist legislative changes meant at transgender inclusion. This opposition generates a hostile climate in which legal reforms find it difficult to be adopted

⁷⁶ Shashi Bhushan, 'Empowering the Third Gender: Legal Challenges and Societal Reforms' (2020) 57 Indian Journal of Law and Society 89.

generally. Through sensitizing campaigns and discourse, policymakers can interact with these groups stressing that human dignity and constitutional rights should come first above regressive social practices. Furthermore, advocacy campaigns should be strengthened to demand more legal changes according with international human rights norms, therefore guaranteeing transgender people complete legal protection.

Lack of appropriate data and study on transgender experiences in India is another main enforcement challenge. Effective policymaking suffers from the lack of thorough data on violence, prejudice, and socioeconomic conditions. To better grasp the difficulties experienced by transgender people, the government has to undertake national polls and research projects. Furthermore urged should be academic institutions and think tanks to start research initiatives stressing the shortcomings in current laws and regulations. More focused and effective treatments made possible by a data-driven approach will help transgender people living in India to have better lives.⁷⁷

Nirantar Trust, *Gender in Law and Policy: Perspectives from India* (Zubaan Books 2021).

Strengthening enforcement systems and tackling social inequality calls for a continuous dedication from all the players, including the government, court, civil society, and general people. Legal clauses are important, but they have to be matched with initiatives to alter society perceptions and eradicate stereotypes.

Legal enforcement, economic empowerment, educational changes, and media coverage taken together will help transgender people in India to completely realize their constitutional rights. The vision of an inclusive society, where all individuals are treated with dignity and respect regardless of their gender identity, can only be realized through collective action and unwavering dedication to justice and equality.

India may go toward a more fair and equitable society where transgender people are not only acknowledged legally but also able to lead fulfilling lives free from discrimination or exclusion by combining these several techniques. The constitutional promise of equality and non-discrimination must translate into tangible realities, making India a truly inclusive democracy that upholds the rights of all its citizens.

⁷⁷Jayna Kothari, 'The Future of Transgender Rights in India' (2019) 54(3) *Economic and Political Weekly* 20.

CHAPTER-6

CONCLUSION

With the court helping to acknowledge their identity, dignity, and fundamental rights, transgender people's constitutional rights in India have experienced notable change throughout the years. The historic National Legal Services Authority (NALSA) v. Union of India (2014) ruling confirmed transgender people's ability to self-identify their gender, therefore securing legal recognition for them. This ruling underlined the values of equality and non-discrimination ingrained in the Indian Constitution under Articles 14, 15, and 21, therefore reflecting a progressive change from the historical marginalization experienced by the transgender population. The transgender population still faces systematic difficulties in practically claiming their constitutional rights notwithstanding legislative developments, nonetheless. Still pervasive discrimination in social acceptability, healthcare, education, and work calls for more changes to guarantee real inclusiveness and equality.

Although the Transgender Persons (Protection of Rights) Act, 2019 sought to offer a legislative framework for safeguarding transgender rights, campaigners and legal professionals have objected. The need for a certificate of identity given by a district magistrate to officially identify one's gender raises one of the main questions since it goes against the NALSA decision supporting self-identification free from official or medical involvement. Moreover, the Act does not have explicit clauses addressing transgender people's socioeconomic empowerment—that is, affirmative action in employment and education. When trying to modify their formal documentation, many transgender people also encounter legal and administrative obstacles that contribute to their exclusion from public services and benefits.⁷⁸

⁷⁸ National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

The Transgender Persons (Protection of Rights) Act, No. 40 of 2019, Acts of Parliament, 2019 (India).

All persons, including transgender people, shall be treated equally before the law, according to Article 14's right to equality. However, in reality, transgender persons are often denied equal opportunities in a variety of spheres of life, particularly in the school and at employment. Many companies and organizations still maintain prejudices, which results in the marginalization of transgender people from official employment. Furthermore common in schools and colleges is the absence of inclusive policies, which leads to high dropout rates, bullying, and discrimination against transgender people. Like those accessible for Scheduled Castes (SCs) and Scheduled Tribes (STs), affirmative action policies should be applied to promote transgender people and give them equal chances to engage in mainstream society in order to close this disparity.

Another essential component is the right against discrimination under Article 15, which specifically prohibits discrimination on the basis of religion, colour, caste, sex, or place of birth. In the NALSA decision, the Supreme Court expanded the meaning of "sex" to encompass gender identity, making it illegal to discriminate against transgender individuals.

Notwithstanding this legal protection, incidents of prejudice and violence directed against transgender people continue, especially in public areas and medical environments. Because of society stigma and medical personnel' lack of sensitivity, many transgender people find it difficult to obtain basic healthcare treatments. To close these gaps and preserve the constitutional promise of equality and non-discrimination, a more comprehensive healthcare policy including specialized clauses for transgender health requirements is very necessary.⁷⁹

Indian Constitution, Article 15.

Perhaps the most basic right guaranteeing every person can live with dignity is Article 21's guarantee of life and personal liberty. In its decisions, the Supreme Court has repeatedly found that the right to live with dignity covers the right to gender identity and expression. In actuality, though, transgender people often suffer abuses of their dignity including police

⁷⁹Indian Constitution, Article 14.

harassment, erroneous arrests, and exclusion from public services and accommodation. The absence of social security policies aggravates their vulnerability even more and increases their vulnerability to violence and exploitation. To ensure true dignity and liberty for transgender individuals, there needs to be comprehensive welfare schemes that guarantee their access to housing, employment, and legal protection against discrimination.

The criminalisation and policing of transgender people, especially those who are begging or doing sex work because they are economically marginalised, is one of the main causes for worry. Laws like the Beggary Prevention Act and Section 377 of the Indian Penal Code (before to its partial legalisation in 2018) have long been used to target transgender individuals. *Navtej Singh Johar v. Union of India* (2018) decriminalised homosexuality, yet law enforcement authorities continue to harass and profile transgender people unfairly. The state must take proactive measures to train police forces on gender sensitization and implement stringent anti-discrimination policies to prevent such injustices.

Another vitally important issue needing immediate attention is Article 21A's right to education. Though inclusive education is emphasized in the National Education Policy (NEP) 2020, transgender children may have great difficulty obtaining high-quality education. Many schools lack gender-neutral facilities, and teachers are often not trained to handle genderdiverse students sensitively. Many transgender children quit out due to lack of a safe and encouraging classroom, therefore drastically restricting their future opportunities.⁸⁰

To close this educational disparity, a strong policy framework guaranteeing the inclusion of transgender students via scholarships, gender-neutral facilities, and awareness campaigns is needed. Even with legal acceptance of transgender rights, employment discrimination still presents a significant obstacle. A basic component of human dignity is the right to work, although many transgender people find that deep-rooted prejudices prevent them from being included into official job possibilities. Although government and business programs supporting workplace diversity have surfaced, their scope and impact are still small. Like other underprivileged groups, transgender people's representation in the workforce might be much improved and their economic independence encouraged by the implementation of

⁸⁰Indian Constitution, Article 21.

reservation rules for them in government employment.

In summary, India has made significant legal strides in recognising and protecting the rights of transgender individuals; yet, significant challenges remain in effectively implementing these rights. To address the financial disparities that transgender persons face, appropriate legal measures must be implemented that uphold the fundamental rights of equality, nondiscrimination, dignity, and liberty. Strong anti-discrimination laws to safeguard transgender people in the workplace, education, and healthcare, as well as legal changes to streamline gender identification procedures and affirmative action policies, are part of this also.

A multi-stakeholder approach is required going forward to guarantee the complete implementation of transgender rights in India. This covers the government's, court's, civil society's, private sector's, active involvement in building an inclusive surroundings. Legal reforms by themselves cannot bring about social change; initiatives supported by communities, awareness campaigns, and gender sensitivity programs must augment legislative efforts.⁸¹

6.1 Summary of Key Findings

The constitutional rights of transgender individuals in India have seen significant change in recent years, especially as a result of court rulings and legislative initiatives. Transgender people's right to self-identify as their gender was confirmed by the landmark 2014 National Legal Services Authority (NALSA) v. Union of India verdict, which also directed the government to implement policies ensuring their social, economic, and legal inclusion. By recognising transgender individuals as a third gender, this decision granted them protection under Articles 14, 15, 16, and 21 of the Constitution. Notwithstanding this historic decision, administrative and social obstacles still prevent the efficient application of these rights, so their constitutional recognition is more symbolic than pragmatic.

Enacted as a legislative measure toward applying the NALSA ruling, the Transgender Persons (Protection of Rights) Act, 2019 Although the Act offers a structure for transgender

⁸¹Indian Constitution, Article 21A

rights, it has been harshly attacked for requiring certification for gender recognition, therefore running counter to the self-identification concept maintained by the Supreme Court. To further the historically underprivileged transgender population, the Act notably lacks clauses allowing affirmative action in employment and education. Furthermore, the somewhat small fines for discrimination against transgender people raise questions regarding their enforceability. These problems draw attention to the discrepancy between legal acknowledgement and practical application.⁸²

Article 14 provides equality before the law and equal protection under the law, therefore providing one of the main constitutional safeguards for transgender people. The Supreme Court has underlined once more that regardless of their gender identity, this clause covers all people, including transgender persons. In actuality, though, transgender people still experience prejudice in several sectors, including access to public services, employment, and education. Inclusive policies absent from businesses and educational institutions have resulted in systematic marginalization, therefore restricting their chances for social mobility.

Analogously, Article 15, which forbids discrimination based on sex, has been read to incorporate gender identity. Thus, any discrimination against transgender people in public services, housing, healthcare, or the workplace is prohibited. Still, transgender people frequently face discrimination and exclusion in social and financial spheres even with this legal defense. Because of their preconceptions and prejudices, many private sector companies are still unwilling to recruit transgender people. Reaching actual equality under Articles 14 and 15 is difficult without affirmative action rules.

Article 21's right to life and personal liberty has been liberally read to encompass the right to dignity, privacy, and autonomy. The Supreme Court underlined in the NALSA ruling that the right to dignity covers gender identity, so it is illegal to compel transgender people to fit into gender stereotypes that contradict their own defined gender. Still, transgender people in India still endure societal exclusion, police violence, and harassment. Cases of mistaken arrests and

⁸² National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

custodial brutality directed against transgender people point to incomplete realization of constitutional safeguards in action.⁸³

Lack of legal defense against prejudice and violence is still another important concern. Both in public and private environments, transgender people regularly go through physical and sexual abuse. Laws like the Transgender Persons (Protection of Rights) Act, 2019 outlaw discrimination and abuse, although enforcement of them is still inadequate. Because of mistrust of the court system or concern of police harassment, many transgender people are unwilling to pursue legal action. Maintaining the constitutional promise of dignity and security requires strengthening legal systems and guaranteeing rigorous application of anti-discrimination laws.

Children between the ages of six and fourteen are entitled to free and compulsory education under Article 21A. However, bullying, prejudice, and a lack of gender-inclusive infrastructure may make it extremely difficult for transgender children to receive the proper education. Despite emphasising the need of inclusive education, the 2020 National Education Policy (NEP) does not contain specific provisions to address the challenges faced by transgender students. For many transgender people, the constitutional right to education stays unmet without focused initiatives including scholarships, gender-neutral facilities, and awareness campaigns.

Article 19(1)(g) guards every citizen's right to pursue any profession or trade, therefore safeguarding their right to livelihood in terms of employment. With restricted access to official employment sectors, the transgender community still suffers employment prejudice, nonetheless. Lack of economic possibilities drives many transgender people into unofficial and unstable jobs, such sex work or begging. Although several state governments have enacted legislation allowing transgender people to hold public office, their scope and

⁸³ Indian Constitution, Article 14.

Indian Constitution, Article 15.

execution are still limited. Expanding affirmative action rules can assist to close this income gap.⁸⁴

The Transgender Persons (Protection of Rights) Act, 2019, Section 18.

Recent years' legal reforms have also tackled problems with criminalization and legal recognition. Although transgender people still face legal challenges in altering their official documentation and receiving gender-affirming treatment, the decriminalizing of homosexuality in *Navtej Singh Johar v. Union of India* (2018) was a significant triumph for LGBTQ+ rights.

Many government policies demand transgender people to undertake mental assessments or medical tests, which runs counter to the ideas of self-identification maintained in the NALSA ruling. Ensuring constitutional rights are available to all transgender people depends on these processes being simplified and bureaucratic obstacles being removed.

Though court rulings by themselves are not enough, the court has been crucial in extending the rights of transgender people. Comprehensive policy actions addressing the socioeconomic vulnerabilities of transgender people are much needed. To close the distance between constitutional recognition and actual application, housing policies, healthcare changes, and social security programs especially targeted to transgender people are absolutely vital. Transgender people will continue to encounter structural obstacles preventing them from completely enjoying their constitutional rights without such actions.⁸⁵

Indian Constitution, Directive Principles of State Policy, Articles 38 and 39.

⁸⁴Indian Constitution, Article 21.

⁸⁵Indian Constitution, Article 21A. .

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COMPLETION CERTIFICATE

This is to certify that **Ms ANJALI TIWARI** with Enrollment Number **A0342624024**, a student of Programme **LLM (Constitutional Law)** Batch **2024-2025** Semester at **Amity Institute of Advanced Legal Studies** has pursued **Dissertation LWDS600** on topic **Constitutional Rights of Transgenders in India: A Socio-legal Study** under my guidance from **07/01/2025** to **07/04/2025**. The Student has submitted **13** out of total **13** Weekly Progress Reports. **Ms ANJALI TIWARI** has completed the project-related work and the work done is satisfactory.

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