



# FROM STIGMA TO SUPPORT: ADDRESSING THE BARRIERS AND NEEDS OF TRANSGENDER INDIVIDUALS

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**Abstract--** Transgender individuals in India face profound and multifaceted challenges that hinder their full participation in society. Despite historical evidence of their presence and contributions, these individuals encounter significant barriers due to deep-rooted stigma, discrimination, and legal inadequacies. This paper explores three primary areas of exclusion: social and cultural participation, property ownership, and citizen engagement. Each of these areas reflects broader systemic issues that perpetuate marginalization and restrict access to essential rights and opportunities. Socially, transgender individuals often experience exclusion from mainstream cultural and social activities, leading to isolation and diminished community integration. Economically, barriers to property ownership and inheritance further exacerbate their vulnerability and limit economic stability. Politically, obstacles in accessing legal recognition and participating in civic life undermine their ability to engage fully in democratic processes. Additionally, the paper examines broader obstacles including employment discrimination, healthcare access issues, educational barriers, and family rejection. These challenges collectively contribute to a cycle of marginalization that affects many aspects of transgender individuals' lives. Addressing these issues requires comprehensive, inclusive policies and concerted efforts from various stakeholders to promote awareness, ensure legal protections, and support social inclusion. By highlighting these systemic issues, the paper aims to foster a deeper understanding of the obstacles faced by transgender communities and advocate for meaningful reforms to enhance their rights and opportunities in India.

**Keywords:** Transgender Persons, Exclusion, Vulnerability, Legal Recognition, Advocacy.

## INTRODUCTION

Individuals who identify as transgender possess the same rights as everyone else and play an essential role in society. Evidence of transgender communities dates back to ancient times, suggesting their presence has been integral to the natural social fabric. Despite their significant, though often unrecognized, contributions throughout history, transgender people have long faced prejudice, which has only grown more severe over the years. In Indian society, transgender individuals are among the most marginalized, enduring discrimination based on both gender and class. Although constitutional protections exist, they still encounter discrimination, exploitation, and barriers to education and other fundamental rights..

Many obstacles stand in the way of complete social acceptance for transgender people and communities. The prevalence of prejudice transgender people encounter in everyday life is one of the topics that has recently garnered a lot of attention in relation to the judicial system for crimes. It is generally observed that in present circumstances, there are three basic kinds of exclusions of Transgender in India: -

1. Exclusion from Social and Cultural Participation
2. Exclusion from Property
3. Exclusion from Citizen Participation

## BARRIERS TO FULL PARTICIPATION

Transgender individuals in India face significant challenges including social stigma, discrimination, limited legal recognition and rights, barriers to employment and healthcare, difficulties in education,



family rejection, violence and harassment, and challenges in obtaining identity documents. These issues contribute to their marginalization and hinder their access to basic rights and opportunities for social inclusion. Addressing these challenges requires comprehensive efforts from various stakeholders to promote awareness, enact inclusive policies, and ensure equal rights and opportunities for transgender individuals in India. Some of these issues have been discussed below.

### **I. Identity Crisis**

Identity crises can indeed be a significant aspect of the transgender experience. Transitioning, whether socially, medically, or legally, often involves a profound exploration and renegotiation of one's sense of self. Transgender individuals may grapple with questions about their gender identity from an early age, often feeling a deep sense of incongruence between their assigned sex at birth and their true gender identity. This incongruence can lead to feelings of confusion, dysphoria, and alienation from one's own body and social role. The process of coming out as transgender and beginning to transition can bring both relief and new challenges. While affirming one's true gender identity can be empowering, it can also bring about uncertainties and fears about acceptance from others, potential discrimination, and the practicalities of transitioning in various aspects of life. Moreover, societal norms and expectations around gender can add layers of complexity to the transgender experience. Transgender individuals may feel pressure to conform to binary notions of gender or struggle to find acceptance within communities that are not inclusive or understanding of diverse gender identities.

Identity crises in transgender individuals can manifest in various ways, including questioning one's identity, experiencing internal conflicts about authenticity, and navigating the process of self-discovery and self-acceptance. Supportive therapy, community connection, and access to affirming healthcare can all be vital resources for transgender individuals navigating identity-related challenges.

Transgender individuals are referred to as Kinnar, Hijras, Khusra, Jankha, Paavaiyaa, or Aravani in different parts of the Indian subcontinent. While Ali and Chakka are disparaging names used in the subcontinent, Hijras is the neutral term that is most frequently employed. Transgender individuals are also referred to as eunuchs in English. Transgender individuals who identify as male to female in India face significant stigma, initially from their biological family and subsequently from the wider society. As a result, the transgender group is now cut off from society at large, and a system of non-biological kinship known as Jamaath has emerged, in which older transgender individuals are referred to as Gurubhai and their younger followers as Chela. Because of the close-knit network that the Jamaath system has produced, the community is able to help one another and remain in close contact with one another. The widespread discrimination against India's male-to-female transgender community has hindered their access to healthcare.

### **II. Stigma and Discrimination**

Transgender individuals face stigma and discrimination in various aspects of their lives, including social interactions, employment, healthcare, safety, legal recognition, and family relationships. This discrimination can lead to social exclusion, economic instability, barriers to healthcare, violence, legal inequality, and family rejection. Addressing these issues requires comprehensive efforts to promote education, awareness, inclusivity, legal protections, accessible healthcare, and supportive communities that celebrate diversity and equality for all gender identities.

#### **a. Educational Institution**

Transgender individuals often encounter discrimination in educational settings, such as schools and



universities. Discrimination against transgender students can manifest in several ways. They may face bullying and verbal abuse from peers or teachers, leading to fear, isolation, and negative impacts on their academic performance and well-being. Many educational institutions lack inclusive policies supporting transgender students, such as those addressing name and pronoun use or access to gender-neutral facilities. Access to support services, like counseling and mental health resources, may be limited, affecting their mental health and academic success. Misgendering and deadnaming by teachers and peers can be invalidating and exacerbate feelings of dysphoria. Transgender students might also be excluded from opportunities such as leadership roles or extracurricular activities due to discrimination. Additionally, a lack of training for educators and staff on transgender issues can result in ignorance and insensitivity, further compounding these challenges. Addressing discrimination against transgender individuals in educational settings requires implementing inclusive policies, providing support services, combating bullying, raising awareness, and promoting respect for all students regardless of gender identity.

**b. Economic Activities**

Discrimination against transgender individuals in economic activities affects several areas. In employment, they often face biases that can lead to denial of job opportunities, promotions, or fair wages, along with harassment and hostile work environments. This discrimination can result in economic instability, financial insecurity, and dependence on social assistance. Limited legal protections can leave transgender individuals with few options for addressing unfair treatment. Barriers to entrepreneurship, such as discrimination and lack of access to capital, further hinder economic independence. Additionally, transgender individuals may struggle with accessing employment-related benefits and services due to discriminatory practices.

Addressing discrimination against transgender individuals in economic activities requires implementing anti-discrimination policies in the workplace, providing training on transgender inclusion for employers and coworkers, advocating for legal protections against gender identity discrimination, promoting diversity and inclusion initiatives, and creating economic opportunities that support the economic empowerment of transgender individuals.

**c. Family**

Discrimination against transgender individuals within families can take several forms. They may experience rejection and alienation, leading to strained relationships or abandonment. Verbal and emotional abuse, such as hurtful comments and pressure to conform, can cause significant distress. Lack of support from family can leave individuals without essential resources like housing and healthcare, increasing their vulnerability. Some may be subjected to harmful conversion therapy attempts, inflicting severe psychological harm. Transgender individuals are also at risk of gender-based violence, including physical assault and abuse, due to transphobic attitudes. This discrimination often results in isolation and estrangement, impacting mental health and making it difficult to build supportive relationships outside the family.

Addressing discrimination against transgender individuals within families necessitates education, empathy, and support. It involves promoting understanding and acceptance of transgender identities, offering resources and counseling to families navigating these issues, advocating for legal protections, and creating supportive communities for transgender individuals to find acceptance and belonging.



d. Work Place

Discrimination against transgender individuals in the workplace includes several key issues. They may face hiring bias, leading to rejection or lack of interviews based on their gender identity. Once employed, they might experience unequal treatment, such as being overlooked for promotions, receiving lower wages, or enduring harassment and microaggressions. A hostile work environment can include verbal abuse and physical threats, impacting their mental health and job performance. Many workplaces fail to provide necessary accommodations, like gender-neutral restrooms or policies for chosen names and pronouns. Transgender employees may also encounter healthcare exclusions, with some employers not covering transition-related care. Additionally, speaking out against discrimination can lead to retaliation, such as termination or further harassment. To address these issues, employers and policymakers should implement anti-discrimination policies, provide diversity training, support transgender employees, and create a respectful and inclusive workplace culture.

e. Access to Justice

Discrimination against transgender individuals in accessing justice significantly undermines their rights and well-being. They often face bias and prejudice from legal professionals, including judges, lawyers, and law enforcement, which can result in unfair treatment and disrespect. Additionally, many jurisdictions lack specific legal protections against discrimination based on gender identity, creating obstacles for transgender individuals seeking justice. In legal proceedings, they may be misgendered or deadnamed, which is distressing and undermines their dignity. Barriers to updating name and gender markers on legal documents, due to complex procedures and discriminatory practices, further complicate their ability to obtain accurate identification. Access to affordable and culturally competent legal services is often limited, and fears of retaliation or re-victimization may deter them from reporting discrimination or seeking help.

Addressing these challenges requires comprehensive legal reforms, improved access to support services, and enhanced training for legal professionals to ensure fair treatment and protection for transgender individuals. Addressing discrimination against transgender individuals in accessing justice requires comprehensive efforts to raise awareness, improve legal protections, train legal professionals on transgender cultural competency, provide accessible legal services, and create supportive environments that affirm transgender individuals' rights and identities. Additionally, advocating for inclusive policies and systemic changes within the legal system is essential to ensure equitable access to justice for all individuals, regardless of their gender identity.

III. Right to Privacy

In India, the right to privacy is considered a fundamental right under Article 21 of the Constitution, which guarantees the protection of life and personal liberty. The right to privacy includes the right to autonomy and control over one's personal information, as well as the right to make decisions about one's own body and identity.

For transgender individuals in India, the right to privacy is particularly important given the social stigma and discrimination they often face. In 2014, the Supreme Court of India recognized transgender individuals' rights to self-identify their gender and affirmed their fundamental rights to equality, dignity, and privacy in the landmark *NALSA v. Union of India* judgment.

To uphold the right to privacy of transgender individuals in India, it is essential to raise awareness about their rights, ensure effective implementation of legal protections, and combat discrimination and stigma. This includes promoting sensitivity and respect for transgender individuals' privacy in healthcare,





legal recognition processes, social interactions, and interactions with law enforcement agencies. Additionally, providing avenues for legal recourse and redressal for privacy violations is crucial for safeguarding the rights and dignity of transgender individuals in India.

#### IV. Violence

Violence against transgender individuals is a pervasive and deeply concerning issue worldwide. Transgender people often face disproportionate levels of discrimination, harassment, and violence simply because of their gender identity or expression. This violence can manifest in various forms, including physical assault, verbal abuse, sexual violence, and even murder. Statistics consistently show that transgender individuals, particularly transgender women of color, are at a significantly higher risk of experiencing violence compared to the general population. Discriminatory attitudes, lack of legal protections, and social stigma contribute to this alarming trend.

Efforts to address violence against transgender people require a multifaceted approach. This includes implementing anti-discrimination laws that specifically protect gender identity and expression, providing access to safe housing and healthcare, promoting education and awareness to challenge stereotypes and prejudice, and actively supporting transgender communities. Additionally, law enforcement agencies and judicial systems must be trained to handle cases involving violence against transgender individuals sensitively and effectively. Creating safe spaces and support networks for transgender people is also crucial in empowering them to report incidents of violence and seek assistance. Ultimately, combating violence against transgender individuals requires collective efforts from governments, communities, advocacy organizations, and individuals to foster a culture of acceptance, respect, and equality for all gender identities.

Violence against transgender individuals in India is a serious and pervasive issue, with transgender people facing various forms of discrimination, harassment, and violence. In Indian society, transgender individuals often referred to as hijras, aravanis, or kinnars, have historically faced social stigma and marginalization.

To effectively combat violence against transgender individuals in India, it is essential to address the root causes of discrimination and stigma, promote inclusive policies and laws, and provide support services and resources to empower transgender communities. Education and awareness initiatives are also crucial in challenging harmful stereotypes and fostering greater acceptance and respect for transgender individuals in Indian society.

There have been numerous reported cases of violence against transgender individuals globally, including in India. While it's challenging to list every case, here are a few notable examples:

1. **Laxmi Narayan Tripathi:** Laxmi Narayan Tripathi, a prominent transgender activist in India, has spoken out about her experiences of violence and discrimination. She has been vocal about the need for legal protections and social acceptance for transgender individuals in India.
2. **Assaults and Murders:** There have been several instances of assault and murder of transgender individuals in India. These cases often go unreported or are not thoroughly investigated by authorities. In 2020, for example, a transgender woman named Ekta Joshi was brutally murdered in Hyderabad. This case highlighted the ongoing violence faced by transgender individuals in India.

These cases represent just a fraction of the violence and discrimination experienced by transgender individuals in India. Many incidents go unreported, and the true extent of the problem may be much higher. Efforts to address violence against transgender individuals require a comprehensive approach, including legal reforms, awareness campaigns, and support services for victims.



#### V. Health Rights

Transgender individuals often endure societal cruelty and discrimination from birth, making them particularly vulnerable, especially during their transition. To safeguard their well-being, it is essential to ensure their health rights are upheld. This involves providing access to gender-affirming care, such as hormone therapy and surgeries, which are frequently hindered by discrimination and high costs. Healthcare providers must be trained to deliver culturally competent care that addresses transgender health needs and uses appropriate terminology. Legal recognition of gender identity through updated identity documents is crucial for accessing care and reducing discrimination. Transgender individuals need protection from discrimination and harassment in healthcare settings, with privacy respected. Additionally, preventive care and screenings tailored to hormone therapy and surgeries are vital. Given their elevated mental health challenges, access to supportive mental health services is essential. Furthermore, ensuring access to HIV prevention and treatment is critical, as transgender individuals face higher risks due to stigma and limited healthcare access.

#### VI. Right to Accommodation

Transgender people have the right to access safe and appropriate accommodation that respects their gender identity and protects them from discrimination and harm. This includes the right to use facilities such as bathrooms and changing rooms that align with their gender identity without fear of harassment or violence. Ensuring transgender-inclusive accommodation policies and practices is crucial for promoting equality and upholding human rights for all individuals, regardless of gender identity. Transgender individuals in India often face difficulties in securing housing due to discrimination and stigma based on their gender identity. Many landlords and housing providers may refuse to rent to transgender tenants or subject them to harassment and eviction. This lack of access to safe and stable housing can lead to homelessness and exacerbate other social and health disparities experienced by transgender communities. Addressing housing issues for transgender people requires measures to combat discrimination, promote inclusive housing policies, and provide support services to ensure access to safe and affordable accommodation for all individuals, regardless of gender identity.

#### VII. Right to Marry

Transgender individuals in India face significant challenges when it comes to the right to marry. As of now, there is no specific legal framework governing marriage rights for transgender people in India. The legal recognition of marriages involving transgender individuals can vary depending on their gender identity, as well as the laws and regulations of each state. Historically, transgender individuals in India have faced discrimination and stigma, which can affect their ability to marry freely. Some legal challenges arise due to discrepancies between gender identity and official documentation, which may impact the recognition of marriages involving transgender individuals.

Marriage holds significant public importance and is closely linked to various rights, particularly inheritance rights. Courts in India have affirmed that marriage to a chosen partner is a fundamental right, inherent in the right to life and liberty guaranteed to all individuals. However, existing legislation, such as the Hindu Marriage Act, lacks clarity regarding who can enter into marriage.

In *Arun Kumar v Inspector General of Registration*, the Madras High Court held that the term bride in the Hindu Marriage Act would include transwomen. Not doing so would violate the fundamental rights guaranteed to transgender persons. Efforts are being made by activists and organizations to advocate for the rights of transgender individuals to marry and have their marriages legally recognized. However,



progress in this area remains slow, and transgender individuals continue to face barriers to exercising their right to marry freely and without discrimination. Addressing these challenges requires legal reforms, awareness campaigns, and advocacy efforts to promote equality and inclusivity for transgender individuals in India.

#### VIII. Inheritance

Over the past decade, India has made strides in institutional recognition of transgender individuals, evident in both public policy and legal decisions. In 2011, the national census allowed individuals for the first time to identify as "others," leading to approximately half a million people choosing this option.<sup>i</sup> Despite these advancements, transgender individuals continue to encounter discrimination. One significant factor contributing to this is the lack of legal recognition. It wasn't until 2014 that the Supreme Court of India directed the constitutional recognition of a third gender. This landmark decision came in response to petitions highlighting the deprivation of rights typically available to citizens, such as access to healthcare, employment, and property ownership. The court recognized the hurdles transgender individuals face in exercising inheritance rights, attributing this to the binary notion of gender prevalent in existing rights frameworks and the difficulty in identifying successors.<sup>ii</sup> While the court's judgment demonstrates a progressive understanding of gender identities, India still grapples with several challenges in this regard. Despite legal recognition, transgender individuals continue to face discrimination and barriers in accessing their rights. Efforts are needed to address these challenges comprehensively and ensure the full inclusion and protection of transgender rights in India.

#### CONCLUSION

Creating an exhaustive list of gender identities through legislation is unlikely, given the evolving nature of gender. Therefore, a more practical approach might be to exclude gender from legal frameworks altogether. Gender-neutral laws that ensure equal rights for all individuals would mitigate the risk of excluding anyone from legal protection. This approach acknowledges the fluidity and diversity of gender identities, promoting inclusivity and equality under the law.

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