



# SOCIAL EXCLUSION AND RESILIENCE AMONG TRANSGENDER COMMUNITIES IN INDIA: A SOCIO-LEGAL ANALYSIS

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**Abstract:** Transgender communities in India continue to experience persistent social exclusion despite significant legal recognition in recent years. This paper examines the multidimensional nature of exclusion faced by transgender persons across education, employment, healthcare, family life, and public spaces, while critically analysing the legal frameworks intended to ensure equality and dignity. Drawing upon secondary data from government reports, judicial decisions, policy documents, and scholarly literature, the study situates transgender marginalisation within broader socio-cultural and institutional contexts. Attention is given to the landmark NALSA v. Union of India (2014) judgment and the Transgender Persons (Protection of Rights) Act, 2019, highlighting the gap between formal legal recognition and lived realities. At the same time, the paper foregrounds resilience strategies developed by transgender communities through social networks, activism, and legal awareness. By integrating socio-legal analysis with perspectives on social exclusion and resilience, the study contributes to interdisciplinary scholarship on gender, rights and marginality in India.

**Keywords:** Transgender Communities; Social Exclusion; Resilience; Law and Society; India

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## Introduction

Gender identity refers to an individual's deeply felt sense of being male, female, transgender, or outside the gender binary, which may or may not correspond with the sex assigned at birth. Transgender persons encompass a wide spectrum of gender identities whose lived realities challenge rigid

binary constructions of gender. The existence of transgender people is not a recent phenomenon; historical and cultural records indicate their presence for millenia. Scholars such as Sharma (2012), Wankhede (2012), and Michelraj (2015) note that transgender individuals have long been referenced in Hindu mythology, astrology, and the Vedas. Despite these historical and cultural acknowledgements of gender diversity, transgender communities have largely remained socially marginalised and institutionally excluded.

In contemporary India, transgender persons continue to face discrimination in family life, education, employment, healthcare, and access to public spaces. These exclusions are deeply embedded in social stigma, cultural norms, and institutional practices. Although recent judicial and legislative interventions have recognised transgender persons as rights-bearing citizens, the translation of legal recognition into substantive equality remains limited. This paper examines this persistent gap by analysing both social exclusion and resilience among transgender communities within a socio-legal framework.

### Transgender Population in India

According to the Census of India 2011, the transgender population in India was recorded as approximately 4.88 lakhs. The majority of transgender people are found in the States of Uttar Pradesh, Andhra Pradesh, Bihar, West Bengal, Tamil Nadu and their percentages are mentioned in the table below:-

| S. No | States with the Majority of Transgender | Percentage (%) |
|-------|-----------------------------------------|----------------|
| 1.    | Uttar Pradesh                           | 28.18          |
| 2.    | Andhra Pradesh                          | 8.97           |
| 3.    | Bihar                                   | 8.37           |
| 4.    | West Bengal                             | 6.22           |
| 5.    | Tamil Nadu                              | 4.58           |

Source: Census Report 2011

More number of transgender children between 0-6 years of age are found in Uttar Pradesh (**34.15 per cent**), Bihar (**10.89 per cent**), Maharashtra (**7.48 per cent**), Andhra Pradesh (**7.44 per cent**) and Madhya Pradesh (**6.21 per cent**) respectively. More transgenders belonging to Scheduled Caste are found in Uttar Pradesh (**33.50 per cent**), West Bengal (**8.21 per cent**), Bihar (**7.99 per cent**) and Andhra Pradesh (**7.90 per cent**) whereas people belonging to scheduled tribe category are found more in Madhya Pradesh (**15.80%**),

Orissa (13.68%), Jharkhand (11.22%), Maharashtra (10.60%) and Andhra Pradesh (9.69%) respectively. The socio-demographic profile of transgender communities reflects lower literacy rates, high unemployment, limited access to formal housing, and dependence on informal livelihoods such as begging and sex work. These indicators underscore the structural disadvantages that shape everyday life experiences. This study uses a descriptive research design to explore possible solutions to the gender identity crisis through sensitising 'living gender of choice' upon 'living the gender to which one is born' based on the secondary data. However, it is important to note that this data is outdated and likely underreported, as awareness of gender identity and self-reporting mechanisms were limited at the time of enumeration. Recent advocacy and legal recognition suggest that the actual population may be significantly higher.

### **Review of Literature**

Existing scholarship on transgender communities in India has largely focused on themes of social exclusion, legal recognition, health vulnerabilities, and identity formation. These studies collectively highlight the structural marginalisation faced by transgender persons, while also pointing to emerging forms of resistance and resilience.

**Anshay Tomar, Dr. Maria Lourdes L. Chavez (2025)** in their article **A Qualitative Study on Social, Economic, and Identity Experiences of Hijra Individuals in India** examine the lived experiences of Hijra individuals following their legal recognition as a third gender. Using a narrative inquiry approach and semi-structured interviews with Hijras in Madhya Pradesh, the authors explore identity formation, social relationships, and psychological distress within contexts of cultural exclusion. Their findings underscore the long-term psychological consequences of marginalisation and emphasise the need for inclusive and equitable policy interventions informed by behavioural and social psychology.

**Chettair, Anitha (2015)**, in her article **Problems Faced by Hijras (Male to Female Transgender) in Mumbai with Reference to their Health and Harassment by the Police**, analyses the socio-economic conditions of Hijras in Greater Mumbai, with specific reference to health issues and police harassment. The study highlights systemic abuse, lack of access to healthcare, and everyday violence faced by Hijras, revealing how state institutions often act as sites of exclusion rather than protection. This work is significant in

illustrating the intersection of poverty, health vulnerability, and institutional discrimination.

**Dutta, Sagnik (2014)**, in his article 'Gender justice', critically examines key judicial interventions related to gender and sexuality in India, particularly the Supreme Court's recognition of the third gender and the constitutional challenge to Section 377 of the Indian Penal Code. The study raises important questions regarding whether legal recognition has translated into substantive access to rights, welfare benefits, and social justice for transgender persons.

**NALSA v. Union of India (2014)** in their report represents a foundational legal development in transgender rights jurisprudence. The Supreme Court recognised the right of individuals to self-identify their gender and directed the State to implement welfare measures and anti-discrimination safeguards. While widely celebrated, subsequent scholarship notes that policy responses following the judgment, particularly the Transgender Persons (Protection of Rights) Act, 2019, have received mixed reactions due to procedural complexities and limited enforcement.

**Bhasin Kamla (2009)**, in her book **Exploring Masculinity**, provides a broader theoretical framework for understanding gender relations, power structures, and social hierarchies. Although not focused exclusively on transgender identities, her analysis of masculinity and gender norms offers valuable insights into the construction of binary gender systems. This perspective is useful for understanding the marginal positioning of transgender persons within patriarchal social arrangements.

### Gaps in the literature of the study

Despite growing legal recognition of transgender rights in India, limited research systematically examines how legal provisions translate into everyday lived experiences. There is a lack of integrated studies that simultaneously address social exclusion, resilience strategies, and the effectiveness of legal frameworks. This paper seeks to address this gap by adopting a socio-legal and anthropological approach.

### Objectives of the study

To understand the nature and extent of social exclusion experienced by transgender individuals in various spheres of life, such as education, employment, healthcare, family, and public spaces.

To examine the existing legal frameworks and policies related to transgender rights in India (e.g., The Transgender Persons (Protection of Rights) Act, 2019) and assess their effectiveness in promoting inclusion and equality.

### **Methodology of the study**

The present study adopts a descriptive and analytical research design based entirely on secondary data. Secondary data has been gathered from a variety of published sources, including books, journals, newspapers, government and semi-government publications and the websites of various agencies.

The study analyses existing literature and legal frameworks to examine the nature and extent of social exclusion experienced by transgender individuals in various spheres of life such as education, employment, healthcare, family, and public spaces. Case illustrations included in the study are drawn from documented secondary sources and published research to contextualise patterns of social exclusion and resilience among transgender communities. Since the study relies solely on secondary data, its findings are limited to available records and reported experiences.

### **Social Exclusion and Lived Experiences**

Transgender persons frequently experience exclusion within family structures, including rejection, emotional abuse, and forced separation. Educational institutions often remain exclusionary due to bullying, lack of gender-sensitive curricula, and institutional neglect, leading to high dropout rates and limited educational attainment. In the labour market, discrimination in recruitment, workplace harassment, and absence of inclusive infrastructure restrict employment opportunities. As a result, many transgender persons are pushed into informal and precarious livelihoods. Healthcare exclusion is manifested through stigma, lack of trained professionals, and financial barriers. Fear of discrimination discourages timely access to healthcare services, adversely affecting physical and mental well-being.

Despite the 2019 Act mandating timely support for transgender persons, only 65% of ID card applications had been processed by December 2023, with over 3,200 applications delayed beyond the 30-day legal deadline. The complex certification process hinders self-identification and fails to address issues like police harassment and family rejection (**Dristi, 2025**). Various issues have been faced by transgender individuals on various grounds, and these issues are:

**Social Discrimination and economic exclusion:** The family members do not support transgender individuals. A variety of problems that include verbal and physical abuse, isolation and rejection, and denial of family property are faced by transgender individuals in their families. Society often stigmatizes and discriminates against transgender people based on their sexuality or gender identity. Social stigma includes being looked down upon, labelling, and a negative/generalized attitude towards people such as sex workers or sex solicitors (**Kumardhas & Muthukumar, 2019**). People face limited employment and entrepreneurial opportunities due to hiring biases, workplace hostility, and a lack of gender-neutral facilities. 92% face economic exclusion (NHRC 2018), with a 48% unemployment rate (ILO, 2022). Due to a lack of adequate education and a lack of employment opportunities, they are forced into sex work and begging. While some transgender individuals manage to sustain their jobs despite stigma and discrimination in the workplace, most of them resign from their jobs without tolerating stigma and discrimination (**Kumardhas & Muthukumar, 2019**).

**Educational Discrimination and Social Exclusion:** Education is primarily viewed as a fundamental right and a key tool for social empowerment. Transgender people, on the other hand, continue to face structural impediments, stigma, and institutional neglect in their pursuit of equitable and inclusive education. Transgender people in India have a literacy rate of 56.1%, below the national average (74%) (2011 Census). While states like Maharashtra and Kerala have introduced inclusive measures, a nationwide gender-sensitive curriculum is lacking. According to studies conducted by the National Human Rights Commission (2018) and UNESCO (2019), approximately 60% of transgender students encounter prejudice or violence in educational settings, which leads to low academic performance and limited employment options.

**Health and Exclusion:** Transgender people are prone to health issues and diseases. They lack medical facilities and treatment, and they do not get admitted to the hospitals on time due to several reasons like financial issues, lack of awareness, lack of accessibility, etc. They are prone to sexual health issues due to the lack of awareness of HIV AIDS and other sexually transmitted diseases, and hence, are severely affected by them. Pradeep (2021) discussed that at reproductive age, transgender people are 13 times more likely to contract HIV. According to research conducted in Mumbai, there is a very high incidence of syphilis among Hijras (57 percent), as well as HIV

Serop (68 percent). According to research done in South India, transgender has high a frequency of syphilis (13.6 percent) and HIV (18.1 percent). Hence, due to the shame, guilt, and fear of being exposed, transgender people restricted themselves to access healthcare services which leads to their deteriorating health.

### **Third Gender People Are No Less Than a Common Person**

**Madhu Bhai Kinnar**, the mayor of Raigarh in Chhattisgarh, made headlines after winning the election. She was ejected from her family due of her gender identification, but she is now embraced not only by the family, but also by a significant number of people who believed in her and voted her as mayor. Now she is Raigarh's Pratham Nagrik. This demonstrates that if given the same opportunities as others, they are no less capable (Mishra, 2017).

**Laxmi Narayan Tripathi** has made headlines for her brave advocacy for transgender rights. Laxmi Narayan Tripathi was the first transgender person to represent Asia Pacific at the UN, and she has represented her community and India on a number of international occasions, including the World AIDS Conference in Toronto. She has also published a novel titled "Me Hijra, Me Laxmi". She is best recognized as a social activist who has established a significant presence in mainstream society. What sets her apart from others in her community? She is educated, brave, and knows her rights; therefore, she is doing great for both herself and society. She holds a post-graduate degree in Bharatnatyam. Most importantly, her parents did not abandon her. However, not everyone in her community possesses such strength. As a result, it is the majority society's responsibility to lift them out of the dirt and assist them with love and respect. By providing access to education. Why should only a few be powerful and stable? Let's create the majority like that {dnaindia.com (2015)}.

### **Rights of Transgender Persons in India**

Historically, the transgender community in India has been subjected to systemic discrimination, social exclusion, harassment, and violence. The absence of legal recognition of their gender identity resulted in denial of access to basic public services, education, healthcare, and employment opportunities, thereby marginalising the community economically and socially.

A significant shift occurred with the landmark judgment of the Supreme Court of India in *National Legal Services Authority v. Union of India* (2014),

wherein the Court formally recognised transgender persons as a “third gender” and affirmed that fundamental rights under the Constitution apply equally to them. The judgment emphasised the principles of equality, dignity, and personal liberty under Articles 14, 15, 16, 19, and 21 of the Constitution of India.

Subsequently, the enactment of the Transgender Persons (Protection of Rights) Act, 2019 provided a statutory framework for safeguarding the rights of transgender persons. The Act prohibits discrimination in education, employment, healthcare, housing, and access to public services. It further guarantees the right to self-perceived gender identity, access to welfare schemes, medical care, and protection against abuse, exploitation, and violence. The legislation also lays down provisions relating to offences and penalties for acts committed against transgender persons, thereby strengthening legal accountability.

### **Legal Safeguards and Constitutional Protection for Transgender Persons**

**Constitutional Framework:** The Preamble to the Constitution of India guarantees justice like social, economic, and political and ensures equality of status and opportunity to all citizens. Despite these constitutional assurances, earlier state policies recognised only binary gender identities, namely male and female, resulting in the systematic exclusion of transgender persons from constitutional protections in practice.

The NALSA judgment marked a constitutional breakthrough by interpreting gender identity as an intrinsic part of personal autonomy and human dignity. The Court held that discrimination on the basis of gender identity violates the fundamental rights guaranteed under the Constitution. This interpretation aligns Indian constitutional jurisprudence with international human rights standards, reinforcing the obligation of the State to adopt inclusive policies for transgender persons.

### **Case Studies**

Despite sustained marginalisation, transgender communities demonstrate resilience through collective organisation, peer support networks, activism, and increasing legal consciousness. Community-based organisations play a crucial role in providing emotional support, facilitating access to healthcare and legal services, and enabling livelihood opportunities.

Documented case studies from secondary sources illustrate how transgender individuals negotiate family rejection, economic hardship, and social stigma while asserting agency and dignity. Political participation and public leadership by transgender individuals further demonstrate the transformative potential of inclusion and legal empowerment.

**Ankit** (name changed) comes from a small town on the edge of Jammu. Ankit grew up into a low-caste family. He was the smallest child in the family. His biological mother works as a housekeeper in the city, while his father worked as a labourer. He has an older brother and a sister. They owned a small house with two bedrooms and a kitchen. Ankit was approximately 18 years old when the researcher met him. He worked as a salesperson in a chemist's shop. He belonged to a united family. Ankit's situation is notable because he continues to live with his original family. Ankit identifies as a third gender which remains estranged from society. Ankit interacts with third-gender persons and frequently visits them in their communities, although he does not live there. Ankit was only ten years old when he developed a liking to playing with the girls. His desire to purchase Barbie dolls at the age of 18 was a clear indication of his love to the games that girls play during their childhood. He has a collection of 4-5 Barbies. Ankit maintained that he enjoyed sweeping, cleaning the house, cooking, and wearing her sister's outfits, such as a salwar kameez and skirt-blouse. Moreover, he used to walk with a sway, just like a girl.

He enjoyed spending time with girls, whether it was at a birthday party or a wedding. He had a strong desire to learn to dance, but his parents would not let him. His dedication to all of these things diverted him from his schoolwork, and as a result, he could only complete the ninth grade. He wants to stay with his biological family and does not intend to marry at a later date. He wants to develop relationships with the third gender (hijra) society as well, but he is concerned that if his presence causes problems for his brother and sister, he will have to join them later.

**Salma**, a 28-year-old male-to-female transgender person from Bangalore, serves on the city's beachfront and is a member of the Muslim community. She attended an elementary school near her but dropped out due to hardship and a lack of support from her family. She had lived at home for roughly 6 years before leaving, since the parents refused to accept this gender identity. She funded her own gender switch operation in Andhra Pradesh. She also explored

sex work to ensure her existence and development. She has no serious health risks, although she drinks Pan Parag alcohol. She is also alienated from society due to the structure and sex-based stereotypes; she wants to live a normal life by using government services and civic facilities.

**Sonia** is an 18-year-old male-to-female transactional person from Bangalore. She comes from the scheduled caste, a downtrodden community in Karnataka state. She has completed matriculation. Her father is a painter, and her mother works in an agarbatti factory. She has three older sisters, all of whom are married. She has been victimised by familial harassment as a result of her gender identity, and she has been thrown out of the family relentlessly. She also met Sangma in Bangalore. She has been begging for five years and is living in a leased house. She also had sex change Gender-affirming/Castration surgery in Bangalore after raising money through begging and prostitution work.

## Conclusion

Transgender persons in India continue to experience pervasive social exclusion that adversely affects their psychological well-being, health outcomes, and socio-economic participation. Despite significant judicial and legislative advances most notably the *NALSA v. Union of India* (2014) judgment and the enactment of the Transgender Persons (Protection of Rights) Act, 2019 substantive equality remains elusive due to gaps in implementation, persistent social stigma, and institutional barriers.

The study demonstrates that exclusion operates across multiple domains, including family structures, education, employment, healthcare, and access to public spaces. At the same time, it highlights the resilience of transgender communities, manifested through collective organisation, activism, legal awareness, and emerging forms of political and social participation. These strategies reflect agency and resistance in the face of structural marginalisation.

Achieving meaningful inclusion requires not only legal recognition but also sustained efforts toward social sensitisation, effective policy enforcement, and institutional accountability. Family acceptance, inclusive educational practices, gender-sensitive healthcare services, and employment opportunities are essential for ensuring dignity and equal citizenship. Continued interdisciplinary research and community-engaged policy interventions are necessary to bridge the gap between formal rights and lived realities and to foster a more inclusive and just society for transgender persons in India.

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