

Transgender Parenthood and Legal Recognition: A Comparative Study of Rights in India, the UK, and the USA with Reference to Recent Indian Jurisprudence

Moumala Bhattacharjee

Research Scholar, Dept. of Juridical Sciences, JIS University, Souvik Chatterji (Associate Professor and Head, Dept. of Juridical Sciences, JIS University) and Samrat Samaddar (Student, Dept. of Juridical Sciences, JIS University)

Abstract

*This study critically examines the legal recognition of transgender parenthood through a comparative lens, focusing on India, the United Kingdom, and the United States. In the Indian context, despite constitutional guarantees of equality¹ and the enactment of the Transgender Persons (Protection of Rights) Act, 2019², transgender individuals continue to face substantial legal and societal barriers in exercising their right to parenthood³. Key obstacles include restrictive adoption and surrogacy laws, limited access to assisted reproductive technologies⁴, challenges in amending parental documents, and widespread social stigma. The research draws attention to the Kerala High Court's landmark decision in *Ziya and Zahad*⁵, which signifies progressive judicial recognition of transgender families, while also revealing the systemic implementation gaps in Indian law. In contrast, the UK and the USA have developed more robust legal frameworks that, while not without shortcomings, offer greater procedural clarity and recognition of transgender parenthood. This comparative analysis underscores the need for India to adopt a more inclusive, rights-based approach, bridging the gap between legal recognition and lived realities for transgender parents.*

Keywords: Transgender right to parenthood in India, Legal recognition of transgender parents, Challenges faced by transgender individuals in asserting their parental rights

INTRODUCTION

The legal situation for transgender parenthood in India is at a crucial point, with important laws being introduced and ongoing societal issues. The passing of the Transgender Persons (Protection of Rights) Act, 2019 is a significant moment in recognizing the basic rights of transgender individuals. This ground breaking law establishes: the right to self-perceived gender identity along with the protection against discrimination⁶ in education⁷, employment⁸, and healthcare⁹, provisions for social security¹⁰ and welfare measures¹¹ and recognition of transgender persons' right to family life. The timeframe of the Transgender Evaluation can be summarized through following incidents:

In the year 2009 – The European Court¹² issued a direction to all states (state here denotes countries) to amend the registration form format to include an option as “OTHERS”. This option can be helpful for transsexual community people to tick the column if they don't want to identify themselves as a male or female.

¹ <https://lawbhoomi.com/article-14-of-indian-constitution/> last visited March, 2025

² https://www.indiacode.nic.in/handle/123456789/13091?sam_handle=123456789%2F1362 last visited March, 2025

³ <https://www.drishtijudiciary.com/current-affairs/fundamental-right-to-parenthood> last visited March, 2025

⁴ <https://pubmed.ncbi.nlm.nih.gov/39401134/> last visited March, 2025

⁵ <https://www.fairplanet.org/story/india-first-transgender-parents-ziya-paval-zahad/> last visited March, 2025

⁶ <https://blog.ipleaders.in/protective-discrimination-indian-constitution/>

⁷ <https://generisonline.com/understanding-anti-discrimination-policies-in-education-in-india/>

⁸ <https://thelegalquorum.com/workplace-discrimination-in-india-understanding-the-laws-and-employee-rights/>

⁹ <https://pmc.ncbi.nlm.nih.gov/articles/PMC9423841/>

¹⁰ <https://www.nujs.edu/wp-content/uploads/2022/11/File-11.pdf>

¹¹ <https://serein.in/evolution-and-implementation-of-disabilities-legislation-in-india/>

¹² https://curia.europa.eu/jcms/jcms/j_6/en/

In the year 2020 – the Ministry of Social Justice and Empowerment¹³ launched a) A National Portal¹⁴ for transgender persons and b) The National Council for Transgender Persons¹⁵ (NCTP) c) Garima Greh¹⁶, a shelter home for transgender people.

Also, The Ministry of Home Affairs¹⁷ advised to all the state and union territories head of the prisons to ensure the dignity¹⁸ and privacy¹⁹ of the Third Gender inmates²⁰ by providing separate cell²¹, washroom and other amenities inside the premises of the Correctional home²².

However, the Act does not specifically address parental rights, making it difficult for transgender individuals who want to start families. The current legal system operates within a larger framework of constitutional guarantees, including: Article 14²³ guarantees right to equality and Article 15²⁴ guarantees prohibition of discrimination along with Article 21²⁵ which specifies the right to life and personal liberty. Despite these guarantees, there are significant obstacles in putting these rights into practice due to deeply ingrained societal biases. Transgender parents face discrimination in various areas related to healthcare institutions often deny access to fertility treatments²⁶, administrative bodies resist updating parental status on official documents, educational institutions question the legitimacy of transgender parenthood and employment discrimination affects financial stability²⁷ for family planning.

Research Gap

The research identifies significant gaps between legislative intent and practical implementation in the likes of “While the law guarantees protection against discrimination, transgender individuals face substantial barriers when attempting to exercise their right to parenthood, ranging from administrative hurdles to social ostracism.” This study emphasizes the urgent need for comprehensive legal reforms addressing family formation rights, standardized procedures for documentation and recognition, enhanced social support systems and educational initiatives to combat discrimination. The findings suggest that despite progressive judicial interpretations and recent legislative developments, substantial work remains to create an inclusive environment for transgender parents in India. The research underscores the importance of addressing both legal and social barriers to ensure meaningful recognition of transgender parental rights. The analysis drawn by the researcher contributes to the growing body of literature on LGBTQ+²⁸ rights in India, offering insights into the specific challenges faced by transgender individuals in their journey to parenthood and suggesting pathways for reform and social change.

¹³ <https://socialjustice.gov.in/>

¹⁴ <https://transgender.dosje.gov.in/>

¹⁵ <https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=1648221>

¹⁶ <https://transgender.dosje.gov.in/GarimaGreh/About>

¹⁷ <https://www.mha.gov.in/en>

¹⁸ https://www.cdcr.ca.gov/prea/wp-content/uploads/sites/186/2023/03/Final-SB132-CDCR-Assessment-Report_ADA.pdf

¹⁹ https://www.cdcr.ca.gov/prea/wp-content/uploads/sites/186/2023/03/Final-SB132-CDCR-Assessment-Report_ADA.pdf

²⁰ https://www.cdcr.ca.gov/prea/wp-content/uploads/sites/186/2023/03/Final-SB132-CDCR-Assessment-Report_ADA.pdf

²¹ <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1032&context=djglp>

²² <https://doi.org/10.52783/jier.v5i2.2830>

²³ **14. Equality before law**

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

²⁴ **15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth**

(1)The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.(2)No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-(a)access to shops, public restaurants, hotels and places of public entertainment; or(b)the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.(3)Nothing in this article shall prevent the State from making any special provision for women and children.

²⁵ **21. Protection of life and personal liberty**

No person shall be deprived of his life or personal liberty except according to procedure established by law.

²⁶ 10.4103/jhrs.jhrs_49_24

²⁷ <https://aim2flourish.com/innovations/social-inclusion-and-financial-independence-the-transgender-community-in-india>

²⁸ <https://www.iosrjournals.org/iosr-jhss/papers/Vol.29-Issue11/Ser-7/F2911073540.pdf>

The clash between traditional Indian family values and transgender identities presents unique difficulties. Many transgender individuals are rejected by their families, which impacts their ability to access support systems necessary for becoming parents. Religious institutions²⁹ and community leaders sometimes reinforce negative stereotypes, doubting the capability of transgender persons to raise children.

Additionally, the medical field's approach to transgender healthcare adds another layer of complexity. Gender-affirming procedures often raise concerns about fertility preservation³⁰ and reproductive rights³¹, requiring careful navigation of both medical³² and legal systems³³. These challenges emphasize the urgent need for comprehensive legal reforms that specifically address transgender parenting rights while recognizing the diverse ways families can be formed and nurtured in contemporary India.

Laws Governing Transgender Parenthood in India

The legal landscape governing transgender parenthood in India presents a complex web of regulations and procedures.

Recognition of Gender Identity Act

The Recognition of Gender Identity Act³⁴ establishes the fundamental right of transgender individuals to be recognized in their chosen gender. This recognition extends to legal name change, gender marker modification, updates to identification documents and birth certificate amendments.

The process of updating gender markers on official documents requires the self-declaration of gender identity to medical certification from a registered medical practitioner and the approval from the District Magistrates until it gets published in the official gazette.

Surrogacy (Regulation) Act, 2021

The Surrogacy (Regulation) Act, 2021³⁵ creates significant barriers for transgender individuals seeking parenthood through assisted reproductive technologies. The law restricts surrogacy access to heterosexual married couples, excluding single parents and transgender individuals from this pathway to parenthood.

Adoption Framework in India

India's adoption framework, governed by the Central Adoption Resource Authority³⁶ (CARA), lacks explicit provisions for transgender adoptive parents³⁷. The current guidelines categorize prospective parents as the single females³⁸, single males³⁹ and the married couples⁴⁰. This classification system fails to acknowledge transgender identities, creating administrative hurdles for transgender individuals seeking to adopt children.

Birth Certificate Recognition Challenges

Birth certificate⁴¹ recognition remains a critical challenge. While some states have begun accepting gender changes on birth certificates, the process varies significantly across jurisdictions. Several administrative

²⁹ <https://www.globalissues.org/news/2025/02/18/39106>

³⁰ <https://doi.org/10.1016/j.mayocp.2019.10.040>

³¹ <https://doi.org/10.1016/j.mayocp.2019.10.040>

³² Katabi LJ, Ng HH, Streed CG Jr, Arora KS. Ethical Considerations of Fertility Preservation for Transmasculine and Nonbinary Youth. *Transgend Health*. 2020 Dec 11;5(4):201-204. doi: 10.1089/trgh.2020.0004. PMID: 33381649; PMCID: PMC7759263.

³³ Katabi LJ, Ng HH, Streed CG Jr, Arora KS. Ethical Considerations of Fertility Preservation for Transmasculine and Nonbinary Youth. *Transgend Health*. 2020 Dec 11;5(4):201-204. doi: 10.1089/trgh.2020.0004. PMID: 33381649; PMCID: PMC7759263.

³⁴ Bhattacharya, S., Ghosh, D., & Purkayastha, B. (2022). 'Transgender Persons (Protection of Rights) Act' of India: An Analysis of Substantive Access to Rights of a Transgender Community. *Journal of human rights practice*, 14(2), 676-697. <https://doi.org/10.1093/jhuman/huac004>

³⁵ <https://www.indiacode.nic.in/bitstream/123456789/17046/1/A2021-47.pdf>

³⁶ <https://cara.wcd.gov.in/>

³⁷ <https://www.thequint.com/gender/transgender-adoption-rights-in-india-why-law-needs-to-change>

³⁸ Guzzo, K. B., & Hayford, S. R. (2020). Pathways to Parenthood in Social and Family Context: Decade in Review, 2020. *Journal of marriage and the family*, 82(1), 117-144. <https://doi.org/10.1111/jomf.12618>

³⁹ Guzzo, K. B., & Hayford, S. R. (2020). Pathways to Parenthood in Social and Family Context: Decade in Review, 2020. *Journal of marriage and the family*, 82(1), 117-144. <https://doi.org/10.1111/jomf.12618>

⁴⁰ Guzzo, K. B., & Hayford, S. R. (2020). Pathways to Parenthood in Social and Family Context: Decade in Review, 2020. *Journal of marriage and the family*, 82(1), 117-144. <https://doi.org/10.1111/jomf.12618>

⁴¹ <https://www.legalkart.com/legal-blog/complete-guide-to-adopting-a-child-in-india-procedure-laws-and-eligibility>

inconsistencies persist to lack of standardized procedures for updating parent gender markers, absence of non-binary gender options on birth certificates, limited recognition of transgender parents in surrogacy arrangements⁴² and unclear guidelines for recording transgender parents on adoption documents⁴³.

Legislative Gaps

The Hindu Adoptions and Maintenance Act⁴⁴ and the Juvenile Justice Act⁴⁵ of 2015 govern adoption rights but remain silent on transgender parenthood. This legislative gap leaves transgender parents vulnerable to discriminatory practices⁴⁶ and legal uncertainties.

Judicial Interventions

Recent court judgments have attempted to bridge these gaps. The Kerala High Court's recognition of transgender parenthood rights marks a significant step forward. These judicial interventions highlight the need for comprehensive legislative reforms to protect transgender parental rights.

Areas Requiring Legal Amendments

The current legal framework requires substantial amendments to address the gender-neutral parenting terminology⁴⁷, recognition of diverse family structures⁴⁸, simplified procedures for document modifications and protection against discrimination in adoption services.

These legal challenges intersect with broader issues of gender identity recognition and family law reform in India. The evolving jurisprudence reflects a gradual shift toward more inclusive interpretations of parental rights.

Case Study based out of India

Ziya and Zahad's Fight for Parental Recognition⁴⁹

The groundbreaking case of Ziya and Zahad in Kerala marks a significant milestone in India's legal recognition of transgender parenthood. In 2023, this transgender couple challenged existing norms when they sought legal recognition as parents on their child's birth certificate.

Background of the Case:

Ziya, a transwoman, and Zahad, a transman, conceived their child naturally before Zahad's gender transition. The couple faced resistance from hospital authorities who refused to list them according to their chosen gender identities. Kerala's health department⁵⁰ initially declined to provide a birth certificate reflecting their gender identities.

The Kerala High Court's landmark ruling on January 19, 2023, established several crucial precedents:

- a. Recognition of chosen gender identities on official documents.
- b. Acknowledgment of transgender individuals' right to be listed as parents.
- c. Protection of the child's right to have their parents' identities accurately recorded.

Rationale of the Court's Decision:

"The right of transgender persons to get their self-perceived gender identity recognized is part of their fundamental right to dignity and liberty under Article 21⁵¹ of the Constitution."

The court mandated that: Ziya be registered as the child's mother. Zahad be listed as the father. The birth certificate reflects their chosen gender identities. This ruling has catalyzed significant changes in India's legal

⁴² <https://www.nayalegal.com/surrogacy-in-india-laws-and-rights-for-intended-parents>

⁴³ <https://www.law4u.in/top-answer/4391/what-documents-are-required-for-the-adoption-process>

⁴⁴ https://www.indiacode.nic.in/bitstream/123456789/1638/1/AA1956____78.pdf

⁴⁵ <https://www.indiacode.nic.in/bitstream/123456789/8864/1/201602.juvenile2015pdf.pdf>

⁴⁶ <https://www.indiafilings.com/learn/employee-discrimination-laws-india/>

⁴⁷ <https://natlawreview.com/article/future-gender-affirming-care-legal-ethical-and-practical-considerations-providers>

⁴⁸ <https://natlawreview.com/article/future-gender-affirming-care-legal-ethical-and-practical-considerations-providers>

⁴⁹ <https://www.onmanorama.com/news/kerala/2025/06/02/transgender-couple-ziya-zahad-recognised-as-parents-birth-certificate-high-court.html>

⁵⁰ <https://www.indiatoday.in/india/law-news/story/kerala-hc-allows-transgender-parents-zahad-ziya-to-change-gender-details-in-childs-birth-record-2734299-2025-06-02>

⁵¹ **Protection of life and personal liberty**

No person shall be deprived of his life or personal liberty except according to procedure established by law.

landscape by creating new administrative procedures for recording transgender parenthood, establishing of precedent for future cases involving transgender parents and recognition of gender identity in parental documentation.

Impact on Subsequent Cases:

The Ziya-Zahad⁵² case has influenced several other legal decisions including the multiple state authorities now accept gender identity changes on birth certificates. The courts have increasingly recognized the parental rights of transgender individuals and healthcare institutions have begun updating their documentation processes.

Despite the progressive ruling, practical implementation faces hurdles related to limited awareness among healthcare providers, the bureaucratic resistance to policy changes. There is a need for standardized procedures across states.

This case represents a pivotal shift in recognizing transgender parental rights⁵³, setting legal precedents that extend beyond Kerala's borders. The ruling has become a reference point for similar cases across India, pushing the boundaries of traditional legal frameworks and challenging societal norms around parenthood and gender identity. Furthermore, it aligns with broader global trends towards recognizing and protecting the rights of LGBTQ+ individuals, as noted in various international legal studies.

Social Stigma and Discrimination: Barriers to Inclusive Parenting

The journey to becoming a parent for transgender individuals in India is still filled with deeply ingrained social biases and systemic discrimination. These obstacles show up in different ways, such as rejection from family members and discrimination at work, making it hard for them to create and raise families.

The historical existence of hijras⁵⁴ and other gender-diverse communities in Indian society presents a complex paradox. While traditional Indian texts and cultural practices acknowledge and sometimes revere third-gender individuals⁵⁵, modern society often marginalizes⁵⁶ them. This disconnects between historical acceptance⁵⁷ and contemporary discrimination⁵⁸ creates unique challenges for transgender parents.

The transgender has limited healthcare access. Most of the transgender parent's face discrimination in medical facilities, leading to inadequate prenatal and postnatal care. The children of transgender parents are often experiencing bullying⁵⁹ and isolation in schools⁶⁰. Relating to rent facilities – the landlords frequently deny accommodation to transgender families. The trans people face relatively highest amount of discrimination in workplace⁶¹ which limits the economic opportunities, affecting their ability to provide for their children.

The social stigma directly impacts transgender individuals' ability to exercise their parental rights⁶² that leads to family recognition which deals with extended families often refuse to acknowledge transgender parents and their children. The challenges are poised in the process of documentation leading to social prejudices

⁵² Supra note '49'

⁵³ <https://www.indialaw.in/blog/civil/kerala-ruling-redefines-parenthood-for-transgender-rights/>

⁵⁴ Mal, Sibsanakar. The Hijras of India: A Marginal Community with Paradox Sexual Identity. *Indian Journal of Social Psychiatry* 34(1):p 79-85, Jan-Mar 2018. | DOI: 10.4103/ijsp.ijsp_21_17

⁵⁵ Razdan S. HF01-11 THE HISTORY OF THE HIJRA: THE THIRD GENDER IN THE INDIAN SUBCONTINENT. *Journal of Urology* [Internet]. 2024 May 1 [cited 2025 Jul 11];211(5S):e282. Available from: <https://doi.org/10.1097/01.JU.0001008828.35887.de.11>

⁵⁶ https://doi.org/10.4103/IJSP.IJSP_21_17

⁵⁷ <https://doi.org/10.1177/2631831820936924>

⁵⁸ <https://doi.org/10.1177/2631831820936924>

⁵⁹ Earnshaw, V. A., Menino, D. D., Sava, L. M., Perrotti, J., Barnes, T. N., Humphrey, D. L., & Reisner, S. L. (2020). LGBTQ bullying: a qualitative investigation of student and school health professional perspectives. *Journal of LGBT youth*, 17(3), 280–297. <https://doi.org/10.1080/19361653.2019.1653808>

⁶⁰ Earnshaw, V. A., Menino, D. D., Sava, L. M., Perrotti, J., Barnes, T. N., Humphrey, D. L., & Reisner, S. L. (2020). LGBTQ bullying: a qualitative investigation of student and school health professional perspectives. *Journal of LGBT youth*, 17(3), 280–297. <https://doi.org/10.1080/19361653.2019.1653808>

⁶¹ <https://www.tc.columbia.edu/articles/2024/april/data-reveals-new-insights-on-transgender-workplace-experiences/>

⁶² <https://www.lawinfo.com/resources/family-law/transgender-rights-and-family-law.html>

influence administrative processes, complicating name changes and gender marker updates. The custody of the child in divorce or separation cases, transgender parents face heightened scrutiny and bias in custody battles⁶³.

The Hijra Community⁶⁴ and Modern Parenting⁶⁵

The traditional hijra community's experience offers insights into contemporary challenges:

“Our community has always had a system of care and nurturing, but society refuses to see us as capable parents” - Maya, a transgender rights activist⁶⁶

The hijra tradition of “guru-chela” relationships⁶⁷ demonstrates alternative family structures that have existed in Indian society for centuries. These historical practices challenge current prejudices against transgender parenting while highlighting the need for broader societal acceptance. The intersection of traditional values and modern rights creates unique pressures on transgender parents who must navigate both cultural expectations⁶⁸ and contemporary legal frameworks⁶⁹. Many face the double burden of establishing their legitimacy as parents while protecting their children from societal prejudice⁷⁰.

Surrogacy Laws and Adoption Restrictions: Hindrances to Transgender Parenthood

India's legal framework surrounding surrogacy and adoption creates significant barriers for transgender individuals seeking to build families. The Surrogacy (Regulation) Act, 2021 explicitly limits surrogacy options to heterosexual married couples, excluding:

- Single parents
- LGBTQ+ individuals⁷¹
- Live-in partners⁷²
- Same-sex couples⁷³

The Act's restrictive definition of “intending couple”⁷⁴ as a legally married man and woman effectively bars transgender individuals from accessing surrogacy services⁷⁵, regardless of their marital status or gender identity⁷⁶.

The adoption system presents similar challenges through the Central Adoption Resource Authority (CARA) guidelines that do not explicitly recognize transgender individuals as potential adoptive parents. The requirements for prospective parents to identify as either male or female on adoption applications⁷⁷. There is lack of clear protocols for handling applications from individuals who have undergone gender transition and absence of protective policies for transgender adoptive parents

⁶³ <https://www.clarkstonlegal.com/law-blog/child-custody-and-transgender-rights/>

⁶⁴ <https://dx.doi.org/10.48189/nl.2020.v01i2.019>

⁶⁵ <https://dx.doi.org/10.48189/nl.2020.v01i2.019>

⁶⁶ <https://www.axios.com/2025/07/09/trump-transgender-youth-gender-affirming-care-cutback>

⁶⁷ Mount, L. (2025). A Family Resemblance: Explaining Changes in Hijra Relationships. In *'New' Women: Trans Women, Hijras and the Remaking of Inequality in India* (pp. 127–149). Chapter, Cambridge: Cambridge University Press.

⁶⁸ Cerezo, A., Cummings, M., Holmes, M., & Williams, C. (2020). Identity as Resistance: Identity Formation at the Intersection of Race, Gender Identity, and Sexual Orientation. *Psychology of women quarterly*, 44(1), 67–83. <https://doi.org/10.1177/0361684319875977>

⁶⁹ <https://www.ncbi.nlm.nih.gov/books/NBK493719/>

⁷⁰ <https://brilliantio.com/can-traditional-values-survive-in-a-modern-society/>

⁷¹ <https://lawarticle.in/lgbtq-rights-and-law/>

⁷² <https://legalmateindia.com/live-in-relationship-agreements-in-india/>

⁷³ <https://www.nujs.edu/wp-content/uploads/2024/04/Volume-9-Issue-1-2.pdf>

⁷⁴ Section 2(r) “intending couple” means a couple who have a medical indication necessitating gestational surrogacy and who intend to become parents through surrogacy;

⁷⁵ Narayan, G., Mishra, H. P., Suvvari, T. K., Mahajan, I., Patnaik, M., Kumar, S., Amanullah, N. A., & Mishra, S. S. (2023). The Surrogacy Regulation Act of 2021: A Right Step Towards an Egalitarian and Inclusive Society?. *Cureus*, 15(4), e37864. <https://doi.org/10.7759/cureus.37864>

⁷⁶ Narayan, G., Mishra, H. P., Suvvari, T. K., Mahajan, I., Patnaik, M., Kumar, S., Amanullah, N. A., & Mishra, S. S. (2023). The Surrogacy Regulation Act of 2021: A Right Step Towards an Egalitarian and Inclusive Society?. *Cureus*, 15(4), e37864. <https://doi.org/10.7759/cureus.37864>

⁷⁷ https://www.legalserviceindia.com/legal/article-5613-hindu-adoption-and-maintenance-act.html#google_vignette

Recent legal interpretations of the Hindu Adoption and Maintenance Act⁷⁸ and the Juvenile Justice Act have created additional complications. These laws, while gender-neutral⁷⁹ in some aspects, fail to address the specific needs and circumstances of transgender individuals seeking to adopt.

Constitutional Foundations for Transgender Parenthood Rights

NALSA v. Union of India⁸⁰: The Bedrock of Gender Self-Determination

The Supreme Court's landmark NALSA judgment recognized transgender persons as a third gender under medical or state interference. While not directly addressing parenthood, this ruling established critical principles later invoked in family law cases. The Court held that gender identity forms an inseparable part of personal autonomy under Article 21, stating: "*Discrimination on the ground of sexual orientation or gender identity includes any discrimination, exclusion, restriction or preference, which has the effect of nullifying or transposing equality by the law*". This constitutional foundation became instrumental in subsequent challenges to adoption and surrogacy laws.

V. Vasanta Mogli v. State of Telangana⁸¹

Dismantling Discriminatory Frameworks – The Telangana High Court struck down the colonial-era Telangana Eunuchs Act, 1871⁸², drawing parallels between its surveillance mechanisms and the repealed Criminal Tribes Act⁸³. The Court held that laws criminalizing transgender identities violate Article 14's equality guarantee and Article 21's dignity protections, observing: "*The State cannot intrude into the private lives of transgender persons under the guise of regulating 'eunuchs'*". Significantly, the judgment mandated reservations in education and public employment while directing the inclusion of transgender persons in social security schemes like Aasara Pension⁸⁴. Though primarily addressing civil rights, this case reinforced the State's obligation to create enabling environments for transgender families.

Adoption Rights – Judicial Divergence and CARA Controversies

Supreme Court Split on Queer Adoption Rights⁸⁵ – A 3:2 majority in *Supreme Court on Adoption Rights for Queer Couples*⁸⁶ (2023) upheld Regulation 5(3) of CARA⁸⁷, which restricts joint adoption to married heterosexual couples. The majority opinion by Justices Bhat, Kohli, and Narasimha emphasized "societal consensus" and "child welfare," arguing that "*the absence of a marital bond creates instability detrimental to adopted children*". However, CJI Chandrachud and Justice Kaul's dissenting opinions provided robust constitutional critiques:

- i. **Stereotyping Parental Competence:** The CJI rejected the assumption that "*heterosexual couples inherently provide superior parenting*,"⁸⁸ noting this violates Article 15's prohibition on discrimination based on "sex" (interpreted to include gender identity).
- ii. **Empirical Void:** The dissent highlighted the lack of sociological data linking parental stability⁸⁹ to marital status, stating "*constitutional morality cannot yield to majoritarian notions of family*"⁹⁰.

⁷⁸ https://www.indiacode.nic.in/bitstream/123456789/1638/1/AA1956____78.pdf

⁷⁹ Hughes, L. D., Kidd, K. M., Gamarel, K. E., Operario, D., & Dowshen, N. (2021). "These Laws Will Be Devastating": Provider Perspectives on Legislation Banning Gender-Affirming Care for Transgender Adolescents. *The Journal of adolescent health : official publication of the Society for Adolescent Medicine*, 69(6), 976–982. <https://doi.org/10.1016/j.jadohealth.2021.08.020>

⁸⁰ AIR 2014 SC 1863

⁸¹ WRIT PETITION (PIL) Nos.44 and 355 of 2018 and 74 of 2020

⁸² <https://www.jagranjosh.com/general-knowledge/what-is-the-telangana-eunuchs-act-and-why-was-it-struck-down-1689186667-1>

⁸³ <https://indiankanoon.org/doc/17412906/>

⁸⁴ <https://pmkisansamman.com/aasara-pension/>

⁸⁵ <https://www.telegraphindia.com/india/in-32-majority-verdict-supreme-court-says-queer-couples-cant-adopt-children/cid/1974000>

⁸⁶ <https://www.telegraphindia.com/india/in-32-majority-verdict-supreme-court-says-queer-couples-cant-adopt-children/cid/1974000>

⁸⁷ https://cara.wcd.gov.in/Parents/eg_ri.html#:~:text=No%20child%20shall%20be%20given%20in%20adoption%20to,in%20the%20cases%20of%20relative%20or%20step-parent%20adoption.

⁸⁸ <https://app.draftbotpro.com/case/view/supreme-court-of-india/indian-young-lawyers-association-vs-the-s/163639357>

⁸⁹ Goldberg, J. S., & Carlson, M. J. (2014). Parents' Relationship Quality and Children's Behavior in Stable Married and Cohabiting Families. *Journal of marriage and the family*, 76(4), 762–777. <https://doi.org/10.1111/jomf.12120>

⁹⁰ Goldberg, J. S., & Carlson, M. J. (2014). Parents' Relationship Quality and Children's Behavior in Stable Married and Cohabiting

- iii. **Pluralistic Families:** Justice Kaul referenced global precedents recognizing diverse family structures, asserting “the Constitution protects associational choices beyond marital unions”⁹¹.

This split verdict leaves transgender prospective parents in legal limbo—permitted to adopt individually under CARA’s single-parent provisions but barred from joint adoption.

Ground-Level Challenges in Adoption Proceedings

While CARA guidelines theoretically allow single transgender individuals to adopt, implementation remains fraught. Law4u’s analysis documents cases where agencies reject applications citing “lack of clarity” on gender markers or societal bias. In one ongoing case, a transgender woman’s adoption petition was initially denied despite meeting financial and housing criteria, with the agency questioning “the child’s social adjustment in a transgender-headed household”. Such cases reveal how administrative discretion undermines statutory rights, necessitating judicial intervention to enforce NALSA’s principles.

Dr. Aqsa Shaikh v. Union of India⁹² (2024)

Expanding the “Intending Woman”⁹³

A Public Interest Litigation filed by one Social Activist regarding the phrase ‘Intending Woman’ before Justice Nagarathna’s bench challenges Section 2(s) of the Surrogacy (Regulation) Act, 2021, which limits surrogacy access to married couples and widowed/divorced women. The petitioner Dr. Aqsa Shaikh, a transwoman, argues the Act violates reproductive autonomy rights by excluding single or unmarried transgender persons from accessing surrogacy, it infringes on Article 21’s right to family life. Further the act also discriminates based on gender identity. The Act’s definition of “intending woman” excludes transgender individuals who have undergone gender affirmation procedures, despite their biological capacity for gamete storage. The petitioner through her petition highlighted perpetuates stereotypes which says that the requirement for a “stable marital relationship”⁹⁴ presumes single or transgender parents are inherently less capable, contravening Article 15⁹⁵.

The Court in its initial hearing has sent a notice to the Central Government signals willingness to scrutinize these exclusions, with Justice Nagarathna remarking: “The statute’s marital status-based distinctions demand rigorous constitutional examination”.⁹⁶

Kalyan Newborn Custody Case⁹⁷ (2024) – Institutional Bias in Action

A Titwala couple relinquished their intersex newborn to a transgender organization, citing fears of societal stigma. When a hospital nurse sought custody, police upheld the organization’s legal adoption despite the nurse’s financial capability. This case underscores two critical issues one being medicalization of gender. The infant’s “congenital hormonal imbalance” led to parental panic, reflecting systemic failures in counseling

Families. *Journal of marriage and the family*, 76(4), 762–777. <https://doi.org/10.1111/jomf.12120>

⁹¹ Roberto, K. A., & Blieszner, R. (2015). Diverse Family Structures and the Care of Older Persons. *Canadian journal on aging = La revue canadienne du vieillissement*, 34(3), 305–320. <https://doi.org/10.1017/S0714980815000288>

⁹² <https://lawchakra.in/tag/dr-aqsa-shaikh/>

⁹³ <https://www.indiacode.nic.in/bitstream/123456789/17046/1/A2021-47.pdf>

⁹⁴ <https://www.drishtijudiciary.com/current-affairs/live-in-relationship-and-surrogacy-laws-in-india>

⁹⁵ **15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth**

(1)The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.(2)No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-(a)access to shops, public restaurants, hotels and places of public entertainment; or(b)the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.(3)Nothing in this article shall prevent the State from making any special provision for women and children.

⁹⁶ <https://indianexpress.com/article/cities/bangalore/supreme-court-judge-mindset-change-mediation-needed-to-check-litigation-in-marital-disputes-9941162/>

⁹⁷ <https://timesofindia.indiatimes.com/city/thane/kalyan-parents-relinquish-custody-of-newborn-to-transgender-organization-nurse-fights-for-babys-care/articleshow/112029869.cms#:~:text=A%20couple%20in%20Kalyan%20legally%20relinquished%20custody%20of,the%20child%2C%20the%20parents%20had%20already%20transferred%20custody.>

families about gender diversity. Another issue relating to the hierarchy of caregivers. The authorities have prioritized the transgender organization over an individual caregiver, raising questions about implicit biases regarding “appropriate” parenting environments⁹⁸.

Legal Grey Areas

The current legal framework creates several problematic situations:

- a. Transgender individuals who transition after becoming parents face challenges in maintaining their legal parent status
- b. Non-biological parents in transgender relationships struggle to obtain legal recognition
- c. Cross-border adoption complications arise due to varying international laws regarding LGBTQ+ adoption
- d. Documentation issues emerge when birth certificates and adoption papers don't align with current gender identity

The Assisted Reproductive Technology (Regulation) Act, 2021 has introduced additional complexities by limiting access to fertility treatments based on traditional gender and relationship definitions⁹⁹. This legislation fails to acknowledge the reproductive rights¹⁰⁰ and needs of transgender individuals¹⁰¹, creating a systemic barrier to parenthood through medical assistance. The intersection of these restrictive laws with existing gender recognition processes creates a complex web of legal challenges. Transgender individuals must navigate multiple bureaucratic systems¹⁰² that often contradict each other, making the path to parenthood particularly challenging and legally precarious¹⁰³.

Researcher's Viewpoint/Innovation

The researcher collected responses in the districts of West Bengal which reflected mixed reactions regarding the challenges faced by transgender individuals in raising children. A majority believe societal stigma and lack of acceptance pose significant barriers, especially as trans persons continue to be marginalized despite constitutional guarantees under Articles 14¹⁰⁴, 15¹⁰⁵, and 16¹⁰⁶. Many respondents highlighted that the government itself hesitates in fully implementing these rights for the trans community, which in turn influences broader societal attitudes¹⁰⁷. Additional vulnerabilities such as caste, disability, or poverty further compound these challenges. Nevertheless, respondents expressed resilience, emphasizing that adversity has

⁹⁸ Jeong, J., Franchett, E. E., Ramos de Oliveira, C. V., Rehmani, K., & Yousafzai, A. K. (2021). Parenting interventions to promote early child development in the first three years of life: A global systematic review and meta-analysis. *PLoS medicine*, 18(5), e1003602. <https://doi.org/10.1371/journal.pmed.1003602>

⁹⁹ Kashyap, S., & Tripathi, P. (2023). Assisted Reproductive Technology (Regulation) Act 2021: Critique and Contestations. *Asian bioethics review*, 16(2), 149–164. <https://doi.org/10.1007/s41649-023-00253-6>

¹⁰⁰ Quinan, C. (2025). From criminalization to erasure: Project 2025 and anti-trans legislation in the US. *Crime, Media, Culture*, 0(0). <https://doi.org/10.1177/17416590241312149>

¹⁰¹ Quinan, C. (2025). From criminalization to erasure: Project 2025 and anti-trans legislation in the US. *Crime, Media, Culture*, 0(0). <https://doi.org/10.1177/17416590241312149>

¹⁰² White Hughto, J. M., Reisner, S. L., & Pachankis, J. E. (2015). Transgender stigma and health: A critical review of stigma determinants, mechanisms, and interventions. *Social science & medicine* (1982), 147, 222–231. <https://doi.org/10.1016/j.socscimed.2015.11.010>

¹⁰³ White Hughto, J. M., Reisner, S. L., & Pachankis, J. E. (2015). Transgender stigma and health: A critical review of stigma determinants, mechanisms, and interventions. *Social science & medicine* (1982), 147, 222–231. <https://doi.org/10.1016/j.socscimed.2015.11.010>

¹⁰⁴ **14. Equality before law**

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

¹⁰⁵ **15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth**

(1)The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.(2)No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-(a)access to shops, public restaurants, hotels and places of public entertainment; or(b)the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.(3)Nothing in this article shall prevent the State from making any special provision for women and children.

¹⁰⁶ **16. Equality of opportunity in matters of public employment**

¹⁰⁷

strengthened their determination to fight taboos¹⁰⁸ and secure rights¹⁰⁹ for future generations. Financial stability¹¹⁰ was identified as a crucial prerequisite for parenthood, and many viewed parenthoods as a new but welcomed challenge in their journey. The overarching sentiment was that transgender individuals, like any other, aspire to family life and deserve equal opportunities to fulfill that dream.

Out of a total of 261 respondents, 255 individuals (approx. 97.7%) openly identified themselves as transgender. Within this group, a diverse range of identities was reported. Some specified being transmen¹¹¹, transwomen¹¹², genderqueer¹¹³, kinnar¹¹⁴, or hijra¹¹⁵. Despite the variation in self-identification, all these terms fall under the broader and inclusive umbrella of “transgender” as per the sociocultural¹¹⁶ and legal definitions in India.

The remaining 6 individuals (approx. 2.3%) chose the option “prefer not to say” or expressed uncertainty about their exact gender identity or sexual orientation¹¹⁷. Their reluctance or inability to self-identify in specific terms suggests that they are still in a phase of exploration or introspection regarding their identity. However, these individuals were clear that they do not identify with the heterosexual or cisgender majority. While they have not yet labeled themselves as transman, transwoman, lesbian, gay, or bisexual, they acknowledged that they belong to and support the broader LGBTQIA+ community. This shows a level of solidarity and alignment with community goals, even in the absence of full personal clarity.

Importance of the Findings pointed out by the Researcher –

Identity Fluidity and Disclosure Challenges: The 6 individuals reflect the reality that gender and sexual identity discovery is often non-linear and complex. Social stigma, personal fear, or internal confusion may delay open identification. Their hesitancy points to the need for safe spaces, counseling, and inclusive awareness programs that can support individuals during this critical period of identity formation.

Community Inclusion Beyond Labels: Even without exact self-labeling¹¹⁸, these individuals are active supporters of the LGBTQIA+ and transgender community, indicating that community participation is not limited by terminological clarity¹¹⁹. This inclusivity is vital for building collective strength and mutual support within the movement.

The data not only reflects a high degree of self-identification as transgender among the group surveyed but also emphasizes the nuances in individual journeys of self-recognition. The presence of members who are still questioning or not fully “out” underscores the importance of continued advocacy¹²⁰, education, and mental health support¹²¹ for the community. It also affirms that belonging to the community is more about shared experiences and support than rigid definitions¹²².

¹⁰⁸ Métais, C., Burel, N., Gillham, J. E., Tarquinio, C., & Martin-Krumm, C. (2022). Integrative Review of the Recent Literature on Human Resilience: From Concepts, Theories, and Discussions Towards a Complex Understanding. *Europe's journal of psychology*, 18(1), 98–119. <https://doi.org/10.5964/ejop.2251>

¹⁰⁹ <https://doi.org/10.1016/j.cpr.2018.07.003>

¹¹⁰ https://link.springer.com/chapter/10.1007/978-981-16-8263-6_26

¹¹¹ <https://doi.org/10.1016/j.cpr.2018.07.003>

¹¹² <https://doi.org/10.5964/ejop.2251>

¹¹³ <https://doi.org/10.5964/ejop.2251>

¹¹⁴ <https://scroll.in/article/662023/hijra-kothi-aravani-a-quick-guide-to-transgender-terminology>

¹¹⁵ <https://scroll.in/article/662023/hijra-kothi-aravani-a-quick-guide-to-transgender-terminology>

¹¹⁶ <https://scroll.in/article/662023/hijra-kothi-aravani-a-quick-guide-to-transgender-terminology>

¹¹⁷ <https://scroll.in/article/662023/hijra-kothi-aravani-a-quick-guide-to-transgender-terminology>

¹¹⁸ Horowitz J. (2017). Who Is This “We” You Speak of? Grounding Activist Identity in Social Psychology. *Socius : sociological research for a dynamic world*, 3, 10.1177/2378023117717819. <https://doi.org/10.1177/2378023117717819>

¹¹⁹ Horowitz J. (2017). Who Is This “We” You Speak of? Grounding Activist Identity in Social Psychology. *Socius : sociological research for a dynamic world*, 3, 10.1177/2378023117717819. <https://doi.org/10.1177/2378023117717819>

¹²⁰ Markowitz F. E. (2015). Involvement in mental health self-help groups and recovery. *Health sociology review : the journal of the Health Section of the Australian Sociological Association*, 24(2), 199–212. <https://doi.org/10.1080/14461242.2015.1015149>

¹²¹ Markowitz F. E. (2015). Involvement in mental health self-help groups and recovery. *Health sociology review : the journal of the Health Section of the Australian Sociological Association*, 24(2), 199–212. <https://doi.org/10.1080/14461242.2015.1015149>

¹²² Markowitz F. E. (2015). Involvement in mental health self-help groups and recovery. *Health sociology review : the journal of the Health*

The survey collected responses from 243 transgender individuals regarding their aspirations and willingness to become parents. The data reveals three broad categories of responses:

- i. 186 individuals (approx. 71%) expressed a strong desire to become a parent.
- ii. 57 individuals (approx. 22%) were undecided or unsure about becoming a parent.
- iii. 18 individuals (approx. 7%) stated that they do not want to become a parent.

Positive Aspiration for Parenthood (71%)

A clear majority of respondents expressed a desire to embrace parenthood. This reflects a strong emotional inclination towards building families, having dependents, or playing nurturing roles – which challenges stereotypes that transgender individuals do not wish to raise children. This also shows their longing for social roles traditionally associated with stability, love, and care, affirming their right to family life under human rights frameworks.

Uncertainty in Decision-Making (22%)

The second largest group was unsure about whether they want to become parents. Upon further probing, it emerged that the reasons for indecision were not related to identity or disinterest, but rather to practical and psychological concerns, including:

- i. Financial insecurity – the uncertainty of being able to afford child-rearing expenses.
- ii. Mental preparedness – lack of confidence about their emotional or psychological readiness to handle the responsibilities of parenthood.

This reflects the structural vulnerabilities and socio-economic marginalization that many transgenders individuals face. For many, aspirations are limited not by desire, but by deprivation – lack of access to steady income, housing, healthcare, and social acceptance.

Refusal to Consider Parenthood (7%)

A small percentage of individuals, mainly from the age group of 41–60 years, stated clearly that they do not wish to become parents. Their responses were grounded in the harsh realities of aging, physical limitations¹²³, and financial precarity¹²⁴. Many among them had worked as daily wage laborers, had no retirement security, savings, or governmental pension schemes, and are currently in hand-to-mouth survival conditions. Interestingly, many of them qualified their response, saying that had they been younger or more financially secure, they would have considered parenthood. This indicates that the desire for parenthood was present earlier in their lives, but it was suppressed or abandoned due to systemic disadvantages and societal neglect.

This analysis underlines that transgender individuals, like anyone else, have genuine aspirations to become parents, but these aspirations are deeply shaped by age, financial conditions, and societal support systems. The findings highlight a critical intersection of gender identity and socio-economic rights:

- i. There is a need for financial security programs¹²⁵, inclusive adoption laws¹²⁶, and social support systems tailored to transgender individuals.
- ii. Mental health¹²⁷ and counseling services¹²⁸ are essential to help individuals confidently explore and prepare for parenthood.

Section of the Australian Sociological Association, 24(2), 199–212. <https://doi.org/10.1080/14461242.2015.1015149>

¹²³ Kang, H., & Kim, H. (2022). Ageism and Psychological Well-Being Among Older Adults: A Systematic Review. *Gerontology & geriatric medicine*, 8, 23337214221087023. <https://doi.org/10.1177/23337214221087023>

¹²⁴ Kang, H., & Kim, H. (2022). Ageism and Psychological Well-Being Among Older Adults: A Systematic Review. *Gerontology & geriatric medicine*, 8, 23337214221087023. <https://doi.org/10.1177/23337214221087023>

¹²⁵ <https://home.treasury.gov/news/press-releases/jy2692>

¹²⁶ <https://www.worldbank.org/en/topic/financialinclusion/overview>

¹²⁷ Samartzis, L., & Talias, M. A. (2019). Assessing and Improving the Quality in Mental Health Services. *International journal of environmental research and public health*, 17(1), 249. <https://doi.org/10.3390/ijerph17010249>

¹²⁸ Samartzis, L., & Talias, M. A. (2019). Assessing and Improving the Quality in Mental Health Services. *International journal of environmental research and public health*, 17(1), 249. <https://doi.org/10.3390/ijerph17010249>

- iii. Elderly transgender individuals particularly require state-supported pension schemes¹²⁹ and healthcare, ensuring dignity in aging.

Ultimately, the data reinforces the importance of recognizing and enabling the familial aspirations of transgender people through policy, advocacy, and inclusive social frameworks.

Sustainable Development Goals on Parenthood Rights of Transgenders

The recognition of the right to parenthood for transgender persons is a vital aspect of human rights¹³⁰, gender justice¹³¹, and inclusive development¹³². The Sustainable Development Goals (SDGs) adopted by the United Nations in 2015 serve as a global blueprint for achieving a more equitable and sustainable future for all. However, the intersection of transgender rights and the SDGs, particularly in relation to parenthood, remains underexplored and often neglected in national policies. This paper evaluates how various SDGs—including Goal 3 (Good Health and Well-being)¹³³, Goal 5 (Gender Equality)¹³⁴, Goal 10 (Reduced Inequalities)¹³⁵, and Goal 16 (Peace, Justice, and Strong Institutions)¹³⁶—can be interpreted and implemented to safeguard and promote the parental rights of transgender individuals. The Goal - 3 emphasizes universal access to healthcare, including sexual and reproductive health services¹³⁷. For transgender persons, access to fertility preservation, surrogacy, adoption, and assisted reproductive technology is often denied or severely restricted. Ensuring inclusive healthcare means recognizing diverse family structures and providing equitable reproductive services. The Goal - 5 aims to eliminate all forms of discrimination based on gender. Transgender individuals frequently face systemic exclusion from parenthood rights due to biased legal frameworks and social norms¹³⁸. Achieving gender equality demands inclusive legal recognition of transgender families, support for single and adoptive parenting, and ending discrimination in family law¹³⁹. This goal aims to eliminate all forms of discrimination based on gender. Transgender individuals frequently face systemic exclusion from parenthood rights due to biased legal frameworks and social norms. Achieving gender equality demands inclusive legal recognition of transgender families, support for single and adoptive parenting, and ending discrimination in family law¹⁴⁰. A key part of the Goal - 16 is ensuring access to justice for all and building inclusive institutions. Legal recognition of transgender parenthood is fundamental to ensuring dignity and equal citizenship. Courts and legislatures must proactively develop frameworks that support gender diversity in family structures and child-rearing rights. The SDGs provide a transformative agenda, but they must be explicitly inclusive of transgender persons and their right to parenthood. Only when policy, law, and society acknowledge the diverse realities of transgender individuals can we truly achieve the core SDG promise of “leaving no one behind.”

A More Inclusive Future: Advocating for Change

In recent years, there has been significant progress in advocating for transgender parental rights in India.

¹²⁹ Divan, V., Cortez, C., Smelyanskaya, M., & Keatley, J. (2016). Transgender social inclusion and equality: a pivotal path to development. *Journal of the International AIDS Society*, 19(3 Suppl 2), 20803. <https://doi.org/10.7448/IAS.19.3.20803>

¹³⁰ Divan, V., Cortez, C., Smelyanskaya, M., & Keatley, J. (2016). Transgender social inclusion and equality: a pivotal path to development. *Journal of the International AIDS Society*, 19(3 Suppl 2), 20803. <https://doi.org/10.7448/IAS.19.3.20803>

¹³¹ Divan, V., Cortez, C., Smelyanskaya, M., & Keatley, J. (2016). Transgender social inclusion and equality: a pivotal path to development. *Journal of the International AIDS Society*, 19(3 Suppl 2), 20803. <https://doi.org/10.7448/IAS.19.3.20803>

¹³²

¹³³ <https://globalgoals.org/goals/3-good-health-and-well-being/>

¹³⁴ <https://globalgoals.org/goals/5-gender-equality/>

¹³⁵ <https://globalgoals.org/goals/10-reduced-inequalities/>

¹³⁶ <https://globalgoals.org/goals/16-peace-justice-and-strong-institutions/>

¹³⁷ <https://www.who.int/data/gho/data/themes/topics/indicator-groups/indicator-group-details/GHO/sdg-target-3.7-sexual-and-reproductive-health>

¹³⁸ https://www.aclu.org/wp-content/uploads/publications/aclu-tg_parenting_guide.pdf

¹³⁹ <https://www.law.georgetown.edu/gender-journal/in-print/1526-2/transgender-and-nonbinary-persons-rights-and-issues/>

¹⁴⁰ <https://transaware.net/empowering-trans-community-inclusive-policy-initiatives/>

LGBTQ+ organizations and human rights groups are actively working with policymakers to push for comprehensive legislative reforms that recognize transgender individuals as legitimate parents. There are requirements of filing petitions for amendments to the Transgender Persons (Protection of Rights) Act to include explicit provisions for parental rights. There must be various legal awareness campaigns educating¹⁴¹ transgender communities about their constitutional rights and documentation of discriminatory practices to build evidence-based policy recommendations to formation of support networks connecting transgender parents across different states.

Progressive legal practitioners and civil society organizations are collaborating to challenge discriminatory policies through strategic litigation¹⁴². These efforts have resulted in several Public Interest Litigations (PILs) being filed in various High Courts, seeking recognition of transgender parental rights.

Various community-led Support systems are required to provide benefit and create awareness relating to reduction in transgender discrimination by enhancing trans-parent support groups providing emotional and practical guidance to providing legal aid clinics offering specialized services for family law matters. Proper mental health resources related to counselling and other programs addressing family-related challenges must be organized and educational workshops for healthcare providers and adoption agencies by the various law schools and Non-Governmental Organizations.

The advocacy landscape has expanded to include digital platforms, where transgender parents share their experiences and build solidarity. Social media campaigns highlight successful parenting stories, challenging stereotypes and misconceptions about transgender individuals' ability to raise children.

There are various changes regarding the institutional perspective staring with the sensitization programs for government officials handling adoption and surrogacy cases to development of inclusive guidelines for fertility clinics. There is necessity regarding creation of transgender-friendly spaces in childcare facilities and proper implementation of anti-discrimination policies¹⁴³ in educational institutions¹⁴⁴.

These initiatives work together to create systemic change, pushing for a future where transgender individuals can exercise their right to parenthood without facing institutional barriers or social stigma. The movement emphasizes the fundamental human right¹⁴⁵ to form and nurture families¹⁴⁶, regardless of gender identity.

The growing visibility of transgender parents in media and public discourse helps normalize diverse family structures. This representation plays a crucial role in shifting societal attitudes and fostering acceptance of transgender parenthood as a natural expression of human diversity.

However, achieving these goals requires more than just legal reforms and community support. It necessitates a fundamental shift in the way society perceives and interacts with the transgender community. This includes implementing robust police accountability¹⁴⁷ measures that ensure the protection of transgender individuals from discrimination and violence¹⁴⁸. Such measures are essential in creating an environment where transgender individuals can live freely and fully, including exercising their right to parenthood.

CONCLUSION

India is at a crucial point in its journey toward recognizing transgender parental rights. The way forward requires a complete overhaul of legal systems, societal attitudes, and institutional practices. Recent victories, like the Kerala High Court's landmark decision in Ziya and Zahad's¹⁴⁹ case, are significant steps toward

¹⁴¹ <https://www.apa.org/monitor/2022/07/advocating-transgender-nonbinary-youths>

¹⁴² Buckel, S., Pichl, M., & Vestena, C. A. (2023). Legal Struggles: A Social Theory Perspective on Strategic Litigation and Legal Mobilisation. *Social & Legal Studies*, 33(1), 21-41. <https://doi.org/10.1177/09646639231153783> (Original work published 2024)

¹⁴³ <https://www.nlc.org/article/2022/06/28/fostering-safe-and-healthy-public-spaces-for-lgbtqia-women-non-conforming-genders/>

¹⁴⁴ <https://www.nlc.org/article/2022/06/28/fostering-safe-and-healthy-public-spaces-for-lgbtqia-women-non-conforming-genders/>

¹⁴⁵ <https://www.ama-assn.org/system/files/2019-03/transgender-public-facilities-issue-brief.pdf>

¹⁴⁶ <https://hir.harvard.edu/a-womans-work-how-the-suffragists-shaped-modern-politics/>

¹⁴⁷ <https://doi.org/10.1093/police/paab033>

¹⁴⁸ <https://doi.org/10.1093/police/paab033>

¹⁴⁹ <https://yourstory.com/socialstory/2025/06/kerala-hc-recognises-transgender-couple-as-legal-parents>

inclusive parenting rights¹⁵⁰. The recognition of transgender individuals as parents challenges deep-rooted prejudices and opens doors for diverse family structures. These changes reflect a broader shift in understanding gender identity and parental capabilities beyond traditional binary constructs. The road ahead requires amendments to existing adoption and surrogacy laws to implementation of sensitivity training for healthcare providers and development of supportive policies in educational institutions. There is a need relating creation of inclusive documentation processes. The struggle for transgender parental rights goes beyond legal battles - it embodies the fundamental human right to create and nurture families. As Indian society evolves, the acceptance of transgender parents will strengthen our communities and enrich our cultural diversity. The future of transgender parenting rights in India depends on sustained advocacy, judicial support, and societal transformation. Each step forward brings us closer to a reality where all parents, regardless of their gender identity, can raise their children with dignity and legal recognition.

¹⁵⁰ <https://www.news9live.com/state/kerala/in-a-landmark-verdict-kerala-hc-allows-transgender-couple-to-use-gender-neutral-term-parent-in-birth-certificate-2861788>