

Recognition For Transgenders in India – Social Security & Legal Provisions

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Abstract—The psychological and social aspects are distinct from biological and physiological factors; they are important for overall well-being in human beings. Transgender people may experience gender dysphoria, but not every transgender person experiences it. Discrimination, stigma, bullying, and social rejection can contribute to stress, anxiety, and depression. Acceptance, supportive families, inclusive healthcare, and respect for gender identity can improve mental health and quality of life. Hijra and Kinner are important terms in understanding the cultural diversity and history of gender-diverse communities in northern parts of India. Similarly, the terms Aravani and Thirunangai are respectful Tamil term for a transgender in southern India. Both may refer to members of traditional transgender communities, but their usage varies by region and personal preference. Respecting each individual's chosen identity and avoiding derogatory language are essential to promoting equality, dignity, and social inclusion.

There exist provisions to protect transgender people such as Article 14, Articles 15 & 16, Article 19(1)(a) and Article 21. The Supreme Court recognized transgender people's constitutional rights in the NALSA judgment of 2014. The Transgender Persons (Protection of Rights) Act, 2019, as amended, provides a separate statutory framework addressing discrimination against transgender people, including in education, employment, healthcare, and access to public services. The Authors here are trying to make an attempt to study the application of Article 17 of the Constitution of India against the atrocities on Transgenders, where the Article 17 abolishes untouchability and prohibits its practice in any form. It states that enforcing any disability arising out of untouchability is an offence punishable in accordance with law.

Index Terms—Transgender, Legal Provisions, Challenges, Article, Aravani, Thirunangai, Hijra, Kinnera.

I. INTRODUCTION

Transgender people are individuals whose gender identity differs from the sex they were assigned at birth. Gender identity refers to a person's internal sense of being male, female, both, neither, or another gender. Being transgender is a natural variation of human identity and is not, in itself, a disease or mental disorder. Transgender people are an important part of Indian society and have a long cultural history, including communities such as Hijras, Kinnars, and Aravanis. Despite legal recognition and growing public awareness, many transgender people continue to face discrimination, social exclusion, and inequality. These challenges affect their education, employment, healthcare, housing, safety, and overall quality of life. The Constitution of India and various laws recognize the rights of transgender people and provide protection against discrimination. These legal provisions aim to ensure equality, dignity, personal liberty, and access to education, employment, healthcare, and public services. The United Nations Development Programme (UNDP) reports provide a useful foundation for understanding the challenges faced by transgender people in India. The 2012 report focuses particularly on the relationship between social exclusion, human rights, and health, while the 2021 framework offers a broader approach to welfare and inclusion. Together, they support the need for policies that promote equality, dignity, economic independence, and access to essential services.

II. BIOLOGICAL ASPECTS

Chromosomes: Most people have XX or XY sex chromosomes, but variations such as XXY, XO, and

other differences in sex development also occur. A person's gender identity cannot be determined by chromosomes alone.

Some of the biological aspects include,

- **Hormones:** Sex hormones, including testosterone, estrogenic, and progesterone, influence physical development and reproductive functions. Hormonal processes involved in prenatal development may contribute to gender identity, but the exact biological factors underlying gender identity are not fully understood.
- **Brain development:** Research has explored possible associations between gender identity and certain aspects of brain structure and function. However, there is no single brain characteristic or biological test that can determine whether someone is transgender.
- **Genetic factors:** Studies suggest that genetic factors may contribute to gender identity, but no single gene has been identified as responsible for being transgender.
- **Sex characteristics:** Transgender people may have reproductive organs and secondary sex characteristics that differ from those typically associated with their gender identity.

Some transgender people also have variations in sex development, although being transgender and being intersex are distinct concepts.

III. PHYSIOLOGICAL ASPECTS

Physiological aspects refer to the functioning of the body and the physical changes that may occur in transgender individuals.

Some of the Physiological aspects include,

- **Puberty:** Transgender individuals may experience the usual pubertal changes associated with their sex assigned at birth, which may not align with their gender identity. These changes can sometimes cause significant discomfort, known as gender dysphoria.
- **Hormone therapy:** Some transgender people choose gender-affirming hormone therapy under medical supervision. Estrogenic-based therapy may promote breast development and changes in fat distribution, while testosterone therapy may deepen the voice, increase facial and body hair, and increase muscle mass.

- **Reproductive health:** Hormone therapy and some gender-affirming surgeries can affect fertility and reproductive functions. The effects vary between individuals, and fertility preservation may be discussed before treatment.
- **Physical characteristics:** Some transgender people choose medical interventions, such as chest surgery, facial procedures, or genital surgery, to align their physical characteristics with their gender identity. Others do not want or need medical interventions.
- **General health:** Transgender people require routine healthcare, including preventive screenings, sexual and reproductive healthcare, and monitoring of any gender-affirming treatments they receive.



IV. “ARAVANI” & “TIRUNANGAI”

The term “Aravani” is traditionally used for some transgender women in Tamil Nadu, particularly those associated with the cultural and religious traditions surrounding Aravan. However, it is not a universal term for all transgender people in India. In Hindu mythology, the term Aravani is used against Transgender, for the reasons:

(i) **Connection to Hindu mythology:** The word derives from Aravan, a character in the Mahabharata. According to the traditional story associated with the Koovagam festival in Tamil Nadu, Krishna takes the female form of Mohini to marry Aravan before his sacrificial death. Some transgender women identify with this story and participate in rituals commemorating the marriage and mourning of Aravan.

(ii) **Cultural identity:** The term became associated with transgender women in Tamil Nadu and helped provide a distinct regional identity. It was used in community

and government contexts, including the name of Tamil Nadu's former Aravani Welfare Board.

(iii) The term “Thirunangai”: Over time, many transgender activists and community members began preferring the Tamil term Thirunangai, commonly understood as “respected woman.” It offers a more inclusive, secular identity that does not require a person to follow a particular religious tradition. The term Thirunambi is used for transgender men, while Thirunar can refer more broadly to transgender people.

(vi) The term “Aravani”: The term is rooted in a particular cultural and religious context and does not represent every transgender person's identity. Some people identify as Thirunangai, others as transgender women, transgender men, Hijra, or by other community-specific terms. The respectful approach is to use the term a person chooses for themselves. Hence, the term Aravani is an inappropriate for every transfer.

“Thirunangai” is a Tamil term commonly used to refer to transgender women in Tamil Nadu, India. It is generally considered a respectful term that recognises their identity and dignity. The term is commonly understood as: Thiru (திரு): An honorific associated with respect or dignity; and Nangai (நங்கை): Woman or young woman in Tamil. Thus, Thirunangai (திருநங்கை) is often understood as “respected woman” or a respectful term for a transgender woman. The term is used by many transgender women in Tamil Nadu as an expression of identity, self-respect, and social recognition. It has also been used in public policy and welfare initiatives aimed at improving transgender people's access to education, employment, healthcare, and other services.

Whereas, the terms

(i) Thirunangai:

Commonly refers to a transgender woman;

(ii) Thiru Nambi (திருநம்பி):

Commonly refers to a transgender man;

(iii) Thirunar (திருநர்): A broader term used for transgender people; and

(vi) Aravani:

A culturally specific term associated with some transgender women and traditions connected to Aravan in Tamil Nadu. These terms are not necessarily interchangeable, and individual preferences vary.

It is observed that the use of Thirunangai promotes respectful language and challenges the stigma associated with transgender identities. It recognises transgender women as women deserving equal rights, dignity, and opportunities.



V. “HIJRA” & “KINNERA”

The term “Hijra” refers to a traditional socio-cultural community in South Asia, including India, with its own history, customs, social structures, and cultural practices. Many Hijras identify as transgender women, while others may describe their gender identity differently. Important features of the Hijra community, are

(i) Cultural identity:

Hijras have a long-standing presence in Indian society and have historically formed community networks under the guidance of senior members, often called gurus;

(ii) Traditional occupations:

Some Hijra community members participate in badhai ceremonies, offering blessings at weddings and childbirth celebrations. Some also work in other occupations; and

(iii) Religious and cultural traditions:

Certain Hijra communities participate in religious festivals and rituals, although beliefs and practices vary. Similarly, the term “Kinner” is used in several parts of northern India, particularly in Hindi-speaking regions, to refer to members of the Hijra or transgender

community. It is sometimes used as a culturally respectful alternative to other terms, although preferences vary between individuals and communities.

Important features of the Kinner community are:

(i) Regional usage:

The term is commonly encountered in states such as Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, and neighbouring regions;

(ii) Cultural significance: Kinner communities may participate in traditional blessing ceremonies and other cultural practices; and

(iii) Community organisation: As in some Hijra communities, social networks and relationships between senior and junior members may provide support and a sense of belonging.

VI. CHALLENGES FACED BY TRANSGENDERS

The common challenges faced by the transgender people are:

(1) Social Discrimination and Stigma:

Transgender people often face prejudice, ridicule, harassment, and rejection because of their gender identity. Negative social attitudes may lead to isolation and exclusion from community life;

(2) Family Rejection:

Some transgender individuals experience rejection by their parents and relatives. They may be forced to leave their homes, lose family support, or face pressure to conform to traditional gender expectations;

(3) Educational Barriers:

Transgender students may experience bullying, humiliation, discrimination, and a lack of gender-inclusive facilities in schools and colleges. These conditions can contribute to absenteeism and dropping out of education;

(4) Employment Difficulties:

Many transgender people face discrimination during recruitment and at the workplace. Limited employment opportunities and a lack of inclusive workplace policies can make it difficult to achieve

financial independence. Some are pushed toward informal work because of exclusion from mainstream employment;

(5) Healthcare Challenges:

Transgender people may encounter insensitive healthcare providers, discrimination, lack of trained professionals, and difficulties accessing gender-affirming care. Fear of mistreatment can discourage people from seeking medical assistance;

(6) Housing and Homelessness:

Transgender people may be denied rental accommodation or forced to leave their homes because of prejudice. Some face difficulties accessing safe shelters, particularly when facilities are divided strictly into male and female categories;

(7) Violence and Harassment:

Transgender individuals may face verbal abuse, physical assault, sexual violence, bullying, and harassment in public spaces. Fear of discrimination and lack of trust in authorities can make reporting such incidents difficult;

(8) Legal and Documentation Problems:

Differences between a person's gender identity and the details on identity documents can create difficulties in accessing education, employment, banking, housing, and government welfare schemes. Although India has legal protections for transgender people, implementation and access to remedies remain challenges;

(9) Economic Insecurity and Poverty:

Exclusion from formal employment and education can lead to financial instability. Some transgender people depend on informal occupations, including begging or ceremonial performances, because they have limited access to other livelihood opportunities. However, transgender people work in many different professions and should not be stereotyped by these circumstances;

(10) Mental Health Challenges:

Repeated discrimination, social isolation, family rejection, and harassment can contribute to stress, anxiety, depression, and low self-esteem. These difficulties are often linked to social conditions rather than transgender identity itself;

(11) Lack of Awareness and Representation:

Many people have limited understanding of transgender identities and rights. This can reinforce stereotypes and discrimination. Transgender people also remain underrepresented in decision-making bodies, educational institutions, and many formal workplaces;

(12) Difficulties in Accessing Government Benefits:

Some transgender people face barriers when applying for identity certificates, welfare schemes, housing assistance, scholarships, healthcare support, and skill-development programmes. Complex procedures and limited awareness of available benefits can further restrict access.



VII. LEGAL PROVISIONS RECOGNISING TRANSGENDER PEOPLE IN INDIA

The legal provisions for recognising the transgender in India include,

(1) Constitutional Provisions:

The Supreme Court of India, in the judgment *National Legal Services Authority (NALSA) v. Union of India* (2014), recognised transgender people as a third gender and affirmed their constitutional rights. Similarly, the important constitutional provisions are

(i) Article 14 – Right to Equality: Guarantees equality before the law and equal protection of the laws;

(ii) Article 15:

Prohibition of Discrimination: Prohibits discrimination on specified grounds, including sex.

(iii) Article 16 – Equality of Opportunity: Provides equality of opportunity in public employment.

(iv) Article 19(1)(a):

Freedom of Expression: Protects freedom of speech and expression, which supports the expression of one's gender identity.

(v) Article 21:

Right to Life and Personal Liberty: Protects life, dignity, privacy, and personal autonomy.

VIII. TRANSGENDER PERSONS (PROTECTION OF RIGHTS) ACT, 2019

This is the principal central legislation concerning transgender people's rights in India. It came into force on 5 December 2019. The Act includes the following important provisions:

(i) Section 3:

Prohibition of discrimination: Prohibits discrimination against transgender people in areas such as education, employment, healthcare, access to public services, and use of public facilities.

(ii) Sections 4–7:

Recognition of identity: Provide for legal recognition and identity certificates, including procedures for recording a change in gender. These provisions were amended in 2026.

(iii) Section 8:

Government responsibilities: Requires appropriate governments to take measures for the welfare of transgender people.

(iv) Sections 9–11:

Employment protection: Address non-discrimination in employment, obligations of establishments, and grievance-redressal mechanisms.

(v) Section 12:

Right of residence: Protects the right to reside in the household and provides for rehabilitation in specified circumstances.

(vi) Sections 13–15:

Education, livelihood and healthcare: Cover inclusive education, vocational training, self-employment, and healthcare facilities.

(vii) Sections 16–17:

National Council for Transgender Persons: Establish the Council and specify its functions.

(viii) Section 18:

Offences and penalties: Provide penalties for specified acts, including forced labour, denial of access to public places, forced displacement from a residence, and abuse. The section was revised in 2026.

The Act is supplemented by the Transgender Persons (Protection of Rights) Rules, 2020, which set out procedures for identity certificates, appeals, and welfare measures.



IX. TRANSGENDER PERSONS (PROTECTION OF RIGHTS) AMENDMENT ACT, 2026

An important recent development is the 2026 amendment, which came into force on 25 May 2026. It changed the statutory definition of a transgender person, modified identity-certification procedures, and revised certain criminal penalties. It also removed Section 4(2) of the 2019 Act, which had expressly referred to the right to self-perceived gender identity. Therefore, older summaries of the 2019 Act may not accurately describe the current legal position. The amended legislation should be consulted when discussing legal recognition in India.

NALSA judgment, 2014:

Recognised transgender people as a third gender and affirmed their constitutional protections. Transgender Persons (Protection of Rights) Rules, 2020: Provide procedural details for implementing the 2019 Act. Government welfare measures: Central and state governments have developed schemes, welfare boards, and other measures intended to improve access to social security, healthcare, and livelihood opportunities.

X. APPLICATION OF ARTICLE 17

Transgender people in India have historically faced social exclusion, humiliation, and discriminatory

treatment. In its 2014 judgment in *National Legal Services Authority (NALSA) v. Union of India*, the Supreme Court referred to transgender people being treated as “untouchables” in public places such as schools, workplaces, hospitals, railway stations, and shopping centres. Article 17 is relevant to understanding this exclusion, but an important legal distinction must be made: Article 17 does not automatically cover every act of discrimination against transgender people. Its application depends on whether the conduct legally amounts to the practice or enforcement of “untouchability.” Other constitutional protections may apply more directly to gender-identity discrimination.

Examples of discriminatory practices that transgender people may encounter include:

- (i) Being excluded from public places or community activities;
- (ii) Being subjected to humiliating treatment or social ostracism;
- (iii) Being denied access to facilities on discriminatory grounds; and
- (iv) Being treated as socially inferior because of their gender identity. Such conduct may violate constitutional rights, although whether Article 17 specifically applies depends on the circumstances and the legal basis of the exclusion.

XI. THE UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)

The United Nations Development Programme (UNDP) has published several reports examining the social, economic, health, and legal challenges faced by transgender people in India. These reports highlight how discrimination, social exclusion, and limited access to essential services affect their well-being and participation in society. Two particularly relevant publications are *Hijras/Transgender in India: HIV, Human Rights and Social Exclusion* (2012) and *A Framework for Transgender-Inclusive India* (2021).

The main findings and themes of the UNDP Report are:

- (i) Social discrimination:

Transgender people face exclusion from families, education, employment, healthcare, and other social institutions;

(ii) Economic vulnerability:

Discrimination in mainstream employment can restrict access to stable income and livelihoods;

(iii) Health inequalities:

Social exclusion can increase vulnerability to HIV and other health risks by limiting access to appropriate healthcare, prevention information, and support services;

(iv) Human rights concerns:

Stigma and discrimination can prevent transgender people from accessing services and exercising their rights;

(v) Diversity of identities:

The report recognises that Hijra, Aravani, and other transgender communities have distinct identities, traditions, and needs; and

(vi) The report emphasises that HIV vulnerability should not be understood simply as an individual health issue.



XII. MEASURES AGAINST THE CHALLENGES

The following steps can help improve the lives of transgender people in India are:

(i) Education:

Provide inclusive education, scholarships, safe facilities, and effective anti-bullying measures.

(ii) Employment:

Promote equal employment opportunities, vocational training, entrepreneurship, and non-discriminatory workplace policies.

(iii) Healthcare:

Train healthcare professionals and improve access to respectful, affordable, gender-affirming and general healthcare.

(iv) Legal protection:

Enforce existing laws, improve access to legal aid, and establish accessible grievance-redressal mechanisms.

(v) Family and social acceptance:

Encourage awareness programmes that promote dignity, respect, and acceptance.

(vi) Housing and welfare:

Expand safe shelters, affordable housing, social security, and access to government schemes.

(vii) Political and social participation:

Encourage meaningful participation of transgender people in public institutions and decision-making; and

(viii) India's Transgender Persons (Protection of Rights) Act, 2019, and the Supreme Court's 2014 NALSA judgment provide important foundations for protecting transgender rights.

XIII. CONCLUSION

The biological and physiological aspects of transgender people involve a complex interaction of developmental, hormonal, genetic, and individual factors. Gender identity cannot be explained by a single biological characteristic. Transgender people have diverse bodies, experiences, and healthcare needs. Understanding these differences through scientific evidence, respect, and a non-discriminatory approach is essential for providing appropriate healthcare and ensuring their dignity and well-being. The term "Aravani" developed from the cultural and religious traditions associated with Aravan in Tamil Nadu. Although it has historically been used as a community identity, it should not be applied to all transgender people in India. Using a person's preferred identity term is essential to respecting their dignity, culture, and individuality. Transgender people in India continue to face social, economic, educational, legal, and healthcare-related challenges. Although important legal progress has been made, effective implementation, public awareness, and equal

opportunities are essential. Society and government institutions must work together to ensure that every transgender person can live with dignity, safety, equality, and respect. India has constitutional protections, legislation, court judgments, and government welfare measures addressing transgender rights. The 2019 Act and its 2026 amendment are particularly important for understanding legal recognition and protection against discrimination. However, the existence of legal provisions does not automatically ensure equal treatment in practice; effective implementation, accessible grievance mechanisms, and public awareness remain essential. Article 17 is important when discussing the social exclusion of transgender people, particularly where treatment resembles the practice of untouchability. However, it should not be interpreted as automatically criminalising every form of transgender discrimination. Articles 14, 15, 16 and 21, together with the applicable transgender-rights legislation, provide additional and often more direct legal grounds for protecting transgender people's equality and dignity. It is noticed that the term "Thirunangai" is a respectful Tamil term for a transgender woman. Its use reflects an effort to promote dignity, cultural recognition, and social inclusion. The most respectful practice is to use the term with which each individual identifies. Hence, there exists a vacuum for details research on the provisions of the legal aspects and measures against the challenges in respect of the transgenders in India.

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