International Journal of Environmental Sciences ISSN: 2229-7359 Vol. 11 No. 21s, 2025 https://theaspd.com/index.php

Environmental Justice, Rights And Government Policies -Transgenders In India On Lucidity Of Gender Identity And Marginal Living Conditions.

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Abstract

One fact is becoming increasingly obvious in the escalating climate crisis: people who are already marginalized in society are the ones who suffer the most and get the least amount of assistance. In recent years, there has been an increasing awareness of how vulnerable groups—including women, children, low-income households, and individuals with disabilities—are disproportionately impacted by climate change. Nonetheless, there are still a lot of communities whose vulnerabilities are not well understood or studied.

These include transgender people, who encounter some of the most pernicious obstacles, especially when trying to obtain essential amenities like water and sanitary facilities. The relationship between climate change, water insecurity, and trans rights requires immediate attention as the globe struggles with increasing heat, frequent floods, and worsening droughts. In the Global South, the situation is far worse. Transgender people are frequently pushed into poverty and informal settlements in nations like India because of stigma, legal invisibility, and economic disadvantage, this research aims to highlight this very issue and steps taken by the government to minimize transgenders struggle in the light of their rights and Environmental justice. The study has assessed various government reports and reports from transgender-based organisations and NGOs to formulate it further explorative and Archival.

Keywords: Climate, India, Marginal, Rights, Transgenders.

INTRODUCTION

Transgender Community in India

Over the course of several centuries, transgender individuals have been observed in the Indian subcontinent. Tritiya Prakriti, which literally translates to "people with a third nature," was the term that the Kama Sutra used to describe transgender individuals more than 1,500 years ago (Vātsyāyana, 1993). In spite of the fact that transgender individuals have been present in India for centuries, there is a lack of understanding about them. This is one of the reasons why transgenders endure discrimination and stigma from their biological families as well as from other parts of society. Transgenders in India self-identify as hijras or kinnars in the northern part of the country, jogta or jogappa in the western part of the country, and thirunangai or aravani in the southern part of the country (Chakrapani, 2014; Reddy, 2005). According to Chakrapani, Newman, Mhaprolkar, & Kavi (2007), Hijra communities, in particular, have a well-formed subculture that is characterised by a hierarchical social structure (including gurus, which are considered to be masters, and chelas, which are students) and established kinship bonds among members of the community as an alternative to biological families. Jogtas, also known as jogappas, are revered as holy individuals, and a number of them are employed as priests at the temples dedicated to the goddess Yellamma in the states of Karnataka and Maharashtra, which are located in western India. In addition, when compared to hijras, a greater number of jogtas may be welcomed by their biological families due to the belief that their transgender status is the result of divine intervention (Aneka, 2014). In Tamil Nadu, Thirunangais often have mother-daughter connections, also known as Amma-Ponnu relationships. However, some of them also embrace guruchela relationships, which are comparable to the relationships that are found among hijras. In spite of this, Thirunangais frequently reside with their contemporaries because their biological families do not provide them with this assistance (Chakrapani et al., 2017).

In India, the term "transgender" appears to have originated in the late 2000s. Previous study on a large number of such societies in India has positioned them as a third gender, one that is organised in family structures based on religious responsibilities, as phenotypic men who take on feminine performative gestures and apparel that is typically associated with women (Nanda 1999; Reddy & Nanda, 2009). In Indian society, they are perceived to occupy stratified roles that incorporate aspects of class, caste, religion,

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kinship, gender performance, and sexuality. These roles are considered as different from one another. They are primarily performers at weddings, the birth of children, or at temple festivals, or they earn a living as sex workers or beggars (Reddy, 2006). Their distinctive position with respect to gender, sexuality, and religion has also traditionally led to the institutionalisation of their sociocultural roles and economic occupations. This has been the case for a long time. In spite of the fact that these narratives unquestionably contributed to the body of literature on transgender subjectivities in India, they also made a contribution to the fetishization of a transgender figure and are symptomatic of a larger problem of cultural difference that plagues a significant amount of work on transgender populations, particularly in Indian contexts. New and more sophisticated work that engages with transgender subjectivities in multiple rhizomatic linkages of gender, culture, economy, and neo liberalization has only emerged in the past few years. This is a very recent development. As a further point of interest, the emergence of male-tofemale transgender individuals in positions of authority, such as those of police officers, college principals, and politicians, has coincided with the implementation of new policies aimed at integrating transgender people into mainstream society. Therefore, when one discusses the transgender subject in India, the term "transgender" is frequently not an acceptable identifier of the subjectivity of the transgender people, their patterns of kinship, or their manifestation of gender nonconformity. In the process of transitioning from the local categories of the third gender in India to the global and universal classification of transgender, an excessive amount of information is lost and glossed over (Chatterjee, 2018).

The origins of transgender individuals in India may be traced back to the Mahabharat Age. However, they have endured social, economic, political, and legal neglect ever since. They have encountered numerous instances of discrimination. Multiple iterations of the Mahabharata have references Shikhandi/Shikhandini. Shikhandi holds great importance as a character in the epic Mahabharata. Regarding Shikhandi's gender, it is worth noting that in certain instances, Shikhandi is biologically female but identifies as male. Shikhandini undergoes a change in gender and transforms into Shikhandi, who is subsequently identified as a eunuch (Sorabji, 1916). Another exemplary instance from the Mahabharata is the story of Aravan (son of Pandava Prince Arjuna) and Krishna. Krishna assumed the form of a female named Mohini and entered into a marital union with Aravan. However, Krishna expressed sorrow on the following day when Aravan sacrificed his life. The transgender community has enormous reverence for the tale of Aravan. Aravan is a deity revered by prominent transgender communities known as Thirunangai (also referred to as Aravani in Tamil, and Hijra in South Asia) (Somasundaram, 2009). Ancient Hindu writings like Naradasmriti discuss homosexuality. According to Naradasmriti, 14 categories of males are impotent with women. Transgender (Sandha), intersex (nisarga), and homosexual males (mukhebhaga, kumbhika, asekya) are on the list. All three categories are unchangeable and cannot marry women. And most significantly, the text does not call the 'thirdsex' unnatural. As per Sushruta Samhita, the third gender encompasses those who identify as homosexual, bisexual, transgender, or intersex (LGBTI). The text describes kumbhika, asekya, and transgender men (Sandha-men with female traits, behavior, and speech). It also argues that men and women who act like each other are predetermined from conception (Wilhelm, 2003). The Kamasutra is an ancient Indian Sanskrit literature that explores topics of sexuality, eroticism, and emotional satisfaction in life (Coltrane, 1998). The text includes verses depicting same-sex relationships involving two males and two women. Specifically, the fifth and eighth chapters of Book 2 of the text provide insight into lesbian relationships. Wendy Doniger explains that the Kamasutra addresses same-sex relationships by using the concept of tritiya-prakriti, which means 'third sex' or 'third-nature'. The text discusses two types of 'third nature', one in which men exhibit feminine behavior and vice versa. The term 'savirini' is defined in the text as a woman who chooses to live either in a same-sex partnership or independently, without any desire for a husband. In his 1973 work "The Complete Kamasutra: The First Unabridged Modern Translation of the Classic Indian Text," Alan Danielou translates the term 'savirini' as 'lesbian'. In addition, the Kamasutra discusses bisexual relationships (Doniger, 2016). For instance, Kamini refers to bisexual women who derive pleasure from engaging in sexual activities with both men and women (Raj, 2020).

During the 16th and 17th centuries, transgender individuals occupied prominent roles inside the Mughal rulers' courts. Historical records confirm that hijras were highly esteemed and frequently regarded as divine entities throughout the Mughal period. Research has indicated that during the medieval period, there were studies conducted on the role and significance of individuals at royal and imperial courts, specifically focusing on the Mughal courts (Tougher, 2002). They occupied roles such as political advisors, administrators, generals, and protectors of the monarchs, chiefs, and nobility. Hijras were regarded as astute, dependable, and exceedingly devoted (Michelraj, 2015). As a result, a significant number of them

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had unrestricted entry to all regions and communities, thereby playing a vital part in the governance of the Mughal empire during that time. Concurrently, the hijras also occupied prominent positions within Islamic religious establishments, particularly in their responsibility of safeguarding the sacred sites of Mecca and Medina. They were regarded as trusted advisors to religious leaders and monarchs, with the ability to sway the state's judgments, often rewarded with both tangible and intangible privileges. The general populace displayed sympathy for eunuchs, recognizing their traditional function as guardians of women in harems and their offspring (Nanda, 1990). According to Postan in her book, "On Random Sketches of Western India" (1838), before the British took control of India, hijras had many roles such as protecting the purity of the harem, performing fertility rituals, owning land, and sometimes holding positions of high importance in Mughal India. The hijras were entrusted with responsibilities due to the perception that they were incapable of sexually exploiting women in the harems, while also being capable of performing household tasks. While not all hijras had prominent positions during that era, they experienced marginalization following the end of the Mughal rule, especially in independent India (Ghosh, 2018).

The condition of Hijra community in India changed inordinately with the arrival full-fledged British from the 18th century onwards. The emergence and coagulation of colonial rule in India was specifically crucial since it marked a scathing moment of metamorphosis not only in power dynamics, but also in cultural, social, intellectual and legal domain of Indian society. The 19th century British travellers, writers and colonial officials rarely passed on the opportunity to prefix some derogatory hyperbole to the word 'hijra'. They consistently documented in official records and documents, describing hijras as "the most despicable and contaminated individuals" and criticizing their "disgusting" practices, which they speculated about but seldom substantiated (Gannon, 2009). The presence of a third gender was deemed inappropriate, and the colonial narrative contributed to the dissemination of astonishment and dread inside the typically mundane, administrative accounts. The British were able to engage in and at the same time reject the sexual excitement produced by the idea of aberrant bodies by include the hijras in their representation. The sight of hijras disgusted them, and they were unable to understand why hijras were held in such high regard at the royal courts and other establishments (Ghosh, 2018). They were defined as criminals under the criminal tribe act of colonial govt. (1871), however soon after independence this act was abolished in the year 1949. The once revered community of transgenders were now reduced to marginalised, but the advent of 21st century again is witnessing their gradual upheaval.

In April 2014, Justice KS Radhakrishnan declared transgenders to be the third gender in Indian law in National Legal Services Authority v. Union of India. The ruling said "Seldom, our society realizes or cares to realize the trauma, agony and pain 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, forgetting the fact that the moral failure lies in the society's unwillingness to contain or embrace different gender identities and expressions, a mindset which we have to change".

Transgenders are fully entitled to the rights guaranteed therein.

- 1. **Article 14:** Guarantees equality to "any person", which means man, woman, and transgender, and as such, they are also guaranteed equal protection by the law.
- They have equal rights in employment, health care, education, and civil rights.
- Discrimination based on sexual orientation and gender identity constitutes a violation of Fundamental rights.
- 2. **Article 19:** Transgender individuals have freedom of expression, wherein they can talk, dress, act, and behave in a manner they like.
- 3. Article 21: They also have a right to live a life of dignity.

METHODS

The study adopts a mixed-method approach through descriptive as well as an exploratory analysis. Multiple reports have been utilised to conduct this study, such as the UNDP Report (2014), NACP Phase-III Report (2007-12) 2021 policy brief by the Strategic and Policy Research Foundation (SPRF),, and the Annual Labour Bureau Report Demography India Vol. 52, No. 2 (2023), A 2022 report by QueerBeat , https://socialjustice.gov.in/writereaddata/UploadFile/67311708075108.pdf,

https://pib.gov.in/PressReleasePage.aspx?PRID=1593871

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RESULTS

Timeline of Reforms for Transgender Persons: Before and after NALSA Judgement (2014)

2009: The EC issued appropriate directions to all states to amend the registration forms' format to include an option of "others. "This enabled transsexual people to tick the column if they didn't want to be identified as either male or female.

2011: Census led to the known population of transgenders in India for the first time.

2014: The SC in NALSA Vs. Union of India (2014) recognised them as the "Third Gender".In the landmark ruling, SC observed that "recognition of transgender people as a third gender is not a social or medical issue, but a human rights issue".

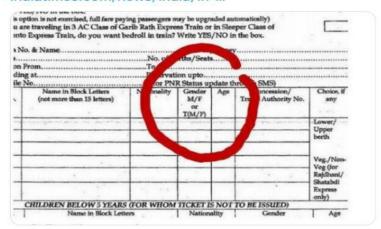
2014: The Rights of Transgender Persons Bill was introduced as a private member's Bill and passed by the Rajya Sabha in April 2015.

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



In A Valiant Move, Railways Introduces Third Gender Column In Its Reservation Forms.

indiatimes.com/news/india/in-...



2019: The Transgender Persons (Protection of Rights) Act was enacted.

2020: Transgender Persons (Protection of Rights) Rules were framed under the Transgender Persons (Protection of Rights) Act, 2019.

2020: The Ministry of Social Justice and Empowerment launched ANational portal for transgender persons in 2020 and The National Council for Transgender Persons (NCTP), a statutory body, was established. Garima Greh, a shelter home for transgender people was established. The National Council performs the following functions:

- (a) **Advises** the Central Government on the formulation of policies, programmes, legislation and projects with respect to transgender persons.
- (b) **Monitors and evaluates** the impact of policies and programmes designed for achieving equality and full participation of transgender persons;
- (c) 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;
- (d) Redresses the grievances of transgender persons; and
- (e) **Performs** such other functions as may be prescribed by the Central Government.

The other members of the Council include representatives of various Ministries/Departments,

five representatives of the transgender community, representatives of the National Human Rights Commission (NHRC) and the National Commission for Women (NCW), representatives of State Governments and UTs, and experts representing NGOs.

2022-25: SMILE (Support for Marginalised Individuals for Livelihood and Enterprise)

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

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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 scheme includes various welfare measures for transgender persons such as financial assistance in the form of scholarships to transgender students studying in classes Ninth till Post graduation. The Ministry of Home Affairs sent an advisory to Heads of Prisons in the States/UTs to ensure the privacy and dignity of third-gender inmates in 2022 by setting up transgender protection cells.

Healthcare & Medical Support for Transgender persons a step towards environment justice. 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. The scheme covers all transgender persons not receiving such benefits from other centre/state sponsored schemes.

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. 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.

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.

DISCUSSION

As per the results of the various reports studied, Transgenders rights gained heavy momentum in India post NALSA (2014). Transpeople being recognised as Third Gender with equal fundamental and constitutional rights as that of gender binary. In Democracy government is the representation of citizens of the respective country and as the largest democracy of the world, Indian Government has taken considerable steps towards the inclusion and upliftment of trans community with various laws, rules and regulations. The perception of trans community in our society is taking a gradual shift towards positivity as people are understanding the difference between sexual orientation and gender identity. This community though is part of the umbrella term LGBTQ+ but they are in contrast altogether different from the sexual orientation spectrum. With other aspects of equality, the basic living conditions with right to sanitation and hygiene is taken care of. While some cities are taking small steps— Chandigarh and Nagpur have recently piloted gender-neutral public toilets. The Kerala government has also been a leader, launching the "Gender Park" in Kozhikode, which includes initiatives to empower women and transgenders. Beyond government action, community-led and NGO-driven initiatives are making significant strides. The Sahodari Foundation and Orinam regularly conduct sensitization workshops for municipal staff and advocate for the inclusion of trans voices in urban planning. WaterAid India, in partnership with local trans collectives, has piloted participatory design projects in low-income settlements, ensuring that new WASH facilities address the specific needs of trans and non-binary residents—including privacy, security, and menstrual hygiene management. Environmental justice is the idea that all people and communities have the right to live and thrive in safe, healthy environments with equal environmental protections and meaningful involvement in these actions (APHA). The beginners' steps towards this movement for trans community has already been taken by our government. The Rule 10 (5) and 10(9) of The Transgender Persons (Protection of Rights) Rules 2020 provides for washrooms for transgender persons in establishments and envisages this responsibility on appropriate government. The Rule 12 (4) also provides that every establishment shall implement equal opportunity policy including infrastructure facilities such as unisex toilets. The sub-scheme "Central Sector Scheme for Comprehensive

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Rehabilitation for Welfare of Transgender Persons" of SMILE scheme also has provision for creating transcafe toilets

Ministry of Housing and Urban Affairs has stated that there is a provision under the operational guidelines of Swachh Bharat Mission – Urban 2.0 to construct separate toilets for trans-genders. The scheme is implemented through State/UTs. Hence, it is the responsibility of the concerned State Governments/ Administrations/ ULBs to implement the projects including construction and maintenance of washroom for transgenders. The data/information in respect of construction of toilets for transgender is not maintained separately. The State/UT-wise details of constructed individual household toilets and community/public toilets which includes toilets for Transgenders (https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=1983218-(Ministry of social justice and environment).

Community and Public Toilets inclusive toilets for Transgenders			
S. No.	Name of States/ UTs	Total Community and Public toilets	
		(No. of seats)	
		Mission Target	Completed
1	Andhra Pradesh	21,464	17,799
2	Andaman and Nicobar	126	- 609
3	Arunachal Pradesh	387	- 89
4	Assam	3,554	3,356
5	Bihar	26,439	- 28,677
6	Chandigarh	976	2,512
7	Chhattisgarh	17,796	18,832
8	Dadra Nagar Haveli & Daman Diu UT	219	615
9	Delhi	11,138	28,256
10	Goa	507	1,270
11	Gujarat	31,010	24,149
12	Haryana	10,393	11,374
13	Himachal Pradesh	876	1,700
14	Jammu and Kashmir	3,585	3,451
15	Jharkhand	12,366	9,643
16	Karnataka	34,839	36,556
17	Kerala	4,801	2,872
18	Ladakh	194	- 194
19	Madhya Pradesh	40,230	29,867
20	Maharashtra	59,706	1,66,465
21	Manipur	620	581
22	Meghalaya	362	152
23	Mizoram	491	1,324
24	Nagaland	478	238
25	Odisha	17,800	12,211

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26	Puducherry	1,204	836
27	Punjab	10,924	11,522
28	Rajasthan	26,364	31,300
29	Sikkim	142	268
30	Tamil Nadu	59,921	92,744
31	Telangana	15,543	15,465
32	Tripura	586	1,089
33	Uttar Pradesh	63,451	70,370
34	Uttarakhand	2,611	4,694
35	West Bengal	26,484	5,746
	Total	5,07,587	6,36,826

Source : Press Release ,			
Ministry of social justice and			
enviornment-GOI-2023			

CONCLUSION

The research shows that post NALSA (2014) and by 2022-25, under the SMILE scheme Indian Government has taken steps in leaps and bounds for transgenders inclusion in the mainstream of the society. They have been provided with personal social, economic, and environment safety for a secure and healthy living. The reports above clarifies that with the setting up of National Council for Transgender Persons (NCTP) proper monitoring of these measures is done so that this community don't face any prejudice and biases and live as honourable citizens of India with full fundamental and constitutional rights as that of Gender Binary.

The way forward is implementation. Government needs to spread lot of awareness amongst this community so that they know their rights and laws. They can opt out of the life of sex work and beggary and choose to more respectable means of living when so much is being done for them. People of third gender should come out in open and register on Transgender portal to consume the benefits designed for them. When system is supporting, the society will support too but lot of courage and willingness is desired of this community to overcome the physical, sexual, psychological, social, and legal challenges.

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