

Transgender Persons In India and Government Welfare Measures

We live in a society that is deeply structured by gender. Sexual orientation categories based on the gender binary system are disrupted by gender diversity. Gender diversity provides a challenge to the gender binary system in a number of ways—via intersex, third or other genders, gender fluidity, positions outside of gender, gender queer etc. People of the Transgender' category also challenges this normalization of gender binaries. All members of these subgroups face severe discrimination and harassment in all respects in contemporary India and they are subjected to unfair treatments like verbal abuse, physical and sexual violence; false arrests; denial of share in their ancestral property, services, and admission to educational institutions; and victimization in multiple settings like family, educational institutions, workplace, health care settings, public spaces. For a very long time, the transgender community in India has lived at the fringes of society. It was only after the landmark ruling by the Supreme Court in 2014, popularly known as the NALSA judgment, that transgender persons were legally recognized as the 'third gender'. The Government of India, over the course of years, has made consistent and significant efforts in designing and working towards a trans-inclusive society. Safeguarding the fundamental right - 'TO LIVE LIFE WITH DIGNITY' under Article 21 of the Constitution, this document looks into how some of the Central Government's measures in the last few years have been furthering these rights of the community.



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INTRODUCTION

We live in a society that is deeply structured by sex and gender. The categorization of people as '*male*' or '*female*' permeates our society on every level. But sexual orientation categories based on the gender binary system are disrupted by gender diversity. Gender diversity provides a challenge to the **gender binary system** in a number of ways—via intersex, third or other genders, gender fluidity, positions outside of gender, gender queer etc. People of the 'Transgender' category also challenge this normalization of gender binaries. In India there are a host of socio – cultural groups of transgender people like hijras/ kinnars, and other transgender identities like – shiv-shaktis, jogtas, jogappas, Aradhis, Sakhi, etc. All members of these subgroups face severe discrimination and harassment in all respects in contemporary India and they are

subjected to unfair treatments like verbal abuse, physical and sexual violence; false arrests; denial of share in their ancestral property, services, and admission to educational institutions; and victimization in multiple settings like family, educational institutions, workplace, health care settings, public spaces. Seldom, our society realizes or cares to realize the trauma, pain and agony which the members of Transgender community neither undergo, nor appreciates the innate feelings of the members of the Transgender community, especially of those whose mind and body disown their biological sex. Our society often ridicules and abuses the Transgender community and in public places like railway stations, bus stands, schools, workplaces, malls, theatres, hospitals, they are sidelined and treated as untouchables.

STATUS OF TRANSGENDER PERSONS IN INDIA

The **Transgender Persons (Protection of Rights) Act, 2019** defines "**Transgender person**", as a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.

PROBLEMS FACED BY TRANSGENDER COMMUNITY

Transgender people in India face a variety of issues. This discrimination not only denies TG people equal access to key social goods, such as employment, health care, education and housing, but it also marginalizes them in society and makes them one of the vulnerable groups who are at risk of becoming socially excluded. Here I am highlighting some major problems faced by TG people in India:

1. Marginalization and Social Exclusion:

Marginalization is at the core of exclusion from fulfilling and full social lives at individual, interpersonal and societal levels. People who are marginalized have relatively little control over their lives and the resources available to them; they may become stigmatized and are often at the receiving end of negative public attitudes. Their opportunities to make social contributions may be limited and they may develop low self-confidence and self esteem and may become isolated. Social policies and practices may mean they have relatively limited access to valued social resources such as education and health services, housing, income, leisure activities and work.

• Impact of exclusion and discrimination:

The exclusion and discrimination have major impacts on the lives of transgender persons. This has resulted in the following:

- Dropping out of school earlier
- Leaving Home and Family
- Unable to find regular jobs, have less options than others.
- Unable to access various services and Unaware of what they are entitled to
- Lack of family and social support
- Migrate to other countries for seeking safer livelihood and acceptance
- Rejected from Religion (Esp. Muslim and some Christian Fundamentalist sects)
- Attempt suicide
- Decide to follow their parents to marry opposite sex and then divorce

2. Impact of Family Reactions on Transgender People:

Conflict and Rejection Transgender people face a number of difficulties' within the family. Most families do not accept gender nonconforming behavior in their children, which may manifest as early as three to five years of age. A study by a team from the National Institute of Epidemiology among 60,000 transgender people across 17 states, including Tamil Nadu, found that a large proportion of them receive no support from their biological family.

3. Harassment of Transgender People in Educational System:

The transgender community is a highly marginalized and vulnerable one and is seriously lagging behind on human development index mainly in the area of education. Majority of this community is illiterate or less educated due to which they are not able to participate fully in social, cultural, political and economic activities. Actually educational Institutions are very much gendered place. Stigmatization of gender-nonconforming and transgender children and youth is amplified in the

educational system, which mirrors the rest of society in reinforcing strictly binary and patriarchal gender norms.

4. Poor Economic Conditions and Discrimination in the Workplace:

The interrupted education and social exclusion further limits the employment and livelihood opportunities for transgender community.

There are several factors responsible for their economic deprivations which are as under:

- Exclusion from Family and Society
- Stigma and Discrimination at work place
- Lack of knowledge and training in vocational skill development
- Lack of opportunities
- Lack of confidence in engaging them by employers.

5. Problems of Homelessness:

The myriad problems facing Transgender people who are homeless include a lack of housing and services that meet their specific needs. They are living on city's streets because they were thrown out of their homes for being queer, or ran away to escape an abusive situation. Family housing in the shelter system across the country is not available for homeless same-sex couples.

6. Problems of Transphobia:

Transgender people are more likely to experience intolerance, discrimination, harassment, and the threat of violence due to their sexual orientation, than those that identify themselves as heterosexual. This is due to transphobia. Some of the factors that may reinforce transphobia on a larger scale are moral, religious, and political beliefs of a dominant group.

7. Psychological Distress:

TG people face considerable levels of stigmatization, discrimination and harassment in their daily lives. The majorities of Transgender people learn to cope with this, particularly when they have the support of family and friends, and participate with Transgender organizations and social networks. However, a significant number of Transgender people, most particularly younger Transgender people, had to cope with stigmatization, discrimination and harassment without support.

8. Victims of hate Crimes, Violence and Legal Injustice:

Transgender people are regularly targeted as victims of hate crimes and violence. They experience stigma and discrimination across their life spans, and are targets of sexual and physical assault, harassment and hate crimes. As per census 2011, there are around 4.9 lakh third genders in the country who faces social discrimination and harassment. TG communities have also an important stake in legal injustice issues.

A RANGE OF MEASURES FOR PROTECTION AND WELFARE OF THE TRANSGENDER PERSONS IN INDIA

Transgender persons have faced several issues of discrimination, historically, like exclusion from their families, absence of dignified livelihoods, and inadequate access to health, shelter, welfare, and employment.

The Central government has enacted and issued several welfare acts and rules to address these issues for the provision of identity, education, shelter, livelihood, skill development, and protection of rights against the community, which are mentioned below:

THE TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT 2019

The Transgender Persons (Protection of Rights) Act 2019 seeks to mitigate the stigma, discrimination, and abuse against this marginalized section and bring them into the mainstream of society. It will lead to greater inclusiveness and will make Transgender persons productive members of society.

- **Non-discrimination** against a Transgender person in educational institutions, employment, healthcare services etc.
- **Recognition of identity** of Transgender persons and confer upon them the right to self-perceived gender identity.
- Provision of the **Right of Residence** with parents and immediate family members.
- Provision for the **formulation of welfare schemes** and programmes for education, social security, and health of Transgender persons.
- Provision for **National Council for Transgender Persons** to advise, monitor, and evaluate measures for the protection of their rights.

The Act is designed to make all the stakeholders responsive and accountable for upholding the principles underlying the same. It also brings greater accountability on the part of the Central Government and State Governments/Union Territories Administrations for issues concerning Transgender persons.

• NATIONAL COUNCIL FOR TRANSGENDER PERSONS:

In exercise of the powers conferred by Section 16 of the Transgender Persons (Protection of Rights) Act, 2019, the Central Government constituted a National Council for Transgender Persons on 21st August 2020. The Union Minister of Social Justice & Empowerment is the Chairperson (ex-officio) and the Union Minister of State for Social Justice & Empowerment is the Vice-Chairperson (ex-officio) of the council.

The National Council performs the following functions:

- advises the Central Government on the formulation of policies, programmes, legislation and projects with respect to transgender persons;
- monitors and evaluates the impact of policies and programmes designed for achieving equality and full participation of transgender persons;

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- reviews and coordinates the activities of all the departments of Government and other Governmental and non-Governmental Organisations which are dealing with matters relating to transgender persons;

- redresses the grievances of transgender persons.

- **SMILE (Support for Marginalized Individuals for Livelihood and Enterprise)**

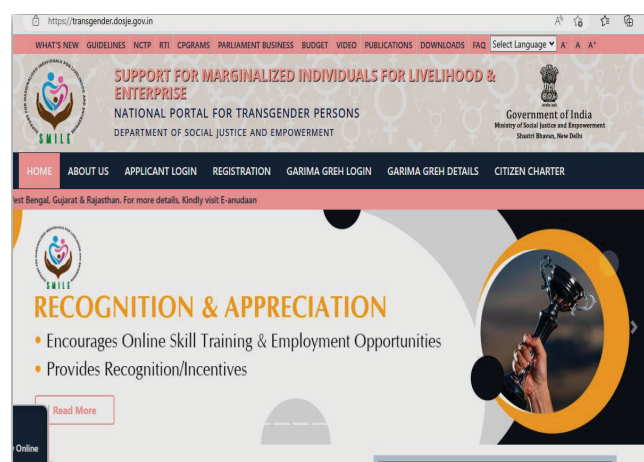


Sources : SMILE Portal

The Ministry of Social Justice and Empowerment launched an umbrella scheme “SMILE - Support for Marginalised Individuals for Livelihood and Enterprise” on **February 12, 2022**. This umbrella scheme would cover several comprehensive measures including welfare measures for the transgender community and for persons who are engaged in the act of begging with a focus extensively on rehabilitation, provision of medical facilities, counselling, education, skill development, economic linkages etc. with the support of State Governments/UTs/Local Urban Bodies, Voluntary Organizations, Community Based Organizations (CBOs)/Institutions and others.

The Ministry of Social Justice and Empowerment has allocated **Rs. 365 crores** for the scheme from 2021-22 to 2025-26.

• NATIONAL PORTAL FOR TRANSGENDER PERSONS:



Source: SMILE Portal

Transgender Persons In India and Government Welfare Measures

The Ministry of Social Justice and Empowerment launched National Portal for Transgender Persons on November 25, 2020. Any Transgender applicant can obtain a certificate of identity and identity card without any physical interface with the office of issue. The person who has been issued a certificate of identity is entitled to change the first name on the birth certificate and all other official documents relating to the identity of such person.¹

The Portal provides the facility for transgender persons to apply for a certificate and an identity card from across the country without physical interface through a seamless end-to-end mechanism. The Transgender certificate and identity card are nationally recognised and are provided by the Ministry of Social Justice & Empowerment. The certificate is a mandatory document to avail of the welfare measures being provided under the SMILE scheme. The number of certificates and identity cards issued on the portal is as mentioned in table 1.1 (data as on 23.06.2022)

Number of certificate issued	7144
Number of Identity Card Issued	7159
Number of state/UT Participated	37

Table 1.1 Number of certificates and identity cards issued on the portal

• NATIONAL EDUCATION POLICY 2020

The National Education Policy of India 2020 (NEP 2020), approved by the Union Cabinet of India on **July 29, 2020**, outlines the vision of new education system of India. The Policy aims at **universalization of education** from pre-school to secondary a level with 100 % Gross Enrolment Ratio (GER) in school education by 2030.

NEP 2020 identifies transgender children as Socio-Economically Disadvantaged Groups (SEDGs) and provides for equitable quality education, inter-alia, for all such students. This includes provisions for assisting transgender children in gaining access to education, and support for community-based interventions that address local context-specific barriers to transgender children's access to and participation in education, thereby aiming to eliminate any remaining disparity in access to education (including vocational education) for children from any gender or other SEDGs.



Sources: Twitter

¹ Ministry of Social Justice and Empowerment - Government of India (dosje.gov.in)

'**Gender-Inclusion Fund**' will be constituted under the new policy to build the nation's capacity to provide equitable quality education for all girls as well as transgender students. The fund will be available to States to implement priorities determined by the Central government critical for assisting female and transgender children in gaining access to education (such as the provisions of sanitation and toilets, bicycles, conditional cash transfers, etc.); funds will also enable States to support and scale effective community-based interventions that address local context-specific barriers to female and transgender children's access to and participation in education.



Sources: Twitter

Samagra Shiksha Abhiyan

The Samagra Shiksha scheme is an integrated scheme for school education covering the entire gamut from pre-school to class XII. The scheme was upgraded on August 04, 2021 to align it with the Sustainable Development Goal for Education and the new **National Education Policy (NEP)** launched in 2020.

Scholarship Schemes under SMILE

The Ministry of Social Justice & Empowerment is providing scholarship studies in India to Transgender students studying in classes IX and above⁵ thereby reducing incidences of drop-out and aiding the transition from the elementary to the secondary stage for transgender students through an automated online system using a single login credential.

• NISHTHA (National Initiative for School Heads' and Teachers' Holistic Advancement):

National Council of Educational Research and Training (NCERT) has been training teachers, teacher educators and school heads on gender sensitization with an all-inclusive approach. The said concerns are addressed in different textual and training materials/manuals/modules. Under **NISHTHA**, a nation-wide integrated teacher training programme for teachers under Samagra Shiksha, **teachers are trained for relevance of Gender Dimensions in Teaching and Learning Process** which helps teachers to use and adopt learning activities that foster gender sensitive classroom environment.²

EMPOWERMENT THROUGH SKILL DEVELOPMENT TRAINING & LIVELIHOOD

• Skill India Mission

Under Skill India Mission, the Ministry of Skill Development and Entrepreneurship (MSDE)³ has been

² NISHTHA (ncert.gov.in)

³ Microsoft Word - ru 51 final (pqars.nic.in)

implementing Pradhan Mantri Kaushal Vikas Yojana (PMKVY), Jan Shikshan Sansthan (JSS) Scheme and National Apprenticeship Promotion Scheme (NAPS), for providing short term Skill Development training and Craftsman Training Scheme (CTS), for long term training, to the youth belonging to all sections of the society including transgender persons across India. To know the State-wise details of transgender persons imparted training under PMKVY, JSS, NAPS and CTS.⁴

- **Skill Training through PM-DAKSH (Pradhan Mantri - Dakshta Aur Kushalta Sampann Hitgrahi)**

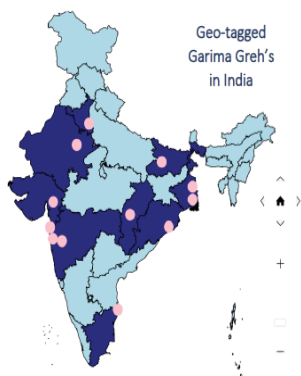
The Ministry of Social Justice and Empowerment is imparting skill development training to the Transgender beneficiaries of the SMILE Scheme through PM-DAKSH - a skill development scheme of the Ministry. Short-Term Training Programmes; Up-Skilling/Reskilling; Entrepreneurship Development Programmes, and Long-Term Training Programmes are conducted for transgenders under the scheme. The Skill Development training & livelihood programme under SMILE scheme aims to provide training for transgender persons to get market-oriented skills for getting a livelihood.

- **Skill Training through various Sector Skill Councils**

The Ministry of Social Justice and Empowerment, through the National Backward Classes Finance and Development (NBCFDC), has sanctioned skill development training programmes for transgender persons through Sector Skill Councils/Training partners in six States in various job roles through which training programmes amounting to over 87 lakh have been sanctioned with total 330 trainees for job roles such as beauty therapist, make-up artists, customer care executive etc. Ministry has initiated 12 pilot 'Garima Grehs'⁵ and provided financial assistance to community-based organizations (CBOs) for setting up of these shelter homes.

- **Garima Grehs: Shelter Homes for Transgender persons**

Section 12(3) of the Transgender Act 2019 says that whether any parent or a member of his immediate family is unable to take care of a transgender, the competent court shall by an order direct such person to be placed in the rehabilitation centre. Besides that, it will provide **support for the capacity-building/skill development of transgender persons at the shelter home.**⁶



Sources : <https://transgender.dosje.gov.in/GarimaGreh/About>

HEALTHCARE & MEDICAL SUPPORT FOR TRANSGENDER PERSONS

- **Composite Medical Health under SMILE**

Composite Medical Health is a component under the SMILE scheme. The objective of the scheme is to provide health insurance coverage to all transgender persons living in India to **improve their health condition through proper treatment including sex re-assignment surgeries as well as medical support.**⁷

The scope of the scheme is as follows:

- Health insurance in the form of **Ayushman Bharat TG Plus** shall be available for transgender persons inclusive of gender reaffirmation surgery in the health benefit package under **Ayushman Bharat Yojana (ABY)**. **Each transgender person shall receive an insurance cover of Rs. 5 Lakh per year under the scheme.**
- The Comprehensive Package would cover all aspects of transition related healthcare for transgender persons. **It shall also (not exhaustive) provide coverage for hormone therapy, sex re-assignment surgery inclusive of post-operation formalities which can be redeemed at all private and government healthcare facilities.**

ASSISTANCE TO TRANSGENDER PERSONS DURING COVID-19

Financial Assistance:

During COVID-19, the **Ministry of Social Justice & Empowerment through National Backward Class Finance and Development Corporation (NBCFDC)** has given **Rs.1,500 to each transgender person**, through Direct Benefit Transfer (DBT). NBCFDC has additionally provided assistance for ration supplies to transgender persons on the recommendation of the respective district administration.⁸



Source: Twitter

The **Ministry of Social Justice & Empowerment** issued directions to all States/UTs for **ensuring that existing COVID vaccination centres are transgender friendly** and no discrimination is shown towards transgender persons who come for their vaccination. The Centres were also requested to conduct awareness drives especially for reaching out to the transgender community in different vernaculars to ensure that they are informed and aware of the vaccination process. A request had also been made to the states to organize separate mobile vaccination centers or booths for vaccination of Transgender persons such as those taken up in the states of Haryana & Assam.

⁴ Home | Ministry of Skill Development and Entrepreneurship | Government Of India (msde.gov.in)

⁵ doc20223522601.pdf (pib.gov.in)

⁶ GUIDELINES FOR GARIMA GREH (dosje.gov.in)

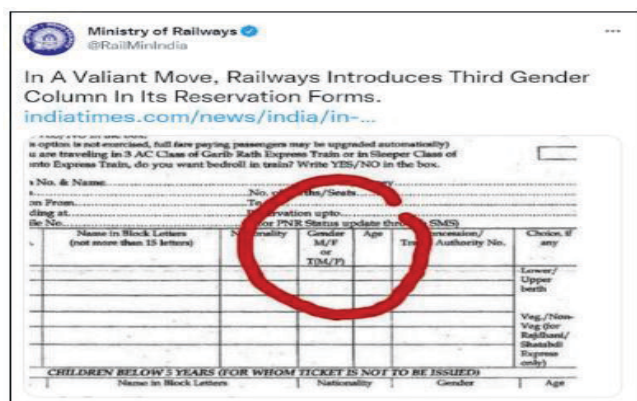
⁷ <https://transgender.dosje.gov.in/Applicant/Registration/DisplayForm4>

⁸ [AI229.pdf](#)



- **Other major steps towards trans-inclusivity:**

1. In 2016, the Ministry of Railways introduced a **third gender column** in its reservation form and included transgender as an option in railway ticket forms. Previously, the column had only male and female columns.⁹



Sources: Twitter

2. The Ministry of Rural Development implements the National Social Assistance Programme (NSAP), a Centrally Sponsored Scheme that provides financial assistance to the elderly, widows and persons with disabilities in the form of social pensions. Under the same, **3,384 Transgender persons are being provided monthly pension.**
3. In April 2020, the Ministry of Personnel asked all the central ministries and departments to modify relevant examination

⁹. *National Social Assistance Programme (NSAP)*

rules and application forms to include **‘transgender’** as a **separate category for all the central government jobs.**

CONCLUSION

It can be concluded that despite a pre-colonial heritage that recognized and celebrated gender diversity in temple sculptures, mythology and religious treatises, transgender people in India, today, face intolerance, stigma, discrimination and violence. Human rights violations against transgender people pervade families, educational institutions, workplaces, institutions such as law-enforcement, healthcare, media, and society at large. Affirmative actions are needed to wipe out stigma and discrimination associated with the community.

Awareness of gender diversity and the need to safeguard transgender youth from hostile school environments is a dire need. Schools and teacher education programmes are crucial sites where TG issues and concerns need to be addressed.

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- GUIDELINES FOR GARIMA GREH (dosje.gov.in)
- National Social Assistance Programme (NSAP)