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LEGAL PROTECTION OF TRANSGENDER PERSONS IN INDIA: CHALLENGES, JUDICIAL DEVELOPMENTS, AND FUTURE DIRECTIONS

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Abstract

The legal protection of transgender persons in India developed through interaction of constitutional doctrine statutory law and judicial interpretation. The constitutional guarantee of equality dignity and personal liberty forms the basic framework for recognition of gender identity. In the landmark decision of *National Legal Services Authority v. Union of India* the Supreme Court recognised transgender persons as a third gender and affirmed their right of self-identified gender under Articles 14 15 19 and 21 of the Constitution of India. That judgment created an important shift within constitutional jurisprudence relating to gender identity.

The statutory framework later appeared through enactment of the *Transgender Persons (Protection of Rights) Act*. This legislation prohibits discrimination in education employment healthcare and access to public services. It also introduced a system for issuance of identity certificate by the district magistrate which functions as legal recognition for administrative records. Along with this mechanism the *National Portal for Transgender Persons* supports online application for documentation and welfare schemes.

Despite these legal developments several structural challenges continue within social institutions. Issues relating to identity documentation employment access

healthcare facilities and family recognition still appear within legal discourse. This study examines constitutional safeguard statutory provisions judicial development and comparative international practices relating to transgender right. The research also identifies gaps between legal recognition and practical implementation within administrative system. Through doctrinal analysis of law and case jurisprudence the study highlights future directions for strengthening equality dignity and substantive inclusion of transgender persons within Indian legal framework.

Keywords – Transgender rights, Constitutional equality, Gender identity recognition, Transgender Persons (Protection of Rights) Act 2019, Judicial development, Social inclusion.

INTRODUCTION

The transgender person are individuals whose gender identity differ from the sex assigned at birth. This includes hijras, trans men, trans women and non-binary persons. The Supreme Court in *NALSA v. Union of India*¹ recognize them as a third gender, giving legal protection under the Constitution. The Census 2011 records about 4.88 lakh transgender persons but activist estimates shows a number exceeding 50 lakh in the country. This recognition gives them a legal status but social acceptance remain limited.

The other demonstrative identifies transgender persons by their lived experiences rather than only biological characteristics. The law provide for self-identification but the procedures for obtaining document are complex in many states. The persons face challenge in accessing education, health care and employment due to discrimination. The Constitution of India guarantees equality and non-discrimination but the enforcement of right remains inconsistent. The hijras historically had ritual and cultural roles such as giving blessings in ceremonies. The Criminal Tribes Act of 1871 labelled hijras as criminal and led

¹ (2014) 5 SCC 438 (India).



to centuries of marginalization. The social stigma persists and creates barriers in multiple spheres of life. The schools and workplaces are often unaccommodating while the medical system ignores specific health needs of transgender persons. The society treats them differently, affecting their participation in public life.²

The legal recognition in 2014 brought a change in status but the practical protection in real life is still limited. The other demonstrative includes provisions under various welfare schemes but the access remains patchy. The state has duties under Article 21 for right to life and dignity but often the implementation is weak. The historical neglect combined with modern discrimination continues to affect the community.

Research Objectives

The primary objective of this study is to examine the legal protection available for transgender persons in India. This includes understanding the framework under Constitution, statutory laws and judicial pronouncements. The other demonstrative focus is to analyze the constitutional provisions such as Article 14 for equality, Article 15 against discrimination, and Article 21 for right to life and dignity. The secondary objectives include identifying gaps between law, policy and ground-level implementation. The study also assess recent judicial rulings enhancing rights of transgender persons including NALSA v. Union of India (2014) and other case laws. The identification of trends in legal protections and the barriers faced by the community is also an objective. The other demonstrative gives attention to recommending policy and legal reforms for social inclusion and equality. The research aims to bridge the gap between legal recognition and actual access to rights.

Research Methodology

The study adopts a qualitative and descriptive design. The primary sources include judicial pronouncements,

government reports and official policy documents. The secondary sources are academic journals, books, NGO reports, census data and news articles. The collection of data follows doctrinal analysis of laws and court judgments.

The method of analysis includes comparative analysis with international legal frameworks to identify gap and challenges. The trends in legal protection and effectiveness of statutory provisions are assessed. The study focuses on identification of inconsistencies between policy and implementation. The other demonstrative helps in understanding the practical difficulties in enforcement of rights. The research also highlights areas for reform and improvement in legal and social mechanisms.

Research gap

The present scholarship on transgender rights in India shows a limited comprehensive analysis combining constitutional provisions statutory framework and recent judicial developments together. Many studies discuss the decision in NALSA v. Union of India (2014) or refer to the Transgender Persons (Protection of Rights) Act but they examine them separately rather than as a unified legal framework. This separation create difficulty in understanding how constitutional guarantees interacts with statutory provisions and administrative practice. Another gap appears in relation to enforcement and practical implementation of rights. The constitutional promise under Articles 14 15 and 21 establishes equality dignity and protection of life. However the discussion in many works remains confined to legal recognition. The ground level experiences of transgender persons receives limited attention in such analysis. The absence of detailed discussion on procedural enforcement and administrative compliance creates a partial understanding of the legal regime.

The comparative perspective with international

² Law Relating to Women and Children, P. ISHWARA BHAT, LAW RELATING TO WOMEN AND CHILDREN 412 (3rd ed. 2018).



frameworks also remain insufficient in many legal writings. The judicial pronouncements of Indian courts increasingly refer to global human rights standards. Yet integration between those international principles and domestic policy recommendations remains limited. This gap leaves the legal debate incomplete while addressing long term structural protection of transgender rights.

Research questions

The study raise several questions relating to the existing legal framework. The first question concerns the legal protections available for transgender persons under Indian law including constitutional safeguards and statutory enactments.

Another inquiry focuses on the role of judiciary in shaping these rights. The landmark ruling in *NALSA v. Union of India* (2014) recognised a third gender identity and affirmed constitutional equality. Subsequent judicial interpretations continue shaping administrative recognition and welfare measures. The research also examine the gap between law policy and implementation at the ground level. This include understanding procedural barrier faced during recognition identity documentation and access to welfare scheme.

A further question address how international practices influence legal reform within India. The global discourse on gender identity and human right provide comparative perspective for domestic legal interpretation.

HISTORICAL BACKGROUND

Ancient and medieval India

The historical position of hijras in ancient and medieval India shows a form of cultural recognition within society. The religious texts and traditional narratives contain references which associates them with spiritual and ritual roles.³ In epics such as the Ramayana and the Mahabharata the description of gender variance appears within certain characters and social interactions. These accounts presents the presence of persons whose identity differs from conventional gender categories.⁴

In medieval period the social location of hijras existed within royal institutions and ceremonial structures. The administrative system of the Mughal Empire employed them in palace service and court supervision. Their presence in royal households and ceremonial events indicates a recognised position in social order. The ritual function also continued during public ceremonies where blessings by hijras carried symbolic importance.⁵ This recognition did not operate through a codified legal status yet it formed a customary acceptance within social practices.⁶

Colonial era

The colonial administration introduced a different legal approach toward gender nonconforming communities. The enactment of the Criminal Tribes Act classified several communities including hijras under a category labelled as criminal tribe.⁷ This statutory classification produced a formal structure of surveillance and regulation. Under that regime authorities maintained register of individuals

³ SERENA NANDA, *NEITHER MAN NOR WOMAN: THE HIJRAS OF INDIA* 12 (2nd ed. 1999).

⁴ Devdutt Pattanaik, Gender Variants in Hindu Mythology, 46 *ECON. & POL. WKLY.* 38, 40 (2011).

⁵ RUTH VANITA & SALEEM KIDWAI, *SAME-SEX LOVE IN INDIA: READINGS FROM LITERATURE AND HISTORY* 87 (2nd ed. 2008).

⁶ Serena Nanda, The Hijras of India: Cultural and Individual Dimensions of an Institutionalized Third Gender Role, 24 *J. HOMOSEXUALITY* 373, 377 (1993).

⁷ Criminal Tribes Act, 1871, § 26 (India).



identified as hijras and imposed restriction on movement and occupation.⁸

This framework established systematic exclusion through administrative procedures. Police monitoring and compulsory registration affected daily life of the community. Through these measures colonial governance transformed a socially recognised group into a subject of legal suspicion. The resulting marginalization remained embedded in institutional practices.⁹

Post-independence period

After independence in 1947 the Constitution of India established principles of equality dignity and personal liberty. Despite these constitutional guarantees the transgender community remained largely invisible within formal legal policy for several decades.¹⁰ Administrative structures did not recognise gender identity beyond binary categories in official documentation.

The late 1990s witnessed a visible rise of organised activism and advocacy by transgender groups and civil society organisations. This mobilisation brought attention to issues of identity documentation employment and access to public welfare schemes. During the early 2000s certain state governments initiated limited welfare measures directed toward the community.

Subsequent judicial interpretation expanded recognition of gender identity within constitutional discourse. The landmark judgment in National Legal Services Authority v. Union of India affirmed the right of transgender persons to self identify their gender and

recognised them as a third gender under constitutional protection. This decision marked an important stage in the development of legal recognition in modern India.¹¹

CONSTITUTIONAL SAFEGUARDS

Article 14 – Right to equality

The Constitution of India establishes equality before law under Constitution of India Article 14.¹² This provision states that every person receives equal protection of laws within the territory of India. The language of this article refers to “person” which includes individuals regardless of gender identity. This constitutional guarantee forms a central doctrine against arbitrary state action.¹³

The judicial interpretation of equality expanded through constitutional adjudications. In the landmark case National Legal Services Authority v. Union of India¹⁴ the Supreme Court recognized transgender person as a distinct gender category. The court held that denial of legal recognition to their gender identity violate equality under Article 14. This reasoning places gender identity within the protective scope of constitutional equality.

Article 15 – Prohibition of discrimination

The constitutional safeguard appears in Constitution of India Article 15 which prohibits discrimination on grounds of religion race caste sex or place of birth.¹⁵ The interpretation of the word sex received broader meaning through judicial reasoning in 2014. In the NALSA judgment the Supreme Court treated gender

⁸ Anjali Arondekar, Geographies of Justice: The Criminal Tribes Act and Colonial Governance, 18 INTERVENTIONS 1, 5 (2016).

⁹ Alok Gupta, Colonial Law and the Criminalization of Hijras, 10 NUJS L. REV. 1, 6 (2017).

¹⁰ Ministry of Social Justice & Empowerment, Welfare Schemes for Transgender Persons, INDIA.GOV.IN (July 15, 2015), <https://socialjustice.gov.in>.

¹¹ P. ISHWARA BHAT, *LAW AND SOCIAL TRANSFORMATION* 302 (1st ed. 2019).

¹² INDIA CONST. art. 14.

¹³ D.D. BASU, *INTRODUCTION TO THE CONSTITUTION OF INDIA* 101 (22nd ed. 2015).

¹⁴ (2014) 5 SCC 438 (India).

¹⁵ INDIA CONST. art. 15.



identity as part of the concept of sex.¹⁶ This interpretation provides a constitutional basis for protective measures and welfare schemes. The state institutions therefore design social welfare programs addressing education housing and health access for transgender persons. That framework connects constitutional equality with substantive protection through administrative policy.

Article 16 – Equality in public employment

The principle of equality in public employment arises from Constitution of India Article 16. This provision ensures equal opportunity in appointment to public offices under the state. The constitutional mandate prohibits discrimination while recruiting or promoting individuals in government service.¹⁷ The Supreme Court in the NALSA judgment also discussed representation in public employment.¹⁸ The judgment recommended reservation for transgender persons within public sector jobs. That recommendation reflects a recognition of structural disadvantage experienced by the community in employment institutions.

Article 19 – Freedom of expression

The constitutional right of expression appears in Constitution of India Article 19. This freedom includes expression through appearance identity and personal presentation. The recognition of gender identity therefore relates to expressive autonomy protected under constitutional doctrine.¹⁹ This interpretation affirms that clothing choice pronoun usage and external presentation forms part of personal expression. Through this principle the law

connects identity with freedom guaranteed by fundamental rights.²⁰

Article 21 – Right to life and personal liberty

The protection of life and personal liberty stands under Constitution of India Article 21. The Supreme Court interprets this article broadly within constitutional jurisprudence. The right to life includes dignity livelihood and bodily autonomy.²¹ In the context of transgender rights the principle of dignity gains particular emphasis. Judicial reasoning associates this right with access to healthcare education and social security measures. The constitutional guarantee therefore links individual identity with protection of human dignity within legal framework.²²

LANDMARK JUDICIAL PRECEDENT NALSA v. Union of India²³

The constitutional recognition of transgender rights received a decisive stage in National Legal Services Authority v. Union of India. This judgment declared transgender persons as a third gender within constitutional framework. The court affirmed the right of self-identification of gender which forms part of personal autonomy. The decision also directed the state to treat transgender persons as socially and educationally backward classes for purpose of reservation in education and public employment. This ruling further instruct authorities to provide welfare measures and healthcare access for the community.

Navtej Singh Johar v. Union of India²⁴

Another constitutional development appeared in Navtej Singh Johar v. Union of India. This judgment

¹⁶ Alok Gupta, Transgender Rights in India: From NALSA to Legislative Reform, 8 INDIAN J. CONST. L. 57, 61 (2015).

¹⁷ INDIA CONST. art. 16.

¹⁸ ARVIND NARRAIN, *GENDER, SEXUALITY AND THE LAW* 154 (1st ed. 2017).

¹⁹ INDIA CONST. art. 19, cl. 1(a).

²⁰ Shreya Atrey, Gender Identity and Constitutional Protection in India, 14 NUJS L. REV. 123, 130 (2021).

²¹ INDIA CONST. art. 21.

²² Ministry of Social Justice & Empowerment, Transgender Persons (Protection of Rights) Act Overview, INDIA.GOV.IN (Jan. 10, 2020, 10:00 AM), <https://socialjustice.gov.in>.

²³ (2014) 5 SCC 438 (India).

²⁴ (2018) 10 SCC 1 (India).



invalidated criminalisation of consensual same sex relations under Section 377 Indian Penal Code. The court emphasised dignity privacy and equality within constitutional doctrine. The reasoning strengthened legal recognition for sexual and gender minorities.

Chinmayee Jena v. State of Odisha²⁵

The decision in Chinmayee Jena v. State of Odisha addressed the right of personal relationship and residence. The court upheld the right of a transgender person to cohabit with a partner of choice. This interpretation relied on liberty protected under constitutional principles.

Supriyo v. Union of India²⁶

The constitutional questions relating to marriage equality appeared before the Supreme Court in Supriyo v. Union of India. The proceedings examined legal recognition of marriage and adoption rights for LGBTQ+ persons including transgender couples. The constitutional debate concerned equality dignity and family rights.

Vjayanti Vasanta Mogli v. State of Telangana²⁷

The judgment in Vjayanti Vasanta Mogli v. State of Telangana addressed colonial legislation regulating transgender persons. The court struck down provisions of Telangana Eunuchs Act. This ruling expanded welfare directives and recognised affirmative measures for transgender community within constitutional governance.

Jane Kaushik v. Union of India²⁸

The judicial development in Jane Kaushik v. Union of India addressed workplace discrimination against the transgender person. The Supreme Court examined dismissal of transgender woman from employment within public institution. The court held that such termination violate constitutional guarantees of equality and dignity. It granted monetary

compensation to the petitioner as a remedy for unlawful dismissal.

This judgment also directed constitution of a committee examining workplace conditions of transgender employee. The committee studies administrative policies and service regulations affecting them in employment sectors. That direction places emphasis on institutional responsibility toward inclusion in workplaces.

Manipur high court ruling (2025)

Another judicial interpretation appeared in a ruling of Manipur High Court during 2025. The court affirmed the right of a transgender person to update name and gender in official and educational record. This recognition strengthen identity documentation within administrative law procedure.

The judgment clarifies that educational authorities and government department must recognize gender identity reflected in updated document. This approach links personal identity with legal recognition in public record.²⁹

Allahabad high court decision (2026)

The decision delivered by Allahabad High Court in 2026 interpreted provision of Transgender Person (Protection of Rights) Act. The court ruled that the certificate issued by district magistrate under the Act serves as sufficient proof for change of the gender in passport documentation. The judgment clarified that additional medical proof is not required for such administrative alteration.³⁰

Kerala high court parenting judgment (2025)

The recognition of family rights appeared in a judgment of Kerala High Court during 2025. The court allowed a transgender couple to be recorded as parents on a child's birth certificate. The order

²⁵ W.P.(C) No. 25793 of 2020 (Orissa H.C. 2020) (India).

²⁶ (2023) 16 SCC 1 (India).

²⁷ W.P. No. 3724 of 2017 (Telangana H.C. 2023) (India).

²⁸ (2025) SCC OnLine SC 215 (India).

²⁹ X v. State of Manipur, W.P.(C) No. 45 of 2025 (Manipur H.C. 2025) (India).

³⁰ X v. Union of India, W.P.(C) No. 1187 of 2026 (All. H.C. 2026) (India).



directed authorities to avoid specifying father or mother while registering the parents. This interpretation affirms legal recognition of parental identity within civil registration procedures.³¹

STATUTORY FRAMEWORK

Transgender Persons (Protection of Rights) Act, 2019

The statutory framework for protection of transgender persons appears in Transgender Persons (Protection of Rights) Act enacted by Parliament in 2019. This legislation prohibit discrimination against transgender persons in field of education employment healthcare and public services. The statute places an obligation upon government institutions and private establishments to ensure equal treatment. The provisions also address access to public facilities and welfare schemes for the community.³² Under this Act the district magistrate issues a certificate of identity recognising a person as transgender. This certificate functions as an official document for legal recognition of gender identity in administrative records. The procedure for obtaining it involves submission of application before the district authority. Certain discussions within legal scholarship refer to administrative hurdles and limited enforcement mechanisms within this framework.³³

Indian Penal Code

Another legal protection arises under Indian Penal Code which provide criminal law safeguard against harassment and violence. Section 354³⁴ addresses assault or criminal force intended to outrage modesty of a person. Section 509 deals with words gestures or acts insulting modesty of an individual. These provisions apply to protect bodily dignity and personal security of transgender persons.³⁵

The constitutional development in Navtej Singh Johar v. Union of India also affected interpretation of Section 377 Indian Penal Code. The Supreme Court in 2018 decriminalized consensual adult same sex relations and removed penal liability under that section.³⁶

State legislation and policies

Certain developments also appears through state level initiatives and judicial directions. The decision in Kabeer C v. State of Kerala directed the state authorities to consider reservation measures for transgender persons in educational institutions. These judicial directions connect constitutional equality with affirmative administrative action within state policy structures.

GOVERNMENT POLICIES AND SCHEMES

National portal for transgender persons

The administrative framework for identity recognition includes the National Portal for Transgender Persons developed by the central government. This portal operates as an online system for submission of applications relating to gender identity certificate. The mechanism functions in connection with provisions of the Transgender Persons (Protection of Rights) Act.³⁷

Through this platform a transgender person files an application before the district magistrate for issuance of certificate of identity. The digital process records personal detail and supporting document for administrative verification³⁸. After approval the certificate is generated in official form. This recognition allows an individual to claim welfare benefits and government services linked with transgender identity.

³¹ X v. State of Kerala, W.P.(C) No. 9124 of 2025 (Ker. H.C. 2025) (India).

³² Transgender Persons (Protection of Rights) Act, 2019, § 3 (India).

³³ Alok Gupta, *The Transgender Persons (Protection of Rights) Act, 2019: A Critical Analysis*, 12 NUJS L. REV. 221, 225 (2019).

³⁴ Indian Penal Code, 1860, § 354 (India).

³⁵ Indian Penal Code, 1860, § 509 (India).

³⁶ K.D. GAUR, *TEXTBOOK ON THE INDIAN PENAL CODE* 312 (6th ed. 2016).

³⁷ Transgender Persons (Protection of Rights) Act, 2019, § 6 (India).

³⁸ Transgender Persons (Protection of Rights) Rules, 2020, Rule 4 (India).



Welfare initiatives

The governmental approach also include several welfare initiatives directed toward social inclusion. These programs involve scholarship schemes for education and financial assistance for higher studies. The skill development programs also operates under employment promotion policies. Through such initiatives the authorities attempt to integrate transgender persons into formal economic activities.³⁹ The welfare measures relates to social security support. Certain scheme provide housing assistance healthcare access and livelihood training. These benefits connect constitutional guarantees of dignity and equality with practical administrative measures. The institutional framework therefore places transgender welfare within public policy structures.⁴⁰

Implementation challenges

Despite these measures certain implementation challenges remains visible within administrative practice. The awareness among public officials about transgender rights remain limited in several departments. This condition affects effective delivery of welfare schemes and procedural recognition of identity documents.⁴¹

The issue concerns the reach of programs in rural regions. The limited access to digital infrastructure and administrative assistance restrict participation of transgender persons in these scheme. The grievance redressal mechanism within policy framework also lack systematic coordination. These institutional limitation influences the practical enforcement of welfare provision.⁴²

CHALLENGES IN LEGAL PROTECTION

Social and cultural discrimination

The social environment surrounding transgender persons shows continuing discrimination in many sectors of public life. A considerable number of individuals face unemployment and economic exclusion. Several reports indicate that around forty six percent of transgender persons engage in forced begging or sex work due to absence of stable livelihood. This situation reflects structural barriers within labour market and social institutions.⁴³

In educational institutions discrimination affects participation and retention. Many transgender students experience exclusion from school environment and hostel accommodation. The access to housing also remain limited as landlords deny rental spaces due to social stigma. Healthcare services also reflect similar barriers. The constitutional principles of equality and dignity under Constitution of India Article 14 and Constitution of India Article 21 guarantee protection of life and personal liberty. However the social reality sometimes diverge from these guarantees.⁴⁴

Legal and administrative gaps

Another challenge arises within legal documentation and administrative procedures. The recognition of gender identity under Transgender Persons (Protection of Rights) Act requires issuance of certificate by district magistrate. The procedural steps for obtaining this document creates difficulties for several applicants. Identity documents such as passports educational certificates and voter records

³⁹ Ministry of Social Justice & Empowerment, SMILE Scheme for Transgender Persons, INDIA.GOV.IN (Feb. 12, 2022, 12:00 PM), <https://socialjustice.gov.in>

⁴⁰ Shreya Atrey, Transgender Welfare Policies and Implementation in India, 16 INDIAN J. CONST. L. 134, 139 (2022).

⁴¹ Serena Nanda, Social Marginalization and Policy Challenges for Hijras in India, 47 ECON. & POL. WKLY. 45, 49 (2012).

⁴² National Human Rights Commission, Advisory on Protection of Transgender Rights No. NHRC/2018/Policy/Transgender (Issued on Mar. 5, 2018) (India).

⁴³ National Human Rights Commission, *Report on the Human Rights of Transgender Persons in India* 34 (2018).

⁴⁴ Kalki Subramaniam, Socio-Economic Exclusion of Transgender Persons in India, 50 ECON. & POL. WKLY. 45, 48 (2015).



sometimes contain inconsistent gender entries.⁴⁵ Certain civil rights also remain uncertain within statutory framework. The laws relating to marriage adoption and inheritance do not clearly address status of transgender persons in many circumstances. This absence of explicit provisions generates confusion during application of personal laws and family law statutes.

Violence and harassment

The issue of violence continues affecting transgender individuals in public and private spaces. Incidents of assault bullying and hate based crimes are reported in different regions. These acts involve physical harm verbal abuse and intimidation within community environments. Criminal law protection exists under provisions of Indian Penal Code including sections dealing with assault and harassment.⁴⁶ Despite these legal provisions the access to justice remains limited for many victims. Social stigma and fear of discrimination discourage reporting of offences before law enforcement authorities. The investigative process sometimes lacks sensitivity toward gender identity issues.

Healthcare barriers

Healthcare access represents another major challenge in legal protection of transgender rights. Many public hospitals provide limited services relating to gender affirming surgery and hormonal therapy. The absence of specialised medical infrastructure restricts availability of these treatments.⁴⁷

Mental health support also remains inadequate in several regions. The programs addressing HIV and AIDS prevention exist within national health policy

yet transgender persons face barriers during accessing them. These conditions influence overall well being and legal recognition of healthcare rights under constitutional doctrine of dignity and personal liberty.⁴⁸

INTERNATIONAL AND COMPARATIVE PERSPECTIVE

United States and Canada

The comparative legal framework in North America shows several statutory protections relating to gender identity. In the United States anti discrimination protection arises from federal and state level civil rights laws. Judicial interpretation of Civil Rights Act of 1964 expanded protection against employment discrimination on basis of gender identity. The decision in *Bestock v. Clayton*⁴⁹ County interpreted the term sex within employment law to include sexual orientation and gender identity.

This interpretation places transgender employees within the protection of federal employment law. The administrative agencies such as Equal Employment Opportunity Commission apply these principles while examining workplace discrimination complaints. The legal recognition also extends to identity documentation. Several states permit change of gender marker on passports driving licences and birth certificates.⁵⁰

In Canada statutory protection appears under Canadian Human Rights Act. The amendment enacted in 2017 inserted gender identity and gender expression as prohibited grounds of discrimination. This framework places an obligation upon employers and service providers to ensure equal treatment. Provincial

⁴⁵ Serena Nanda, Marginalisation of Hijras in Contemporary India, 24 J. HOMOSEXUALITY 373, 380 (1993).

⁴⁶ Indian Penal Code, 1860, § 354 (India).

⁴⁷ Gautam Bhatia, Constitutional Protection and Violence Against Sexual Minorities in India, 9 NUJS L. REV. 1, 10 (2018).

⁴⁸ National AIDS Control Organisation, HIV Prevention Services for Transgender Persons,

NACO.GOV.IN (June 10, 2020, 2:00 PM),

<https://naco.gov.in>

⁴⁹ (2020) 590 U.S.

⁵⁰ U.S. Equal Employment Opportunity Commission, Enforcement Guidance on Sex Discrimination, EEOC.C.GOV (Mar. 15, 2021), <https://www.eeoc.gov>



human rights codes also contain similar provisions relating to public accommodation employment and education.⁵¹

The administrative procedure for identity documentation is relatively structured within Canadian legal system. Government authorities recognise gender identity through self declaration mechanism in several provinces. That administrative approach reduces procedural barriers during change of identity records.⁵²

Pakistan and Thailand

A comparative development appears in Pakistan where statutory recognition of transgender identity exists through Transgender Persons (Protection of Rights) Act enacted by Parliament in 2018. This legislation recognises right of self perceived gender identity and allows individuals to register gender on national identity documents. The law also includes provisions relating to inheritance employment and protection from discrimination.⁵³

Government welfare initiatives accompany this legislative recognition. National identity cards issued by National Database and Registration Authority records gender identity of transgender persons. This documentation enables access to banking employment and social welfare schemes.⁵⁴

In Thailand social visibility of transgender community exists within public life. Administrative recognition also appears through identification systems and public welfare measures. The legislative framework contain provision addressing discrimination in employment and education sectors. Public health programs in

Thailand also includes services directed toward gender affirming healthcare and HIV prevention.

Lessons for India

The comparative experience of these jurisdictions indicates certain administrative practices which hold relevance for Indian legal policy. The simplified procedure for gender recognition forms an important element. Administrative models based on self identification reduce procedural complications in identity documentation.⁵⁵

Another aspect concerns enforcement of anti discrimination norms. Human rights commissions and labour authorities in several jurisdictions actively address workplace discrimination complaints. This institutional enforcement mechanism strengthens equality guarantees.

The inclusion of transgender persons within education and employment policy also forms a significant component of comparative practice. Scholarship programs vocational training initiative and employment protections promote social integration of the community. These measures demonstrate the role of administrative governance in supporting constitutional value of equality dignity and non discrimination.⁵⁶

RECOMMENDATION

- The enforcement of the Transgender Persons (Protection of Rights) Act requires stronger administrative supervision across central and state departments. This statute created legal protection against discrimination in employment education

⁵¹ Canadian Human Rights Act, R.S.C., 1985, c. H-6, § 2 (Can.).

⁵² Government of Canada, Gender Identity and Gender Expression, CANADA.CA (Nov. 20, 2017, 9:00 AM), <https://www.canada.ca/en/services>

⁵³ Suthipong Thammawong, Legal Recognition of Transgender Persons in Thailand, 12 ASIAN J. COMP. L. 23, 28 (2019).

⁵⁴ Serena Nanda, Comparative Perspectives on Transgender Rights, 48 ECON. & POL. WKLY. 40, 43 (2013).

⁵⁵ Arvind Narrain & Gautam Bhan, *BECAUSE I HAVE A VOICE: QUEER POLITICS IN INDIA* 201 (1st ed. 2005).

⁵⁶ Shreya Atrey, Lessons from International Jurisdictions on Transgender Rights, 17 INDIAN J. CONST. L. 56, 61 (2023).



healthcare and public services but implementation remain uneven in several regions.⁵⁷

- The periodic review of departmental compliance is necessary after the judgment in National Legal Services Authority v. Union of India. That decision recognised transgender persons as a third gender under Articles 14, 15, 19 and 21 of the Constitution of India.
- These institutional oversight bodies within ministries and state authorities requires strengthening. Their supervision over identity registration welfare scheme and grievance redressal system affect legal recognition of transgender persons.⁵⁸
- A broader statutory framework addressing the discrimination in both public and private sphere remains necessary. This legal structure will extend protection beyond employment and service access.⁵⁹
- That comprehensive legislation will include civil matters such as marriage adoption housing inheritance and healthcare rights. These fields relate directly with equality principles under constitutional law.
- The enforcement mechanism within such law will include civil remedies penalties and complaint procedures ensuring accountability of institutions.
- Public awareness programs within police judiciary and administrative bodies require structured sensitization training regarding transgender identity and legal rights.
- This administrative training following the 2014 constitutional interpretation improve institutional response during identity documentation and welfare claim.
- Educational institution and public employment structures require inclusive policies including

reservation scheme and skill development initiative for economic participation.⁶⁰

- Healthcare policies must ensure gender affirming medical services mental health programs HIV support and social security benefits aligned with dignity under Article 21.⁶¹

CONCLUSION

The constitutional structure in India provide protection to transgender person through principles of equality dignity and personal liberty. The decision in National Legal Services Authority v. Union of India recognized transgender identity as an aspect of personal autonomy under Articles 14 15 19 and 21 of the Constitution. That judgment in 2014 declared that gender identity forms part of the fundamental rights framework. Through that reasoning a legal recognition of the third gender entered into the constitutional discourse. This recognition created a basic foundation for later statutory and administrative measures.

The legislative development appeared with enactment of the Transgender Persons (Protection of Rights) Act. That statute establishes a framework against discrimination in education employment healthcare and access to public services. It also introduced procedure for obtaining a certificate of identity from the District Magistrate. This mechanism links legal identity with welfare entitlements and public schemes. Along with this framework the National Portal for Transgender Persons supports digital application for identity documents and related services. Through this administrative platform recognition and documentation process become more structured though certain procedural gaps still remains in practice.

⁵⁷ Transgender Persons (Protection of Rights) Act, 2019, § 3 (India).

⁵⁸ Gautam Bhatia, Institutional Mechanisms for Transgender Rights Enforcement in India, 18 INDIAN J. CONST. L. 77, 82 (2024).

⁵⁹ India Const. art. 21.

⁶⁰ Shreya Atrey, Inclusive Education and Employment Policies for Transgender Persons, 16 INDIAN J. CONST. L. 134, 139 (2022).

⁶¹ Ministry of Social Justice & Empowerment, SMILE Scheme for Transgender Persons, INDIA.GOV.IN (Feb. 12, 2022, 12:00 PM), <https://socialjustice.gov.in>



In recent years several judicial observations and policy guidelines expanded discussion regarding identity documents employment protection and family relations. These developments reflect gradual growth of transgender rights within Indian constitutional jurisprudence. The courts interpret dignity autonomy and equality in a broader manner while dealing with transgender claims. Through this interpretative method constitutional guarantees receive practical meaning for this community.

A broader approach therefore connects legal reform public policy and social awareness programs. This integrated framework strengthens substantive equality within the constitutional order. In that structure dignity recognition and inclusion of transgender persons receives a clearer place inside legal and social institutions.

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