ABSTRACT
Transgenders or homosexual these words never gain respect in the society, in community in any country. Standard gender people have always treated them like an alien, toys, source of entertainment. At an early age, they become homeless if they disclose their gender to their family. The people are not yet that develop to understand the biology behind this, they think it is a mental illness or some black magic. Trans people are the victims of sexual, mental, and physical abuse. We need to create awareness among people about transgender’s, their gender identity, people need to understand that there would be a third gender the human society is about Men, Women, and LGBTQ+. In this article author will discuss the rights of transgenders the legal steps taken for their welfare. Since the establishment of society, transgender gets side-line. Transgender word does not only of gay people it includes all those different people whose genetical are different, include sexual orientation. The focus of the article upon constitutional rights given to every citizen of India including trans people, non-discriminatory clauses. State government should get the fact that rights in written in the constitution do not make them effective, major steps have to be taken, by launching policies and schemes nothing conceive. A Substantial step is in demand.

The author has discussed all the three important cases such as Suresh Kaushal’s case, NALSA judgment, Navjot Johar case. With the help of these cases, readers will get a clear idea about the struggle of transgenders. After many years of independence in 2018, this community gets the right to be recognized as the third gender. Author has analysed both the bill and act: first Right of transgender persons bill 2014, and second Transgender person protection Act 2019. It is also discussed in the present paper, what will be the scenario of transgenders if section-377 is not decriminalized.

The demolition section- 377 show the change in the human culture, transgenders are also human it just they biologically different I which no one is at fault, no one should be blamed. As once a great personality said ‘every human being is different in their own’.

Introduction

Why should a part of society feel left out
Deep down in Indian culture homosexuality is taboo and many people still think the same-sex relationship is illegitimate. Famous politicians, religious leaders and, the social group had petitioned in Supreme Court to overrule the 2019 Delhi High Court judgment and Re-criminalization section- 377 it was done in the Kaushal’s judgment.

Their life, their partner, their choice, with consent, so what?

The way, male and female have the rights to be recognized by their gender Trans people also have that right, to be recognition by their gender. As other citizens of India are entitled
of legal protection without any discrimination based on religion, sex, race, caste, place of birth, and colour as given under articles- 14,15, 16, and 21. Trans people are also entitled to have same equality right as it is provided under article 21 of the Indian Constitution.

Life of transgender becomes daily life battlefield and in need of being recognized in front of the society to save their existence they are in minority and their fight is against whole Nation.

Transgenders are different from stereotype gender norms. In Indian culture ‘Trans’ word is used to abuse people. They are like us normal human beings, they are too entitled to equality like another gender in India. Transgenders need to be recognized by the law and by society, for centuries they have been forced to choose between male and female the third gender option was not available.

These people have to face discrimination every day, and everywhere- in education, in Healthcare, in employment, face homelessness, depression, getting under the influence of drugs. They get homeless because of their gender identity at an early age. This one of the main reasons for their non-education, good health care, hygienic place, sanitization. The lack of these facilities forces them to beg, stumble on the street without will have to follow the so-called culture set by society for transgenders.

After the bill passed in 2019, they get a reservation in employment and educational institution.

The word transgender includes all the people whose gender seems different from the gender assigned to them at the time of birth.

Transgender could be anyone a 10-year-old child, a 65-year-old person, of any sex they can be in our families, friend, neighbourhood, they could be our teachers in a school. Most people after disclosing the fact of their true gender under social pressure if they disclose the fact about themself they will be eliminated, ignored by the stereotype society. There is a high chance that they might be the victim of violence. Mostly in transgender identity cases, they get murdered by common people.

After the Revolutionary judgment of Navjot Johar v. Union of India.

Many law are still stuck in between two genders men and women and their provision. The war of transgenders has yet not concluded that's why Transgender is still in the fight, facing difficulties with their statutory rights to get them as well.

With many other laws like Marital law, Inheritance, Adoption law, Law of land still stuck in colonial Era’s time. Minuscule fraction not ready to accept relation of or with the homosexual. After the NALSA judgment, a limited number of people only accept the fact that trans people are one of us they are just biologically different as men different from women and women different from men till we have 2 genders and now we have 3 genders in our human community. As an individual, it is difficult to live without your statutory rights basic human rights. The larger community will take time to understand the importance of other rights for transgenders such as the right to marry, right to adopt, have family, inheritance right, neutral rape law for themselves. All other rights which a layman enjoys and owns. it was said that “be a human first then think about future”
31 March is a transgender day of visibility. During the pandemic, trans people have completely forgotten. Furthermore, from the government side, there are not any special guidelines for vaccination of the LGBTQ+ community.

20 November is been celebrated to Remember those transgenders who lost their lives in violence and hatred since 1999.

**K. S Puttaswamy vs Union of India**
It was held that the right to privacy upheld an individual's rights to liberty free from Intrusion and Justice. Protection of sexual orientation is pavtol to fundamental law, enriched under articles 14, 15, 21. This case had played important role in the fight against Transgender in the NALSA judgment.

**Let's understand some terms**
1. Gender identity
2. Gender expression
3. Sexual orientation
4. Sex characteristics
Collectively called as SOGIESC

1. **Sexual orientation**- symbol of heart.
This term refers to whom you are physically, emotionally, mentally and sexually attractive.
- Lesbian are the women who are attractive to another women,
- Gay 2 males ka attractive towards eachothers
- Bisexuality they attraction towards both gender male and female

2. **Gender identity**- it is connected with brain
It is about how you feel and think about your gender some people’s sex reflect on birth certificate where they were assigned their sex. For example a women assigned a male gender at time of birth but later on, she found that in actual she is female. She could change her sex on certificate by the provision given under section 4 and 5 of transgenders protection bill 2019.

3. **Gender expression**- it is about your personality as hole.
This reflect by your hole appearance how you communicate, how you present yourself, how you dress, how is your hair cut or your hairstyle, what's your name, the way you walk. Also what you communicate about your personality or Gender to outside world.

4. **Sex characteristics**- referred biological factors better to say biological component.
It is reflected by genital area of male, female or mix. External biological factor Intersex person reflect by genital area of male, female or both.
- Bye body hair,
- voice pitch,
- hormones,
- chromosomes,
- body shape (includes muscles).

Everyone is equal in the eyes of law is superior

Supreme Court in its judgement of National Legal Service Authority versus Union of India- recognised transgender as a “third gender” Court ask centre and state government to treat transgender as “socially and equally backward class”, provide them reservation in public service, education institutions in the third gender category.

Court also says that they are equally entitled for fundamental right which is available to other genders as citizen of India. Right to live with dignity is important for transgender...
people as it is as important for male and female.

*How can fight of transgender be easing in a country where women have not got their right till date, the country in which women are treated as goddess and not getting their rights in this patriarchal and stereotype Society how can we expect that it will be easy fight for transgender whose termed is used as abusive word by other two gender.*

The court has given the people of India right to gender identity.

**Challenges**

They will face sever discrimination stigma and systematic inequality. Even though Court have ordered and make guidelines for transgenders, they still not getting legal protection care they yet have to face discrimination on workplace.

Poverty is the biggest problem of transgenders the reason is obvious lack of education being isolated from society radical people don’t allow them to use common material resources. It seems like God also don’t want to help them. If Transgender is of dark colour then his struggle level is beyond your thinking, he even die everyday to BREATH.

In a survey about 29% Transgender are living in poverty. In which 39% are black 48% of Latics and 35% of Alaska native Asian Hawaiian Pacific islander American native. In late 20’s only one third people support transgender but in 21st century till 2019 percentage increase up to 62% people supports transgenders. Despite this increase percentage the discrimination and violence are not recorded being reduced.

Transgenders still criticized mentally, sexually, socially. They experience discrimination in government schemes which are especially for poor people for those who are below poverty line author want to say government schemes are for everybody right it as everybody is equal under constitution of India article 14. So, why these social people discriminate between themselves without any ground just on the basis of their genders i.e (it is justified the discrimination in this 21st century India heading towards a powerful Nation economically stable Nation how these things even possible when people are not United themselves discriminant in between them on the basis of their gender which is prohibited2. It is not the matter of discrimination for transgender this stereotype society did not accept the empowerment of women as well, the radical mans of society get jealous by the development of other gender they cannot see their competition from minority community.) They face discrimination despite they have a reservation.

Previously, they have no voting right and when they got right did not go to booth in fear of being criticized by booth officer itself at polling booth, they cannot apply for public job, in application form there were no option for third gender so they have to choose between either male or female. (one transgender revealed fact on an interview for IAS she was criticized by one of interviewer his words was “what will you do after getting such a honorable job after all your main source of income would be e begging, by

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1 https://www.hrc.org/resources/understanding-the-transgender-community

2 https://www.hrc.org/resources/understanding-the-transgender-community
clapping in train and roadside”. This incident left her very sad that she could not collect enough confidence to appear again after being criticized and socially and mentally harassed by interviewer. (she could never muster up the courage again).

Survey - it is founded at around 22% of Trans and 32% of coloured trans have no Health Insurance all over the world. The extent was reached when doctor himself refused to grant insurance to transgender. There are 29% of such adult transgender who has been refused by doctors.³

Identity document
There are several state government who did not allow trans people to update their documents. There are situation where document officer himself refused to make documents. Transgender also need their identity documents just like other gender. There are several work where every person have to bring their identity card or documents. For example for loan and other banking services, to avail government schemes, in matter of medical treatment, without document no one can travel out of the country, passport needed kind of identity document, they cannot register for schools. Identity document is an important paper which describe other about that person about his personality, name, gender, occupation, residence and many other important information identity document is a main and basic paper format which shows persons legality, and other important information about him.

Consequences criminalisation

Criminalization put negative impact especially on LGBTQ+ youth. They’ll bully at school which demotivate them to go school or colleges, even adult transgenders face bully if they revealed their gender at workplace. Illiteracy will close all the good employment opportunities for them. After gender recognition or public their true gender it was found that case of homelessness increase. The LGBTQ+ youth are at high risk of threat being abuse physically, socially and mentally.

In author's opinion the major cause of violence against trans people that they are vulnerable community who lives with minority. Even Police officers did not help trans people officials deny to file their complaint. Instead to help them they themselves took benefit of transgender sexually, physically abused them, misuse their power. The majority community is confident about their act that they are doing right thing to transgenders by eliminating them and abusing them, this is a myth that transgender are harmful human, in rural areas many people believe that transgenders are not human they are demon. The major challenge for them is to get proper Healthcare. In Medical field also, they faced discrimination and did not get proper treatment and if they get chance for treatment the expert did not looked at them.

Lack of education increase the possibility of unemployment among them which divert them to achieve goal of better livelihood, healthy life, sanitization.

Fundamental rights given to every citizen of India⁴

³ https://www.hrc.org/resources/understanding-the-transgender-community

⁴ By the Constitution of India
Equality before law- ‘the state shall not deny to any person equality before law or equal protection of the laws within territory of India.\(^5\)’

As per the stated law constitutional framer wants to give every single citizen of India equal right and everyone should be treated equally irrespective of their differences. The concept of equality is positive concept Court can command state for equal treatment but cannot issue mandatory norms for state to do equality that will be kind of committing illegality.

Prohibition on discrimination\(^6\)

It seems clear by the article first lets understand the wording of this article ‘the state shall not discriminate against any citizen on grounds only of religion, race, sex, caste, place of birth or any of them.\(^7\)’ as per this sub-clause state is strictly prohibited to discriminate among its citizens on the basis of abovementioned criteria. Also ensure that common people does not discriminate among themselves as above fore said things, if that’s so happened then state will take some necessary steps.

Article 15 (2) on the basis of above mentioned things discrimination on these criteria which subject to disability and destruction. No person shall be treated or isolated as disable from using common resources such as river, wells holy places and public places such as shopping mall, Entertainment place, restaurant, hotel etc. Article 15(5) state may make special law for advancement of socially, educationally and economically backward class to bring them up with majority community. Here, educational institution referred to public as well as private institutions.

To fulfil the provisions of article 19(1)(g)\(^8\) article- 15 highly support transgender because they are backward and weaker section of society on the basis of their gender.

Equality of opportunity in matter of public employment\(^9\)

The particular article talks about equal opportunity in government services, after the case of NALSA transgender being treated as backward class. Sub-clause 4 of this article clearly state that Parliament can make law of reservation in appointment and in post to favour backward citizen.

In recent years Transgender start getting support from NGO’s, health workers. It is mentioned in part 4 of Indian Constitution that it shall be duty of the state towards its citizens to provide them better livelihood, quality education, employment, development, sanitization.

Despite the state government are not effective in these areas, until central government did not bring any provisions, policies, laws to uplift Trans genders standard. Do provide them equal opportunity, equal employment and treatment, better livelihood.

Under Article 19(1)(g)- is right giving to every citizen to poses any business or trade. Being a citizen of India trans people also have this right to carry out any trade, business of their choice in legal manner.

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\(^5\) Article – 14 of Indian constitution  
\(^6\) Article – 15 of Indian constitution  
\(^7\) Article – 15(1) of Indian constitution  
\(^8\) To practice any profession, or to carry on any occupation, trade or business,  
\(^9\) Article – 16 of Indian constitution
Article 21\textsuperscript{10} the scope of this section is vast in this present paper we will discuss few aspects of Article- 21 right to life includes right to live with dignity, medical facilities, proper accommodation and genetic care. After the case of K.S. Puttaswamy vs Union of India\textsuperscript{11} right to privacy also included under article 21 in this case it was held that ‘right to life and personal liberty includes Right to privacy as an integral part guaranteed under part III of constitution’.

Other aspects of Article 21
1. Timely justice and speedy trial is part of human right\textsuperscript{12},
2. As an article 21 it is said that right to life means live with dignity. This right it does not mean to live like animals in human body\textsuperscript{13},
3. In the case of Khurana versus Union of India\textsuperscript{14} the case was filed because the frame discriminatory bye-law on the basis of sex. the court offered article 21 which also deals with livelihood at as against fundamental human right.

When people are not able to see the atrocities against women, they are blindfolded, then how will anyone pay attention to the atrocities against transgenders that have been happening for years.

States obligation towards its citizens
Article 38 to article 43 a not directly but yes does talk about gender equality States duty to bring up social and economic backward people this includes cast base lower community and gender base lower community that, is transgender community State to secure a social order for the promotion of welfare of people\textsuperscript{15} it is States duty to promote Welfare of people by protecting them by social order also state may endeavour to eliminate inequality in income and in status.

Article 39 and 39a
Article 39 (A\textsuperscript{16})- the state shall secure that the operation of legal system promotes justice, on the basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or scheme, or in other way, to ensure that the opportunity for securing justice are not denied to any citizen by reason of economic and other disabilities. state may call to follow its some policies establish non-discriminatory society

1. Talk about equal likelihood
2. equal ownership and control over material source
3. equal pay for work.
However equal justice and free Legal Aid is the important component of developed state. Where state will promote equal justice and equal opportunity before law. The concept of Free Legal Aid was brought so that no one is deprived of justice due to lack of money, lack of information, and other disabilities.

‘The state shall within its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement, and in other cases of undeserved want’.\textsuperscript{17}

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\textsuperscript{10} Right to life and personal liberty.
\textsuperscript{11} AIR 2017 SC 4161
\textsuperscript{12} Hussain v. UOI AIR 2017 1362
\textsuperscript{13} Bhudhadev Karmaskar v. St of WBN AIR 2011
\textsuperscript{14} AIR 2015
\textsuperscript{15} Article 38
\textsuperscript{16} 42\textsuperscript{nd} amendment act 1976
\textsuperscript{17} Article 41
State will ensure below mention thing as per their economic capacity and development policy:-

- States duty to secure right to work right to education right to public assistance or guidance in unemployment matter and sickness matter and disablement.

_The state shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies_\(^{18}\).

**Article 43(B)** says state will strive to manage a cooperative society.

**Article 46** state will promote economic and educational interest in weaker section also give protection from social injustice and exploitation so that no person shall be deprived of his basic rights which guaranteed by Indian constitution.

**Decriminalization of homosexuality**

1. In Navjot Johar\(^{19}\) judgement decriminalization of homosexuality petition was filed by challenged Section -377 of Indian Penal Code.
2. In NALSA vs Union of India\(^{20}\) Supreme Court recognised right to gender identity and transgender as third gender.

**Chronology to decriminalise homosexuality**

**Kaushal judgement**\(^{21}\) in this, Supreme Court overturned the Delhi High Court judgement which was passed in 2009 Naz Foundation vs government of NCT. What happened earlier that in Naz foundation versus Union of India in 2009 Delhi High Court decriminalises Section 377 and homosexuality. Later in, Suresh Kaushal vs Naz Foundation two judge bench of Supreme Court Re criminalize Section- 377 and consensual intercourse in between two adult of same sex in private.

The scenario change with NALSA judgement in 2014. That judgement was to hold the constitutional right of gender identity and right to self identity male female transgender. Supreme Court says right to life and dignity and privacy includes gender identity and sexual orientation. Then after the judgement in 2016 Section -377 was challenged by different petitioners in Supreme Court. This was the first time ever in Indian history when transgenders voice directly reached before Supreme Court.

In the meantime in 2017 K.S.Puttaswamy vs Union of India judgement come into light, it was held that right to privacy is Constitutional right and put within the scope of article 21. The right include to have sexual intimate relationship of one's choice, sexual orientation, gender identity. Hence it was proved that judgement of Kaushal's case was incorrect and against the constitutional law. Supreme Court framed 5 judge bench headed by the then Chief Justice of India unanimously in Navjot Johar case that the section -377 is unconstitutional to that extent to criminalize consensual sex relationship between same gender. By overruling Kaushal judgement.

If you talk about article -15’s non -discriminatory provision on the basis of sex, in the case of NALSA, Supreme Court clear that sex under article -15 includes

\(^{18}\) Article 43 (B)  
\(^{19}\) AIR 2018 SC 4321  
\(^{20}\) AIR 2014  
\(^{21}\) AIR 2013
discrimination on the basis of gender identity and also sexual orientation and stereotype. Supreme court also held that grounds of discrimination shall not be gender which does not conform societies norms of gender. Be the way you like, to dress up, to speak, behave. It is one of the main reason of the violence against transgender because they did not fit in societal norms of gender so called non conferring with other genders. This type of society does not only discriminate LGBTQ+ community right but also with women's right.

To break this stereotype nature of discrimination with others right. In this orthodox community we have to fight for our rights tell we get it. This right is not only for LGBTQ+ community it is also about rights of women.

The Navjot Johar judgement comes with recognition of sexual orientation and gender identity the most vulnerable measure minority community LGBTQ+ get their values and can now equally stand on constitution to protect their other rights and safe their side.

Somewhat legislature himself did not want to give transgenders their basic survival human right and statutory right. Otherwise, concrete decisions would have been taken on repeated voices raised by those people and would also support those people to take the fight for their rights further. If legislature really think about their right then in transgenders bill 2019 they must have censored professions related to marriage adoption and inheritance and rape law.

That bill could have been made better. If he really wants to work for the interest of the people. There is a need of some amendment and the 2019 act of transgenders.

**Opinion of 5 judges who strike down Section 377 of IPC**

The five judge bench headed by the then Chief Justice of India Deepak Mishra. Constitutional bench give inverted to lower down the section- 377 of IPC by saying that it violates the basic human rights and fundamental right.

1. **Opinion of Deepak Mishra and J. kanwilkar**

In the following point the judgement have been declared - opinion of justice Deepak Mishra and J. kanwilkar.

A.) Trans confirmative constitution - according to justice Deepak Mishra purpose of Constitution is to transform society in a better form. It is duty of constitutional Court to realise the enduring nature of constitution. The decision has completely contracted 2013 apex court judgement which upheld the constitutionality of section -377.

B.) Right to choose one's partner - by citing Hidiya's case, Court said that those who are capable and come to an age to think about their life they have right to choose their partners.

C.) Freedom to be different - every human being is a different in their own. So society as whole or any part of it prefer to be different in themselves, they can completely do so as they wish.

D.) Constitution duty to respect another person’s dignity - apart from Judiciary and state citizen also own some constitutional duty to respect other individuals dignity and privacy. It is responsibility at collective at large.

E.) Understanding homosexuality - neither a mental health not there made of mind. It is
pure science and proved by theories and researches conduct and biological and psychological science. There is a certain manner in which persons mind and genetical functions and react.
The society will understand this for once and again positive strive

2. Justice Rohinton Nirman's opinion
A.) Homosexuality is not a mental illness it is clearly define what actually this term mean.
B.) Arbitrary, violates privacy - justice said statutory provision would be stuck down on sole ground of arbitrary including this would violates right to privacy. He directed government to take necessary measures and also to include police officer, give awareness training and periodic sanitization

3. Justice Mahlhotra's views- the judge wrote ‘history of an apology to LGBTQ+ community to delay in providing redressal and for ignorance that they suffered a lot about many centuries’. She says it is not arbitrates it is variation of sexuality sexual orientation it is not a matter of choice justice Malhotra said Section 377 discriminatory and violates right to dignity and privacy.

4. Justice D.Y Chadrachud- he said Section 377 provide by bye the law instead of rule of the law. By criticising government he says every matter is not for wisdom of court. Lethargy of government to left survivor of victims under section- 377 as supposed alien law.
Test of arbitrariness Section 377 did not distinguish between homeo and hetro sexual.

Outcomes of NALSA judgement

1. Transgender been recognised as third gender,
2. They were classified as socially and economically backward class,

Navjot Johar Case – section 377 was challenged
The petition filed before Supreme Court challenging Section – 377, represent large part of India who has been abused and victim of violence just because non conferring with gender norms either male or female. Legality of section 377 challenged, which regulate sexual life of individual and respective of their gender and sexual orientation. The section criminalize same sex sexual intercourse even in private and non-veg anal intercourse by heterosexuals.

After the judgement of NALSA Supreme Court order for gender neutral washroom for transgenders. Result have been seen in Mysore, Bhopal, Bengaluru in form of e-toilets single-sited toilet automatic specially made up keeping in mind of transgenders the system is like once a person get access the door cannot open by force.

There is need of evolution of thought in orthodox community respect of transgender for gender identity, own separate toilet, separate ward in hospital and many more such right.

Battle is still a long way to go
Indian Judiciary moved far away after the judgement of NALSA. Mindset has changed atleast in judicial system. This change will help the larger community to give a thought
about transgenders lives their right and to give them equal status in same community in which everybody is living peacefully and get them enjoy their material resources and their life peacefully.

Words of Lakshmi Narayana, a transgender activist “she is very happy and welcoming the judgement, she said a community has suffered a lot being discriminated, ignored, live in poverty in a traditional conservative society”.

Court direction to centre and state government
1. To safeguard their fundamental right transgender should be treated as third gender.
2. For the purpose to identifying their gender first recognise their persons need.
3. Providing reservation in public education, public employment as provided to other backward class like- SC and ST
4. Framing special provision regarding HIV in transgender people, aware them about sexually transmitted diseases like AIDS.
5. Provide them special treatment to tackle problems like depression, shame, suicidal thought, fear, gender dyspriya. Provision like separate two ward in hospital, separate public toilet.
6. Welfare schemes for their personality and confidence development.
7. Public awareness about trans people make positive approach in public to carry positive attitude towards transgenders, we should stop behaving with them like untouchable aliens.

National and state Commission for transgender person
This Commission work for & will look for applicability of law on ground for the protection of transgender people against violence. This Commission completely deserve to transgenders development. This Commission will enquiry on complaints, recommendations, can issue summon to witness, check evidences. This Commission has also right to impose penalty and grant imprisonment for offence against transgender up to 1 year of imprisonment for hate speeches bad behaviour against trans people.

Marital rights
In the evolutionary judgement Court mainly decriminalize homosexuality and nothing more. In case of Lata Singh versus state of U.P, the apex court held that right to marriage is a part of article 21. Where’s the party attend maturity they have right to marry whoever they wish with their choice. Boy should not be less than 21 year of age and female must attend 18 year of age.

Hindu Marriage Act and Muslim Marriage Act even under Special Marriage Act the term bride and bridegroom have only used, it clearly referred the heterosexual marriage the marriage solemnized must in between man and woman there is not a single provision for same sex marriage or homosexual marriage there were not any provision in all the three laws.

Many countless efforts, protest have done, petition being filed by transgenders to normalise h to accept their homosexual relationship treat them equally as other couple were treated, to majority population they must have given right to enjoy every aspect of life like Lyman.

Inheritance and adoption for trans people
Under Hindu Succession Act 1956 provision for succession given from Section 8 to

23 Special marriage act, section – 4(c).
Section 15. In whole provision they have only talked about the share of widow if husband died and share of husband if his wife died the scenario has also given partition of property with or without child born with marriage.

In Muslim uncodified law property related matter’s governed by Hanafi and Shia School. Widow will receive 1/8th of husband's property with children born in their marriage, if there were no children born than half of property transfer to widow. meanwhile husband will receive 1/4th of his dead wife’s property with children and if there were no children then he will be entitled for half of his wife’s property.

In both the law, they were talking about husband’s and wife’s property share not a single word have been used to refer homosexual couple.

It is also true that if they haven't created the homosexuality board yet in their legislature then how can we suppose that the inheritance is made for homosexual couple also. Neither they have created board nor they have talked for once in their pre-existing personal law.

Historical judgement was of 543 pages in whole judgement jury only talk about gender identity, recognition and existence of Trans people and let the society permit to trans community to use material resource. They haven't talked about inheritance, marriage, adoption.

In the case of Shakti Vahini and other versus Union of India and Safin Johan versus Ashokan K.M. -S.C upheld that sexual autonomy, right to choose one's partner, right to life these are the component of living life with dignity. Aforementioned, rights are guaranteed under article 19 and 21. It is fact too that transgenders firstly have to make their recognition before majority community, wrench basic right of survival.

**Recognising special step taken by higher authorities**

In 2009 election commission allows transgender to choose their gender as other and ballot form.

Justice K.S Radhakrishnan - said recognising of transgender people as third gender is not a social or mental issue but human issue.

Court said that transgender are also citizen of India, they get an equal opportunity to grow and develop.

**Some real life stories**

- **Laxmi Narayan Tripathy**, a Hijra, explained her trauma as growing up as a child, “I felt different from the boys (as I was born as a boy) of my age and was feminine in my ways. On account of her femininity, from an early age, I faced repeated sexual harassment, molestation and sexual abuse, both within and outside the family. Due to my being different, I was isolated and had no one to talk to or express my feelings while I was coming to terms with my identity. I was constantly abused by everyone as a ‘chakka’ and ‘hijra’.”

After all this , she joins LGBTQ + community in Mumbai as she identified as one of them, there she felt as home for the first time in her life.

- **Siddarth Narrain**, is an eunch he has similar kind of story, by expressing his feelings he says “I was in the 10th standard I realized
that the only way for me to be comfortable was to join the hijra community. It was then that my family found out that I frequently met hijras who lived in the city. One day, when my father was away, my brother, encouraged by my mother, started beating me with a cricket bat. I locked myself in a room to escape from the beatings. My mother and brother then tried to break into the room to beat me up further. Some of my relatives intervened and brought me out of the room."

- Anu, 24-year-old girl, is from Madurai. She explains why she no longer gets tested for the disease. She shares that “I no longer have the courage. What if they say that I have HIV and AIDS? What will I do? Where will I go? And how will I learn? I hope to die if I ever get detected with HIV.”

**Right of transgender persons bill 2014**

This is the private member bill introduced in Rajya Sabha in 2014 which was passed unanimously. (this is the reason why 24th of April celebrated as transgender day). Bill was introduced by MP from Tamil Nadu - Tiruchi Siva.

In this bill substantive rights are the main focus and guaranteed. As such Right to Equality, non-discrimination, life and personal liberty, to live with integrity - protection in community from cruelty and torture violence and exploitation.

A separate clause being made for transgender children. Restriction for discrimination in public and private employment.

It is mandatory for the state government to provide them inclusive education. For employment related matter two clauses are been separate –

1. Vocational training
2. self-employment.

There should be separate HIV clinic, free SRS. They are also in title for basic rights like safe drinking water, sanitization. Government should propagate in between transgenders for importance of healthy living, regular medical check-up and healthy sexual life.

In the world 72 countries criminalize same sex relationship.

In which 8 country have penalize same sex relationship with that penalty.

There are only 24 countries who have allow same gender marriage.

**Transgender persons (Protection of rights) Act, 2019**

The whole act is covered all the necessary points which are need of transgenders.

1.) Education – there shall be no discrimination in education among trans students and other students. They all study together. The act has cleared that institution means- public as well as private.

2.) Certificate – a separate data be maintained to keep records of transgender’s gender. Trans people can apply to issue gender certificate from DM. if they are going to gender surgery then also they need gender certificate. The application to surgery will send to DM for conformation via chief medical officer.

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24 https://countercurrents.org/gen-narrain141003.htm
25 24th of April 2015
26 Section- 7 of Transgender persons (protection of right) Act, 2019
27 Section- 2e of Transgender persons (protection of right) Act, 2019
28 Section- 2d of Transgender persons (protection of right) Act, 2019
3.) Employment- the act does talk about reservation and non-discrimination in appointment in job but they forgot about to discuss the afterwards situation at workplace, harassment and discrimination does happen at workplace. According to act government should establish grievance redressal committee to sort out the difficulties, disability, and dispute arises.

4.) Residence- no parent shall take out the trans children from their home. It is right of every children to enjoy home environment. If in case family is unable to take care of child then by the order of court they send child to rehabilitation centre. Health care and welfare provision is there.

5.) NCTP- National Council for Transgenders Protection, council’s function is to revies the activities of each department their agenda, functioning, policies. The central government funded the council to work efficiently welfare of transgenders.

6.) Punishment- offence against transgenders will be not less than 6 months that may extend up to 2 years with fine. Offences like – use abusive words, violence, discrimination, shout at them. Many transgenders are happy with the punishment clauses, they think this is weak provision 6 months punishment is less according to offences committed against them. They also demand for equal rape law for them as well. There shall be no case file against state government or any local authority who is in good faith work for welfare of transgenders.

It is also mentioned that any new will constitutes for transgenders than the opinion of LGBTQ+ community will be taken on account and prior permission community representative at council must be taken.

Conclusion
It is a natural and biological thing, no one’s fault in this. If we all look at this as sin, then it shows our frivolous mentality. With the changing times, we also have to change our mentality and human policy.

In the modern developing period when everybody is fighting for their rights, how is it wrong for the trans community to fight for their rights? Our constitution talks about equal rights for all, especially article – 15 prohibits discrimination among citizens based on race, sex, caste, religion. So why do people still have such discriminatory behaviour against the trans community? The answer is they are stuck in past time societal norms, which misbehave with transgenders. Part IV of the Constitution states that state government shall work for the interest of their state and in doing so they may make certain rules and regulations which shall be for the better future of its citizens and shall create a sense of equality among them.

Concluding this article, the author just wants to say that in the end the fight for rights is not yet finished the community has to go long way to attains equality as written in the Indian constitution. They have to fight for same-sex

29 Section- 9 of Transgender persons (protection of right) Act, 2019
30 Section- 11 of Transgender persons (protection of right) Act, 2019
31 Section- 12 of Transgender persons (protection of right) Act, 2019
32 Section- 16 and 17 of Transgender persons (protection of right) Act, 2019
33 Section- 18 of Transgender persons (protection of right) Act, 2019
34 Section- 21 of Transgender persons (protection of right) Act, 2019
35 Section- 10 of Transgender persons (protection of right) Act, 2019.
marriage, inheritance, adoption, separate law for harassment and rape laws. It will take more time to be accepted by the common people.

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